

TITLE XV: LAND USAGE

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CHAPTER 150: ZONING

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' 150.001 TITLE.

This title shall be known and may be cited as the AHenry County, Indiana, Development Code.@ (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.002 AUTHORITY.

This title is adopted by the county pursuant to its authority under the state code and other state and federal statutes as applicable. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.003 PURPOSE.

(A) The purpose of this title is to regulate the use and development of land within the county and under the jurisdiction of the County Planning Commission.

(B) This title is designed to promote the public health, safety and general welfare, and more specifically to:

(1) Support the goals, objectives and policies of the County Comprehensive Plan and other plans adopted by the county;

(2) Provide for the efficient development of natural resources, agriculture, business and industry;

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(3) Provide for the conservation of property values and natural resources;

(4) Provide for the growth of communities commensurate with the Comprehensive Plan, and promote efficient and economical use of property in areas under the jurisdiction of the Planning Commission;

(5) Identify the approximate boundaries of zoning districts by reference to the official zoning maps. The official zoning maps are on file in the Planning Commission Office;

(6) Prohibit uses, buildings or structures incompatible with the stated purpose of the zoning districts, respectively;

(7) Fix standards to which the uses, buildings or structures within each zoning district shall conform, therein restricting and regulating their location, construction, reconstruction or alteration;

(8) Regulate the intensity of the use of each lot by requiring open areas around buildings and structures, to provide adequate light and ventilation;

(9) Limit congestion in the public roads and streets by providing for the off-street parking, loading and unloading of vehicles, and by the provision of alternative transportation modes where appropriate;

(10) Preserve and enhance features of environmental or historic significance;

(11) Designate and define the powers and duties of the bodies and/or officials administering and enforcing this title and the procedures by which the title is administered; and

(12) Prescribe penalties for the violation of this title.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.004 SCOPE; JURISDICTION.

(A) In their interpretation and application, the provisions of this title shall be held to be minimum

requirements, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this title are at variance with or in any other way conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern.

(B) (1) Except the agricultural uses and structures as are specified in this title, the provisions of this title shall apply to all lands and land uses and structures in the unincorporated areas of the county and in incorporated towns and cities that have designated the Planning Commission as their planning agency, including the incorporated towns of Blountsville, Dunreith, Lewisville, Middletown, Mooreland, Mount Summit, Spiceland, Springport, Straughn and Sulphur Springs, and any other incorporated towns that may, in the future, designate the Planning Commission as their planning agency.

(2) To designate the Planning Commission as their planning agency, the city or town council shall pass an ordinance, which shall be in the form as is established by the County Planning Commission.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.005 DEFINITIONS.

(A) (1) For the purpose of this title, certain numbers, abbreviations, terms, words and phrases used herein shall be used, interpreted and defined as set forth in this section.

(2) Whenever any words and phrases used herein are defined in the state laws regulating the creation and function of various planning agencies, the definitions shall apply to the words and phrases used herein, except where the context requires otherwise.

(3) For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows.

(a) **PERSON.** Includes a corporation, company, firm, partnership, association, organization, trust, unit of government or any other group that acts as a unit, as well as a natural person.

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(b) The masculine includes the feminine.

(c) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

(d) 1. **MAY.** Indicates a permissive requirement.

2. **SHALL.** Indicates a mandatory requirement.

3. **SHOULD.** Indicates a preferred requirement.

(e) **USED or OCCUPIED.** Includes the words **INTENDED, DESIGNED OR ARRANGED TO BE USED OR OCCUPIED.**

(f) **LOT.** Includes **PLOT** or **PARCEL.**

(4) All other words not defined herein shall be defined according to the most recent edition of *Webster=s New Collegiate Dictionary.*

(5) Specific definitions set forth in division (B) below shall apply to all other chapters of this title.

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

ABANDONED VEHICLE.

(a) Vehicle located on public property illegally;

(b) Vehicle left on public property without being moved for three days;

(c) Vehicle located on public property in a manner so as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way;

(d) Vehicle left on public property from which the engine, transmission or differential has been removed or that is otherwise partially dismantled or inoperable;

(e) Vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours;

(f) Vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this title if the impounded vehicle is not claimed or redeemed by the owner or the owner=s agent within 20 days after the vehicle=s removal; or

(g) Vehicle that is at least three model years old, is mechanically inoperable and is left on private property continuously in a location visible from public property for more than 20 days.

ACCESSORY APARTMENT. Second dwelling unit, either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling for use as a complete, independent living facility with provision in the accessory apartment for cooking, eating, sanitation and sleeping. **ACCESSORY APARTMENTS** shall be clearly subordinate to the primary use in both size and location.

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

ACCESSORY STRUCTURE. Structure that is incidental to the principal building and is located on the same lot as the principal building.

ACCESSORY USE. Use that is incidental to that of the primary use, is subordinate in area, extent or purpose, is customarily found in connection with the principal use and is located on the same lot as the principal use.

ADULT USE. Use that provides a preponderance of services, trade or material of a sexually explicit nature, including, but not limited to, adult arcades, adult bookstores, adult cabarets, adult theaters and sexual encounter establishments.

ADVERTISING STRUCTURE. Any notice or advertisement, pictorial or otherwise, and all structures used as an outdoor display, regardless of size and shape, for the purpose of making anything known, the origin or sale of which is not on the property with the advertising structures (except those on or over county-owned property). For the purpose of this title, any billboard, off-premises sign or poster board as defined herein shall be construed as a structure.

ADVISORY PLANNING COMMISSION. Planning commission serving a single local government jurisdiction, established as defined under I.C. 36-7-1-2, as amended, hereinafter referred to as **PLANNING COMMISSION**.

AGRICULTURAL BUILDING. Structure utilized for the conduct of farming operations, but not including a dwelling.

AIRPORT. Any area that is used or intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas that are used or intended to be used for airport buildings or facilities, including open spaces, taxiways and tie-down areas.

ALLEY. Public thoroughfare that affords only secondary means of access to abutting property.

APARTMENT. See **DWELLING**.

APPLICANT. Owner of land who makes application to the Planning Commission or Board of Zoning Appeals for action by the Commission or Board.

BASEMENT. Any story of a building below the first story, in which the surface of the floor above is less than six feet above the adjacent ground elevation at all points.

BED AND BREAKFAST. Owner-occupied residential dwelling unit containing guest rooms for rent as a secondary use for periods of less than two weeks. Guest rooms are not intended to be used for cooking or eating; however, meals may or may not be provided.

BILLBOARD. See **SIGN, OFF-PREMISES ADVERTISING**.

BLOCK. Tract of land bound by streets or by a combination of streets and public parks, railroad rights-of-way, waterways, boundary lines of municipalities or natural or artificial barriers.

BLOCK FACE. One side of a road or street between intersections.

BOARD OF ZONING APPEALS. Board of Zoning Appeals of Henry County, Indiana.

BOARDING HOUSE. Building not available to transients in which meals and lodging are regularly provided for at least four but not more than 12 persons.

BUFFER, LANDSCAPING. Any trees, shrubs, walls, fences, berms or related landscaping features required under this chapter or Chapter 151 of this title to be placed either on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes and/or for creating sound and/or visual privacy barriers.

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

BUILDING AREA. Horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high and architectural features that project no more than two feet.

BUILDING FRONT. Side(s) of a building that parallels and is visible from the right-of-way of any or all of the roads or streets as hereinafter defined.

BUILDING LINE. Line that establishes the minimum permitted distance on a lot between the front line of a building and the road or street right-of-way line.

BUILDING PERMIT. Permit required to be obtained before beginning construction, alteration, repair or demolition of any building or structure.

BUILDING, DETACHED. Building that has no structural connection with another building.

BUILDING, PRINCIPAL. Building in which the main or principal use of the lot on which the building is situated is conducted. Standards recognized by the State Department of Fire and Building Services shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

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

CAMP, PRIVATE. Area of land used or designed to be used to accommodate groups or organized camping parties, which may include cabins, tents, food service and recreational facilities.

CAMPGROUND. Any site, lot, field or tract of land designed with facilities for short term occupancy by recreational vehicles and other camping equipment, but not including mobile homes.

CAMPING TRAILER. Folding structure built on a chassis with wheels and designed to move on the highway.

CEMETERY. Land used or intended to be used for the burial of the dead, including any columbarium, crematory, mausoleum or mortuary

COUNTY JURISDICTIONAL AREA. Unincorporated territory of Henry County, the incorporated area of the towns of Blountsville,

operated in conjunction with and on the same tract as the cemetery.

CENTERLINE. Mid-point in the width of a public right-of-way. This shall be determined by recorded subdivision plats or by the historic centerline for all unplatted rights-of-way. In the event that acquisition of additional right-of-way has taken place on one side of a right-of-way, the original **CENTERLINE** prior to the acquisition shall be considered the **CENTERLINE** for the purposes of this title.

CLINIC. An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least two physicians, dentists, podiatrists, chiropractors, psychiatrists, psychologists or similar medical professionals are provided.

CLUSTER HOUSING. Developments in which dwelling units are clustered in a specific area on the site in order to permit aggregation of the remaining land into common recreational or open spaces.

COMMISSION-APPROVED USES. Uses that are permitted in any zoning district only after a majority vote of the Planning Commission as provided in the Planning Commission's rules of procedure. All **COMMISSION-APPROVED USES** that are permitted in the underlying zoning districts, upon obtaining Commission-approved use authorization, shall be permitted in the corridor overlay district.

CONDOMINIUM. Real estate lawfully subjected to I.C. 32-25 by the recording of condominium instruments and in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

CONSTRUCTION TRAILER. Manufactured mobile unit without cooking or bathroom facilities, not designed for dwelling purposes and used as a temporary office during construction.

Dunreith, Lewisville, Middletown, Mooreland, Mount Summit, Spiceland, Springport, Straughn and Sulphur Springs, and any other incorporated areas

that may, in the future, designate the Planning Commission as their planning agency.

CORNER LOT. See *LOT, CORNER*.

CORRIDOR OVERLAY DISTRICT. Special zoning district along a portion of the arterial highway system designated by the County Commissioners and recorded on the official zoning maps in which the regulations of ' ' 150.230 through 150.238 apply in addition to the regulations of the underlying zoning districts.

CORRIDOR OVERLAY DISTRICT, BOUNDARIES. Boundaries of the corridor overlay district are established at 660 feet on each side of the designated highway(s) as measured perpendicularly from the centerline of the rights-of-way.

CORRIDOR OVERLAY DISTRICT, PERMITTED USES. All uses permitted in the underlying zoning districts shall be permitted in the corridor overlay district.

CORRIDOR OVERLAY DISTRICT, ROADS AND STREETS. Roads and streets within the corridor overlay district as shown on the official zoning maps.

COUNTRY CLUB. Establishment operated for social or recreational purposes that is open only to members and not to the general public.

COUNTY. Henry County.

COUNTY ATTORNEY. Usually, the attorney regularly retained to advise or represent the county in legal matters. In special circumstances, the term may refer also to other attorneys retained by the county for supplemental legal services.

COUNTY COMMISSIONERS. The Board of County Commissioners of Henry County.

DAY CARE CENTER. A facility, or use of a building or portion thereof, for daytime, non-residential care of at least seven individuals but not more than 20 individuals. This term includes

nursery schools, preschools, supervised centers for children or adults and similar uses, but excludes public and private primary or secondary educational facilities.

DENSITY. The number of dwelling units permitted per gross acre of land.

DENSITY, GROSS. The numerical value obtained by dividing the total number of dwelling units in a development by the gross area, in acres, of the tract of land within a development.

DENSITY, NET. The numerical value obtained by dividing the total number of dwelling units in a development by the area, in acres, of the actual tract of land upon which the dwelling units are proposed to be located, and including common open space and associated recreational facilities within the area, the result being the number of dwelling units per net residential acre of land.

DEVELOPMENT PLAN(S). A specific plan for the residential, commercial, industrial or other development of property, setting forth certain information and data required by the Planning Commission.

DEVELOPMENT REQUIREMENT. A requirement for development of real property in a zoning district for which a development plan is required.

DISABLED VEHICLE. See *ABANDONED VEHICLE*.

DISPLACEMENT. The maximum amount of motion in any direction as determined by any three-component (simultaneous) measuring system approved by the Planning Commission. **THREE-COMPONENT MEASURING SYSTEM** means instrumentation that can measure earth-borne vibrations in a horizontal as well as vertical plane.

DOUBLE FRONTAGE LOT. See *LOT, DOUBLE FRONTAGE*.

DRIVES, PRIVATE. Vehicular roads, streets and driveways, paved or unpaved, that are wholly within private property except where they intersect with public roads and streets within public rights-of-way.

DRIVE-THROUGH ESTABLISHMENT. A facility that, by its physical design, either wholly or in part, allows people to receive goods or services while remaining in their vehicles.

DWELLING. A building or part of a building that is used primarily as a place of abode, including a modular or mobile home as defined herein, but not including a hotel, motel, lodging house, boarding house or tourist home.

(a) **MULTI-FAMILY.** Building designed for or occupied by three or more families.

(b) **SINGLE-FAMILY.** Detached building designed for or occupied by one family exclusively.

(c) **TWO-FAMILY.** Detached building designed for or occupied by two families. A duplex dwelling has one family unit above the other and a double dwelling has one family unit beside the other.

DWELLING PARCEL. Tract of land that is not a Alot@ as defined herein, but is intended for dwelling use.

DWELLING UNIT. Dwelling, or part of a dwelling, used by one family as a place of abode, physically separated from any other dwelling units that may be in the same structure, and containing independent cooking and sleeping facilities.

DWELLING, FARM. Single-family dwelling, located upon a farm and occupied or used by the owner, farm tenant or other persons employed thereon.

EASEMENT. Recorded authorization grant made by a property owner for use by another of any designated part of his or her property for a clearly specified purpose.

EXCAVATION UNIT. Sub-areas into which the entire tract being used for mineral extraction is subdivided for operational purposes.

FAMILY. One or more persons living as a single housekeeping unit, but not including a group occupying a hotel, motel, club, nursing home or educational dormitory.

FARM. Area of five acres or more used for agricultural operations, including truck gardening, forestry, the operation of a tree or plant nursery or the production of livestock and poultry, except as defined under Afarm, confinement feeding,@ or the processing of farm products produced on the farm by the resident owner or tenant, but not including commercial or custom slaughtering.

FARM, CONFINEMENT FEEDING. Any operation involving the production of livestock or fowl or related operations, indoors or outdoors, wherein 300 or more cattle, 600 or more swine or sheep, and/or 30,000 or more fowl are kept within buildings or in structures or in paved or unpaved feed lots, wherein five square feet or less of feed lot area is provided per fowl, or eight square feet or less per hog weighing 225 pounds or less, or 15 square feet or less per lamb or ewe, or 50 square feet or less per feeder steer, or 100 square feet or less per dairy cow, provided that this definition shall not apply to operations involved with the products of confinement feeding operations.

FAST FOOD RESTAURANT. Establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service or prepared quickly. Orders are generally not taken at the customer=s table, and food is generally served in disposable wrapping or containers. Establishment may include a drive-through service facility as an accessory use.

FIFTH WHEEL COACH. Structure designed to be mounted in a truck bed and pulled on the highway, built on a chassis eight feet or less wide and 40 feet or less long.

FILLING OR SERVICE STATION. Any building, structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication or washing of automobiles and replacement or installation of minor parts and accessories, but not including major repair work like engine replacement, body and fender repair or spray painting.

FLAG LOT. See *LOT, FLAG*.

FLOOD PROTECTION GRADE. Elevation of the regulatory flood plus two feet at any given location in the special flood hazard area.

FLOOD, REGIONAL. Large floods that have previously occurred or that may be expected to occur on a particular stream because of like physical characteristics. The **REGIONAL FLOOD** generally has an average frequency of the 100-year recurrence interval flood.

FLOOD, REGULATORY. The flood having a 1% probability of being equaled or exceeded in any given year as calculated by a method and procedure that is acceptable to and approved by the State Department of Natural Resources and the Federal Emergency Management Agency. The **REGULATORY FLOOD** elevation at any location is as defined in ' ' 150.045 through 150.049. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD**.

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

FLOODWAY. Portion of the floodplain, including the channel, that is reasonably required to convey the regional flood waters. Floods of less frequent recurrence are usually contained completely within the floodway.

FLOODWAY FRINGE. The portion of the floodplain, excluding the floodway, where development may be allowed under certain restrictions.

FLOODWAY, REGULATORY. See **FLOODWAY**.

FOOT CANDLE. Unit of illumination equal to the illumination at all points that are one foot from a uniform point source of one candle.

FOUNDATION. Supporting member of a wall or structure.

FOUNDATION, PERMANENT. Structural system for transposing loads from a structure to the earth at a depth below the established frost line, without exceeding the safe bearing capacity of the supporting soil.

FREE BURNING. Rate of combustion described by a substance that burns actively and easily supports combustion.

FRONT LINE. With respect to a building, the line of the face of the building nearest the front lot line.

FRONT LOT LINE.

(a) For an interior or through lot, the line marking the boundary between the lot and the abutting road or street; or

(b) For a corner lot, the line marking the boundary between the lot and the shorter of the two abutting street segments.

FRONT YARD. See *YARD, FRONT*.

FRONT-LIKE FACADE. Exterior portion of a structure that is not the front, but gives the appearance of being the front by the materials used in construction, architectural style and detail.

GARAGE OR YARD SALE. Private or public sale of six or more items of personal property, the sale of which is conducted within a residence, garage or other accessory building, or immediately outside of the building, and which is conducted by the owner or occupier of the structure.

GARAGE, PRIVATE. Detached accessory building or a portion of a main building, including carports, on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling.

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

GROUND FLOOR AREA. Area of a building in square feet as measured on a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, exterior stairways and furnace and laundry areas.

GROUP HOME. A residential facility, licensed by the State Developmental Disabilities Residential Facilities Council, that provides residential services for not more than eight developmentally disabled or mentally ill persons, none of whom has a history of violent or anti-social behavior.

HARDSHIP. A perceived difficulty with regard to one's ability to improve land as a result of the application of the development means of variance. In and of themselves, self-imposed situation standards of this title, that may or may not be subject to relief by and claims based on a perceived reduction of or restriction on economic gain shall not be considered **HARDSHIPS**. The purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement, any improvement initiated in violation of the standards of this title, or any result of land division requiring variance from the development standards of this title to render that site buildable.

HEIGHT. With respect to a building, the vertical distance from the lot ground level to the highest point for a flat roof, to the deck line for a mansard roof, and to the mean height between eaves and ridges for a gable, hip or gambrel roof.

HEAVY INDUSTRIAL USE. See **INDUSTRIAL USE, HEAVY.**

HOME OCCUPATION. Accessory use of a dwelling unit for gainful employment involving the manufacture, provision of and/or sale of goods or services.

HOTEL or MOTEL. Building or group of buildings in which lodging is provided and offered to the public for compensation and that is open to transient guests.

IMPROVEMENT LOCATION PERMIT. Document issued under ' 150.100, prerequisite to the issuance of a building permit, and indicating that the proposed use, erection, construction, enlargement, alteration, repair, movement, improvement, removal, conversion or demolition of any building or structure or use of the land complies with the sections of this title.

INDUSTRIAL USE, EXTRACTIVE. Any mining, quarrying, excavating, storing, separating, cleaning or marketing of any mineral natural resource.

INDUSTRIAL USE, HEAVY. Any manufacturing, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes in which operations, other than transportation, may be performed in either open or closed areas.

INDUSTRIAL USE, LIGHT. Any manufacturing, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.

INSTITUTION. A building or premises occupied by a non-profit corporation or a non-profit establishment for public use.

INTENSE BURNING. Rate of combustion described by a substance that burns with a high rate of activity and is consumed rapidly.

INTERIOR PARKING. Those parking spaces located in the interior of a parking lot that create definable parking aisles away from the periphery or edge of the lot.

JUNK YARD. Any open area, lot or part thereof used for the storage, selling, exchanging, packing, keeping or abandonment of junk, including scrap metal or vehicles or machinery or parts thereof, including automobile wrecking.

KENNEL. Any lot or premises or portion thereof on which more than four dogs, cats or other household domestic animals, or any combination totaling more than four, more than four months of age are kept, or on which more than two animals more than four months of age are boarded for compensation or kept for sale.

KENNEL, BOARDING. Place primarily for keeping four or more dogs, cats or other small animals that are ordinarily kept as pets and are at least four months old. The use may include grooming, breeding, training or selling of animals.

LIGHT INDUSTRIAL USE. See **INDUSTRIAL USE, LIGHT.**

LOADING BERTH. Off-street, off-alley area designed or used to load goods onto or unload goods from vehicles.

LODGING HOUSE. A building with more than two but not more than ten guest rooms, where lodging with or without meals is provided for compensation.

LOT.

(a) Parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on a road or street; or

LOT OF RECORD. Lot that is a part of a subdivision, the map of which has been recorded in the office of the County Recorder.

(b) Tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

LOT AREA. Horizontally projected area of a lot, computed exclusive of any portion of a road or street.

LOT, CORNER. Lot situated at the intersection of two roads or streets, the interior angle of the intersection not exceeding 135 degrees.

LOT COVERAGE. Total ground area of a lot, usually expressed as a percentage of the lot area that is covered, occupied or enclosed by principal and accessory buildings and structures.

LOT, DEPTH OF. Mean horizontal distance between the front line and the rear line of a lot.

LOT, DOUBLE FRONTAGE. Lot other than a corner or through lot that abuts two roads or streets.

LOT, FLAG. Lot with access provided to the bulk of the lot by means of a narrow corridor.

LOT FRONTAGE. Width of a lot measured at the front lot line where the lot abuts a road or street, measured between side lot lines parallel with the road or street.

LOT, INTERIOR. Lot other than a corner lot.

LOT LINE, REAR. For an interior lot or corner lot, the lot line that is opposite the front lot line and farthest from it, except for a triangular or other irregularly shaped lot, where it is the line at least ten feet long, parallel to and farthest from the front lot line and wholly within the lot.

LOT LINES, SIDE. Any lines other than front or rear lines that separate two lots.

LOT, THROUGH. Lot having frontage on two parallel or approximately parallel roads or streets.

LOT WIDTH. Distance parallel to the front of a building erected or to be erected, measured between side lot lines at the front lot line.

MANEUVERING AISLE. Maneuvering space in a parking area that serves two or more parking spaces, like the area between two rows of parking spaces and/or the driveway leading to those spaces.

MANEUVERING SPACE. Open space in a parking area that is immediately adjacent to a parking space and is used for and/or is necessary for turning, backing or driving forward a motor vehicle into the parking space.

MANUFACTURED HOME. Single-family dwelling unit designed and built in a factory and installed as a permanent residence, that bears a seal certifying that it was built in compliance with the *National Manufactured Home Construction and Safety Standards Act of 1974* (42 U.S.C. 5401 et seq.).

MINERAL EXTRACTION. Mining or quarrying and removal of earth materials.

MOBILE HOME. Any housing unit defined or titled by the state as a **MOBILE HOME** and/or any portable structure eight feet or more wide, 30 feet or more long, designed primarily for year-round residency and generally transported on its own frame and running gear. Multiple units and expandables shall be included in this definition.

MOBILE HOME PARK. Any lot, parcel or tract of land approved and licensed for the parking of two or more mobile homes.

MODULAR HOME. Any factory assembled home defined by the state as a **MODULAR HOME** and/or any factory assembled home not on its own frame or running gear, designed to be transported to a building site by truck or trailer.

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; or

MOTOR HOME. Self-propelled vehicle with a dwelling constructed as an integral part of the vehicle, or so altered.

NON-CONFORMING BUILDING OR STRUCTURE (LEGALLY ESTABLISHED). Any continuous, lawfully established building or structure erected or structurally altered prior to the time of adoption, revision or amendment of this title or granted a variance from this title, but that fails, by reason of the adoption, revision, amendment or variance, to conform to the present requirements of the zoning district in which it is located.

NON-CONFORMING USE. A use of land existing at the time of enactment of this title that does not conform to the regulations of the zoning district in which it is situated.

OCCUPIED SPACE. The total area of earth horizontally covered by the structure, excluding garages, patios, porches and other accessory structures.

OCTAVE BAND. All the frequencies from one frequency to a second frequency.

OCTAVE BAND FILTER. Electrical device that separates the sounds in each octave band and presents them to the sound level meter.

ONE- AND TWO-FAMILY DWELLING CODE. Nationally recognized model building code adopted by the State Department of Fire Prevention and Building Safety as mandated by I.C. 22-13-2-2, and that includes those supplements and amendments promulgated by this agency.

OPEN BURNING. Combustion of solid waste in the open or in an open dump without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(c) Control of the emissions of the combustion products.

OPEN DUMP. Consolidation of solid waste from one or more sources or the disposal of solid waste at a single disposal site:

(a) Without a solid waste land disposal permit; and

(b) Established and maintained without cover and without regard to the possibilities of contamination of surface or subsurface water resources.

OPEN SPACE. Total horizontal area of a lot, excluding the building area but including the parking areas and recreational areas.

OPEN USE. Use of a lot without a building or a use for which a building with a floor area no larger than 5% of the lot area is only incidental.

OWNER. Owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the County Assessor's office. **OWNER** also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to Zoning Administrator a copy of a deed or contract of sale showing date, book and page of recording.

PARCEL. Contiguous quantity of land in the possession of, owned by or recorded as the property of the same person or persons.

PARKING AREA. Group of parking spaces, exclusive of any part of a road, street or alley, designated or used for the temporary parking of motor vehicles.

PARKING GARAGE. Garage where parking, but not repairs, is available to the public.

PARKING SPACE. Space on private land, accessible from a road, street or alley, not less than ten feet wide and 20 feet long, exclusive of passageways.

PUBLIC IMPROVEMENT. Any drainage ditch, road, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement or other facility for which the local

PARTICULATE MATTER. Divided liquid or solid material that is discharged and carried along in the air.

PERIPHERAL PARKING. Parking spaces located at the edge or periphery of a parking lot.

PICK-UP COACH. Structure designed to be mounted on a truck chassis or cut-down automobile.

PLANNED UNIT DEVELOPMENT
Large-scale, unified development meeting the requirements for zoning approval under the provisions of ' ' 150.195 through 150.204.

PLANNING COMMISSION. County Planning Commission.

PLANT AREA. Area or territory planned for extraction of sand, gravel or other earth materials and the operational installation, if any, for the excavation, processing and distribution of minerals.

PORTABLE SIGN. See **SIGN, PORTABLE.**

PRINCIPAL BUILDING. See **BUILDING, PRINCIPAL.**

PRIVATE CAMP. See **CAMP, PRIVATE.**

PRIVATE GARAGE. See **GARAGE, PRIVATE.**

PRIVATE RECREATIONAL DEVELOPMENT. See **RECREATIONAL DEVELOPMENT, PRIVATE.**

PROFESSIONAL OFFICE. Office used by members of a recognized profession, including, but not limited to, architects, artists, attorneys, dentists, engineers, musicians, physicians, surgeons, pharmacists, realtors, insurance agents or brokers. government may ultimately assume the responsibility for maintenance and operation, or that may affect an improvement for which local government responsibility is established.

RECREATIONAL AREA, NEIGHBORHOOD. Private recreation area that is owned by a neighborhood association or a developer and is only for the use of the residents of that subdivision.

RECREATIONAL DEVELOPMENT, PRIVATE. Recreational establishment held in private ownership and either open to members or open to the general public in exchange for an admission fee.

RECREATIONAL VEHICLE. Portable vehicular structure designed as a temporary dwelling for travel and vacation uses that:

(1) (a) Is identified on the unit by the manufacturer as a travel trailer; and

(b) Is of a size that is street-legal.

(2) (a) Is a structure mounted on an automobile or truck; and

(b) Is designed to be used for sleeping and human habitation.

RECREATIONAL VEHICLE PARK. Any lot, parcel or tract of land approved for the use and occupancy of two or more recreational vehicles.

RECREATIONAL VEHICLE SITE. Area of land within a recreational vehicle park designed and approved for the placement of one recreational vehicle.

RESIDENTIAL DISTRICT. Zoning districts RR, R1, R2 and R3, described under ' 150.060 below.

RIGHT-OF-WAY, PERMANENT. Specific and particularly described strip of land, property or interest therein devoted to and subject to the lawful public use, typically as a thoroughfare of passage for pedestrians, vehicles or utilities, as recorded in the office of the County Recorder.

RINGELMANN NUMBER. Number of the area on the Ringelmann chart that most nearly matches the light obscuring capacity of smoke. The Ringelmann chart is described in the *U.S. Bureau of Mines Information Circular 6888*, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann Number 1 shall be considered as no smoke or Ringelmann Number 0, and **SMOKE UNIT** means the number obtained when the smoke density in Ringelmann Number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation. Each reading shall then be multiplied by the time in minutes during which it is observed. The products so computed shall then be added to give the total number of smoke units observed during the entire observation period.

ROAD or STREET. Right-of-way, other than an alley, dedicated or otherwise legally established to the public use, that affords the principal means of access to abutting property. A **ROAD** or **STREET** may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

ROAD OR STREET, COLLECTOR. Road or street that primarily collects traffic from local roads and streets and feeds it to the arterial network. **COLLECTOR ROADS AND STREETS** provide circulation within neighborhood areas. **COLLECTORS** are divided into major and minor collectors, depending upon their priority in the system and the amount of traffic.

ROAD OR STREET, DIVIDED. Road or street or portion thereof that has a median strip dividing the lanes carrying traffic in opposite directions.

ROAD OR STREET, LOCAL. Road or street used primarily for access to abutting properties. Certain **LOCAL ROADS AND STREETS** may be marginal access roads or streets parallel to minor collector roads or streets, therefore providing access from abutting properties.

ROAD OR STREET, MAJOR COLLECTOR. Road or street intended to move high volume, through traffic to and from major attractors like central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas and similar traffic generators within the county and/or as a route for traffic between communities, as designated by and shown in Appendix B to this chapter.

ROAD OR STREET, MINOR COLLECTOR. A road or street intended to collect and distribute moderately high volume traffic in a manner similar to major collectors, except that these roads and streets service minor traffic generating areas like community-commercial areas, primary and secondary educational facilities, hospitals, major recreational areas, churches and offices, and/or designed to carry traffic from local roads or streets to major collectors as designated and shown in Appendix B to this chapter.

ROAD OR STREET, PRIVATE. Right-of-way that has the characteristics of a road or street, as defined herein, except that it is not dedicated to the public use. A driveway that is located on a lot and that serves only the use on that lot is not considered as a **PRIVATE STREET**.

SANITARY LANDFILL. Place for disposal of garbage by the trench and cover method or fill and borrow method. In the first case, an excavation will be made and the garbage placed in the excavation and covered with the dirt that was removed. In the second case, the fill may be made in a low area and dirt borrowed from higher ground will be spread over the top of the garbage.

SCHOOL, TRADE OR BUSINESS. Secretarial or business school or college not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization, or a school conducted as a commercial

enterprise teaching instrumental music, dancing, barbering, hair dressing, drafting or industrial or technical arts.

SCRAP METAL YARD. Heavy industrial use established either independent of another heavy industrial use or ancillary to and connected with another heavy industrial use. A **SCRAP METAL YARD** is concerned exclusively with new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings and all other metal items of every type, and it acquires the items incidental to its connection with the other heavy industrial use, by purchase, consignment or bailment. The metal items may be stored, graded, processed, melted, cut, dismantled, compressed, cleaned or in any way prepared for reuse by a related, on-site, general industrial use, or the metal items may be made available for sale, shipment and use in other industries or businesses, including open hearth electric furnaces and foundry operations. The establishments shall not include junk yards or open dumps.

SERVICE STATION. See **FILLING OR SERVICE STATION**.

SETBACK LINE. Line parallel to and equidistant from the relevant lot line (front, back, side) that establishes the minimum depth of yard on a lot, beyond which no building or structure is permitted, as measured from the road or street line or the lot line.

SIDE YARD. See **YARD, SIDE**.

SIGN. Any notice or advertisement, pictorial or otherwise, used as an outdoor display for the purpose of advertising the property or the establishment or enterprise, including goods and services, upon which the sign is located.

SIGN, OFF-PREMISES ADVERTISING. Structural poster panel or painted sign, either freestanding or attached to a building, the purpose of which is to convey information, knowledge or ideas to the public about a subject unrelated to the activities on the premises upon which it is located.

SIGN, PORTABLE Free-standing, on-premises advertising device that is designed to be moved from one location to another and is not permanently affixed to the ground or to a structure or is only affixed by means of tie-down straps or stakes.

SPECIAL EXCEPTION. Use that is designated as special exception by this title, as being permitted in the zoning district concerned if it meets special conditions, following a public hearing and the approval of the Board of Zoning Appeals.

STORY. Portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. For purposes of this title, a basement shall not be considered a **STORY**.

STRUCTURAL CHANGE. Substantial change or repair, excluding normal and usual repair, in a supporting member of a building, like a bearing wall or partition column, beam or girder, or in an exterior wall or the roof.

STRUCTURE. Anything constructed or erected that requires location on or in the ground or attachment to something having a location on or in the ground.

SUBDIVISION. Division of a parcel of land into two or more lots, parcels, sites, units, plats or interests for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision.

SWIMMING POOL. Artificial pool of water for recreational use, constructed either in the ground or above ground, that is not removed seasonally for storage.

TECHNICAL REVIEW COMMITTEE. Advisory group that aids the Planning Commission in the technical review of subdivision plats, site plans and other documents.

THROUGH LOT. See **LOT, THROUGH**.

YARD, REAR. Yard that extends across the full width of a lot and is bound on the rear by the

TOURIST HOME. Building in which not more than five guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

TRAVEL TRAILER. Vehicle identified by the manufacturer as a **TRAVEL TRAILER**, built on a chassis eight feet or less wide and 35 feet or less long and designed to move on the highway.

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

USE VARIANCE. Approval of a use other than those prescribed by this title. Changes of allowed uses are not permitted by this title except by zoning map amendment.

VARIANCE. Specific approval for development or redevelopment that deviates from the development standards prescribed by this title, including, but not limited to, height, bulk or yard areas, but not including a change in use. The approvals are granted by the Board of Zoning Appeals in the manner prescribed in ' 150.216.

VISION CLEARANCE ON CORNER LOTS. Triangular space on the road or street corner of a corner lot, free from obstruction to vision between the heights of three and 12 feet above established grade, determined by a diagonal line connecting two points measured 15 feet equidistant from the road or street corner along each property line.

YARD. Space on the same lot with a principal building that is open and unobstructed by structures except as otherwise authorized by this title.

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

rear lot line and the depth of which is the least distance between the rear lot line and the rear of the

principal building.

YARD, SIDE. Yard between the principal building and the adjacent side lot line that extends from the front yard, or the road or street right-of-way where there is no front yard, to the rear yard and the width of which is the least distance between the side lot line and the adjacent side of the building.

ZERO LOT LINE. Location of a building on a lot in a manner that one or more of the building's sides rests directly on a lot line.

ZONING ADMINISTRATOR. Official appointed and/or designated by the Planning Commission to be responsible for the administration of the development codes set forth in ' 150.198.

ZONING DISTRICT. Section of the county for which uniform regulations governing the use, height, area, size and intensity of buildings and land and open spaces about buildings are hereby established.

ZONING MAPS. Official maps showing the designated zoning districts in the county, kept in the Planning Commission office.
(Ord. 2004-1-1-28, passed 1-28-2004)

ZONING DISTRICTS GENERALLY

' 150.015 ESTABLISHED.

(A) *Districts established.* In order to carry out the purposes and provisions of this title, the county is hereby divided into 13 zoning districts.

(B) *Zoning districts.*

Symbol	Description	Comprehensive Plan Density Classification			
		High	Medium	Low	Very Low
A1	Agricultural districts				X
FP	Flood plain districts (with FW and FF subdistricts)				X
RR	Rural residential districts				X
R1	Single-family residential districts			X	
R2	Two-family residential districts		X		
R3	Multi-family residential districts	X			
RMH	Residential mobile home districts	X	X		
LB	Local business districts	X	X		
GB	General business districts	X	X		
HB1	Highway business districts	X	X		
HB2	Intensive highway business districts	X	X		
I1	Light industrial districts	X			
I2	Heavy industrial districts	X			

(Ord. 2004-1-1-28, passed 1-28-2004)

Cross-reference:

Former established zoning districts, see ' 150.017

' **150.016 PURPOSE.**

(A) For the interpretation of this title, the zoning districts have been formulated to realize the general purposes set forth in ' 150.003.

(B) In addition, the specific purpose of each zoning district shall be as follows.

(1) A1 Agricultural districts are established to preserve and protect the decreasing supply of agricultural land by limiting indiscriminate infiltration of urban development into rural areas. The maximum density is one dwelling unit per 20 acres.

(2) FP Flood Plain districts and FW or FF Floodway or Flood Fringe subdistricts are established to guide development in the flood-prone areas of waterways to avoid or limit damage resulting from high water. Uses permitted in these zoning districts are generally open space, agricultural and recreational.

(3) RR Rural Residential districts are established to permit some degree of development in the rural areas of the county where public facilities are unavailable and to provide for more intense development where public facilities are available. Placing a maximum density of one dwelling per 20 acres for dwellings with individual sewage systems will help to avoid problems while allowing individual housing preference to be satisfied.

(4) R1 Single Family Residential districts are established to permit one-family dwellings in urbanizing areas of the county that may expect to be served by centralized sewer and water facilities in the immediate future. Density shall not exceed two and one-half dwelling units per gross acre with sewer

(10) HB1 Highway Business districts are established for highway-oriented businesses requiring large tracts of land but generally considered to be low traffic generators.

(11) HB2 Intensive Highway Business districts are established to provide for highway-oriented intensive uses or high traffic generators.

services and one dwelling unit per gross acre without sewer services.

(5) R2 Residential districts are established to permit medium density residential development of one- and two-family dwelling units. Density shall not exceed four dwelling units per gross acre and one dwelling unit per gross acre without sewer service.

(6) R3 Residential districts are established to permit two-family and multiple-family dwellings in communities. Centralized water and sewer facilities are required for higher density development. Density shall not exceed six dwelling units per gross acre.

(7) RMH Residential Mobile Home districts are established to encourage the development of well-planned mobile home parks. The zoning districts should abut upon a major collector road or street. Mobile home parks shall comply with all state regulations, as well as those general standards specified in this title.

(8) LB Local Business districts are established to provide areas for convenient business uses that tend to meet the daily shopping needs of the residents of an immediate neighborhood. These zoning districts should be carefully and strategically located.

(9) GB General Business districts are established to provide areas that are appropriate for all kinds of businesses and services, particularly large space users such as department stores, specialty stores and the like. Shopping centers are good examples of uses in the GB district. It is necessary that GB districts be located along a major collector.

(12) I1 Light Industrial districts are established to encourage the development of industries and wholesale business establishments that are clean, quiet and free of hazardous or objectionable elements, that operate entirely within enclosed structures and generate little industrial traffic. These zoning districts are further proposed to act as transitional districts between Heavy Industrial

(2) The entry shall be initialed by the President of the County Commissioners and the President of the Planning Commission, and attested by the County Surveyor and the County Auditor. No changes of any nature shall be made on the official zoning maps or matters shown thereon except in conformity with the procedures set forth in this title. Any unauthorized change of any kind by a person or persons shall be considered a violation of this title and punishable as provided under ' 150.204.

(E) Regardless of the existence of purported copies of the official zoning maps that from time to time may be published, the official zoning maps shall be located in the office of the Zoning Administrator of the county. It shall be the final authority as to the current zoning status of land and water areas in the county and its administrative jurisdictional area.

(F) (1) In the event that the official zoning maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Commissioners may by resolution adopt new official zoning maps. The new official zoning maps may correct drafting or other errors or omissions in the prior official zoning maps, but no correction shall have the effect of amending the original official zoning maps or any subsequent amendment thereof. The new official zoning maps shall be authenticated by the signatures of the President of the County Commissioners and the President of the Planning Commission, attested by the County Surveyor and the County Auditor, and bear the seal of the county under the following words:

This is to certify that these Official Zoning Maps supersede and replace the Official Zoning _____ Maps adopted _____ [date] as part of

(B) Territory under the control of this code of ordinances that may hereafter be annexed to or disannexed from a town or city shall remain as zoned unless changed by amendment of this title.

(C) When a right-of-way is vacated, the zoning districts adjoining each side are respectively extended to the center of the area so vacated.

(D) Minimum front, side and rear setbacks for

Code Number _____ of Henry County, Indiana.

(2) Unless the prior official zoning maps have been lost or have been totally destroyed, the prior maps or any significant parts thereof remaining shall be preserved, together with all available records pertaining to their adoption or amendment.

(G) As soon as revised official zoning maps showing zoning district designations of A1, FP, FW, FF, RR, R1, R2, R3, RMH, LB, GB, HB1, HB2, I1 or I2 are adopted, the revised official zoning maps shall apply to the areas illustrated thereon. In any case where the zoning classification assigned to real property by the official zoning maps under this code of ordinances places greater restrictions on the use of the property than existed under the zoning classification assigned pursuant to the previous code, the property in question, notwithstanding the official zoning maps, shall be placed automatically in the new zoning classification that corresponds to the previous classification, as set forth in division (B) above. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.018 DISTRICT BOUNDARIES.

(A) The boundaries of each zoning district as established on the official zoning maps are intended to follow property lines, lot lines, county and state highways, roads, streets, railroad rights-of-way, streams and other natural landmarks. Distances shall be scaled directly from the official zoning maps. Should questions arise as to the exact location of zoning district boundaries, the Zoning Administrator shall interpret the official zoning maps according to the reasonable intent of this code of ordinances.

former E-R12 and E-R13 zoning districts will differ from R2 setbacks. (Ord. 2004-1-1-28, passed 1-28-2004)

A1 DISTRICTS

' 150.030 INTENT.

(A) The regulations in this subchapter shall apply in all A1 districts in addition to all other requirements of this title.

(B) A1 Agricultural districts are established to preserve and protect the decreasing supply of agricultural land by limiting indiscriminate infiltration of urban development into rural areas. The maximum density is one dwelling unit per 20 acres. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.031 USES.

The following table identifies those uses that are permitted uses (P), permitted accessory uses (PA) or Commission-approved uses (CA) in the A1 districts, provided that they comply with the property development standards set forth in ' ' 150.032 and 150.145.

<i>Use</i>	<i>AI</i>
Accessory structure	PA
Advertising structure	P
Agriculture, animal raising	P
<i>Use</i>	<i>AI</i>
Agriculture, confined feeding	CA
Agriculture, farm	P
Agriculture, farm management	P
Agriculture, feed and fertilizer	P
Agriculture, feed lot	P
Agriculture, grain	P
Agriculture, grain storage	P
Agriculture, livestock	P
Agriculture, nurseries, truck gardening, farm crops	P
Airport	CA
Anhydrous ammonia or similar liquefied fertilizer, storage and distribution	CA
Assembly hall for use by non-profit	CA

organization	
Auction sale, enclosed	CA
Auction sale, open	P
Bait sale, live	CA
Bed and breakfast or tourist home	CA
Bottled gas, storage and distribution	CA
Camp, private	CA
Cemetery	CA
Church	CA
Country club	CA
Dwelling, conventional home	P
Dwelling, farm	P
Dwelling, farm worker, seasonal housing, tenant	P
Dwelling, mobile home ¹	P
Dwelling, one-family	P
Golf course	CA
Greenhouse, commercial	P
Home for the disabled, residential	P
Home occupation	PA
<i>Use</i>	<i>AI</i>
Hunting or fishing lodge, seasonal	CA
Kennel or animal hospital	CA
Lake, artificial or natural	P
Landfill, refuse disposal, dump	CA
Manufacturing, storage or use of explosives	CA
Municipal or governmental building	P
Nursery or greenhouse	P
Park, playground or recreational facility, public	P
Police or fire station	P
Produce sales stand, roadside	P

Henry County - Land Usage

Railroad right-of-way and necessary uses	P
Recreational development, private	CA
Recreational enterprise, outdoor commercial	CA
Riding stable	CA
School, public	P
Slaughterhouse	CA
Swimming pool	PA
Theater, outdoor	CA
Utility	CA
Wholesale produce terminal	CA
¹ Subject to the requirements of ' 150.128	

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.032 PROPERTY DEVELOPMENT STANDARDS.

(A) *A1 property development standards.* The following property development standards shall apply to all land and structures in the A1 districts:

<i>Maximum gross density</i>	
With community sewage disposal system	1 unit/20 acres ¹
With septic system	1 unit/20 acres ¹
<i>Minimum lot width</i>	
With community sewage disposal system	150 feet ²
With septic system	150 feet ²
<i>Maximum building height (agricultural structures not included)</i>	
In feet	35
In stories	2.5
<i>Minimum building size (square feet of ground area)</i>	
One-family, one story	900
One-family, two story	720*
<i>Minimum front yard setback</i>	
Lots abutting a minor collector or local road or street	60 feet
Lots abutting a principal or major collector highway	85 feet
<i>Minimum side yard setback (two required)</i>	
50 feet ³	
<i>Minimum rear yard setback</i>	
50 feet ⁴	
*Includes only the ground floor	
¹ The minimum lot size for residential uses shall be one and one-half acres unless otherwise required by the County Health Department for proper sewerage	
² The minimum lot width for residential uses shall be 150 feet	
³ The minimum side yard setback for residential uses shall be 35 feet	
⁴ The minimum rear yard setback for residential uses shall be 40 feet	

(B) *Other requirements.* See ' ' 150.149 through 150.152 for parking, and landscaping requirements. See Chapter 158 for signage requirements.

(Ord. 2004-1-1-28, passed 1-28-2004)

FP DISTRICTS

' 150.045 INTENT.

(A) The regulations contained in this subchapter shall apply in all FP districts, and all FW and FF subdistricts, in addition to all the other requirements of this title.

(B) FP Flood Plain districts and FW Floodway and FF Flood Fringe subdistricts are established to guide development in the flood prone areas of waterways as to avoid or limit damage resulting from high water. Uses permitted in these zoning districts are generally open space, agricultural and recreational.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.046 DIVISION OF DISTRICTS.

(A) The Flood Plain districts shall be designated FP on official zoning maps and include areas not yet established by the Planning Commission as either FW or FF subdistricts.

(B) Floodway subdistricts shall be designated FW on official zoning maps.

(C) Floodway Fringe subdistricts shall be designated FF on official zoning maps.

(D) The FF subdistricts designated may be combined with any other zoning districts established by this title, as FF-A1, FF-R3, FF-LB and so on.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.047 SPECIAL PROVISIONS.

In those portions of the county where the Floodway Fringe and the Floodway have not been separately established, the Planning Commission shall not issue a permit except for those uses listed under ' 150.049(A) unless approved by the Department of Natural Resources.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.048 PROPERTY DEVELOPMENT STANDARDS.

(A) The following property development standards shall apply to all land and structures in the FP districts.

(1) *FP districts: property development standards.*

1 unit/2
150 feet
In feet
In stories
No requirements
Lots abutting road or
Lots abutting highway
100 feet
100 feet

(2) *Other requirements.* See ' ' 150.147 through 150.152 for off-street parking, loading and fences, hedges and wall requirements. See Chapter 158 for outdoor advertising.

(B) The provisions of division (A) above or the section applicable to the district with which the FF subdistrict is combined shall apply. (Ord. 2004-1-1-28, passed 1-28-2004)

' **150.049 USES.**

(A) The following table identifies those uses that are permitted uses (P), permitted accessory uses (PA) or Commission-approved uses (CA) in the A1 districts, provided that they do not involve any structure, obstruction, deposit or excavations, and further that they comply with the property development standards set forth in ' ' 150.048(A) and 150.145 through 150.152.

<i>Use</i>	<i>FP</i>	<i>FW</i>	<i>FF</i>
Advertising structure ^{1,2}	CA	CA	CA
Agriculture, crops	P	P	P
Agriculture, orchard	P	P	P
Agriculture, pasture	P	P	P
Agriculture, plant nursery	P	P	P
Athletic facility	CA	CA	CA
Batting or driving range	CA	CA	CA
Camp, public ¹	CA	CA	CA
Country club ¹	CA	CA	CA
Forestry	P	P	P
Golf course ¹	CA	CA	CA
Golf course, miniature	CA	CA	CA
<i>Use</i>	<i>FP</i>	<i>FW</i>	<i>FF</i>

(B) (1) RR Rural Residential districts are

Lake, artificial or natural	P	P	P
¹ The minimum lot size for residential uses shall be one and one-half acres unless otherwise required by the County Health Department for proper sewerage			P
Nature preserve			
Parking lot	CA	CA	CA
Park or playground	P	P	P
Railroad right-of-way and necessary uses ¹	P1	P1	P1
Recreational development, private	CA	CA	CA
Recreational enterprise, outdoor commercial	CA	CA	CA
Shooting range, outdoor	CA	CA	CA
Sign ^{1,2}	CA	CA	CA
Vineyard	CA	CA	CA
Wildlife area	P	P	P
¹ Permit required from the State Department of Natural Resources			
² See ' ' 150.145 through 150.152 for additional requirements			

(B) Within the FF Floodway Fringe subdistricts, all facilities, structures and buildings listed as permitted by Commission-approved use in division (A) above or within the zoning district with which the FF subdistrict is combined may be permitted, provided that the flood protection grade for all buildings shall be at least two feet above the regulatory flood profile as established or approved by the State Department of Natural Resources. (Ord. 2004-1-1-28, passed 1-28-2004)

RR, R1, R2, R3 DISTRICTS

' **150.060 INTENT.**

(A) The following regulations shall apply in all RR, R1, R2 and R3 districts in addition to all the other requirements of this title.

established to permit some degree of development in

the rural areas of the county where public facilities are unavailable and to provide for more intense development where public facilities are available. Placing a maximum density of one dwelling per 20 acres for dwellings with individual sewage systems will help to avoid problems while allowing individual housing preference to be satisfied.

(2) R1 Single-Family Residential districts are established to permit single-family dwellings in urbanizing areas of the county that may expect to be served by centralized sewer and water facilities in the immediate future. Density shall not exceed two and one-half units per gross acre with sewer services and one dwelling unit per gross acre without sewer services.

(3) R2 Residential districts are established to permit medium density residential development of

one- and two-family dwelling units. Density shall not exceed four dwelling units per gross acre and one dwelling unit per gross acre without sewer service.

(4) R3 Residential districts are established to permit two-family and multiple-family dwellings in communities. Centralized water and sewer facilities are required for higher density development. Density shall not exceed six dwelling units per gross acre.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.061 USES.

The following table identifies those uses that are permitted uses (P), permitted accessory uses (PA) or Commission-approved uses (CA) in the RR, R1, R2 and R3 districts, provided that they comply with the property development standards set forth in ' ' 150.062 and 150.145 through 150.152.

<i>Uses</i>	<i>RR</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>
Accessory structure (see ' 150.125)	PA	PA	PA	PA
Assembly hall for use by non-profit organization				CA
Boarding or lodging house				P
Charitable institution			CA	CA
Chiropractor=s office				CA
Counselor=s office				CA
Country club		CA	CA	CA
Dwelling, farm	P	P		
Dwelling, multi-family				P
Dwelling, one-family, conventional home	P	P	P	P
Dwelling, one-family, mobile home (subject to the requirements of ' 150.128)			CA	CA
Dwelling, one-family, modular home	P	P	P	P
Dwelling, two-family			P	P
Fence (see ' 150.062)	PA	PA	PA	PA
Funeral home or mortuary				CA
Golf course		CA	CA	CA
Group home (see note)			CA	P

Henry County - Land Usage

<i>Uses</i>	<i>RR</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>
Home occupation	PA	PA	PA	PA
Kindergarten or day care center		CA	CA	CA
Library or museum	CA	CA	CA	CA
Local, regional, state or federal agency	P	P	P	P
Medical or dental office				CA
Municipal or government building	CA	CA	CA	CA
Nursing home, home for the aged			P	P
Park or recreational facility, public	CA	CA	CA	CA
Planned unit development		CA	CA	CA
Police or fire station	CA	CA	CA	CA
Railroad right-of-way and necessary uses	PA	PA	PA	PA
School	PA	PA	PA	PA
Sign (see ' 150.062)	PA	PA	PA	PA
Swimming pool	PA	PA	PA	PA
Utility	CA	CA	CA	CA
Note: Group homes are permitted staff as is necessary to adequately manage the home, but not to exceed two staff members residing in the home at any time				

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.062 PROPERTY DEVELOPMENT STANDARDS.

(A) Residential district property development standards. The following property development standards shall apply to all land and structures in the RR, R1, R2 and R3 districts, as indicated:

	<i>RR</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>
<i>Maximum density¹</i>				
With septic systems (1 unit/lot)	1 unit/20 acres	65,340 sq. ft.	65,340 sq. ft.	C
With septic systems (2 units/lot)	C	C	87,120 sq. ft.	C
With sewer systems (1 unit/lot)	1 unit/20 acres	26,136 sq. ft.	17,424 sq. ft.	8,712 sq. ft.
With sewer systems (2 units/lot)	C	C	26,136 sq. ft.	17,424 sq. ft.
With sewer systems (3 units/lot or more)	Add 8,712 square feet for each additional unit in R3			
<i>Minimum lot width</i>				
With septic systems	150 ft.	150 ft.	100 ft.	n. a.

	RR	RI	R2	R3
With sewer systems	150 ft.	100 ft.	80 ft.	80 ft.
For corner lots	Increase width by 25%			
Maximum building height				
In stories	2.5	2.5	2.5	3
In feet	35 ft.	35 ft.	35 ft.	35 ft.
Minimum building size (sq. ft.)				
One-family, one story (ground floor area)	1,250	1,200	900	C
One-family, two story (ground floor area)	1,000	900	720	C
Two-family, one story	C	C	1,440	1,440
Two-family, two story	C	C	1,440	1,440
Multi-family, one story (3 units)	C	C	C	1,800
Multi-family, two story (3 units)	C	C	C	1,800
Multi-family, each additional unit	C	C	C	500
Minimum front yard setback				
Lots abutting a major collector road or street	85 ft.	75 ft.	65 ft.	55 ft.
Lots abutting a local road or street	40 ft.	40 ft.	30 ft.	30 ft.
Lots abutting a minor collector road or street	60 ft.	50 ft.	40 ft.	30 ft.
Former E-R12 or E-R13	Avg.	Avg.	Avg.	Avg.
Minimum side yard setback (two required)				
Each yard	25 ft.	20 ft.	15 ft.	10 ft.
Former E-R12 or E-R13	C	C	5 ft.	C
Minimum rear yard setback				
Each lot	35 ft.	30 ft.	25 ft.	20 ft.
Former E-R12 or E-R13	C	C	10 ft.	C
¹ Septic systems may require larger lots, to be determined by the County Health Department				

(B) *Other requirements.*

(1) The minimum lot size in the RR district shall be one and one-half acres, unless otherwise required by the County Health Department for proper sewerage.

(2) See ' 150.145 through 150.152 for off-street parking, outdoor advertising and loading requirements.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.063 FENCES, HEDGES AND WALLS.

(A) This section is intended to provide for the regulation of the height and location of fences, hedges and walls for the purpose of providing for light, air and privacy and safeguarding the public welfare by preventing visual obstructions at road, street and highway intersections.

(B) (1) *Required fences and walls; swimming pools.*

(a) Swimming pools shall be entirely enclosed by buildings or fences or walls not less than five feet nor more than six feet in height. The fences or walls shall be equipped with self-latching gates or doors, the latching devices being located not less than four feet above the ground.

(b) All fencing must be in place and approved by the Zoning Administrator, or his or her duly authorized representative, before water is run into the pool. Above-ground pools shall be equipped with latching devices on their ladder-entrances not less than four feet above the ground.

(c) All lighting of pool areas shall be so hooded that the light does not shine toward abutting properties.

(2) *Permitted fences, hedges and walls.*
The provisions of ' ' 150.145 through 150.152 shall apply.
(Ord. 2004-1-1-28, passed 1-28-2004)

RMH DISTRICT

' 150.075 INTENT.

(A) The following regulations shall apply in all RMH districts in addition to all the other requirements of this title.

(2) RMH Residential Mobile Home districts are established to encourage the development of well-planned mobile home parks. The districts should abut upon a major collector road or street. Mobile

home parks shall comply with all state regulations, as well as those general standards specified in this title.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.076 USES.

The following table identifies those uses that are permitted uses (P), permitted accessory uses (PA) or Commission-approved uses (CA) in the RMH districts, provided that they comply with the property development standards set forth in ' 150.077 and ' ' 150.145 through 150.152:

Accesso
Fences ¹
Home c
Mobile
Mobile
Railroa
Sign ²
Swimm
¹ See ' ' fences, RMH d
² See Ti applica

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.077 PROPERTY DEVELOPMENT STANDARDS.

(A) The following property development standards shall apply to all land and structures in the RMH districts.

<i>Minimum lot area</i>	
Minimum park area	5 acres
Minimum area for mobile home space	2,000 sq. ft.

<i>Minimum park width</i>	
270 feet	
<i>Maximum building height</i>	
35 feet	
<i>Minimum ground floor area</i>	
720 sq. ft. per mobile home	
<i>Minimum front yard setback</i>	
Lots abutting a major collector road or street	65 feet
Lots abutting a minor collector road or street	40 feet
Lots abutting a local road or street	30 feet
<i>Minimum side yard setback (two required)</i>	
15 feet each	
<i>Minimum rear yard setback</i>	
15 feet	

(B) (1) See ' ' 150.145 through 150.152 for off-street parking, fences, hedges and walls requirements applicable to the RMH districts.

(2) See Title 9 for outdoor advertising requirements applicable to RMH districts. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.078 MOBILE HOME PARK REQUIREMENTS.

The following requirements shall apply to all mobile home parks in addition to the previous requirements.

(A) *Distances between structures.*

(1) The minimum distance between mobile home stands on opposite sides of the road or

street shall be 70 feet.

(2) The minimum distance between a mobile home stand and a road or street right-of-way, a common parking area, a common walk or other common area shall be ten feet.

(3) The minimum distance between a mobile home stand and the park boundary:

(a) When adjoining residential land use or residential or collector road or street shall be 20 feet; and

(b) When adjoining land use is other than residential or a collector road or street shall be 15 feet.

(4) Other minimum yard dimensions shall be as shown in Figure 1 below.

(B) *Roads and streets.*

(1) (a) Roads or streets shall be provided on the site where necessary to furnish principal traffic-ways for convenient access to the mobile home stands and other important facilities on the property.

(b) Roads and streets shall be privately owned.

(2) (a) The road or street system shall provide convenient circulation by means of minor roads and streets and properly located collector roads or streets.

(b) Closed ends of dead end roads or streets shall be provided with adequate paved vehicular turning or backing space.

(c) A turning circle shall be at least 40 feet in diameter.

(3) Pavements shall be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of road or street, with 11-foot minimum moving lanes for collector roads or streets, ten-foot minimum moving lanes for minor roads or streets, ten-foot minimum lane for parallel guest parking and four feet additional width for pedestrian use where adjacent sidewalk is not provided.

(a) All entrance roads and streets and other collector roads or streets with guest parking on both sides shall be a minimum of 42 feet wide.

(b) All collector roads or streets with no parking shall be a minimum of 22 feet wide.

(c) All minor or cul-de-sac roads or streets with no parking shall be a minimum of 22 feet wide.

(4) Roads and streets shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic, satisfactory surface and groundwater drainage and proper functioning of sanitary and storm sewer systems.

(5) (a) Road or street intersections shall be at right angles with a maximum deviation of 15 degrees.

(b) Offsets at intersections and intersections of more than two streets at one point shall be avoided.

(6) The road or street improvements shall extend continuously from the existing improved road or street system to provide suitable access to the mobile home stands and other important facilities on the property, to provide adequate connections to existing or future roads or streets at the boundaries of the property and to provide convenient circulation for vehicles.

(7) Pavements and surfacings of other than cement concrete shall be protected at the edges by curbs, gutters or other suitable edging where necessary to prevent raveling of the wearing surface

and shifting of the pavement base.

(8) The road or street base shall be well drained, uniformly graded and compacted.

(9) Flexible pavement-see Chapter 152.

(10) Rigid pavement-see Chapter 152.

(C) *Driveways.*

(1) Driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, to delivery and collection ports for refuse and other material and elsewhere as needed.

(2) (a) A driveway serving a single facility or single mobile home lot shall be a minimum of eight feet wide.

(b) Where a driveway is also used as a walk, it shall be a minimum of ten feet wide.

(D) *Walks.*

(1) Individual walks shall be required to each mobile home stand from a paved driveway or parking space connecting to a paved road or street.

(2) (a) Common walks shall be required in locations where pedestrian traffic is concentrated, for instance, at the park entrance and to the park office and other important facilities.

(b) Common walks should preferably be through interior areas removed from the vicinity of roads or streets.

(3) Width shall generally be at least two feet for walks on individual lots and at least three feet for common walks.

(4) The material for walks shall be either a minimum of four inches of cement concrete or one and one-half inches of asphalt.

(E) *Laundry facilities.* Where centralized provisions of washers, dryers or common drying yards are required, they shall be located conveniently to the mobile homes.

(F) *Recreational facilities.*

(1) Recreational areas and facilities, such as playgrounds, swimming pools and community buildings, shall be provided to meet the anticipated needs of the clientele the park is designed to serve. Provision of separate adult and tot lot recreation areas is encouraged.

(2) Not less than one-quarter acre per 25 units or portion thereof shall be devoted to designated and developed recreational facilities, generally provided in a central location or, in the larger parks, decentralized. The minimum dimension of a recreational area shall be 100 square feet. Recreational areas include space for community buildings, adult recreation, child play and swimming pools.

(G) *Screen planting and fences**. In addition to the standards in ' ' 150.145 through 150.152, the following shall apply.

(1) A chain link fence, at least four feet high but not more than six feet high, shall be placed at the boundary line of the mobile home park.

(2) Fences or free standing walls at least four feet high but not more than six high shall be installed where necessary for screening purposes, such as around laundry drying yards, refuse collection points and playgrounds.

(3) All fences and walls shall be located at least 15 feet from interior road or street centerlines and at least 18 inches from the pavement edge of roads, streets, driveways, parking spaces and walks.

(4) Fences and walls shall be appropriately designed for the function intended and shall be substantially constructed to withstand conditions of soil, weather and use.

*Unless topographic conditions would otherwise serve the same purpose.

(H) *Community facilities.* Essential community facilities and services for the type of mobile home park under construction, such as schools, recreation areas, police and fire protection, shall be reasonably accessible to the park, and provisions shall be made assuring these facilities and services.

(I) *Sanitary facilities.*

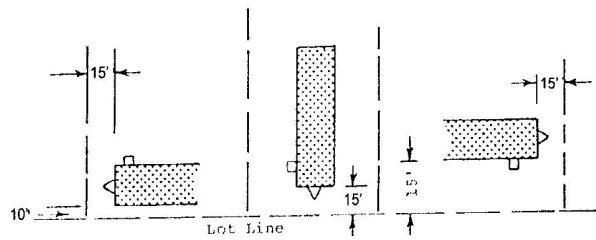
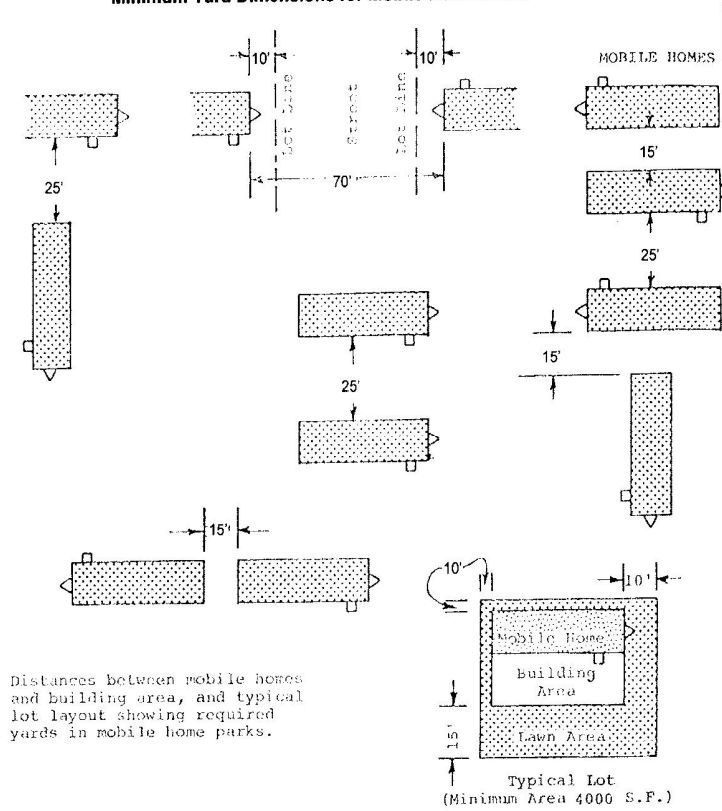
(1) The mobile home park shall be provided with a complete sanitary sewer system that shall connect with an existing approved sanitary sewer outlet or shall be provided with a separate treatment plant, to be provided by the developer in accordance with the minimum requirements of the State Board of Health and/or the State Stream Pollution Control Board; and

(2) The plans for the installation of a sanitary sewer system shall be provided by the developer of a mobile home park and approved by the State Board of Health. Upon the completion of the sanitary sewer installation, the plans for the system shall be filed with the Planning Commission.

(J) *Skirting and site improvements.* All mobile homes shall be skirted and anchored to the ground by approved strapping or manufacturer-installed anchoring devices.

(Ord. 2004-1-1-28, passed 1-28-2004)

Figure 1
Minimum Yard Dimensions for Mobile Home Parks



LB, GB, HB1, HB2 DISTRICTS

' 150.090 INTENT.

(A) The following regulations shall apply in all LB, GB, HB1 and HB2 districts in addition to all the other requirements of this title.

(B) (1) LB Local Business districts are established to provide areas for convenient business uses that tend to meet the daily shopping needs of the residents of an immediate neighborhood. These districts should be carefully and strategically located.

(2) GB General Business districts are established to provide areas that are appropriate for all kinds of businesses and services, particularly large space users such as department stores, specialty stores and the like. Shopping centers are good examples of uses in the GB district. It is necessary that GB districts be located along major collectors.

(3) HB1 Highway Business districts are established for highway-oriented businesses requiring large tracts of land but generally considered to be low traffic generators.

(4) HB2 Intensive Highway Business districts are established to provide for highway-oriented intensive uses or high traffic generators.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.091 USES.

The following table identifies those uses that are permitted uses (P), permitted accessory uses (PA) or Commission-approved uses (CA) in the LB, GB, HB1 and HB2 districts, as indicated, provided that they comply with the property development standards set forth in ' ' 150.092 and 150.145 through 150.152.

<i>Use</i>	<i>LB</i>	<i>GB</i>	<i>HB1</i>	<i>HB2</i>
Accounting, auditing and bookkeeping service	P	P		
Advertising structure		P	P	P
Agricultural credit institution	P	P		
Amusement enterprise (billiards, arcade games of skill or science, video/electronic games)		CA		
Antique and/or secondhand store	P	P		
Apartment for residential use in business building, subject to ' 150.125(E)	CA	CA		
Apparel shop	P	P	CA	CA
Appliance store, household	CA	P		
Assembly hall for use by non-profit organization	CA	CA		
Attorney=s office	P	P		
Automobile body shop and/or painting		CA	CA	
Automobile parts store	P	P		CA
Automobile rental and/or leasing agency		P	CA	P
Automobile repair shop	CA	CA		P
Automobile sales, new and/or used		P	CA	P

Henry County - Land Usage

<i>Use</i>	<i>LB</i>	<i>GB</i>	<i>HB1</i>	<i>HB2</i>
Bait sales, live	P	P		
Bakery, retail, baking and selling	CA	P		
Bakery, retail, selling only	CA	P		P
Bank or financial institution	CA	P		P
Banking or savings service, drive-in	CA	CA		P
Barber shop	P	P		
Beauty shop	P	P		
Bicycle shop	P	P	P	P
Boat sales, service, storage and/or rental		CA	P	
Bond and/or mortgage company	CA	P		
Book and/or stationery store	P	P		
Bowling alley	CA	P		
Bus passenger station		P		CA
Business service and/or office, professional	CA	P		
Cafeteria	CA	P		P
Camera and/or photo supply store	P	P		
Candy, nut and/or confectionery shop	P	P		P
Car wash, automatic		P		P
China, glassware and/or metalware shop	CA	P		P
Church	P	P		P
Cigar and/or tobacco store	P	P		P
Clinic	CA	P		
Clothing store, family	P	P		
Clothing store, rental	P	P		P
Computer sales and/or service stores	P	P		
Convenience store with gasoline sales	CA	CA		CA
Credit adjustment and/or collection agency, consumer		P		
Dairy product store	CA	P		P
Dance hall, studio and/or school		P		
Delicatessen	CA	P		
Department store		P		

<i>Use</i>	<i>LB</i>	<i>GB</i>	<i>HB1</i>	<i>HB2</i>
Detective and/or protective agency		P		
Diaper service		P		
Direct mail and/or stenographic service		P		
Drapery, curtain and/or upholstery shop	P	P		
Dressmaking shop	P	P		
Driving school		P		
Drug and/or proprietary store	P	P		
Electrical repair shop	P	P		
Employment agency, private		P		
Exterminating service	CA	P		
Farm and garden supply store	CA	P	P	
Farm equipment sales and/or service store		P	P	
Finance company, installment sales	CA	P		
Floor covering store	CA	P	P	
Florist shop	P	P		
Formal wear rental shop	P	P		
Fraternal organization	CA	P		
Fruit and/or vegetable market	P	P		
Funeral home or mortuary	P	P		
Furniture sales, service and/or repair store	CA	P	P	
Furrier and/or fur sales store	P	P		
Garage, parking	CA	P		P
Garage, public	CA	P		P
Gasoline service station	CA	CA	CA	CA
Gift, novelty and/or souvenir shop	P	P	P	P
Golf course, miniature		P	P	
Golf driving range		P	P	
Greenhouse, commercial	CA	P		
Grocery store	P	P		
Hardware store	CA	P	P	
Health and fitness center	CA	P		

Henry County - Land Usage

<i>Use</i>	<i>LB</i>	<i>GB</i>	<i>HB1</i>	<i>HB2</i>
Health foods store	P	P		
Hobby, toy and/or game store	P	P		
Hospital	CA	P		
Hotel or motel		P	P	
Ice cream parlor or store	P	P		
Insurance agent, broker and/or service office	P	P		
Jewelry store		P	P	
Kennel and/or animal hospital	CA	CA	CA	
Laboratory, medical or dental	P	P		
Laboratory, testing, commercial		P	P	
Laundry and/or dry cleaning center, coin-operated	CA	P		
Laundry and/or dry cleaning center, commercial	P	P		
Liquor store	CA	CA		CA
Lodge or private club		P	P	
Lumber and/or building materials dealer		CA	P	
Lunch room	CA	P		
Marina		P	CA	
Marine sales dealership		P	P	P
Meat and/or fish shop	P	P		
Medical or dental office	P	P		
Monument sales dealership		P	P	
Motorcycle and/or motor scooter sales and/or service shop	P	P		
Municipal or government building	P	P	CA	P
Museum and/or art gallery	CA	P		
Music and/or recordings store	P	P		
News dealer	P	P		
News service office with publishing		P		
News service office without publishing		P		
Night club		P		P
Nursing home	CA			
Optometrist=s office	P	P		

<i>Use</i>	<i>LB</i>	<i>GB</i>	<i>HB1</i>	<i>HB2</i>
Paint, glass and/or wallpaper store	P	P		
Park or recreational facility, public	CA	CA	CA	CA
Parking lot	P	P	P	P
Personal service establishment	CA	CA	CA	CA
Pet shop	P	P		
Pharmacy	P	P		
Photocopying and/or duplicating service	P	P		
Photographic studio	CA	P		
Photo store, drive-in		P	P	
Plumbing, heating and/or air-conditioning dealer	CA	P		
Police or fire station	P	P	P	P
Radio and/or television shop	P	P		
Radio and/or television station or studio	P	P	P	
Railroad right-of-way and necessary uses	P	P	P	P
Railway or bus station		P		P
Real estate service	P	P		
Recreational development, private	CA	CA		
Recreational enterprise, outdoor commercial	CA	P		
Recreational vehicle park			CA	CA
Recreational vehicle sales, service and/or rental			P	
Restaurant	P	P		
Restaurant, carry-out	CA	P		P
Restaurant, drive-in	P	P		
Savings and loan association or credit union	CA	P		P
School	P	P		
School, trade or business	CA	P		
Shoe service and repair shop	P	P		
Sign (see Chapter 158)	P	P	P	P
Skating rink		P	P	
Specialty food shop	P	P		
Sporting goods store	P	P		

Henry County - Land Usage

<i>Use</i>	<i>LB</i>	<i>GB</i>	<i>HB1</i>	<i>HB2</i>
Sports field or arena			CA	CA
Stock broker and/or dealer		P		
Studio business	CA	P		P
Supermarket		P		P
Tavern		P		P
Theater, dinner	P	P		
Theater, indoor		P	P	
Theater, outdoor		P	P	
Travel plaza				CA
Truck rental and/or leasing		P	CA	P
Truck repair		CA	CA	
Truck sales, new and/or used		CA	CA	
Truck service center		CA	CA	
University, college or other institution of higher education, public or private		P		
Utility	CA	CA	CA	CA
Variety store	CA	CA		
Vehicle sales, all, outdoor			P	P
Vehicle storage, disabled		CA		
Wastewater treatment facility	CA	CA	CA	CA
Watch, clock and/or jewelry repair shop	P	P		
Water supply station	CA	CA	CA	CA
Welfare and/or charitable services agency	CA	P		

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.092 PROPERTY DEVELOPMENT STANDARDS.

(A) *LB, GB, HB1 and HB2 property development standards.* The following property development standards shall apply to all land and structures in the LB, GB, HB1 and HB2 districts, provided that a residential use located in a business district shall comply with the property development standards set forth in ' 150.062 for R3 districts uses:

<i>Property development standard</i>	<i>LB</i>	<i>GB</i>	<i>HBI</i>	<i>HB2</i>
Minimum lot area	4,356 sq. ft.	2,178 sq. ft.	43,560 sq. ft.	43,560 sq. ft.
Minimum lot width	100 ft.	80 ft.	150 ft.	150 ft.
<i>Maximum building height</i>				
In feet	35 ft.	45 ft.	35 ft.	35 ft.
In stories	3	4	3	3
<i>Minimum building size (sq. ft.)</i>	No requirements			
<i>Minimum front yard setback¹</i>				
Lots abutting a major collector road or street	65 ft.	55 ft.	85 ft.	75 ft.
Lots abutting a minor collector road or street	40 ft.	30 ft.	60 ft.	50 ft.
Lots abutting a local road or street	30 ft.	30 ft.	40 ft.	40 ft.
<i>Minimum side yard setback (two required)</i>				
Each yard	15 ft.	10 ft.	25 ft.	20 ft.
<i>Minimum rear yard setback</i>				
C	25 ft.	40 ft.	35 ft.	30 ft.
¹ For improved blocks where 25% or more of the lots in the block frontage are occupied by buildings, the average setback of those buildings determines the dimensions of the front setback for any new building, provided that the structure does not encroach into the right-of-way				

(B) *Other requirements.* See ' ' 150.145 through 150.152 for off-street parking, fences, hedges and walls requirements. See Chapter 158 for outdoor advertising requirements. (Ord. 2004-1-1-28, passed 1-28-2004)

II, I2 DISTRICTS

transitional zoning districts between Heavy Industrial districts and Business districts.

' 150.105 INTENT.

(A) The following regulations shall apply in all I1 and I2 districts in addition to all the other requirements of this title.

(B) (1) I1 Light Industrial districts are established to encourage the development of industries and wholesale business establishments that are clean, quiet and free of hazardous or objectionable elements, which operate entirely within enclosed structures and generate little industrial traffic. These districts are further proposed to act as

(2) I2 Heavy Industrial districts are established to provide for major manufacturing, processing, warehousing and research and testing operations. These activities require extensive community facilities and reasonably good access to major collectors and interstate highways. They may also have extensive open storage and service areas and may generate heavy industrial-type traffic (trucks, semis and the like), but shall be prohibited if they create nuisances beyond the limitations of this title.

(Ord. 2004-1-1-28, passed 1-28-2004)

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' 150.106 USES.

The following table identifies those uses that are permitted uses (P), permitted accessory uses (PA) or Commission-approved uses (CA) in the I1 and I2 districts, provided that they comply with the property development standards set forth in ' ' 150.107 and 150.145 through 150.152.

<i>Use</i>	<i>I1</i>	<i>I2</i>
Advertising structure	P	P
Anhydrous ammonia or similar liquefied fertilizer, storage and distribution	CA	CA
Auction sales yard (excluding livestock)	CA	
Automatic carwash	P	P
Automobile body shop and/or painting	P	P
Automobile parts store	P	P
Automobile repair shop	P	P
Bottled gas, storage and distribution	CA	CA
Concrete batching plant		CA
Concrete block, pipe, beam, slab or panel plant		CA
Concrete or cement mixing plant		CA
Contractor office and/or storage yard, general	P	P
Explosives manufacturing, storage and/or use	CA	CA
Flea market	P	
Garage, public	P	P
Greenhouse, commercial	P	
Heating and/or electrical power generating plant		CA
Industrial park	P	P
Industry, extractive		CA
Industry, heavy		P

<i>Use</i>	<i>I1</i>	<i>I2</i>
Industry, light	P	P
Laboratory, testing and/or research, excluding the raising of animals for research and excluding the testing of fissionable materials	P	P
Landfill, refuse disposal or dump	CA	CA
Laundry and/or dry cleaning, coin-operated	P	
Material dealer	P	P
Material storage, open		P
Municipal or government building	P	P
Parking lot, public or employee	P	P
Penal and/or correctional institution	CA	CA
Petroleum tank farm, commercial	CA	P
Planned unit development (see ' 150.201)	CA	
Plumbing, heating and/or air-conditioning dealer	P	
Police or fire station	P	P
Print shop	P	P
Produce, wholesale terminal	CA	P
Race track	CA	CA
Railroad right-of-way and necessary uses	P	P
Restaurant	P	
Salvage and/or junk yard		CA
Sign (see ' ' 150.145 through 150.152)	P	P
Truck freight terminal	CA	CA
Truck service center	P	P
University, college or other institution of higher education, public or private	P	
Warehouse, warehousing or storage facility	P	P

<i>Use</i>	<i>I1</i>	<i>I2</i>
Wastewater treatment facility	CA	CA
Wholesale supplier and/or distributor	P	P

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.107 PROPERTY DEVELOPMENT STANDARDS.

(A) *I1 and I2 property development standards.* The following property development standards shall apply to all land and structures in the I1 and I2 districts, as indicated.

<i>Property development standards</i>	<i>I1</i>	<i>I2</i>
Minimum lot area	8,712 sq. ft.	17,424 sq. ft.
Minimum lot width	100 ft.	200 ft.
Maximum building height	75 ft.	150 ft.
Minimum building size (sq. ft.)	No requirements	
Minimum front yard setback		
Lots abutting a major collector road or street	90 ft.	90 ft.
Lots abutting a minor collector road or street	70 ft.	70 ft.
Lots abutting a local road or street	50 ft.	50 ft.
Minimum side yard setback (two required)		
Each yard	20 ft. ¹	20 ft. ¹
Minimum rear yard setback	20 ft. ²	20 ft. ²
¹ When the Industrial district adjoins a Residential district within the same block, the minimum side yard setback is 40 feet		
² When the Industrial district adjoins a Residential district within the same block, the minimum rear yard setback is 40 feet		

(B) *Other requirements.* See ' ' 150.145 through 150.152 for off-street parking, loading and landscaping requirements. See Chapter 158 for outdoor advertising requirements.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.108 PERFORMANCE STANDARDS FOR INDUSTRIAL USES.

(A) *Standards.* The following performance standards shall apply to all I1 and I2 industrial uses, in addition to the previous requirements:

(1) *Smoke.*

(a) No light industrial use may emit more than ten smoke units per hour per stack or smoke in excess of Ringelmann Number 2. However, once during any 24-hour period, for soot blowing, process purging and fire cleaning, each stack may emit an additional ten smoke units, and during that time it may emit smoke up to and including Ringelmann Number 3; and

(b) No heavy industrial use may emit more than 30 smoke units per hour per stack or smoke in excess of Ringelmann Number 2. However, once during any six-hour period, for soot blowing, process purging and fire cleaning, each stack may emit an additional ten smoke units, and during that time it may emit smoke up to and including Ringelmann Number 3.

(2) *Odor.* No light or heavy industrial use may emit malodorous gas or matter across the lot lines in the quantity as to be readily detectable at any point.

(3) *Toxic materials.* For a light or heavy industrial use, the emission of toxic and noxious materials may not produce any concentration at a residential or business district boundary line exceeding the following percentage of the threshold limit values for toxic materials in industry, as set forth in *Threshold Limit Values* for the current year, as adopted at the annual meeting of the American Conference of Government Industrial Hygienists:

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- (a) Light industrial use-3%; and
- (b) Heavy industrial use-10%.

(4) *Heat and glare.*

(a) No light or heavy industrial use may cause heat at the lot line so intense as to be a public nuisance or hazard.

(b) No use may cause illumination at or beyond any residential district boundary in excess of one-tenth foot-candle.

(5) *Vibration.*

(a) No light industrial use may cause continuous earthborn vibrations at the lot line higher

than the limits set forth in column I of the table in this division (A)(5), nor may it cause continuous earthborn vibrations at any residential district boundary higher than the limits set forth in column II of the table.

(b) No heavy industrial use or extractive industrial use may cause continuous earthborn vibrations at any LB, GB, HB1, HB2 or I1 district boundary higher than column III of the table in this division (A)(5), nor may it cause continuous earthborn vibrations at any residential district boundary higher than the limits set forth in column IV of the table.

(c) Discrete pulses that do not exceed 100 impulses per minute may not produce higher than twice the displacement specified in the table in this division (A)(5).

<i>Frequency (in cycles per second)</i>		<i>I</i>	<i>II</i>	<i>III</i>	<i>IV</i>
<i>More than</i>	<i>But not more than</i>	<i>Displacement (inches)</i>	<i>Displacement (inches)</i>	<i>Displacement (inches)</i>	<i>Displacement (inches)</i>
0	10	.0008	.0004	.0020	.0004
10	20	.0005	.0002	.0010	.0002
20	30	.0002	.0001	.0006	.0001
30	40	.0002	.0001	.0004	.0001
40	50	.0001	.0001	.0003	.0001
50	C	.0001	.0001	.0002	.0001

(6) *Noise.*

(a) No light, heavy or extractive industrial use may cause sound pressure levels at any residential or business district boundary (except for background noises produced by sources not under the control of this title, such as the operation of motor vehicles or other transportation facilities) higher than the decibel limits set forth in the table below. The prescribed limits of column I apply between 8:00 a.m. and 6:00 p.m. At other times, the allowable levels in each octave band are reduced by six decibels:

<i>Octave band frequency (cycles per second)</i>		<i>I Maximum permitted sound level(decibels)along residential district boundaries</i>	<i>II Maximum permitted sound level(decibels)along residential district boundaries</i>
20	75	72	79
75	150	67	74
150	300	59	66
300	600	52	59
600	1200	46	53
1200	2400	40	47
2400	4800	34	41
4800	C	32	39

(b) Sound levels shall be measured with a sound-level meter and associated octave band analyzer, manufactured and calibrated according to standards prescribed by the American Standards Association. Measurements shall be made using the flat C network of the sound level meter and the fast meter movement of the octave band analyzer. Impulsive noises are subject to the performance standards prescribed by this section if they cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as irregular and intermittent noises, shall be controlled so as not to be a nuisance to adjacent uses.

(7) *Fire hazards.*

(a) Solid substances ranging from free or active burning to intense burning may be stored, used or manufactured only within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

(b) The storage, utilization or manufacture of flammable liquids or materials that produce flammable vapors or gases shall be permitted in accordance with the rules and regulations of the State Fire Marshal. A certificate of compliance, issued by the State Fire Marshal's Office, stating that the plans and specifications for a light or heavy

industrial use comply with the rules and regulations of the State Fire Marshal's Office shall accompany the application for an improvement location permit.

(8) *Detonation materials.* No activity involving the storage, use or manufacture of materials that decompose by detonation may be carried on except in accordance with the rules and regulations of the State Fire Marshal. These materials include:

(a) Primary explosives, such as lead azide, lead styphnate, fulminates and tetracene;

(b) High explosives, such as TNT, RDX, HMX, PETN and picric acid;

(c) Propellants and their components, such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives;

(d) Pyrotechnics and fireworks, such as magnesium powder, potassium chlorate and potassium nitrate;

(e) Blasting explosives, such as dynamite and nitroglycerin;

(f) Unstable organic compounds, such as acetylides, tetrazoles and ozonides;

(g) Strong oxidizing agents, such as liquid oxygen, perchloric acid, perchlorates and hydrogen peroxide in concentrations greater than 35%; and

(h) Nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239.

(9) *Particulate matter.*

(a) The rate of emission of particulate matter from all sources within the boundaries of any lot may not exceed a net figure of one pound per hour per acre for a light industrial use, or three pounds per hour per acre for a heavy or extractive industrial use, of which no more than 10% by weight may be particles larger than 44 microns (325 mesh). The net rate of emission shall be computed by:

1. Determining the maximum emission in pounds per hour from each source of emission within the boundaries of the lot and dividing this figure by the number of acres of lot area, thus obtaining the gross hourly emission rate per acre for each source;

2. Deducting from that gross rate the appropriate correction factors for height of the emission and stack velocity as respectively specified in the tables in divisions (A)(9)(b) and (c) below, thus obtaining the net hourly emission rate per acre for each source; and

3. Adding the individual rates of emission so computed to obtain the total net hourly emission rate per hour from all sources within the boundaries of the lot.

(b) The allowance for height of emission is as follows (interpolate for intermediate values):

<i>Height of Emissions Above Grade Use (feet)</i>	<i>Correction for Light Industrial Use (pounds per hour per acre)</i>	<i>Correction for Heavy Industrial Use (pounds per hour per acre)</i>
50	0.01	0.02
100	0.06	0.12
150	0.10	0.20
200	0.16	0.32
300	0.30	0.60
400	0.50	1.00
500 and above	0.50	.050

(c) The allowance for velocity of emission is as follows (interpolate for intermediate values):

<i>Exit Velocity Up (feet per second)</i>	<i>Correction for Light Industrial Use (pounds per hour per acre)</i>	<i>Correction for Heavy or Extractive Industrial Use (pounds per hour per acre)</i>
0	0	0
20	0.03	0.06
40	0.09	0.18
60	0.16	0.32
80	0.24	0.48
100 and above	0.50	1.00

(d) Dust and or other kinds of air pollution that are borne by the wind from sources within lot boundaries like storage areas, yards and roads or streets shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing or other means.

(10) *Heavy and extractive industrial uses near residential districts.* The performance standards prescribed by divisions (A)(1) through (9), inclusive, for light industrial uses, apply also to heavy or extractive industrial uses that are located within 500 feet of a residential district boundary.

(B) *Exceptions.*

(1) *Exceptions to rule.* Divisions (A)(1) through (9) do not apply to:

(a) Site preparation or construction, maintenance, repair, alteration or improvement of buildings, structures, equipment or other improvements on or within the lot lines;

(b) The operation of motor vehicles or other facilities for the transportation of personnel, materials or products;

(c) Conditions beyond the control of the user, such as fire, explosion, accident, failure or breakdown;

(d) Safety or emergency warning signals or alarms necessary for the protection of life, limb or property; or

(e) Processes for which there is no known means of control, provided research has been documented and is being conducted to discover methods of control leading to the installation of protective equipment.

(2) *Industrial restrictions.* Any industrial operation or activity must, in addition to the above, conform to the provisions of the State Air Pollution Control Law (I.C. 13-17) and the regulations promulgated thereunder, and any applicable acts of the federal government. Where the requirements of this title are more restrictive, they shall take precedence.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.109 MINERAL EXTRACTION REQUIREMENTS.

(A) *General requirements.* The following requirements, standards and application procedures shall apply to extractive industrial uses in the county:

(1) *Commission-approved uses.* The following uses may be permitted when the Planning Commission has determined that the requirements of this section and ' ' 150.165 through 150.167 have been met:

(a) The plant area will be used primarily for the excavation of sand, gravel, rock and other earth materials, and the processing, storage, stockpiling, distribution and sale thereof, also concrete batching plants, mixing plants for either portland cement or asphaltic concrete, and concrete block, pipe, beam, slab or panel plants.

(b) **PLANT AREA** shall mean the territory planned for extraction of sand, gravel or other earth materials and the operational installation, if any, for the excavating, processing and distribution of the minerals.

(2) *Plan submission and review.* When an application is made for a Commission-approved use to permit an extractive industrial use, the following planning information shall be submitted:

(a) A map of existing conditions, showing lands proposed to be included in the plant area and lands within 1,000 feet in all directions. This map shall show the boundaries of the plant area and existing conditions on the mapped lands, including:

1. Existing contours, with a contour interval appropriate to the site that accurately reflects the topographical conditions, not less than five feet;

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2. Water bodies, drainage courses and depth of water table below existing terrain;

3. Estimate of depth and extent of deposit;

4. The present use of adjoining lands (residential, commercial, industrial, institutional, recreational, agricultural and the like);

5. The present zoning classification of subject and adjoining lands and required setbacks;

6. All publicly owned lands;

7. Public rights-of-way and road or street types; and

8. Easements and railroad lines.

(b) A plan of operational area showing the area proposed for excavation during the next four years and including the following:

1. Area proposed for settling ponds and wash water outlets;

2. Area proposed for processing facilities and storage;

3. Area proposed for production facilities, if any, for resource-related industry; and

4. Area proposed for plant entrance, office, dispatcher headquarters, off-street parking and equipment storage.

(c) A conceptual plan of rehabilitation and reuse of the area following extraction shall be submitted two years prior to the completion of extraction, including:

1. A proposed plan for landscape rehabilitation, including grading, drainage, planting and similar appropriate installations; and

2. The proposed water area, if any, resulting from excavation.

(d) When excavation begins in an area, a bond with surety satisfactory to the Planning Commission in the amount of \$1,000 per acre will be required. The bond will run to the County Commissioners to ensure satisfactory reclamation of the property. An area of not less than five acres shall be bonded at a time. As the land is reclaimed and the reclamation is approved, the bond may be released or transferred to another parcel to be excavated.

(B) *Other requirements for development and operation.* The following requirements shall be met for operation and development of the plant area.

(1) *Slopes.* No operation from an open pit shall be permitted that creates a finished slope with a ratio steeper than two feet horizontal to one foot vertical for the excavation of sand and/or gravel or that creates a finished slope with a ratio steeper than one foot horizontal to one foot vertical for the excavation of products other than sand or gravel, except that in locations where the soil or rock content is such that vertical cuts are proven to be safe, a vertical cut up to eight feet in depth from ground level with a shelf no less than 12 feet wide followed by a vertical cut thereafter of any depth shall be permitted.

(2) *Hours of operation.* Extraction and material processing activities permitted in the plant area shall be limited to the hours of 6:00 a.m. to 10:00 p.m., except in the following situations:

(a) Where required by public authorities;

(b) Where work requires a continuous flow of materials;

(c) Where necessary due to public emergencies; or

(d) Where any necessary and reasonable repairs to equipment are required.

(3) *Ingress, egress and traffic safety.* Access roads to any plant area shall be limited to one or, at most, two points, and shall be constructed on a level with the pavement of any public traffic-way for a distance of not less than 80 feet therefrom, and the 80 feet of road shall be improved with a dustproof, all-weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the local highway authorities.

(4) *Off-street parking.* Off-street parking shall be provided for all equipment and for employees= vehicles.

(5) *Screens.* Screen planting consisting of a variety of trees, shrubs or both in the same planting area or a combination of seeded earth mounds and plant material screens shall be constructed and planted so as to form dense screens to a height appropriate to block out objectionable features and maintained along the perimeter of any area being operated where the perimeter abuts a public thoroughfare of a developed residential area, unless the natural topography eliminates the need for a screen;.

(6) *Drainage.* Upon completion of operations, the land shall be left in a safe condition so that sufficient drainage shall be provided to prevent water pockets or undue erosion, with all grading and drainage so that natural stormwater leaves the entire property at the original, natural drainage points and the area drainage to any one point is not increased.

(7) *Water area.* Excavations made to water producing depths and proposed as water areas in the plan of rehabilitation should have a minimum noted low water mark.

(8) *Rehabilitation.* The rehabilitation of the plant area shall be completed in conformance with the plan submitted with the application.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.110 LAND REHABILITATION.

(A) In cases where land is used for purposes

like landfills, dumps, junk yards or other uses where the physical characteristics of the land are substantially changed as a result of the operation, a proposed plan of functional reuse of the land is required at the time of application for Commission-approved use. The plan shall show future locations of residential, commercial, industrial, public, semi-public and other land uses, if any, and the principal elements of a future traffic circulation system to service the area. Furthermore, sufficient information shall be provided to determine the general characteristics of proposed development, such as population density ranges, types of commercial or industrial usage and kinds of public areas.

(B) A bond with surety satisfactory to the Planning Commission in the amount of \$1,000 per acre of area proposed to be physically altered is required. The bond shall run to the County Commissioners to ensure that the land is capable of reuse after the operation is completed.
(Ord. 2004-1-1-28, passed 1-28-2004)

GENERAL CONDITIONS

' 150.125 ACCESSORY USES.

(A) *Intent.*

(1) Accessory uses shall be permitted in all zoning districts and, with the exception of buildings, may be installed inside the property line in any required yard, provided that no accessory building shall be closer than ten feet from a side or rear lot line.

(2) Accessory uses shall:

(a) Be incidental and subordinate to, and commonly associated with, the operation of the principal use of the lot;

(b) Be operated and maintained under the same ownership and on the same lot as the principal use;

(c) Be clearly subordinate in height, area, bulk, extent and purpose to the principal use served;

(d) Not be located closer to any lot line than the minimum setback line required, unless specified otherwise in this title; and

(e) Not be permitted prior to the erection and operation of the principal use, unless a temporary certificate of occupancy is obtained in accordance with ' 150.201.

(B) *Interpretation.*

(1) Appurtenant features like walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths and structures of a like nature are allowed without permits.

(2) Gardening and landscaping, provided they are not for profit, are allowed without a permit.

(3) The keeping of domestic pets, provided it is not for profit and not construed as a kennel, is allowed without a permit.

(4) Fences and walls are allowed with a permit when they do not impede intersection visibility (see Chapter 152).

(5) Buildings or structures like decks, patios, outdoor fireplaces, doghouses, children=s play structures and also detached storage buildings, bath houses and cabanas not exceeding 120 square feet in size are allowed with a location improvement permit when the setback requirements of this title are adhered to.

(6) Rummage or garage sales are allowed without a permit in any zoning district provided there are not more than two sales annually of not more than three days= duration each on the premises. Rummage or garage sales of more than three but not more than ten days require a temporary improvement location permit, pursuant to ' 150.201. See Chapter 158 for

applicable sign regulations. Signs shall be removed within two days of the event.

(C) *Accessory use regulations.*

(1) Accessory uses include buildings or structures like garages, carports, canopies, porte-cocheres, small greenhouses and similar accessory buildings or structures. No building or structure shall be built across any property line, regardless of the ownership thereof.

(2) The following are considered among accessory uses:

(a) Off-street motor vehicle parking and loading areas, as set forth in ' 150.150. The vehicle does not need to bear business identification or commercial advertisement to be considered a commercial vehicle;

(b) Signs, as set forth in Chapter 158 of this title, except that an off-site advertising structure is considered a principal use;

(c) 1. No person shall construct, remodel or alter any swimming pool until a permit to do so is obtained from the Building Inspector. An application for the permit shall be filed with the Building Inspector on the form furnished, together with the plans and specifications for the pool. The Building Inspector, or his or her designee, shall examine the plans and specifications to determine whether or not the pool will comply with the specifications of this title. If it appears that the pool will comply therewith, the Building Inspector shall note his or her approval on the plans and specifications and shall issue a permit authorizing the work to proceed.

2. The Building Inspector, or his or her designee, is authorized to enter upon any premises to determine whether or not the owner has complied with the provisions of this title.

3. For the purpose of this section, the phrase **PRIVATE SWIMMING POOL** shall mean and include any artificial body of water with a controlled water supply, designed for wading and swimming and used, or intended to be used, in connection with a one- or two-family dwelling, solely by the householder and his or her family and by friends invited to use it without payment of any fee.

4. a. No private swimming pool shall be constructed except on the same lot as the dwelling or on a vacant lot immediately contiguous thereto if it is under the same ownership as the dwelling.

b. The following conditions shall be met if the pool is to be located on the same lot as the dwelling.

i. The pool shall be constructed in the rear yard, but not closer than ten feet from the building itself at any point.

ii. An in-ground pool shall comply with the provisions of the State Administrative Code.

iii. An in-ground pool shall be enclosed by a five-foot tall fence.

iv. A fence surrounding or partially surrounding a pool shall not be closer than six feet to the edge of the pool at any point (I.A.C. 1156.035(G)(4)).

v. The surface area of the pool may be counted as open space and does not count as lot coverage.

c. When a pool is located on a lot contiguous to the lot on which the owner=s house is located and under the same ownership as the dwelling, the following conditions shall be met.

i. No part of the pool shall be located forward of the setback line of the owner=s dwelling.

ii. No part of the pool shall be closer than six feet from the owner=s

dwelling and no closer than ten feet from any property line of any other property owner.

iii. No pool shall be built across any property line, regardless of the ownership thereof.

iv. If the contiguous lot has frontage on a traffic-way other than that on which the owner=s dwelling is located, no part of the pool shall be forward of the minimum front setback line.

5. It shall be unlawful for any person to make or cause to be made or continued at any pool any loud noise that endangers the peace of others.

6. Lights to illuminate any pool shall be so arranged and shaded as to direct light away from adjoining premises and traffic-ways.

7. In addition to the preceding provisions, swimming pools shall comply with the safety provisions of the State Administrative Code and all amended provisions thereof.

(d) Any communications tower/structure, in accordance with the provisions of Chapter 154 of this title;

(e) A management office in a multi-family dwelling or apartment use and other facilities normally associated with tenants=conveniences, like vending machines or washing machines, provided there is no exterior display;

(f) A fall-out shelter;

(g) Private residential garages, carports, porte-cocheres and mini-barns that are clearly accessory and not for commercial purposes; and

(h) Satellite (earth) television antennas in accordance with the following standards.

1. There shall be one satellite television antenna permitted per residential lot.

2. In all zoning districts, a satellite antenna having a diameter greater than four feet shall be located on the ground upon and within a poured concrete foundation to the rear of the principal building on a lot and within the building area and shall not exceed 13 feet in height, or the height of the main structure, whichever is less.

3. In all zoning districts, a satellite antenna having a diameter of four feet or less may be located on the principal building or an accessory building on a lot and shall not exceed a height of more than four feet above the roof on which it is mounted, subject to the particular height requirements of the zoning district. When an antenna having a diameter of four feet or less is located on the ground, all requirements contained in division (C)(2)(h)2 above shall apply.

4. No satellite television antenna shall be linked to a receiver that is not located on the same lot or parcel of real estate.

(D) *Mobile home storage.* Storage of an unoccupied mobile home is permissible only in a business or industrial district at a location legally qualified to render storage for the mobile home or as specified in ' 150.128.

(E) *Apartments and business mixed.* Apartments located within the same building as a business may be permitted as set forth in ' 150.091, provided:

(1) The use of the apartment is limited to persons employed on the premises; and

(2) The business use complies with the property development standards set forth for one-family residences in R3 districts.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.126 SETBACKS.

(A) *Vision clearance at intersections.* At the intersection corner of each corner lot, the triangular space determined by the two lot lines at that corner

(A) *Emergency occupation.* In the event of an emergency requiring the housing of a family member

and by a diagonal line connecting the two points on those lot lines that are 15 feet respectively from the corner shall be kept free of any obstruction to vision between the heights of three and 12 feet above the established traffic-way grade.

(B) *Corner lots.* On corner and reversed corner lots, the side yard setback shall be the same as the front yard setback on adjoining lots.

(C) *Average of lots in block.* Where 25% or more of the lots in a block are occupied by buildings, the average of the setbacks of the buildings determines the dimensions of the front yard setback in the block; however, if there is no other building within 330 feet of the proposed building, in either direction, then the standard setback for the zoning district shall apply.

(D) *Subdivision setbacks.* Front yard or building setback lines established in recorded subdivisions shall be the setback for accessory uses, except when the building setback lines are less restrictive; then the requirements of the zoning district shall apply.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.127 WATER POLLUTION.

No authorization of a use under this title includes the authority to discharge liquid or solid wastes into public waters except as permitted under the applicable laws of the state. Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved per the applicable laws of the state.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.128 MANUFACTURED HOME REGULATIONS.

The following regulations shall apply to manufactured homes that are located outside a mobile home park.

due to the loss of regular or conventional living quarters, the Zoning Administrator may issue an

improvement location permit for the occupancy of a mobile home for temporary housing, for a period not to exceed one year or 12 months, upon approval by the Planning Commission, provided:

(1) The mobile home is to be located on the same property with an existing residence that is under repair or being reconstructed;

(2) The mobile home shall remain on its wheels and not be placed on a permanent foundation;

(3) The applicable side yard and front yard setback regulations of the zoning district in which the mobile home is located are observed, unless otherwise provided by the Planning Commission; and

(4) Occupancy of the mobile home is restricted to the property owner or other relatives or persons normally residing on the premises where located.

(B) *Temporary residential occupancy.* A temporary permit for a mobile home may be issued for housing during the construction of a permanent residence for not more than one year, which may be renewed for a like period, one time only, provided:

(1) The mobile home is to be located on the same property on which a permanent residence is intended to be built within one year;

(2) An improvement location permit for the construction of the residence has been issued;

(3) The mobile home is served by the sewage facilities and water supply that are intended to serve the permanent residence;

(4) The mobile home shall remain on its wheels and not be placed on a permanent foundation or be altered in any way to change its use;

(5) Applicable front and side yard setback regulations of the zoning district in which the mobile home is located shall be complied with;

(6) Occupancy of the mobile home is restricted to the property owner who intends to construct a permanent residence or other relatives and persons who will reside in the permanent residence; and

(7) The mobile home is removed from the property upon expiration of the temporary permit.

(C) *Non-residential occupancy.* Mobile homes may be utilized for non-residential purposes as contractors' offices, watchmen's shelters or tool and equipment storage, provided:

(1) The mobile home, van or trailer is located on the construction site;

(2) The mobile home is utilized only during the period of construction;

(3) The mobile home is not used as a dwelling; and

(4) All requirements of this title and other ordinances of the county with respect to water supply and sanitary waste disposal are met.

(D) *Permanent occupancy.* Mobile homes may be permitted as set forth in the tables in §§ 150.031 and 150.061, provided:

(1) All requirements applicable to conventionally constructed homes are observed;

(2) The mobile home has its wheels removed;

(3) The mobile home is properly anchored to a permanent foundation as is required for permanent structures, in addition to skirting;

(4) The mobile home meets all the requirements of the state; and

(5) The owner supplies the Zoning Administrator with a list of adjoining property owners.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.129 HOME OCCUPATION.**

(A) *Purpose.* The standards for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, plus a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether the proposed accessory use qualifies as a home occupation.

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

HOME OCCUPATION. An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services.

(C) *General provisions.*

(1) A home occupation shall be permitted when the occupation conducted on residentially used premises is considered customary and traditional, incidental to the principal use of the premises and is not construed as a business.

(2) Home occupations shall be of a personal service nature limited to domestic crafts and professional services, including, but not limited to:

(a) Professions like law, medicine, architecture, engineering, planning, real estate, musical instruction, insurance, notary public, manufacturer=s agent, clergy, writing, painting, photography and tutoring; and

(b) Domestic crafts like dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work, carpentry work and furniture repair.

(3) Home occupations shall be subject to all the regulations of the applicable zoning district in which they are located.

(4) Home occupations shall not adversely affect the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties.

(D) *Standards.* Home occupations are permitted as accessory uses in agricultural and residential districts provided that all the following conditions are met.

(1) The operator conducting the home occupation shall be the sole entrepreneur, and he or she shall not employ any other person other than a member of the immediate family residing on the premises.

(2) The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.

(3) No home occupational use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure from residential to commercial or industrial.

(4) There shall be no outside storage or display of goods of any kind related to the home occupation.

(5) No more than 25% of the floor area of any one story of the dwelling unit shall be devoted to the home occupation.

(6) The home occupational use may not increase vehicular traffic flow and parking by more than two additional vehicles at a time.

(7) No home occupational use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or nuisance to any greater or more frequent extent than that usually experienced at an average residence in the zoning district in question under normal circumstances wherein no home occupation exists.

(8) In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential characteristics either by the use of colors, materials, construction, lighting or signs, other than a nameplate-type sign.

(9) No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.

(10) No provision for more than one extra off-street parking or loading facility, other than the requirements and permitted facilities of the zoning district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities and no additional driveway to serve the home occupation shall be permitted.

(11) No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-flashing announcement plate, indicating not more than the name and address of the resident. The plate shall be attached flat against the wall of the residence and shall not exceed two square feet in total surface area.

(12) No electrical or mechanical equipment shall interfere with local telecommunications or television reception, cause fluctuation in line voltage off the premises or violate the general performance standards of Chapter 154.

(13) Home occupation permits may be revoked by the staff if violations to these provisions occur.

(E) *Procedures for home occupation permit.*

(1) *Application.* An application for a home occupation permit shall be filed with the Zoning Administrator on a form provided by the Zoning Administrator. An applicant shall provide the names and addresses of four surrounding property owners with the application.

(2) *Waiting period.* There is a 15-day waiting period for a home occupation permit. If there are no objections within a 15-day waiting period and the Zoning Administrator determines that the standards of division (D) above are met, the Zoning Administrator shall issue the permit. If objections are presented to the Zoning Administrator, the applicant shall appear before the Planning Commission for a decision.

(3) *Time limit.* All home occupation permits shall be valid for a period of one year from the initial date of approval.

(4) *Voiding of permit.* The Zoning Administrator may void any home occupation permit for non-compliance with the criteria set forth in this section. Revocation may take place at any time prior to the expiration date of the home occupation permit. If the home occupation permit is revoked or is not renewed, it becomes null and void and the use shall be terminated.

(5) *Appeal to the Board of Zoning Appeals.* The decision of the Zoning Administrator concerning approval or revocation of a home occupation permit shall be final unless a written appeal is filed with the Board of Zoning Appeals within ten calendar days of the decision. An appeal may be filed only by the applicant or persons residing within 300 feet of the subject property.

(6) *Inspection.* Home occupation permit applicants shall permit a reasonable inspection of the premises by the Zoning Administrator to determine compliance with these provisions. Home occupations shall be field checked annually by the Zoning Administrator, or his or her designee, to determine compliance.

(7) *Renewal.*

(a) Home occupation permits may be renewed annually, provided there has not been any violation of these provisions.

(b) Requests for renewals shall be submitted to the Zoning Administrator in writing, accompanied by the prevailing renewal fee, one month prior to expiration of the home occupation permit.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.130 OPEN DUMPING.**

(A) *Purpose.* The purpose of this section is to implement the provisions of the following:

(1) I.C. 13-30-2-1(3) and I.C. 13-30-2-1(4) relating to the deposit of contaminants or solid waste upon the land except as permitted in this title; and

(2) I.C. 13-30-2-1(5) and I.C. 13-30-2-1(4) prohibiting dumping, causing or allowing the open dumping of garbage or of other solid waste in violation of this title.

(B) *Prohibitions.*

(1) No person shall cause or allow the storage, containment, processing or disposal of solid waste in a manner that creates a threat to human health or the environment, including the creating of a fire hazard, vector attraction, air or water pollution or other contamination.

(2) Open dumping and open dumps, as those terms are defined in this title, are prohibited.

(C) *Owner responsibility.*

(1) The owner of real estate upon which an open dump is located is responsible for the following:

(a) Correcting and controlling any nuisance conditions that occur as a result of the open dump. Correction and control of nuisance conditions must include:

1. Removal of all solid waste from the area of the open dump and disposal of the wastes in a solid waste landfill disposal facility permitted to accept the waste; or

2. Other methods as approved by the Zoning Administrator.

(b) Eliminating any threat to human health or the environment.

(2) If the Zoning Administrator determines that the open dump is or may be a threat to human health or the environment due to a release of contaminants from the open dump into the environment, the Zoning Administrator may require the owner of the real estate upon which the open dump is located to perform remedial action, including the installation and monitoring of groundwater monitoring wells or other devices.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.131 OPEN BURNING.**

Open burning of solid waste must occur only in an incinerator permitted under 329 I.A.C. 11 and operating in compliance with all applicable air pollution control requirements.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.132 ABANDONED VEHICLES.**

Refer to the storage of disabled vehicles in the GB district and salvage and junk yard in the I1 and I2 districts.

(Ord. 2004-1-1-28, passed 1-28-2004)

PROPERTY DEVELOPMENT STANDARDS

' **150.145 MINIMUM LOT AREA.**

(A) Except as hereinafter provided, no building or structures shall be hereafter erected or located on a lot unless the lot conforms with the area regulations of the zoning district in which it is located.

(B) (1) Lots of record or individually held prior to the adoption of this title may be smaller in area than the figure prescribed.

(2) The minimum lot area for each dwelling unit shall be subject to approval by the County Health Department.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.146 LOT DIMENSIONS.

(A) (1) Every lot shall have a minimum frontage of not less than the required minimum lot width in the zoning district under consideration.

(2) Curve lots and cul-de-sac lots shall conform to the particular zoning district wherein provisions are set forth for the lots.

(3) Every lot shall also have a minimum width and depth not less than those prescribed in the zoning district under consideration.

(4) Each dimension is minimum only.

(5) One or both shall be increased to attain the minimum lot area required.

(B) Where a lot has a minimum width or depth less than that prescribed by the appropriate zoning district regulations and the lot was of record under one ownership at the time that the area was first zoned, whereby the lot became non-conforming, the lot may be used, subject to all other property development standards of the zoning district in which the lot is located.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.147 BUILDING HEIGHT.

(A) All buildings hereafter designed or erected and existing buildings that may be reconstructed, altered, moved or enlarged shall comply with the height regulations and exceptions of the zoning district in which they are located, with the addition of the following.

(B) (1) Any agricultural structure may be erected or changed to any height necessary for its operation.

(2) Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, stacks, tanks, water towers, transmission towers, utility poles and necessary mechanical appurtenances (excluding radio, television and microwave towers) may be erected or changed to any height that is not otherwise prohibited.

(3) Buildings may be erected or changed to a height not to exceed ten feet over that permitted in the zoning district, provided that an additional one foot of side yard setback shall be added for each one foot that the building exceeds the zoning district height limitations.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.148 MINIMUM BUILDING SIZE.

The ground floor area requirements for dwellings, as set forth in the zoning districts, shall apply. Dwellings shall not be changed except in conformity with these regulations.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.149 YARDS.

(A) In measuring a front yard setback or side yard setback adjoining a road or street, the measurement shall be the perpendicular distance between the road or street and a line through the corner or face of the building closest to and drawn parallel with the road or street right-of-way, excluding any architectural features.

(B) Architectural features (cornice, eave, sill, canopy or similar feature) may extend or project into a required side yard setback not more than two inches for each one foot width of the side yard setback and may extend or project into a required front or rear yard setback not more than three feet. Chimneys may project into any required yard setback not more than two feet, provided that the width of the side yard setback is not reduced to less than three feet thereby.

(C) An open platform or landing that does not extend above the level of the first floor of the building may extend or project into any required front or side yard setback not more than four feet or into any required rear yard setback not more than 25% of the required rear yard setback.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.150 OFF-STREET PARKING.

(A) *Intent.*

(1) Accessory off-street parking and loading facilities shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this title in accordance with the provisions of this section.

(2) The regulations of this section are designed to alleviate or prevent congestion of the public roads or streets by establishing minimum requirements for on-site storage of motor vehicles in accordance with the use for which the property is occupied.

(B) *Scope.*

(1) No use lawfully established prior to October 5, 1966, shall be required to provide and maintain the parking and loading requirements herein, provided, however, that off-street parking and loading spaces required by any previous ordinances adopted pursuant to the state planning statutes shall be continued and maintained.

(2) For any non-conforming use that is hereafter damaged or partially destroyed and that is lawfully reconstructed, reestablished or repaired, off-street parking and loading facilities equivalent to those maintained at the time of the damage or partial destruction shall be restored and continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this title for equivalent new uses.

(3) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other unit of measurement, parking and loading facilities as required herein shall be provided for the increase in intensity of use.

(4) Whenever the existing use of a building, structure or premises shall hereafter be changed or converted to a new use permitted by this title, parking and loading facilities shall be provided as required for the new use.

(5) Accessory off-street parking or loading facilities in existence on October 5, 1966, shall not hereafter be reduced to less than, or if already less than, shall not be further reduced, below the requirements for a similar new use under the provisions of this title.

(6) Nothing in this title shall be deemed to prevent the voluntary establishment of accessory off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design and operation of the facilities are adhered to.

(7) Accessory off-street parking and loading spaces shall be provided on the same lot as the use serviced, except as otherwise provided in this title, and may be situated as one or more individual areas.

(8) Accessory off-street parking and loading facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each use and provided that all regulations governing location of accessory parking spaces in relation to the use served are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Zoning Appeals.

(9) Accessory off-street parking and loading facilities provided to comply with the provisions of this title shall not subsequently be reduced to less than the requirements of this title.

(10) Accessory off-street parking facilities required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than one-ton capacity of patrons, occupants or employees of specified uses. The parking facilities shall not be used for the storage, display, sale, repair, dismantling or wrecking of any vehicle, equipment or material.

(11) Required off-street loading and unloading spaces shall not be construed as being part of the required off-street parking spaces.

(12) Loading and unloading berths shall not be required for business uses and industrial uses that demonstrably do not receive or transmit goods or wares by truck delivery.

(13) (a) Cooperative provisions for off-street parking may be made by contract between two or more adjacent property owners. The parking area provided on any one lot may be reduced to not less than 50% of the number of required parking spaces for the use occupying the lot.

(b) To the extent developments that wish to make joint use of the same parking spaces operate at different times, up to 50% of the parking spaces may be credited to both uses if one use is a church, theater or assembly hall whose peak hours of attendance will be at night or on weekends and the other use or uses are ones that will be closed on nights or weekends.

(C) *General provisions.*

(1) Each required off-street parking space shall be at least nine feet in width and at least 18 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. The space shall have adequate vertical clearance. For parallel parking, the length of each parking space shall be 23 feet.

(2) Each required off-street loading space shall be of a size not less than that required for an off-street parking space but scaled larger to accommodate delivery vehicles expected to be used, logically and conveniently located for bulk pickups and deliveries and accessible to the vehicles when required off-street parking spaces are filled, provided that for industrial uses the minimum off-street area

required for the receipt or distribution by vehicles of materials or merchandise is held to be a 14-foot by 45-foot loading space with a 14-foot height clearance; provided further, that if no more than one berth is provided, the minimum dimensions are held to be ten feet by 33 feet with a 14-foot height clearance.

(3) (a) Except on lots occupied by one-, two- or multi-family dwellings, each off-street parking space shall open directly on an aisle or driveway at least 12 feet wide or additional width and design in accordance with the following table, so as to provide safe and efficient means of vehicular access to the parking space. The aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times.

(b) Angles shall be measured between the centerline of the parking space and the centerline of the aisle.

(4) All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a road, street or alley in a manner that will least interfere with traffic movement.

(5) In determining the minimum required number of off-street parking or loading spaces, the following instructions shall be applicable in the computations.

(a) If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, the fraction shall be considered as being the next highest unit and shall be counted as requiring one space.

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(b) In sports arenas, churches and other places of assembly in which patrons occupy benches, pews or other similar seating facilities, each 20 inches of seating shall be counted as one seat for the purpose of determining requirements, unless otherwise stated below.

(c) In the case of open floor areas used for temporary seating purposes, an area of 16 square feet usable for seating shall be counted as one seat for the purposes of determining requirements of this section.

(6) Accessory off-street parking and loading areas shall be provided to the rear of the required front building setback line, except as specified otherwise by this section. When permitted within required setback distances, a landscape screen shall be provided along the property line.

(7) For the purpose of determining off-street parking requirements under this title, gross floor area shall mean the total horizontal areas of the one or several floors of the building or portion thereof devoted to the use, including accessory storage areas located within selling or working space, like counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods or to offices. However, gross floor area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities or space used for restrooms, utilities or elevator shafts.

(8) For the purpose of calculating parking requirements, each category of use on a lot shall be considered separately, unless otherwise provided for by this section.

(D) Minimum parking requirements.

(1) For uses not specified in this section or in instances where the requirement for an adequate number of spaces is unclear, the number of parking spaces shall be determined by the Zoning Administrator, on the basis of similar requirements, the number of persons served or employed and the capability of adequately serving the visiting public. The determination may be reviewed by the Planning Commission or the Board of Zoning Appeals as part of their review of a development plan, planned unit development, Commission-approved use or variance request. In all other cases, the Zoning Administrator's decision may be appealed to the Board of Zoning Appeals.

(2) In case of conflict between the provisions of this section, the higher requirement shall govern.

(3) Parking spaces shall be provided as set forth in the following table.

<i>Type of Use</i>	<i>Number of Parking Spaces Required</i>
<i>General</i>	
Commercial center (all square footage in this section refers to the total building area with no adjustment)	<50,000 sq. ft. ◊ 5 spaces/1,000 sq. ft. floor area 50,000+ sq. ft. ◊ 4 spaces/1,000 sq. ft. floor area
Commercial, manufacturing or industrial establishment not catering to the retail trade	1 space/employee, based on largest shift, plus an adequate number of spaces for visitors and company vehicles
Office	1 space/200 sq. ft.
Residential use	As required in the applicable sections of this title
Retail service	1 space/200 sq. ft. of floor area
Storage warehouse or warehouse establishment	1 space/1.5 employees, or 1 space/2,000 sq. ft. of leasable space, whichever is greater
<i>Recreation/entertainment</i>	

<i>Type of Use</i>	<i>Number of Parking Spaces Required</i>
Bowling alley	4 spaces/lane
Community center	4 spaces/1,000 sq. ft.
Golf course	4 spaces/hole plus 1 space/employee, based on largest shift
Park	Space equivalent to 1% of the total land area (parking area available along park roads or private drives may be used to fulfill this requirement) plus 1 space/employee, based on largest shift
Private club or lodge	1 space/3 persons allowed, maximum occupancy load, as established by local, county or state fire, building or health codes
Stadium or sports arena	1 space/4seats when the facility is of an independent nature. When the facility is utilized in conjunction with a school, either the parking requirement based on seating capacity or the requirement for schools shall be applicable, whichever results in the greater number of spaces
Swimming pool	1 space/200 sq. ft. of pool surface area plus 1 space/30 sq. ft. of floor area used for spectator seating purposes
Tavern, bar, night club or similar operation	1 space/4 seats
<i>Medical</i>	
Hospital, convalescent center or nursing home	1 space/4 patients plus 1 space/employee, based on largest shift
Veterinary hospital	4 spaces/doctor plus 1 space/additional employee
<i>Social</i>	
Cemetery	1 space/full-time employee
Church, temple, synagogue or mosque	1 space/3.5 seats in the sanctuary and any overflow seating area directly connected to the sanctuary
Fire or police station	1 space/employee, based on largest shift
<i>Social (cont.)</i>	
Philanthropic or charitable institution	1 space/2 employees, based on largest shift plus an adequate number of spaces to serve the public
Public service use, including library, museum or similar place of assembly	1 space/1,000 sq. ft.
Theater, auditorium, funeral home or similar place of congregation	1 space/5 seats
<i>Education</i>	
College, university, professional, vocational, trade or similar educational institution	.82 space/student, based on the maximum number of students attending classes on the premises at any time during a 24-hour period. If the school provides on-site housing, the requirement may be reduced to .5 space/student. The school is responsible for providing this information
Day care center, kindergarten, child care or similar institution	1 space/teacher or employee, based on largest shift plus 1 space/6 students or off-street waiting spaces to accommodate at least 6

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<i>Type of Use</i>	<i>Number of Parking Spaces Required</i>
	vehicles
Elementary, junior high or middle school	1 space/teacher or staff member, based on largest shift plus at least 6 visitor spaces
Senior high school	1 space/teacher or staff member, based on largest shift plus 1 space/5 students
<i>Services uses</i>	
Automobile service station	1 space/employee plus 2 spaces/each service bay (service bay is not a parking space)
Bed and breakfast	1 space/sleeping room plus 2 spaces/permanent resident
Drive-in restaurant	2 spaces/100 sq. ft. of gross floor area plus 1 space/employee, based on largest shift
Drive-through bank or financial institution	2.5 spaces/1,000 sq. ft. of gross floor area
Drive-through restaurant	17.5 spaces/1,000 sq. ft. of gross floor area
<i>Social</i>	
Group housing, including elderly housing or boarding house	1 space/2 beds, or each 2 dwelling units in the case of elderly housing, plus 1 space/employee, based on largest shift
Hotel or motel	1 space/room or suite plus 1 space/5 employees, based on largest work shift, plus 1 space/3 persons to the maximum capacity of each public meeting and/or banquet room, plus 50% of spaces otherwise required for accessory uses (such as a restaurant or bar)
Kennel	1 space/employee plus 1 space/1,000 sq. ft.
Open air business type use, including auto or boat sales, plant nursery	1 space/3,000 sq. ft. of open sales lot area
Restaurant	1 space/4 seats
Self storage	3 spaces plus 1 space/100 units

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.151 LOADING REQUIREMENTS.

(A) Business uses, except those that do not receive or transport goods in quantity by truck delivery, shall be provided with loading berths, which, if open, shall be paved with a hard or dustproof surface. The size of the loading berths shall not be less than 12 feet wide and 35 feet long.

(B) For business uses that may be permitted by Commission-approved use, the provisions of ' ' 150.165 through 150.167 shall apply. Each loading berth prescribed by this section must provide at least a 12- by 45-foot loading space with a 14-foot height clearance.

(C) As used in this section, the term **LOADING BERTH** means an off-street, off-alley area designed or used to load goods on or unload goods from vehicles.

(D) Loading berths shall be provided as set forth in the following table.

<i>Use</i>	<i>Gross Floor Area¹ (square feet)</i>	<i>Berths Required</i>
<i>Residential uses</i>		
Hotel, motel or nursing home	12,000-120,000	1
Multi-family	40,000-120,000	1
C	Each additional 200,000	1
<i>Commercial uses</i>		
Personal services	Under 12,000	1
C	12,000-25,000	2
Restaurants	Under 25,000	1
C	25,000-40,000	2
C	40,000-120,000	3
C	Each additional 200,000	1
Retail sales	5,000-15,000	1
C	15,000-40,000	2
C	40,000-100,000	3
C	Each additional 50,000	1
<i>Office uses</i>		
C	Under 100,000	1
C	100,000-335,000	2
C	Each additional 200,000	1
<i>Educational/cultural/entertainment uses</i>		
C	12,000-120,000	1
C	Each additional 120,000	1
<i>Industrial uses</i>		
C	5,000-12,000	1
C	12,000-30,000	1
C	30,000-120,000	2
C	Each additional 120,000	1
<i>Transportation/communication uses</i>		
Bus/rail facility	12,000-30,000	1

<i>Use</i>	<i>Gross Floor Area¹ (square feet)</i>	<i>Berths Required</i>
Utilities	30,000-120,000	2
¹ Gross floor area refers to all buildings or structures on the premises.		

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.152 LANDSCAPING REQUIREMENTS.

(A) Purpose.

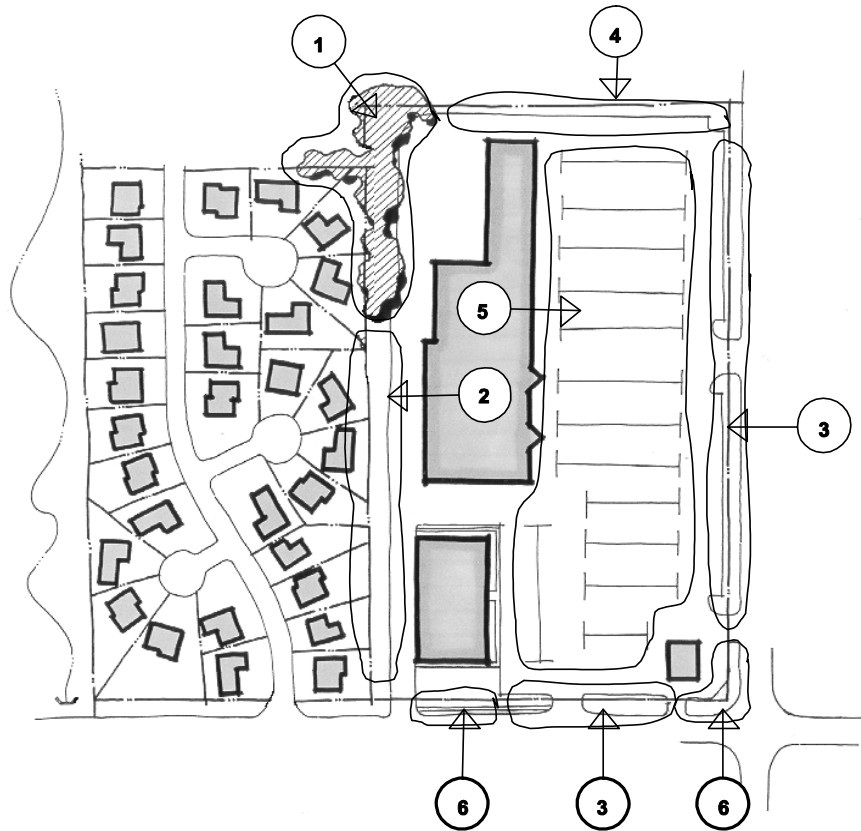
(1) The purpose of this section is to establish minimum standards for the provision, installation and maintenance of landscape plantings in order to achieve a healthy, beautiful and safe community. These regulations are intended to:

- (a) Increase the compatibility of development with both adjacent development and the natural environment;
- (b) Improve environmental quality;
- (c) Maintain and increase the value of land by requiring landscaping to be incorporated into development;
- (d) Foster aesthetically pleasing development that will protect and preserve the appearance and character of the community; and
- (e) Provide direct benefits to human beings through the use of landscaping to reduce noise and glare.

(2) These regulations cover six areas of a proposed development, as indicated in Figure 1 below.

(B) Applicability. These landscape regulations shall apply to all public, private and institutional development, except for residential and agricultural uses. Previously approved development need not comply unless new site development approval is being sought. The requirements of this title shall be applicable to the bufferyard, streetscape, street buffer, yard and parking lot areas specifically stated in the title. Portions of a developed site that are outside those specific areas shall not be governed by these landscape requirements.

(C) Enforcement. Wherever site plan review is required by this chapter, a landscape plan shall be a required part of the site plan. No permanent certificate of occupancy shall be issued without completion of all landscaping shown on the landscape plan required herein. A temporary certificate of occupancy may be issued for the building for a period of one year when weather conditions do not permit landscape installation. Failure to implement the approved landscape plan, including preservation of existing features, or to maintain the landscaping as long as incompatibility of adjoining uses exists shall be a violation of this chapter subject to the penalties outlined in ' ' 150.195 through 150.204. Figure 1.



Legend:

- (1) Conservation of existing trees. (See division (E) below.)
- (2) Buffering between different land uses. (See division (G) below.)
- (3) Parking lot planting abutting a road or street. (See division (H) below.)
- (4) Parking lot perimeter planting. (See division (H) below.)
- (5) Parking lot interior planting. (See division (H) below.)
- (6) Commercial or industrial buildings abutting a road or street. (See division (I) below.)

(D) *Content of landscape plan.* Where required, a landscape plan shall conform to the following requirements.

(1) A landscape plan is required for each lot within the proposed development.

(2) All landscape plans submitted for approval as a component of a required site plan shall show the entire zoning lot to scale and shall contain the following information:

(a) The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and rights-of-way, sidewalks, bicycle paths, ground signs, refuse disposal areas, freestanding electrical equipment, recreation facilities, utility lines and easements, freestanding structural features and other landscape improvements, like earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights and courts or paved areas;

(b) The names and addresses of the owner, developer and plan preparer, the date the plan was prepared, scale and approximate true north arrow;

(c) The location, quantity, size and names, both botanical and common, of all proposed planting materials;

(d) The location, size and common name of existing trees and individual shrubs, areas of dense trees or shrubs and other natural features, indicating which are to be preserved and which are to be removed;

(e) The approximate location and generic identification of existing structures and plant materials in the yard of adjoining properties within 50 feet of the boundary with the subject property;

(f) Existing and proposed grading of the site, including proposed berming, indicating contours at not more than two-foot intervals;

(g) Specification of the type and boundaries of all proposed vegetative ground cover;

(h) Design of fences and other significant accessory structures;

(i) Planting and installation details as necessary to ensure conformance with all required standards; and

(j) Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill.

(E) *Conservation of existing features.*

(1) Trees and shrubs already existing on land subject to the provisions of this section shall be preserved wherever feasible. Criteria for judging the feasibility of retaining existing vegetation include:

(a) The practicability of arranging site plan components around existing features. In general, plans for groups of structures should be designed so as to preserve tree masses, individual tree specimens and small stands of trees or shrubs;

(b) The condition of the vegetation with respect to continued vitality;

(c) The amount of healthy vegetation the area involved will support;

(d) The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation;

(e) The desirability, or lack thereof, of a particular tree or species by reason of its appearance, historic or ecological significance, botanical characteristics and the function the vegetation would fulfill as a site plan component;

(f) Interference with utility services or encroachment into the traffic visibility triangle; and

(g) The possibility of preserving the vegetation while meeting the development needs through pruning rather than removal.

(2) Existing trees that are preserved will contribute to the required landscaping, based on individual tree types. For each one preserved shade tree greater than six-inch caliper that is on the approved list, the number of new shade trees to be installed shall be reduced by two trees. Shrubbery will be evaluated in the same manner as new shrubbery, based on the species. The credit shall apply only to the required landscaping for the specific bufferyard, parking lot, commercial strip or residential plot in which the existing vegetation is located and only for that part of any required strip or perimeter yard in which the existing vegetation is located.

(3) Substantial barriers shall be specified on the landscape plan and shall be placed at or beyond the drip line of trees to be protected. These barriers shall remain in place during heavy construction on the site, and no vehicle, machinery, tools, chemicals, construction materials or temporary topsoil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.

(4) Where trees are to be preserved in areas of cut or fill, specific grading measures or other protective devices, such as tree wells, tree walls or specialized fill and pavement designs, shall be required and shall be fully detailed on the landscape plan.

(F) *General landscaping requirements.* All land areas that are not covered with buildings and pavement or used for agricultural purposes shall be appropriately landscaped in accordance with the requirements of this section. Landscaping shall be provided in the areas specified and of the minimum intensity, specified below.

(1) The tables of materials included in this section are classified by type. Trees are grouped into three categories: shade trees, ornamental trees and evergreens. Shrubs are grouped by height: small shrubs (less than two feet), medium shrubs (two feet to six feet) and large shrubs (more than six feet). Plant materials not listed on the tables will be assigned a classification based on height, spread and/or crown at maturity, using the best available resources to determine mature characteristics. For

design flexibility, plant substitutions may be made on the following basis, unless otherwise noted:

(a) One shade tree=two ornamental trees=two evergreen trees;

(b) One ornamental tree=one evergreen tree;

(c) One large shrub=two medium shrubs=four small shrubs; and

(d) One medium shrub=two small shrubs.

(2) Where front and rear yards overlap side yards, the yard shall be treated as part of the yard having the greater requirement.

(3) The scale and nature of landscape materials shall be appropriate to the size of the structures and the available space. Materials shall be located to avoid interference with overhead and underground utilities and utility easements or vehicular or pedestrian movement and visibility. Growth characteristics should be carefully considered.

(4) Plant material shall be selected to achieve an intended purpose, such as shading, screening, ornamentation and the like.

(5) Trees shall be planted to maintain a minimum five-foot clearance between the tree trunk and structures, building overhangs, walls, fences and other trees.

(6) Plantings should be arranged to promote energy conservation wherever practicable; for example, use of tall deciduous trees on the south and west sides of buildings to provide shade from the summer sun and planting evergreens on the north side of buildings to dissipate the effect of winter winds.

(7) All trash dumpsters, trash pads, loading areas consisting of two or more loading spaces, loading docks, building service and outside storage areas shall be screened from land in a residential zoning district and must be screened if visible from a

public road or street. The screening may be achieved by using a minimum six-foot high, completely opaque fence or wall, a six-foot high berm or a six-foot high evergreen screen. Height of screen shall be measured from the grade of the nearest road or street.

(8) Ground-mounted heating and cooling units for non-residential or multi-family structures and above-ground fuel tanks shall be adequately screened so as not to be visible from public roads or streets and/or adjacent properties.

(9) Grass and other vegetative ground cover shall be used for all open space, including parking lot islands, except for:

(a) Decorative mulch planting beds containing trees and/or shrubs; or

(b) Inert stabilization in areas subject to severe runoff, erosion or ponding.

(10) Where stone or other inert materials are to be used for ground cover, they shall be specifically identified on the landscape plan. Any area not so designated shall be required to have grass or vegetative ground cover.

(11) All landscaping shall conform to the regulations established for the visibility triangles to maintain safe sight distances at intersections and points of access as designated in Chapter 152 of this code of ordinances.

(12) All landscaped areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six inches above the finish surface of the parking area, be properly anchored and be continuously maintained in good condition. Wheel stops shall not be placed in locations of anticipated intense pedestrian traffic. As an alternative, curbing may be extended to serve the same purpose, if approved by the Planning Commission or its duly designated representative.

(13) In no case may a tree or shrub be planted within a drainage, sewer or utility easement.

(G) *Bufferyard landscaping requirements.*

(1) Developments that have non-residential and residential uses abutting one another shall provide a landscape buffer 20 feet wide planted with five trees and 55 shrubs per 100 linear feet of transitional yard between the non-residential and residential uses. It shall be the responsibility of the new land use creating the incompatibility to construct and maintain the landscape buffer. See Figure 2 below.

(2) Developed lots or lots with unexpired permits at the time of adoption of this title are exempt from this requirement.

(3) Undeveloped properties, expansions of more than 40% of existing floor area and rezoned property are subject to the provisions of this section.

(4) Landscape buffers shall not overlap into required planting along rights-of-way.

(5) The width of the required buffer and the number of shrubs may be reduced by 50% with the construction of an opaque wall or fence. The wall or fence shall be opaque (solid) and constructed of material compatible with the principal building in composition and color. The wall or fence shall have a minimum height of five feet and a maximum height of seven feet. See Figure 3 below.

planted with a minimum of one shade tree and ten medium shrubs for every 35 linear feet of road or street frontage, excluding driveway openings. See Figure 4 below;

2. Provide a berm at least two

(H) *Parking lot landscape requirements.* The following landscape requirements applied to parking lots are intended to screen parking areas from the road or street and provide shade to cool paved areas during the hot summer months. The requirements are established for three areas: along the public right-of-way, along the parking lot=s perimeter and in the parking lot=s interior.

(1) *Landscape strip along the right-of-way.*

(a) When a parking lot is located adjacent to a public right-of-way or public road or street, a landscape strip may shield views of parked vehicles to passing motorists and pedestrians, block headlight glare and establish coordination among architecturally diverse buildings.

(b) These minimum requirements apply to all parking lots adjacent to a road or street except those used in association with one-family dwellings. To provide flexible standards that reflect site constraints and opportunities, five options are available to meet the landscaped strip requirements:

1. Provide a minimum ten-foot wide strip between a right-of-way and the parking lot,

and one-half feet higher than the finished elevation of the parking lot. The berm shall have a maximum side slope ratio of two to one and a minimum crown width of two feet. Live vegetation must cover the berm, with a minimum of one shade tree and five medium shrubs for every 35 linear feet of road or street frontage, excluding driveway openings. See Figure 5 below;

minimum of one shade tree and five medium shrubs is required for every 35 linear feet of road or street frontage, excluding driveway openings. See Figure 6 below;

3. Provide a six-foot wide landscaped strip with a minimum three-foot grade change from the right-of-way to the parking lot. A

4. Provide a three-foot high opaque fence or wall constructed of materials compatible with the principal building and a four-foot wide landscaping strip planted with vegetative ground cover (low growing, dense vegetation) and a minimum of one shade tree for every 35 linear feet of road or street frontage, excluding driveway openings.

requirement. See Figure 8 below.

(c) Understory plants installed to meet the requirements of the parking lot landscaped strip shall be evergreen or dense deciduous shrubs. Plants used exclusively for screening must reach a minimum height of 30 inches within three years of installation and be at least 18 inches tall when planted.

(2) *Perimeter landscaping.* Perimeter landscaping is required to define parking areas and prevent two adjacent lots from becoming one large expanse of paving. The required perimeter landscaping between adjacent lots does not preclude the need to provide vehicular access between the lots.

(a) Figure 9 below illustrates the required perimeter landscape strip. For lots 10,000 square feet or smaller, the landscape strip must be a minimum of three feet wide. Lots larger than 10,000 square feet must have a landscape strip at least five feet wide.

See Figure 7 below; and

5. Preserve a 25-foot wide strip of existing woodlands in lieu of the landscaping

(b) One shade tree and three small shrubs are required for every 35 linear feet, excluding vehicular access aisles. Understory plants installed to meet the requirements of the parking lot landscaped perimeter shall be evergreen or dense deciduous shrubs.

(c) The applicant may preserve existing woodlands at least 25 feet in width located

within the same parcel in lieu of the above perimeter landscaping requirements.

spaces for multi-residential sites and every 15 spaces or fewer within a row of spaces for commercial developments. Planting islands should be evenly spaced throughout the parking lot to consistently shade paved areas. Islands shall be utilized where needed to control vehicular circulation and define major drives.

(e) At least one shade tree shall be provided for every 130 square feet of landscaped island area. Trees must have a clear trunk at least six feet above the finished grade to allow for visibility and vehicular circulation beneath the tree canopy. Vegetative ground cover or low shrubs listed in Table 4 of division (L) below shall be planted in all landscaped island areas. Gravel and bark mulch may not be substituted for the ground cover or low shrubs.

(f) To prevent vehicles from parking too close to trees or damaging shrubs, an extended curb or wheel stop must be provided. Planting islands parallel to parking spaces must be a minimum of five feet wide to allow vehicle doors to swing open.

(I) *Commercial and industrial streetscapes.*

(3) *Interior parking lot landscaping.* Interior parking lot landscaping requirements are required for all parking lots 7,000 square feet or larger. Figure 10 below illustrates how to calculate the required interior lot planting. All areas within the lot's perimeter are counted, including planting islands, curbed areas, corner lots, parking spaces and all interior driveways and aisles. Only driveways and aisles with no parking spaces located on either side are excluded from the interior area.

(a) For all parking lots 7,000 square feet or larger, 8% of the total area must be an interior planting area.

(b) Landscaped areas outside the parking lot may not be used to meet the interior planting requirement.

(c) All rows of parking spaces shall be provided a terminal island with concrete curbs and at least 130 square feet of area to protect parked vehicles, provide visibility, confine moving traffic to aisles and driveways and provide space for landscaping.

(d) Landscaped islands with concrete curbs and at least 130 square feet of area shall be provided every ten spaces or fewer within a row of

(1) The following landscape strip requirements apply to all commercial and industrial zoning districts and all non-residential uses within a residential zoning district. The strip must be located on the property, adjacent to the public right-of-way or private roads or streets and may not include paved surfaces, with the exception of driveway openings

and pedestrian sidewalks or trails that cross the strip.

(2) To provide flexible standards that reflect site constraints and opportunities, three options are available to meet the landscaped strip requirements:

(a) Provide a minimum ten-foot wide strip between a right-of-way and the building, planted with a minimum of one shade tree and ten medium shrubs for every 35 linear feet of street frontage, excluding driveway openings. See Figure 11 below;

(b) Provide a strip with a minimum width of ten feet, a maximum width of 20 feet and an average width of 15 feet adjacent to the public right-of-way, planted with a minimum of one shade tree and five medium shrubs for every 35 linear feet of street frontage, excluding driveway openings. See Figure 12 below; and

(c) Preserve a 25-foot wide strip of existing woodlands in lieu of the landscaping requirement. See Figure 13 below.

(J) *Modifications and waivers.*

(1) (a) Under conditions where a strict interpretation of these requirements may either be physically impossible or create practical difficulties, an alternative compliance procedure may be used to maintain the spirit, rather than the letter, of the law. The proposed solution must equal or exceed standard landscaping requirements. Requests to the Planning Commission for use of alternative landscaping schemes are justified only when one or more of the following conditions apply:

1. The sites involve space limitations or unusually shaped parcels;
2. Topography, soil, vegetation or other site conditions make full compliance impossible or impractical;
3. Due to a change of use of an existing site, the required bufferyard is larger than can be provided;
4. Safety considerations are involved; or
5. Existing utility lines or easements complicate the placement of required plant materials.

(b) The applicant must provide a justification statement that describes which of the requirements established by the landscaping requirements of this title will be met with modifications, which project conditions justify using alternatives and how the proposed measures equal or exceed normal compliance. The Zoning Administrator will review the alternative compliance application and recommend approval, approval with conditions or disapproval of the proposal to the Planning Commission, which will make the final decision.

(2) Where compliance is required as a result of change in use or expansion of an existing building and compliance with this section will necessitate removal of existing pavement, the Planning Commission may approve a reduction of parking lot setbacks and other minimum planting areas, provided that proposed plantings, screens and other landscape features are equivalent to the minimum requirements in terms of landscaping.

(3) After initial approval of the landscape plan by the Planning Commission, the Zoning Administrator may approve any substitute landscape proposal that he or she deems to be equivalent to the plan approved by the Planning Commission. As described in ' 150.150(B), the Zoning Administrator may also allow reduction of the required setbacks or reductions of the landscaping requirements for setbacks, buffer or parking area when compliance with the landscape standards would require removal of existing pavement.

(4) Occasionally, plant substitutions for species specified on approved landscape plans are required due to seasonal planting problems or a lack of plant availability. Minor revisions to planting plans may be approved by the Zoning Administrator if there is no reduction in the quantity of plant material, there is no significant change in size or location of plant materials and if the substitute plants are of the same general category and have the same general design characteristics as the plants originally approved. Proposed materials must also be compatible with the microclimate of the site to ensure healthy plant growth. If the proposed plant substitutions do not fulfill these criteria, then the changes must be submitted to the Planning Commission and reviewed for new approval.

(K) *Installation and maintenance.*

(1) Plant materials shall conform to the requirements described in the latest edition of the *American Standard for Nursery Stock*, which is published by the American Association of Nurserymen. Plants shall be nursery grown.

(2) At the time of installation, plants shall conform to the measurements specified below.

(a) Caliper measurements shall be taken six inches above grade for trees under four inches in diameter and 12 inches above grade for trees four inches or larger in diameter.

(b) Minimum branching height for all shade trees shall be four feet.

(c) Minimum size for shade trees shall be two inches in caliper.

(d) Minimum size for ornamental trees shall be one and one-half inches in caliper.

(e) Minimum size for evergreen trees shall be four feet high.

(3) After cultivation, all plant materials shall be mulched with a two- to three-inch layer of shredded bark, peat moss or another suitable material over the entire area of the bed.

(4) The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials on the premises. All landscape areas shall be kept free of refuse and debris. Fences, walls and other barriers shall be maintained in good repair. It is the responsibility of each private property owner to remove any dead, diseased or dangerous trees or shrubs, or parts thereof, that overhang or interfere with line of sight, traffic control devices, public

sidewalks, rights-of-way or property owned by the county. The county shall have the authority to order the removal of any trees or shrubs.

(L) *Tables of approved plant materials.*

(1) Tables 1, 2, 3 and 4 in this division (L) list plant materials approved for specific applications. Divisions were created to represent certain characteristics of the plant materials: height, spread, maintenance and durability.

(2) Trees proposed to meet the parking lot and commercial and industrial landscaping requirements must come from Table 1 of this division. Trees proposed to meet the bufferyard and residential landscaping requirements may be from either Table 1 or Table 2 of this division.

(3) Shrubs proposed to meet the interior parking lot landscaping requirements must come from Table 4 of this division. Shrubs and vines proposed to meet all other requirements of the landscape requirements of this title may come from either Table 3 or Table 4 of this division.

(4) Plants used to fulfill the requirements of this section must be selected from the following tables, unless the Planning Commission approves the use of another plant for cause shown.

<i>Table 1 Trees approved for planting along public roads, streets and highways and in locations where low maintenance, hardy specimens with high canopies are required.</i>				
<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Tree Category</i>
Acer campestre	Hedge Maple	D	30-40'	Ornamental
Acer Freemanii	Freeman Maple	D	50-60'	Shade
Acer rubrum	Red Maple	D	50-60'	Shade
Acer saccharum	Sugar Maple	D	50-70'	Shade
Carpinus betulas >Fastigiata=	Upright European Hornbeam	D	30-40'	Ornamental
Carpinus caroliniana	American Hornbeam or Blue Ash	D	25-30'	Ornamental
Celtis occidentalis	Hackberry	D	50-75'	Shade
Cercis canadensis	Eastern Redbud	D	20-25'	Ornamental
Crataegus crusgalli	Cockspur Hawthorn	D	15-25'	Ornamental
Crataegus phaenopyrum	Washington Hawthorn	D	20-25'	Ornamental
Fraxinus americana	White Ash	D	45-65'	Shade
Fraxinus pennsylvanica	Green Ash	D	40-50'	Shade
Ginkgo biloba	Ginkgo or Maidenhair Tree	D	40-60'	Shade
Gleditzia tricanthos inermis	Thornless Honeylocust	D	40-45'	Shade
Koelreuteria paniculata	Golden Raintree	D	20-35'	Ornamental

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<i>Table 1</i> <i>Trees approved for planting along public roads, streets and highways and in locations where low maintenance, hardy specimens with high canopies are required.</i>				
<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Tree Category</i>
Liquidambar styraciflua	American Sweetgum	D	40-60'	Shade
Malus hybrids	Flowering Crabapple	D	15-30'	Ornamental
Prunus >Newport=	Newport Plum	D	15-20'	Ornamental
Prunus maaeckii	Amur Chokecherry	D	25-30'	Ornamental
Prunus virginiana	Common Chokecherry	D	20-25'	Ornamental
Pyrus calleryana	Ornamental Pear	D	20-25'	Ornamental
Quercus coccinea	Scarlet Oak	D	60-80'	Shade
Quercus palustris	Pin Oak	D	50-80'	Shade
Quercus phellos	Willow Oak	D	50-70'	Shade
Quercus robur	English Oak	D	50-70'	Shade
Quercus rubra	Red Oak	D	40-60'	Shade
Sorbus alnifolia	Korean Mountain Ash	D	20-30'	Ornamental
Sorbus >Aria=	White Beam Mountain Ash	D	25-40'	Ornamental
Tillia americana	American Linden or Basswood	D	40-60'	Shade
Tillia cordata	Littleleaf Linden	D	40-50'	Shade
Tillia tomentosa	Silver Linden	D	40-50'	Shade
Zelkova serrata >Village Green=	Village Green Zelkova	D	40-60'	Shade

<i>Table 2</i> <i>Trees approved for use within the interior of the site.</i>				
<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Tree Category</i>
Acer ginella	Amur Maple	D	15-20'	Ornamental
Acer palmatum	Japanese Maple	D	15-20'	Ornamental
Amelanchier canadensis	Juneberry or Shadlow Serviceberry	D	30-35'	Ornamental
Amelanchier grandiflora	Apple Serviceberry	D	25-30'	Ornamental
Amelanchier laevis	Allegheny Serviceberry	D	25-30'	Ornamental
Betula nigra	River Birch or Red Birch	D	30-40'	Ornamental
Betula papyrifera	Paper Birch or White Birch	D	30-40'	Ornamental
Cercidiphyllum japonicum	Katsura Tree	D	25-40'	Ornamental

<i>Table 2 Trees approved for use within the interior of the site.</i>				
<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Tree Category</i>
Cornus kousa	Japanese Dogwood	D	20-25'	Ornamental
Cotinus coggyria	Smoketree	D	15-20'	Ornamental
Gymnocladus dioicus	Kentucky Coffeetree	D	40-50'	Shade
Liriodendron tulipifera	Tulip Tree or Tulip Poplar	D	75-100'	Shade
Magnolia loebneri	Magnolia	D	12-15'	Ornamental
Magnolia soulangiana	Saucer Magnolia	D	15-20'	Ornamental
Magnolia stellata	Star Magnolia	D	10-15'	Ornamental
Picea abies	Norway Spruce	E	50-60'	Evergreen
Picea glauca >densata=	Black Hills Spruce	E	50-60'	Evergreen
Picea pungens	Colorado Spruce	E	60-75'	Evergreen
Picea pungens >Glauca=	Colorado Blue Spruce	E	60-75'	Evergreen
Pinus nigra	Austrian Pine	E	30-60'	Evergreen
Pinus ponderosa	Ponderosa Pine	E	40-50'	Evergreen
Pinus stroba	Eastern White Pine	E	50-100'	Evergreen
Platanus occidentalis	American Sycamore	D	75-100'	Shade
Quercus alba	White Oak	D	60-80'	Shade
Quercus bicolor	Swamp White Oak	D	40-50'	Shade
Salix blanda	Wisconsin Weeping Willow	D	40-50'	Shade
Salix matsudana >Tortuosa=	Corkscrew Willow	D	25-30'	Ornamental
Tsuga canadensis	Canadian Eastern Hemlock	E	60-75'	Evergreen

<i>Table 3 Upright shrubs approved for screening, hedges and specimen planting.</i>				
<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Shrub Category</i>
Aronia melanocarpa	Black Chokecherry	D	4-6'	Medium
Berberis thunbergii hybrids	Japanese Barberry	D	3-5'	Medium
Buxus microphylla koreana	Korean Boxwood	E	2-3'	Medium
Caragana arborescens	Siberian Peashrub	D	12-15'	Large
Chaenomeles speciosa	Flowering Quince	D	2-6'	Medium
Cornus alba >Elegantissima=	Variegated Dogwood	D	6-10'	Large

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Table 3
Upright shrubs approved for screening, hedges and specimen planting.

<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Shrub Category</i>
Cornice alternifolia	Pagoda Dogwood	D	15-20'	Large
Cornice sericea bailey	Redtwig Dogwood	D	8-10'	Large
Cotinus coggyria	Smoketree	D	8-10'	Large
Cotoneaster acutifolious	Peking Cotoneaster	D	4-8'	Medium
Cotoneaster divaricatus	Spreading Cotoneaster	D	5-6'	Medium
Euonymous alatus	Burning Bush or Winged Euonymous	D	7-10'	Large
Euonymous fortunei	Euonymous	E	4-6'	Medium
Forsythia intermedia hybrids	Hybrid Forsythia	D	7-10'	Large
Forsythia suspensa	Weeping Forsythia	D	8-10'	Large
Hamamelis virginiana	Common Witch Hazel	D	10-15'	Large
Hibiscus syriacus	Rose of Sharon or Shrub Althea	D	4-12'	Large
Hydrangea aborescens >Annabelle=	Annabelle Hydrangea	D	4-15'	Large
Hydrangea macrophylla >Nikko Blue=	Nikko Blue Hydrangea	D	3-4'	Medium
Hydrangea paniculata >Grandiflora=	Peegee Hydrangea	D	6-10'	Large
Ilex crenata	Japanese Holly	E	3-5'	Medium
Ilex meserveae	Blue Holly	E	6-8'	Large
Ilex opaca	American Holly	E	8-15'	Large
Juniperis chinesis	Chinese Juniper	E	6-15'	Large
Juniperis scopulorum	Rocky Mountain Juniper	E	6-15'	Large
Ligustrum amurense	Amur Privet	D	4-8'	Medium
Ligustrum vicaryi	Golden Vicary Privet	D	4-12'	Large
Mahonia aquifolium	Oregon Grape	E	3-6'	Medium
Philadelphus coronarius	Sweet Mockorange	D	8-10'	Large
Philadelphus virginialis	Minnesota Snowflake	D	6-8'	Large
Physocarpus opulifolius intermedius	Dwarf Ninebark	D	4-5'	Medium
Picea glauca conica	Dwarf Alberta Spruce	E	6-10'	Large
Prunus cistena	Cistena Plum or Purpleleaf Sand	D	6-8'	Large

Table 3
Upright shrubs approved for screening, hedges and specimen planting.

<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Shrub Category</i>
	Cherry			
<i>Prunus glandulosa</i>	Dwarf Flowering Almond	D	4-6'	Medium
<i>Prunus triloba</i>	Flowering Almond	D	8-10'	Large
<i>Rhamnus frangula</i>	Alder Buckthorn or Glossy Buckthorn	D	12-15'	Large
<i>Rhus aromatica</i>	Fragrant Sumac	D	4-6'	Medium
<i>Rhus glabra</i>	Smooth Sumac	D	8-10'	Large
<i>Rhus typhina</i>	Staghorn Sumac	D	8-12'	Large
<i>Salix caprea</i>	French Pussy Willow	D	15-20'	Large
<i>Sambucus canadensis</i>	American Elder	D	6-8'	Large
<i>Shepherdia argentea</i>	Silver Buffaloberry	D	5-8'	Large
<i>Sorbaria sorbifolia</i>	False Spirea	D	6-8'	Large
<i>Symphoricarpos alba</i>	White Snowberry	D	5-6'	Medium
<i>Syringa chinensis</i>	Chinese Lilac	D	6-8'	Large
<i>Syringa hyacinthiflora hybrids</i>	Hybrid Canadian Lilac	D	8-12'	Large
<i>Syringa vulgaris</i>	Common Lilac	D	8-12'	Large
<i>Syringa vulgaris hybrids</i>	Hybrid French Lilac	D	8-12'	Large
<i>Taxus cuspidata >Capitata=</i>	Upright Japanese Yew	E	10-25'	Large
<i>Taxus >Hicksi=</i>	Hicks Yew	E	10-12'	Large
<i>Thuja occidentalis hybrids</i>	American Arborvitae	E	4-15'	Large
<i>Viburnum dentatum</i>	Arrowwood Viburnum	D	10-15'	Large
<i>Viburnum lantana</i>	Wayfaring Tree	D	8-15'	Large
<i>Viburnum lentago</i>	Nannyberry	D	8-15'	Large
<i>Viburnum opulus</i>	European Cranberry Bush	D	10-12'	Large
<i>Viburnum plicatum forma tomentosum</i>	Doublelife Viburnum	D	8-10'	Large
<i>Viburnum prunifolium</i>	Black Haw Viburnum	D	10-12'	Large
<i>Viburnum rhytidophyllum</i>	Leatherleaf Viburnum	D	6-15'	Large
<i>Viburnum trilopum</i>	American Cranberry Bush	D	8-12'	Large
<i>Weigela florida</i>	Flowering Weigela	D	4-5'	Medium

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Table 3
Upright shrubs approved for screening, hedges and specimen planting.

<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Shrub Category</i>
Weigela vaniceki	Cardinal Shrub	D	4-5'	Medium

Table 4
Spreading shrubs approved for low borders, parking lot islands and ground covers.

<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Shrub Category</i>
Berberis mentorensis	Mentor Barberry	E	3-4'	Medium
Berberis thunbergii hybrids	Japanese Barberry	D	2-4'	Medium
Berberis verruculosa	Warty Barberry	E	2-3'	Small
Buxus sempervirens	Boxwood	E	2-3'	Small
Cotoneaster apiculatus	Cranberry Cotoneaster	D	2-3'	Small
Cotoneaster horizontalis	Rock Cotoneaster	D	1-3'	Small
Daphne burkwoodii	Burkwood Daphne	D	3-4'	Medium
Duetzia gracilis	Slender Duetzia	D	2-3'	Small
Euonymus fortunei >Sarcoxie= >Bronxensis=	Sarcoxie Wintercreeper Euonymus	E	3-4'	Medium
Forsythia viridissima >Bronxensis=	Dwarf Forsythia	D	1-2'	Small
Hypericum patulum	St. Johnswort	D	2-3'	Small
Juniperus - spreading varieties	Juniper	E	1-3'	Small
Mahonia aquifolium compacta	Dwarf Oregon Grape	E	2'	Small
Microbioata decussata	Siberian Cypress	E	1'	Small
Philadelphus virginicus	Miniature Snowflake	D	2-3'	Small
Picea abies >Nidiformis=	Birdnest Spruce	E	2'	Small
Picea abies >Pumila=	Dwarf Norway Spruce	E	2-3'	Small
Picea pungens >Globosa=	Blue Globe Spruce	E	3-4'	Medium
Pinus mugo	Mugho Pine or Swiss Mountain Pine	E	3-4'	Medium
Potentilla fruticosa hybrids	Bush Cinquefoil	D	2-3'	Small
Rhus aromatica >Low Grow=	Low Grow Fragrant Sumac	D	1-2'	Small
Ribes alpinum	Alpine Currant	D	3-5'	Medium
Spiraea bumalda	Spiraea	D	2-3'	Small
Spiraea japonica	Japanese Spiraea	D	2-3'	Small

<i>Table 4 Spreading shrubs approved for low borders, parking lot islands and ground covers.</i>				
<i>Botanic Name</i>	<i>Common Name</i>	<i>Type</i>	<i>Height</i>	<i>Shrub Category</i>
Spiraea nipponica	Nippon Spirea	D	2-3'	Small
Symphoricarpos orbiculatus	Coral Berry or Indian Currant Snowberry	D	3-4'	Medium
Syringa patula >Miss Kim=	Dwarf Korean Lilac	D	3-5'	Medium
Taxus cuspidata >Nana=	Dwarf Japanese Yew	E	2-3'	Small
Taxus media	Spreading Yew	E	2-4'	Small
Thuja occidentalis >Hetzii Midget=	Hetz Midget Arborvitae	E	2-3'	Small
Viburnum opulus >Nanum=	European Cranberry Bush	D	1-2'	Small

(Ord. 2004-1-1-28, passed 1-28-2004)

COMMISSION-APPROVED USES

' 150.165 ALL DISTRICTS.

(A) The Commission-approved uses listed in the individual zoning districts and those listed below and their accessory buildings and uses may be permitted by the Planning Commission in the zoning districts, in accordance with the procedures set forth in this section.

(B) (1) The following uses are permitted in any zoning district, subject to the requirements of this section:

- (a) Airport or heliport;
- (b) Cemetery;
- (c) Church, temple, synagogue or mosque;
- (d) Gas, oil, electric or other utility transmission line;

- (e) Hospital;
- (f) Lake, artificial, one acre or larger;
- (g) Mineral extraction;
- (h) Radio, television and/or microwave transmission tower;
- (i) Sewage disposal plant (primary use);
- (j) Telephone exchange; and
- (k) Water well, water station, filtration plant, reservoir and/or storage tank, public.

(2) All Commission-approved uses located in the FP districts or their FW and FF subdistricts must obtain a permit from the State Department of Natural Resources prior to Planning Commission approval.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.166 PROCEDURE.**

(A) The Commission-approved uses listed in the individual zoning districts and those listed below and their accessory buildings and uses may be permitted by the Planning Commission in the zoning districts, in accordance with the procedures set forth in this section.

(B) (1) Upon receipt of an application for a Commission-approved use, the Planning Commission shall hold a public hearing thereon. Public notice setting forth the time and place shall be given at least ten days before the date of the hearing in a newspaper of general circulation in the county. Interested parties shall be notified as provided by the Planning Commission. The cost of the notices shall be borne by the applicant.

(2) The Planning Commission shall order the Zoning Administrator to issue an improvement location permit for the Commission-approved use following the hearing and upon an affirmative finding by the Planning Commission that:

(a) The proposed Commission-approved use is to be located in a zoning district wherein the use may be permitted;

(b) The requirements set forth in the zoning district and this section for the Commission-approved use will be met; and

(c) The proposed uses are consistent with the spirit, purpose and intent of these regulations, will not substantially and permanently injure the appropriate use of the neighboring property and will serve the public convenience and welfare.

(C) (1) Any existing use that is listed herein as a Commission-approved use and that is located in a zoning district in which Commission-approved use may be permitted is a conforming use.

(2) Any expansion of a Commission-approved use involving the enlargement of the buildings, structures and land area devoted to the use shall be subject to the procedure described in this section.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.167 DEVELOPMENT STANDARDS.**

(A) Commission-approved uses shall comply with the development standards on the tables in this section.

(B) The development standards are defined as follows:

(1) *Minimum lot area.* A lot on which one of the following uses is located may not be smaller than the area prescribed for that use;

(2) *Setbacks.* The uses are subject to the special setbacks prescribed, in feet, on the tables in this section. If no figure appears for a front yard setback, the standard setback for the zoning district applies;

(3) *Minimum distance from residential district.*

(a) The uses may not be located closer to an RR, R1, R2, R3 or RMH district than the distance listed in *Table 6, Commission-approved uses: part 2.*

(b) Additionally, a parking area or loading berth for any of the following uses may not be located closer to a residential district than the distance listed in the table.

(4) *Enclosures.* The following uses shall be fenced or walled as respectively prescribed by the table, at the discretion of the Planning Commission:

(a) This division limits the number of entrances to a major or minor collector highway. However, it does not apply to entrances for emergency use only. The design requirements for the entrances can be found in Chapter 152.

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(b) As used in this section, **ENTRANCE** means a passageway generally 30 feet wide from the premises to the thoroughfare by which vehicles enter or leave. The applicant shall obtain a permit from the County Highway Engineer for the entrance.

<i>Table 5</i> <i>Commission-approved uses: part 1</i>					
<i>Use</i>	<i>Minimum Lot Area</i>	<i>Minimum Yard Setbacks</i>			<i>Enclosures</i>
		<i>Front</i>	<i>Rear</i>	<i>Side</i>	
Airport	30 acres	C	C	C	Adequate to protect abutting use
Anhydrous ammonia, storage and distribution, commercial	C	50	50	50	C
Animal raising and breeding facility for non-farm fowl and/or animals, commercial	3 acres	100	100	100	C
Assembly hall	1 acre	C	20	50	C
Auction sales yard	2 acres	C	C	C	Adequate to protect abutting use
Bottled gas, storage and/or distribution, commercial	C	50	50	50	C
Camp, public	20,000 sq. ft.	100	40	40	C
Cemetery or crematory	20 acres	C	50	50	C
Charitable institution	1 acre	C	20	15	C
Church, temple, synagogue or mosque	1 acre	C	C	C	C
Clinic	15,000 sq. ft.	C	10	30	C
Contractor=s storage yard	C	C	C	C	C
Country club or golf course	C	C	C	C	C
Disabled vehicles, storage of	3 acres	100	40	40	6-foot chain link fence with metal or wooden slats inserted sufficient to screen use from view
Explosives, manufacturing, storage and/or use of	C	300 ²	300 ²	300 ²	C
Farm equipment sales	1 acre	C	C	C	C
Farm, confinement feeding	C	50	300	300	47-inch woven fence
Fraternity or sorority	5 acres	C	C	C	C
Garbage disposal, public or commercial	20 acres	C	C	C	C
Gas, oil, electricity or other					

Table 5
Commission-approved uses: part 1

<i>Use</i>	<i>Minimum Lot Area</i>	<i>Minimum Yard Setbacks</i>			<i>Enclosures</i>
		<i>Front</i>	<i>Rear</i>	<i>Side</i>	
utility transmission lines	Note 1	C	C	C	C
Greenhouse, commercial	25,000 sq. ft.	100	40	40	C
Heliport	25,000 sq. ft.	C	C	C	C
Home for the aged	1 acre	C	10	C	C
Hospital	10 acres	100	40	40	C
Hotel or motel	2 acres	C	75 ²	C	C
Industrial park	C	100	35	C	C
Junk yard	10 acres	300 ²	300 ²	300 ²	Solid wall or solid painted fence sufficient to hide from view
Kennel	Note 1	C	C	C	C
Kindergarten or day nursery	Note 1	C	20	15	4-foot wire mesh fence
Lake, artificial, 1 acre or larger	C	C	C	C	C
Landfill, sanitary or garbage disposal plant, public or commercial	20 acres	300	300	300	6-foot chain link fence
Liquid fertilizer, storage and/or distribution, commercial	C	50	50	50	C
Lodge or private club	5 acres (4,000 sq. ft. per unit)	C	C	C	C
Lodge, fishing or hunting, seasonal	Note 1	C	C	C	C
Marina	Note 1	C	C	C	C
Material storage, open	300 ²	300 ²	300 ²	C	C
Mineral extraction, borrow pit or topsoil removal and storage areas	C	CA	CA	CA	6-foot chain link fence
Nursing home or orphanage	C	C	10	30	C
Parking lot, public or employee	C	C	C	C	4-foot masonry wall, 6 inches thick, along front lines and other boundaries as the Planning Commission considers necessary to protect residential properties
Penal or correctional institution	320 acres	100	100	100	C

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Table 5 Commission-approved uses: part 1					
<i>Use</i>	<i>Minimum Lot Area</i>	<i>Minimum Yard Setbacks</i>			<i>Enclosures</i>
		<i>Front</i>	<i>Rear</i>	<i>Side</i>	
Petroleum tank farm, commercial	C	300	300	300	C
Police or fire station	1 acre	C	C	C	C
Produce terminal, wholesale	15 acres	100	75 ²	C	6-foot chain link fence
Race track	C	100	100	100	C
Recreational development, private	C	C	40	40	C
Recreational enterprise, outdoor, commercial, if accessible to the public	C	C	40	40	6-foot chain link fence
Recreational vehicle park	1,500 sq. ft. per space	100	40	40	C
Riding stable	20,000 sq. ft. plus 5,000 sq. ft. for every horse more than four	50	50	50	C
Sales barn for livestock resale	C	C	40	40	C
Sewage disposal plant, public or commercial	C	300	300	300	C
Shooting range, outdoor	C	C	50	50	C
Stadium or coliseum	5 acres	100 ²	100 ²	100 ²	C
Swimming pool, private, if accessible to the public	C	C	C	C	6-foot chain link fence
Telephone exchange	C	C	C	C	C
Theater, outdoor	C	100	75 ²	C	6-foot chain link fence with metal or wooden slats inserted sufficient to screen the use from view
Tourist home	Footnote 1	C	C	C	C
Truck freight terminal or service center	1 acre	C	C	C	6-foot chain link fence with metal or wooden slats inserted sufficient to screen the use from view
Warehouse or grain elevator	3 acres	C	35	C	C
Water well, water station, filtration plant, reservoir and/or storage tank, public	C	C	20	10	C

<i>Table 6 Commission-approved uses: part 2</i>				
<i>Use</i>	<i>Minimum Distance from Residential Districts (in feet)</i>			<i>Permitted Number of Entrances to Major and Minor Collector Highways</i>
	<i>Use</i>	<i>Parking Area</i>	<i>Loading Berth</i>	
Airport	2,000	25	100	2
Anhydrous ammonia, storage and distribution, commercial	1,000	C	C	C
Animal raising and breeding facility for non-farm fowl and/or animals, commercial	C	25	50	1
Assembly hall	C	C	C	C
Auction sales yard	300	C	C	C
Bottled gas, storage and/or distribution, commercial	1,000	C	C	C
Camp, public	C	25	C	1
Cemetery or crematory	C	C	C	2
Charitable institution	C	C	C	C
Church, temple, synagogue or mosque	C	C	C	C
Clinic	C	10	C	1
Contractor=s storage yard	C	300	300	1
Country club or golf course	C	10	C	1
Disabled vehicles, storage of	1,000	25	50	1
Explosives, manufacturing, storage and/or use of	2,000	C	C	1
Farm equipment sales	300	C	C	C
Farm, confinement feeding	2,000	C	C	2
Fraternity or sorority	C	C	C	C
Garbage disposal, public or commercial	C	C	C	C
Gas, oil, electricity or other utility transmission lines	C	C	C	C
Greenhouse, commercial	C	C	50	1
Heliport	C	C	C	2
Home for the aged	C	C	C	1

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<i>Table 6 Commission-approved uses: part 2</i>				
<i>Use</i>	<i>Minimum Distance from Residential Districts (in feet)</i>			<i>Permitted Number of Entrances to Major and Minor Collector Highways</i>
	<i>Use</i>	<i>Parking Area</i>	<i>Loading Berth</i>	
Hospital	C	25	50	C
Hotel or motel	C	C	C	2
Industrial park	C	25	100	1
Junk yard	1,320	1,320	1,320	1
Kennel	1,000	C	C	1
Kindergarten or day nursery	C	C	C	1
Lake, artificial, 1 acre or larger	C	C	C	1
Landfill, sanitary or garbage disposal plant, public or commercial	C	C	C	1
Liquid fertilizer, storage and/or distribution, commercial	1,000	C	C	C
Lodge or private club	C	C	C	C
Lodge, fishing or hunting, seasonal	C	C	C	C
Marina	C	C	C	C
Material storage, open	1,000	C	C	1
Mineral extraction, borrow pit or topsoil removal and storage areas	2,000 ¹	C	300	1
Nursing home or orphanage	75	C	C	C
Parking lot, public or employee	C	C	C	1
Penal or correctional institution	2,000	300	300	1
Petroleum tank farm, commercial	C	C	C	C
Police or fire station	C	10	C	C
Produce terminal, wholesale	300	100	100	1
Race track	C	C	C	C
Recreational development, private	C	25	C	1
Recreational enterprise, outdoor, commercial, if accessible to the public	C	25	50	2
Recreational vehicle park	C	25	C	2
Riding stable	C	C	C	1

<i>Table 6 Commission-approved uses: part 2</i>				
<i>Use</i>	<i>Minimum Distance from Residential Districts (in feet)</i>			<i>Permitted Number of Entrances to Major and Minor Collector Highways</i>
	<i>Use</i>	<i>Parking Area</i>	<i>Loading Berth</i>	
Sales barn for livestock resale	2,000	50	100	1
Sewage disposal plant, public or commercial	1,000	C	C	1
Shooting range, outdoor	C	C	C	1
Stadium or coliseum	C	25	50	2
Swimming pool, private, if accessible to the public	C	C	C	C
Telephone exchange	C	C	C	1
Theater, outdoor	C	25	50	1
Tourist home	C	C	C	1
Truck freight terminal or service center	300	100	100	1
Warehouse or grain elevator	C	100	100	1
Water well, water station, filtration plant, reservoir and/or storage tank, public	C	C	C	C

(Ord. 2004-1-1-28, passed 1-28-2004; Ord. 2007-13-9-12, passed 9-12-2007)

***NON-CONFORMING USES,
BUILDINGS AND STRUCTURES***

' 150.180 NON-CONFORMING USES OF LAND.

(A) Within the zoning districts established in this title there exist lots, structures, uses or combinations of uses and structures that were lawful prior to the adoption of the title, but that are prohibited, regulated or restricted in this title. The uses may continue in accordance with the provisions in division (B) below.

(B) (1) A non-conforming use of land shall not be enlarged or increased or extended to occupy a larger area of land than was occupied at the time of the enactment of this title. The use shall not be

moved, in whole or in part, to any portion of the lot or parcel other than that occupied by the use at the time of the enactment of this title. If any use ceases for a period of more than six months, any subsequent use of the land shall conform with the provisions of this title.

(2) No other structure shall be built in connection with the non-conforming use of land in addition to structures existing at the time of the enactment of this title.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.181 NON-CONFORMING STRUCTURES.

(A) A non-conforming structure shall not be enlarged or altered, except that if the structure was lawful at the time of the enactment of this title, the

existing use may be extended throughout any part of the structure that was arranged or designed for the use prior to the enactment of this title. A non-conforming use shall not be moved, in whole or in part, to another location on the lot unless that structure is made to conform to the provisions of this title. If a non-conforming structure is made to conform with the provisions of this title or the use of any structure is discontinued for a period of one year, any future use of the structure or portion thereof shall be in conformity with the provisions of this title. Should a non-conforming structure or part thereof be destroyed to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in compliance with the provisions of this title.

(B) A non-conforming use may be changed to another non-conforming use of the same or greater restriction, provided no structural changes are made in a building. Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a zoning district of greater restriction, it shall not thereafter be changed to a less-restricted non-conforming use.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.182 REPAIRS AND MAINTENANCE.

(C) A non-conforming use in an FP Floodplain district may be altered, enlarged or extended, on a one-time-only basis, provided the procedures set forth in this title are followed, and further provided the alterations, enlargements or extensions do not increase the value of the building or structure, excluding the value of the land, by more than 40% of its pre-improvement market value, unless the building or structure is permanently changed to a conforming use.

(D) Any non-conforming use in the FP districts and FW and FF subdistricts that is damaged by flood, fire, explosion, act of God or the public enemy may be restored to its original dimensions and conditions, provided the damage does not decrease the value of the buildings, excluding the value of the land, by more than 40% of its pre-damage value.

(Ord. 2004-1-1-28, passed 1-28-2004)

A non-conforming building or structure may be maintained in the form and condition that existed at the time of the enactment of this title. Nothing in this title shall prevent the repair of a non-conforming structure containing a non-conforming use. If a non-conforming structure or portion thereof becomes physically unsafe or unlawful and is declared by an authorized official to be so, the same shall not thereafter be repaired, restored or rebuilt except in conformity with the provisions of this title.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.183 FP, FW, FF SUBDISTRICTS.

(A) No non-conforming use in an FW Floodway subdistrict shall be expanded or enlarged without a permit for construction in a floodway from the State Department of Natural Resources.

(B) A non-conforming use in an FF Floodway Fringe subdistrict may be altered, enlarged or extended, on a one-time-only basis, provided the alterations, enlargements or extensions do not increase the value of the land by more than 40% of its pre-improvement market value, unless the building or structure is permanently changed to a conforming use.

' 150.184 PROOF OF NON-CONFORMING USE.

(A) Upon written request of the Zoning Administrator, the owner of a non-conforming use shall present documentary evidence to the officer that a building or use owned by him or her qualifies as a non-conforming use. The evidence may include:

(1) The date when the non-conforming use was established or validated;

(2) Vouchers related to materials purchased for construction;

(3) Written testimony of adjoining property owners (present and/or former);

(4) Photographs; and/or

(5) Photostatic copies of deeds or rulings

made on the property.

(B) (1) Upon submission of the proof, the Zoning Administrator shall perform an inspection of the premises on a date and time agreeable to the owner.

(2) No inspection shall be attempted unless and until an agreement is reached with the owner.

(3) Following the inspection, the Zoning Administrator shall issue a certificate of occupancy if he or she finds that the information given is satisfactory and the premises are, in his or her opinion, a de facto non-conforming use.

(C) No appeal to the Board of Zoning Appeals on a variance shall be processed until it is fully established that the property is truly a non-conforming use as provided in divisions (A) and (B) above.
(Ord. 2004-1-1-28, passed 1-28-2004)

ADMINISTRATION AND ENFORCEMENT

(A) *Establishment and organization.* The County Planning Commission is hereby established as set forth in the state code. The County Planning Commission as established has the authority to adopt rules of procedure.

(B) *Authority.* The Planning Commission is authorized and empowered to administer this title and to make and enforce all necessary requirements, orders, rules and regulations consistent with the provisions of this title with powers and duties as provided by I.C. 36-7-4.

(C) *Adoption of rules and regulations.* The Planning Commission may adopt rules and regulations as it may deem necessary to enforce this title. The adoption, amendment or revision of the rules shall be by a majority vote of all members of the Planning Commission.

(D) *Meetings, minutes and records.* All meetings of the Planning Commission shall be open

' 150.195 SUMMARY OF AUTHORITY.

The county officials and bodies listed in this subchapter, without limitation upon the authority as each may possess by law, have responsibility for implementing and administering this title in the manner described in this subchapter and ' ' 150.215 through 150.217.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.196 BOARD OF COUNTY COMMISSIONERS.

The Board of County Commissioners is authorized and empowered to initiate amendments to the text of this title and to the official zoning maps pursuant to the procedures and standards for amendments set forth in ' 150.203 and to take other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this title.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.197 PLANNING COMMISSION.

to the public. The Planning Commission shall keep minutes of its proceedings and records of its examinations and other official actions, prepare findings and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Planning Commission and shall be public records.

(E) *Conflicts.* No member of the Planning Commission may participate in the hearing or disposition of any matter in which that member has any conflict of interest prohibited by state law.

(F) *Undue influence.* Any person with a pending hearing may not communicate with any member of the Planning Commission before a hearing with the intent to influence the member=s action on a matter pending before the Planning Commission.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.198 ZONING ADMINISTRATOR.**

(A) *Creation.* The Office of Zoning Administrator is hereby created.

(B) *Authority.* The Zoning Administrator has the principal responsibility of enforcing this title and serves as the administrative officer of the Planning Commission and the Board of Zoning Appeals. The Zoning Administrator shall issue (or direct the issuing of) all permits required by this title and shall take other action towards the enforcement of this title as the Planning Commission may direct.
(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.199 APPLICATIONS AND HEARINGS.**

(A) *Applications.* Applications submitted pursuant to this title shall be handled in accordance with the procedures set forth below in this section.

(1) *Place of filing.* Applications shall be filed with the Zoning Administrator or with the other official or body as the Zoning Administrator may designate.

(2) *Form, number and scale.*

(b) An application so filed will be scheduled for a hearing or meeting on the requested hearing or meeting date or on the first available date thereafter open on the relevant hearing or meeting agenda, on a first-filed, first-scheduled basis. All public hearings and meetings to consider applications filed pursuant to this title shall, unless otherwise provided for by order of the relevant body, be scheduled at the same time as the regular meetings of the body.

(c) An application that does not require a public hearing shall be filed in proper form and number and containing all required information. An application so filed will be processed on a first-filed, first processed basis.

(d) Whenever supplemental data in connection with a previously filed application is required by the Zoning Administrator or offered by the applicant, it shall be submitted at least 15 days

(a) Applications shall be on forms supplied by the Zoning Administrator and shall be filed in the number of duplicated copies as the Zoning Administrator may designate.

(b) All plans filed as part of any applications shall be of a scale sufficient to permit a clear and precise understanding of the contents of the plan and of the proposal being made and shall be folded to a size of eight and one-half inches by 11 inches.

(3) *Minimum requirements.* Every application submitted pursuant to this title shall contain the minimum data and information as required by the state code and the rules and procedures of the Planning Commission or the Board of Zoning Appeals.

(4) *Filing deadlines.*

(a) An application requiring a public hearing or meeting will not be scheduled for the hearing or meeting unless filed, in proper form and number and containing all required information, a minimum of 30 days before the public hearing or meeting.

prior to the date on which it is to be considered at a hearing or a meeting or acted upon in connection with the applications. The filing of the data shall, in the discretion of the Zoning Administrator and of the body hearing the application, be cause to delay a requested or scheduled hearing or meeting or decision date.

(5) *Fees.* Every application filed pursuant to the provisions of this title shall be subject to an application and filing fee as established, from time to time, by the Planning Commission or the Board of Zoning Appeals. The owner of the property that is the subject of the application and, if different, the applicant shall be jointly and severally liable for the payment of the fee. The failure to fully pay any fee or required deposit when due shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or required deposit relates. A current fee

schedule may be found in the Planning Commission rules of procedure.

(6) *Additional information required.* In addition to the minimum data and information required pursuant to this title, every applicant shall submit other and additional data, information or documentation as the Zoning Administrator or any board or commission before which the application is pending may deem necessary or appropriate to achieve a full and proper consideration and disposition of the particular application.

(7) *Waiver of application requirements.* Notwithstanding any other provision of this section, the Zoning Administrator shall have the authority to waive any requirements set forth in divisions (A), (B) or (C) of this section when, in his or her judgment, the waiver is appropriate in light of the nature and extent of the relief being sought or in light of special circumstances making compliance with those provisions either unnecessary or unduly burdensome; provided, however, that any board or commission before which the application may come shall continue

(3) *Summary denial with or without hearing.* Any second application may be denied by the Zoning Administrator, summarily and without a hearing, on a finding that no grounds appear that warrant a new hearing. In any case where the application is set for hearing, the applicant shall be required to establish grounds warranting reconsideration of the merits of its application prior to being allowed to offer any evidence on the merits. Unless the grounds are established, the application may be summarily dismissed for the failure.

(4) *Exception.* Whether or not new grounds are stated, any second application filed more than one year after the final denial of a prior application shall be heard on the merits as though no prior application had been filed. The applicant shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. In the absence of evidence, it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application.

(C) *Public hearings and meetings.* The

to have the right to request additional information pursuant to division (C) herein and to delay processing of the application until the information is provided and available in accordance with the deadlines established in division (D) below.

(B) *Successive applications.*

(1) *Second applications without new grounds barred.* Whenever any application filed pursuant to this title has been finally denied on the merits, a second application seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought unless, in the opinion of the official, board or commission before which it is brought, there is substantial new evidence available or a mistake of law or fact significantly affecting the prior denial.

(2) *New grounds to be stated.* Any second application shall include a detailed statement of the grounds justifying consideration of the application.

procedures for setting a hearing or meeting date and the form and content of public notice shall be dictated by the state code and the Planning Commission rules of procedure.

(D) *Technical review.* Every application for which this title requires a hearing shall first be reviewed by the Zoning Administrator and/or the Technical Review Committee. The Zoning Administrator shall also refer the application to other bodies or officials for their comments as necessary. Each body and official to which an application is referred shall review the application and submit its comments thereon to the Zoning Administrator for transmittal to the applicant and specific body hearing the application. The requirements of this division (D) shall also include site plan review findings and recommendations pursuant to ' 150.202.

(E) *Conduct of hearings.* All notices shall include the date, time and place of the hearing or meeting, a description of the matter to be heard or considered, the address or particular location of the subject property and, in the case of a public hearing for an amendment, a legal description of the subject property.

(F) *Examination and copying of application and other documents.* At any time following the giving of notice as required in this section, and upon reasonable request, any person may examine the application, subject to the exceptions set forth in the State Freedom of Information Act being I.C. 5-14-3. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.200 REQUIRED PERMITS.

(A) *Improvement location permit.*

(1) *Improvement location permit required.* No structure, improvement or use of land within the county may be altered, changed, placed, erected or located on platted or unplatted lands unless the structure, improvement or use and its location conform to the requirements of this title and until an improvement location permit for the structure, improvement or use has been issued. The Zoning Administrator shall not issue an improvement location permit until the applicant has complied with the provisions of this title, provided that the value of the structure, improvement or use equals or is greater than \$500.

(b) *Applications requiring a public hearing.* For applications requiring a public hearing, the Zoning Administrator shall not issue an improvement location permit until so directed by the body conducting the hearing.

(6) *Additional requirements.*

(a) An application for an improvement location permit for any use shall not be approved until the Zoning Administrator has determined that the proposed use, minimum lot size and width meet the minimum standards for a sewage disposal system as required by the County Health Department.

(b) Any application for an improvement location permit for any industrial use or open industrial use shall be accompanied by a certificate of compliance subscribed by a registered professional engineer or architect certifying that the use will satisfy the requirements of ' 150.108, and any other applicable standards of the zoning district

(2) *Agricultural land, uses and structures excepted.* It is hereby declared that the intent of the permit requirements of this title shall prevail with respect to agricultural buildings and uses; however, agricultural buildings shall not be subject to the fees required for the improvement location permit.

(3) *Applications.* Applications for improvement location permits shall be filed in accordance with the requirements of ' 150.199 of this title.

(4) *Site plan review.* Site plan review shall be conducted by the Zoning Administrator in accordance with the requirements of ' 150.199 of this title.

(5) *Action.*

(a) *Applications not requiring a public hearing.* For applications that do not require a public hearing, the Zoning Administrator shall issue the improvement location permit within ten days following the approval or approval with modifications of a site plan pursuant to ' 150.202.

in which it is located.

(7) *Expiration of the improvement location permit.* The work or use authorized by any improvement location permit must be commenced within six months of the date of issuance of the permit; otherwise, the same shall lapse and become null and void. All work so authorized shall be completed within 18 months from the issuance of the permit, provided that for good cause shown the Zoning Administrator may extend the work completion time.

(8) *Failure to obtain an improvement location permit.* Failure to obtain an improvement location permit shall be a violation of this title and shall be punishable under the provisions of ' 150.204.

(9) *Limitation on improvement location permits.* Improvement location permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use or arrangement set forth in the approved plans and applications or amendments thereto, and no other use, arrangement or construction. Any use, arrangement or construction contrary to that authorized shall be deemed a violation of this title and shall be punishable under the provisions of ' 150.204.

(10) *Records of improvement location permits.* Every improvement location permit issued pursuant to this section shall be kept on file in the office of the Zoning Administrator and shall be a public record in accordance with the state code.

(11) *Federal and state requirements.* The provisions of this title are supplemental to and do not abrogate the powers extended to agencies, bureaus, departments, commissions, divisions or officials of the state or federal government by state or federal statutes.

(B) *Certificate of occupancy.*

(1) *Certificate of occupancy required.*

(2) *Application for certificate of occupancy.*

(a) No application for a certificate of occupancy may be considered unless the applicant has also applied for an improvement location permit.

(b) Applications for certificates of occupancy shall be filed in accordance with the requirements of ' 150.200. Applications should be filed at least ten days before occupancy is intended.

(c) No improvement location permit shall be issued for the reconstruction or structural alteration or removal of any building unless an application has been made for a certificate of occupancy.

(3) *Action.* Certificates of occupancy may be issued by the Zoning Administrator within ten days after notification by the applicant that the lawful

(a) *New construction or improvement.* It shall be unlawful to use or occupy, or to permit the use or occupancy of, any building or premises, or both, or part thereof hereafter created, erected, changed converted or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued by the Zoning Administrator. The certificate of occupancy shall state that the proposed use of the building and/or land conforms to the requirements of this title and that the Zoning Administrator, or his or her representative, has inspected the property and attested to that fact.

(b) *Change of use.* No change shall be made in the use of land, except as provided in this title, or no change shall be made to the use of any building or part thereof, now or hereafter erected, reconstructed or structurally altered without a certificate of occupancy having been issued by the Zoning Administrator, and no certificate of occupancy shall be issued to make change unless it is in conformity with the provisions of this title.

(c) *Change of occupancy.* No persons, firms or corporations shall move into or occupy any non-residential structure or land, new or existing, without first obtaining a certificate of occupancy from the Zoning Administrator.

erection, reconstruction or structural alteration of the building or other improvement of the land has been completed, that the use of the building or premises will change or that the occupancy of the building or premises will change and the finding of the Zoning Administrator that the construction, change of use or change of occupancy conforms with the requirements of this title.

(4) *Enforcement.* In case any building, structure or property is, or is intended to be, erected, constructed, reconstructed, altered or converted, or any building, structure or property is, or is intended to be, used in violation of or contrary to the provisions of this title, the Zoning Administrator is hereby authorized, in addition to other remedies set forth in the statutes of the state and in this title, to institute an action to enjoin or any other appropriate action or proceeding to prevent the erection, construction, alteration, conversion or use.

(5) *Temporary certificate of occupancy.*

When the improvement covered by the improvement location permit has been completed in substantial conformity with the site plan or development plan submitted in the application, a certificate of occupancy shall then be issued. A temporary certificate of occupancy may be issued by the Zoning Administrator after application has been made for completed portions of a development plan that has been approved as a Commission-approved use, provided that a certificate of occupancy is required upon completion of the total development plan.

(6) *Records of certificates of occupancy.*

Every certificate of occupancy issued pursuant to this section shall be kept on file in the office of the Zoning Administrator and shall be a public record in accordance with the state code.

(7) *Inspection.* Within ten days after the completion of the change authorized by the improvement location permit, the Zoning Administrator, or his or her duly authorized designee, shall inspect the premises and, if the change conforms to this title and the improvement location permit, and a certificate of compliance, if required, has been obtained, he or she shall issue a certificate of

(3) *Review of application.* Prior to the issuance of any building permit, the Building Inspector shall review all building permit applications to determine full compliance with the Chapter 157 and any other applicable regulations of the county or the state.

(4) *Action.* The Building Inspector shall issue the building permit within ten days of receiving a complete application.

(5) *Inspections.*

(a) After the issuance of any building permit, the Building Inspector shall make, or shall cause to be made, inspections of the work being done as are necessary to ensure full compliance with the provisions of this title and the terms of the building permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees.

(b) The Building Inspector is

occupancy.

(C) *Certificate of compliance.* If an application for an improvement location permit relates to a light, heavy or extractive industrial use, it must be accompanied by a certificate of compliance, subscribed by a professional engineer registered by the state, stating that the use will meet the performance standards of the zoning district concerned. After a ten-day period has elapsed during which the Zoning Administrator has not required additional information or objected in writing, he or she shall issue the permit.

(D) *Building permit.*

(1) *Building permit required.* A building permit shall be obtained before beginning construction, alteration, repair or demolition of any building or structure with a value equal to or greater than \$500.

(2) *Applications.* Applications for building permits shall be filed in accordance with the requirements of ' 150.199.

authorized to take actions as described in ' 150.204 for the purpose of carrying out this provision.

(6) *Inspection assistance.* The Building Inspector may designate a representative to assist in the inspection of fire suppression, detection and alarm systems and the representative shall provide reports of the inspections to the Building Inspector.

(7) *Expiration of the building permit.* The work or use authorized by any building permit must be commenced within six months of the date of issuance of the permit; otherwise, the same shall lapse and become null and void. All work so authorized shall be completed within 18 months from the issuance of the permit, provided that for good cause shown the Zoning Administrator may extend the work completion time.

(8) *Failure to obtain a building permit.* Failure to obtain a building permit shall be a violation of this title and shall be punishable under the provisions of ' 150.204.

(9) *Limitation on building permits.*

Building permits issued on the basis of plans and applications approved by the Building Inspector authorize only the construction, alteration, repair or demolition set forth in the approved plans and applications or amendments thereto, and no other construction, alteration, repair or demolition. Any construction, alteration, repair or demolition contrary to that authorized shall be deemed a violation of this title and shall be punishable under the provisions of ' 150.204.

(10) *Records of building permits.* Every building permit issued pursuant to this section shall be kept on file in the office of the Building Inspector and shall be a public record in accordance with the state code.

(11) *Certificate of occupancy.*

(a) No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this title shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this title.

(c) A land use certificate will not be issued until all construction and demolition waste has been removed from the project site.

(d) In situations where a non-conforming use or structure is being discontinued or removed to establish a new use in compliance with this title, the non-conforming structure must be removed or the use discontinued before the land use certificate is issued.

(2) *Application for land use certificates.*

(a) A person desiring a land use certificate shall submit a written application for the certificate with the Zoning Administrator. An application for a land use certificate shall:

1. Be made on the forms available at the office of the Planning Commission and shall be signed by the owner of the subject property; and

(b) It shall be unlawful to occupy any building or structure unless a full, partial or temporary certificate of occupancy has been issued by the Building Inspector pursuant to ' 150.200.

(D) *Land use certificate.*(1) *Requirements for land use certificate.*

(a) No land shall be occupied or used and no building or other structure hereinafter erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a land use certificate has been issued stating that the structure and/or use complies with all the provisions of this title applicable to the building, structure or premises of the use in the zoning district in which it is to be located.

(b) No change shall be made in the use of land or in the use of any building or other structure or part thereof, now or hereafter erected, reconstructed or structurally altered, without a land use certificate having been issued and no certificate shall be issued to make the change unless it is in conformity with the provisions of this code of ordinances.

2. Be accompanied by the fee established by the Planning Commission.

(b) If the proposed use is in conformity with the provisions of this title, the land use certificate shall be issued within five days after the application for the same has been made. However, no land use certificate shall be issued in connection with the construction, alteration, enlargement, demolition or moving of a building or structure until the construction, alteration, enlargement, demolition or moving shall have been completed.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.201 **SPECIAL PROVISIONS.**

(A) *Commission-approved use.* An improvement location permit for a Commission-approved use may not be issued until the application has been approved by the Planning

Commission and the Zoning Administrator has been notified by the Planning Commission of the approval.

(B) *Planned unit development.* In addition, the following requirements shall apply to the expiration of permits for a planned unit development.

(1) If a person to whom an improvement location permit has been issued for a planned unit development fails to begin construction within 24 months after the permit is issued, fails to complete 30% of the total plan within 36 months after the permit is issued or within 12 months after construction is begun (whichever period expires later) or fails to comply with the approved plan, he or she may be required by the Planning Commission on its own initiative, and shall be required by it upon written request of any interested person, to show cause why the permit should not be revoked. However, an order to show cause may not be issued for failure to begin construction on time if, in the meantime, construction has begun.

(1) A plot plan in the case of one-family, two-family or agricultural building or use; or

(2) A detailed site plan for all other uses of the land upon which the application for an improvement location permit is made.

(B) *Elements required in plot plan.* The applicant shall submit no fewer than 15 copies of the application to the Zoning Administrator, and it shall include at a minimum:

(1) The location of the land concerned, lot dimensions, approximate true north arrow and scale;

(2) The location and size of all buildings or structures already on the land and those to be erected;

(3) The width of all entrances to and exits from the land; and

(4) All adjacent roads, streets and traffic-ways.

(2) In a proceeding to show cause under division (A) above, the Planning Commission shall hold a public hearing, of which written notice shall be published according to law and sent by registered mail to the holder of the permit. This notice must be published and mailed at least ten days before the date set for the hearing.

(3) At the hearing, evidence may be presented by any person present. If on this evidence the Planning Commission finds that the holder of the permit has failed as described in division (A) above, it shall revoke the permit. However, if it considers the failure correctable within six months, it may defer revocation and continue the hearing until a specified day within that period.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.202 SITE PLAN REVIEW.

(A) *Applicability.* Site plans shall be submitted to the Zoning Administrator with the application for an improvement location permit. The detail included in the site plan for review shall be as follows:

(C) *Elements required in detailed site plan.*

(1) The applicant shall submit no fewer than 15 copies of the application to the Zoning Administrator, and it shall include at a minimum:

(a) A completed application containing the applicant=s name, address and proof of interest in the subject property, and the owner=s name and address, if different from the applicant, and the owner=s signed consent to the filing of the application;

(b) The street address and legal description of the subject property;

(c) The zoning classification and present use of the subject property;

(d) A plan depicting the following elements:

1. Lot dimensions, where

applicable;

2. Elevation contours;
3. Existing and proposed easements and rights-of-way on the site or within 100 feet of its boundaries;
4. Existing and proposed structures, including locations, elevations, (assumed) size, height, proposed use and facade treatments;
5. Yards and distances between buildings;
6. Off-street parking, including location, number and size of spaces, dimensions of parking areas and internal circulation pattern;
7. Pedestrian, vehicular and service areas, including points of ingress and egress and internal circulation;
8. Significant existing and proposed landscaping and paving;

(e) Other and further information or documentation as the Zoning Administrator may deem to be necessary or appropriate for a full and proper consideration and disposition of the particular application.

(2) For an airport, heliport, hospital, industrial park, mobile home park, recreational vehicle park, penal or correctional institution, private recreational development or public utility substation or exchange, the detailed site plan must also include a plan of landscape development and the manner of handling surface and internal drainage and disposing of the drainage to a suitable outlet and a report by a soil scientist on soil capabilities.

(D) *Standards for the site plan review.* In reviewing site plans, the Zoning Administrator, other official or county body may evaluate the following characteristics:

9. Existing and proposed signage, including location, size and height;
10. Loading areas, including location, dimensions, number of spaces and internal circulation;
11. Lighting, including location and general nature and hooding devices;
12. Common facilities and open spaces, including location and dimensions;
13. Public and private roads or streets, including location, dimensions and circulation;
14. Evidence of a satisfactory means of sewage disposal and surface drainage;
15. The location of all existing and proposed fire hydrants;
16. Scale, approximate true north arrow and dimensions; and
17. Vicinity map.

(1) The arrangement of the structures on the site with respect to how well it:

- (a) Allows for the effective use of the proposed development;
- (b) Allows for the efficient use of the land;
- (c) Is compatible with development on adjacent property; and
- (d) Considers off-site utilities and services and minimizes potential impacts on existing or planned municipal services, utilities and infrastructure.

(2) The arrangement of open space and landscaping improvements on the site with respect to how well it:

- (a) Creates a desirable and functional

environment for patrons, pedestrians and occupants;

(b) Preserves unique natural resources where possible; and

(c) Respects desirable natural resources on adjacent sites.

(3) Circulation systems with respect to how well they:

(a) Provide adequate and safe access to the site;

(b) Minimize potentially dangerous traffic movements;

(c) Separate pedestrian and vehicle circulation insofar as practical; and

(d) Minimize curb cuts.

(4) Parking lots or garages with respect to how well they:

(7) The relationship of the site plan to adopted land use policies and the goals and objectives of the Comprehensive Plan.

(E) *Basis for approval.* Approval or denial of a site plan application shall be based upon the principles set forth below.

(1) Every use, development of land and application of development standards shall take place in compliance with the standards of this title.

(2) Every use, development of land and application of development standards shall be considered on the basis of the suitability of the site for the particular use or development intended.

(3) Every use, development of land and application of development standards shall be considered on the basis of suitable and functional development design, but it is not intended that the approval be interpreted to require a particular style or type of architecture.

(a) Are located, designed and screened to minimize adverse visual impacts on adjacent properties; and

(b) Provide perimeter parking lot screening and internal landscaped islands as required by ' 150.152.

(5) Landscaping design with respect to how well it:

(a) Creates a logical transition to adjoining lots and developments;

(b) Screens incompatible uses;

(c) Minimizes the visual impact of development on adjacent sites and roadways; and

(d) Utilizes native plant materials selected to withstand the microclimate of the county and individual site microclimates.

(6) Site illumination with respect to how it has been designed, located and installed so as to minimize adverse impacts to adjacent properties; and

(F) *Action on-site plans.*

(1) The application shall be made at least five days prior to issuance of the improvement location permit, which five-day period may be waived by the Zoning Administrator. Plans so furnished shall be kept by the Zoning Administrator as permanent records.

(2) The Zoning Administrator, other official or County Body shall make specific written findings directed to the standards of this section. The application and the specific written findings shall then be forwarded to the relevant board, commission or official, as the case may be, to be evaluated as part of the specific form of development review requested. (Ord. 2004-1-1-28, passed 1-28-2004)

' **150.203 AMENDMENTS.**

(A) *Purpose.* The purpose of this section is to provide standards and procedures for making amendments to the text of this title and the official zoning maps that are of a general significance or application. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments in light of changed conditions or changes in public policy.

(B) *Authority.* The text of this title and the official zoning maps may be amended from time to time by the passage of an ordinance duly adopted by the County Commissioners upon the recommendation of the Planning Commission in accordance with the procedures set forth herein and the state code. All amendments to this title shall be in conformance with the laws of the state.

(C) *Parties entitled to initiate amendments.*

(1) *Amendment to text.* Amendments to this title may be initiated by adoption of a motion by the Planning Commission or by adoption of a resolution by the County Commissioners.

(2) Whether the proposed amendment is compatible with the current conditions and the overall character of existing development in the immediate vicinity of the subject property;

(3) Whether the proposed amendment is the most desirable use for which the subject property is adapted;

(4) Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction; and

(5) Whether the proposed amendment reflects responsible standards for growth and development.

(E) *Procedure for review and decision.* A petition to amend the text of this title or the official zoning maps shall be governed by I.C. 36-7-4-602.

(1) *Petitions.* A petition to amend the text of this title or the official zoning maps shall be filed with the Zoning Administrator on forms so provided.

(2) *Amendment to official zoning maps.* Amendments to the official zoning maps may be initiated by adoption of a motion by the Planning Commission, by adoption of a resolution by the County Commissioners or by the filing of a petition by at least 50% of the owners of property within the area proposed to be changed or affected by the amendment.

(D) *Standards for amendments.* The wisdom of amending the text of this title or the official zoning maps is a matter committed to the sound legislative discretion of the County Commissioners and is not controlled by any one standard. In making their determination, however, the County Commissioners should determine whether to adopt or deny or to adopt some modification of the Planning Commission's recommendation, giving reasonable regard to, among other factors, the following:

(1) Whether the proposed amendment is consistent with the goals, objectives and policies of the comprehensive plan, as adopted and amended from time to time by the County Commissioners;

(2) *Public hearing and notice.* After receipt of a properly completed petition for an amendment, the Zoning Administrator shall set a date for a public hearing. Notice of the public hearing shall be provided as prescribed in I.C. 36-7-4-604.

(3) *Planning commission action.* Within 60 days after receipt of the proposed amendment, the Planning Commission shall recommend the approval, denial or approval with modifications of the proposed amendment and shall submit its written recommendation, together with the petition for the text and/or map change, to the County Commissioners.

(4) *County Commissioners action.* The County Commissioners shall either adopt or reject the recommendation of the Planning Commission or adopt some modification of the recommendation of the Planning Commission. Failure of the legislative body to pass the proposed amendment within 90 days after its rejection by the Planning Commission constitutes

rejection of the proposed amendment; and the proposed amendment may not be reconsidered by the Planning Commission or County Commissioners until the expiration of one year after the date of its original rejection by the Planning Commission.

(F) *Effect of approval of amendment.*

(1) When an amendment to this title or the official zoning maps is approved, the amendment shall be incorporated into the official document or official zoning maps held at the office of the Zoning Administrator.

(2) When an amendment is made to the text, the change shall be incorporated into the official document according to the numbering system established within this title and the incorporation shall be made as soon as possible after the enactment of the amendment.

(3) An annual listing of the amendments to this title shall be kept within the official document.

(G) *Effect of denial of amendment.* No application for an amendment that has been denied by the County Commissioners shall be resubmitted for a period of one year from the date of the order of

(3) A structure erected, raised or converted, or land or premises used in violation of any zoning or land use ordinance, shall be and hereby is declared to be a common nuisance and civil zoning violation, and the owner or possessor of the structure, land or premises shall be liable for maintaining a common nuisance pursuant to I.C. 36-7-4-1012 and 36-7-4-1014.

(B) *Inspection of property and right of entry.*

(1) The Zoning Administrator, and/or his or her agents, are authorized to make inspections of all lands located within the county in order to enforce all zoning ordinances and land use regulations of the county.

denial, except on the grounds of new evidence or proof of change of condition found to be valid by the Zoning Administrator.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **150.204 ENFORCEMENTS.**

(A) *Jurisdiction.*

(1) The Planning Commission or Board of Zoning Appeals may institute a suit for injunctive and/or monetary relief in the Circuit or Superior Courts of the county. The suit is to be brought in the name of and captioned as APlanning Commission of Henry County, Indiana,@ or ABoard of Zoning Appeals of Henry County, Indiana@ versus the person, persons or entity charged with violating the provisions of any zoning ordinances or land use regulations of the county.

(2) The Board of Zoning Appeals may also institute a suit for mandatory injunction directing a person, persons or entity to remove a structure erected in violation of any zoning ordinances or land use regulations.

(2) In order to execute inspections, the Zoning Administrator, and/or his or her agents, shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out his, her or their duties in the enforcement of zoning ordinances and land use regulations of the county, unless the owner or occupant of the premises refuses to permit entry to the Zoning Administrator, and/or his or her agents, when the entry is sought pursuant to this section. In the event of refusal, the Zoning Administrator may make application to any judge of the Circuit or Superior Courts of the county for the issuance of an administrative search warrant. The application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition that is in violation of a zoning ordinance or land use regulation of the county exists on the premises or that a violation in fact exists and must be abated and that the condition is not a lawful non-conforming use to the best of the affiant=s belief. Any warrant issued pursuant to the application shall order the owner or occupant to permit entry to the Zoning Administrator, and/or his or her agents, for the purposes stated therein.

(C) *Stop-work order.*

(1) The Zoning Administrator, and/or his or her agents, are empowered to issue an order requiring the suspension of improvements of any kind when any of the following circumstances exist:

(a) Site improvement is occurring without an improvement location permit or any other permit required by zoning ordinances having first been obtained; or

(b) Site improvement is occurring in violation of:

(1) To approve, approve with modifications or deny any application for a variance from the terms of this title, pursuant to the procedures and standards for variances set forth in ' 150.216, which are the responsibility of the Planning Commission;

(2) To approve, approve with modifications or deny any application for a use variance pursuant to the procedures and standards for

1. The terms or conditions of any Commission-approved use or variance granted under this development code as contemplated by I.C. 36-7-4;

2. Conditions imposed by the Board of Zoning Appeals or Planning Commission;

3. Commitments made in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-921; or

4. The terms, conditions or provisions of any zoning ordinance.

(2) The stop-work order shall be posted on the property in a conspicuous place or personally delivered to the owner, possessor or person in charge and state the conditions under which construction or other activity may be resumed.
(Ord. 2004-1-1-28, passed 1-28-2004)

BOARD OF ZONING APPEALS

' 150.215 BOARD OF ZONING APPEALS.

(A) *Establishment and organization.* The Board of Zoning Appeals is hereby established as set forth in the state code and the Board of Zoning Appeals rules of procedure.

(B) *Jurisdiction and authority.* The Board of Zoning Appeals is hereby invested with the following powers and duties in connection with the implementation of this title:

variances set forth in ' 150.216; and

(3) To hear and decide any appeal from any order or final decision made by the Zoning Administrator or other administrative body or official in the administration or enforcement of this title, in accordance with procedures and standards for appeals of administrative decisions set forth in ' 150.217.

(C) *Meetings, minutes and records.* The Board

of Zoning Appeals shall keep minutes of its meetings, keep records of all examinations and other official actions, make all findings in writing and record the vote of each member on each question. Minutes and records shall be filed in the office of the Board of Zoning Appeals.

(D) *Conflicts.* No member of the Board of Zoning Appeals may participate in the hearing or disposition of any matter in which that member has any conflict of interest prohibited by state law.

(E) *Undue influence.* Any person with a pending hearing may not communicate with any member of the Board of Zoning Appeals before a hearing with the intent to influence the member=s action on a matter pending before the Board of Zoning Appeals.

(F) *Adoption of rules and regulations.* The Board of Zoning Appeals may adopt rules and regulations as it may deem necessary to enforce these zoning regulations.

(G) *Decisions subject to review.* Every decision of the Board of Zoning Appeals shall be subject to review by certiorari within 30 days of the Board of Zoning Appeals action, as set forth in I.C. 36-7-4-1003.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.216 VARIANCES.

(A) *Purpose.* The variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this title that create unnecessary hardships. When the hardships may be more appropriately remedied, if at all, pursuant to other provisions of this title, the variance procedure is

(3) *Public hearing and notice.* Upon application for a variance, the Board of Zoning Appeals shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten days before the date of the hearing in a newspaper of general circulation in the county. Interested parties shall be notified as provided by the Board of Zoning Appeals. The cost of the notices shall be borne by the person applying or appealing.

inappropriate.

(B) *Authority.*

(1) The Board of Zoning Appeals may authorize variances from the terms of this title as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this title would result in hardship. Variances shall not be granted solely on the grounds of convenience or profit; however, where strict application of the provisions of this title would result in hardship, convenience or profit may be considered as a relevant factor in the Board of Zoning Appeals decision.

(2) The Board of Zoning Appeals may not consider land use variances in cases in which a proposed use for a property does not fall within the list of permitted uses or commission approved uses for the zoning district in which it is located.

(C) *Parties entitled to seek variance.* An application for a variance may be filed with the Zoning Administrator by the owner or lessee with owner=s consent or on behalf of the owner of the subject property or other person having a legal or equitable interest in the subject property.

(D) *Procedure for review and decision.*

(1) *Application.* Applications for variances shall be filed with the Zoning Administrator in accordance with the requirements of this title.

(2) *Site plan review.* Site plan review shall be conducted by the Zoning Administrator in accordance with the requirements of ' 150.202.

(4) *Action by the Board of Zoning Appeals.* Within 45 days after the close of the public meeting, the Board of Zoning Appeals shall in writing either approve, approve with supplementary conditions or disapprove the application. If the application is approved or approved with supplementary conditions, the Board of Zoning Appeals shall instruct the Zoning Administrator in

writing to issue a variance permit listing the variance allowed and the specific conditions specified by the Board of Zoning Appeals for approval. If the application is disapproved by the Board of Zoning Appeals, it shall notify the applicant in writing.

(5) *Review by certiorari.* Every decision by the Board of Zoning Appeals shall be subject to review by certiorari. Any person aggrieved by a decision of the Board of Zoning Appeals may present to the county Circuit Court a petition duly verified setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within 30 days after the entry of the decision or order of the Board of Zoning Appeals.

(E) *Findings of fact for variances.*

(1) *Findings of fact.* Every application for a development standards variance shall meet the requirements set forth in I.C. 36-7-4-918.5, which states that a variance may be approved only upon a determination in writing that:

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

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

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

(d) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for

2. Irregular or substandard in shape or size;

3. Exceptional topographical features; or

4. Other extraordinary physical conditions peculiar to and inherent in the subject lot that amount to more than a mere inconvenience to the current owner of the lot.

which the variance is sought;

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

(f) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

(2) *Requirements and standards.* Every application for a variance shall consider the requirements of this section and the general standards for variances set forth below.

(a) *Compliance.* A variance from the terms of land use of this title shall not be granted unless the Board of Zoning Appeals makes specific written findings of fact based directly on the particular evidence presented to it that supports conclusions that all of the standards and conditions imposed by this section and any conditions imposed by the Board of Zoning Appeals upon the recommendation of the Zoning Administrator have been met.

(b) *Hardship.* No variance shall be granted pursuant to this section unless the applicant shall establish that carrying out the strict letter of the provisions of this title would create a particular hardship.

(c) *Unique physical condition.* The subject lot is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including:

1. Presence of an existing use, structure or sign, whether conforming or non-conforming;

(d) *Not self-created.* The aforesaid unique physical condition is not the result of any action or inaction of the owner or its predecessors in title and existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action other than the adoption of this title.

(e) *Denied substantial rights.* The carrying out of the strict letter of the provisions from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by the owners of other lots subject to the same provision.

(3) *Additional considerations.* In addition to the requirements and general standards set forth in division (E) above, the Board of Zoning Appeals shall, in weighing the appropriateness of a variance for land use, consider the following:

(a) The land use variance shall not be materially detrimental to the public health, safety and general welfare or materially injurious to the enjoyment, use, development or value of property or improvement permitted in the vicinity; and

(b) The variance would not result in a use or development on the subject property that would substantially affect the use and value of the area adjacent to the subject property in an adverse manner, including, but not limited to, impairing an adequate supply of light and air to the properties and improvement, substantially increasing congestion in the public roads or streets due to traffic or parking, unduly increasing the danger of flood or fire or unduly taxing public utilities and facilities in the area.

(4) *Variations less than requested.* The Board of Zoning Appeals may grant variances less than or different from those requested when the record supports the applicant's right to some relief but not to the full relief requested.

(5) *Conditions on variances.*

(b) A variance shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if the construction or development is beyond the scope so authorized.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.217 APPEALS.

(A) *Purpose.*

(a) The Board of Zoning Appeals may impose specific conditions and limitations concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this title upon any lot or property benefitted by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject lot or upon public facilities and service. The conditions shall be expressly set forth in the order granting the variance.

(b) Violation of any condition or limitation shall be a violation of this title and shall constitute grounds for revocation of the variance.

(6) *Effect of granting of variance.* The granting of a variance shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of application for any permits and approvals that may be required by this title.

(7) *Limitations on variances.*

(a) Subject to an extension of time granted by the Zoning Administrator, no variance from the provisions of this title shall be valid for a period longer than six months unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a certificate of occupancy is issued and a use is commenced within that period.

(1) The appeal procedure is provided as a safeguard against arbitrary, ill-considered or erroneous administrative decisions. It is intended to avoid the need for legal action by establishing local procedures to review and correct administrative errors. It is not, however, intended as a means to subvert the clear purposes, meanings or intent of this title or the rightful authority of the Zoning Administrator to enforce the requirements of this title. To these ends, the reviewing body should give all proper deference to the spirit and intent embodied in the language of this title and to the reasonable interpretations of that language by those charged with

the interpretation of this title.

(2) The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals after the notice of appeal has been filed. The certification from the Zoning Administrator shall state that by reason of facts stated in the certificate, a stay, in his or her opinion, would cause imminent peril to life or property. In that case, the proceedings shall not be stayed otherwise than by a restraining order that may or may not be granted by the Board of Zoning Appeals or by a court of record, on application, on notice to the Zoning Administrator and on due cause shown.

(3) The Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order or final decision and, to that end, has all the powers of the officer from whom the appeal is taken.

(B) *Authority.* The Board of Zoning Appeals shall hear and determine appeals from and review any order, requirement, decision or determination made by the Zoning Administrator in relation to the enforcement of this title. The Board of Zoning Appeals shall also hear and determine appeals from and review any order, requirement, decision or determination made by an administrative board or other body, except the Planning Commission, in relation to the enforcement of this title requiring a procurement of a building permit or occupancy permit.

(4) *Action by the Board of Zoning Appeals.* Within 30 days after the close of the public meeting, the Board of Zoning Appeals shall render in writing a decision on the appeal. The decision may reverse, affirm or modify, in whole or in part, the action appealed from and may include the order or determination as, in the opinion of the Board of Zoning Appeals, is proper to be made in the proceedings. The failure of the Board of Zoning Appeals to act within the 30 days, or further time to which the applicant may agree, shall be deemed to be a decision denying the appeal.

(5) *Review by certiorari.* Every decision by the Board of Zoning Appeals shall be subject to review by certiorari. Any person aggrieved by a

(C) *Parties entitled to appeal.* Appeals to the Board of Zoning Appeals concerning the interpretation or administration of this title may be taken by any persons aggrieved or by any officer or bureau of the legislative authority of the county affected by any decision of the Zoning Administrator.

(D) *Procedure.*

(1) *Application.* An application for appeal to the Board of Zoning Appeals shall be filed not later than 30 days after the action being appealed and shall be in accordance with the requirements of this section.

(2) *Action by the Zoning Administrator.* Upon receipt of a properly completed application for an appeal, the Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals the application, together with all the papers constituting the record from which the action appealed was taken.

(3) *Public hearing and notice.* Upon application for a variance, and upon appeal from a decision of the Zoning Administrator, the Board of Zoning Appeals shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten days before the date of the hearing in a newspaper of general circulation in the county. Interested parties shall be notified as provided by the Board of Zoning Appeals. The cost of the notices shall be borne by the person applying or appealing.

decision of the Board of Zoning Appeals may present to the county Circuit Court a petition duly verified setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. The petition shall be presented to the court within 30 days after the entry of the decision or order of the Board of Zoning Appeals.

(E) *Right to grant variance in deciding appeals.* In any case where the application for appeal is accompanied by an application for a variance in accordance with ' 150.216, the Board of Zoning Appeals shall notice, hear, decide to grant or deny the variance in compliance with the provisions of ' 150.216.

(F) *Conditions and limitations on rights granted by appeal.* In any case where this title imposes conditions or limitations upon any right, any right granted by the Board of Zoning Appeals on appeal shall be subject to the conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal. (Ord. 2004-1-1-28, passed 1-28-2004)

CORRIDOR OVERLAY DISTRICT

' 150.230 PURPOSE; INTENT; AUTHORITY; APPLICATION.

(A) *Purpose.* It is the purpose of this subchapter to establish standards for the design of sites, buildings, structures, plantings, signs, street hardware and other improvements that are visible to the public and affect the physical development of land within the Corridor Overlay district.

(B) *Intent.* These standards are intended to promote high quality, creative development that will combine imagination, innovation and variety in the appearance of buildings and sites in the Corridor Overlay district. These standards are further intended to preserve and enhance property values and to promote the public health, safety and welfare by providing for consistent and coordinated treatment of the property encompassed by the Corridor Overlay district.

(C) *Significance.* The significant corridor serves as the primary entrance to the City of New

(3) The erection, construction or structural alteration of any building(s) in the Corridor Overlay district; or

(4) Modification or revision of any site development plan in the Corridor Overlay district.

(B) The Planning Commission, in reviewing applications in the Corridor Overlay district, shall examine factors concerning the site, site plan and the surrounding area, which include, but are not limited to, the following items:

Castle and is expected to experience increasing pressure for commercial development in the future. Future development of this highly visible corridor will dramatically change the image of the county. The visibility and accessibility of the land within the Corridor Overlay district command the highest standards of development that stimulate substantial capital investments, encourage efficient land use, promote coordinated development, permit innovative site designs and preserve the integrity of the roadways within the corridor.

(D) *Application.* This title shall apply to all development in the Corridor Overlay district, excluding one-family residential and agricultural structures, projects or developments. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.231 PLANNING COMMISSION APPROVAL.

(A) Approval by the Planning Commission or its duly appointed or designated representative shall be required for any proposed development plan or structure or structural alteration within the Corridor Overlay district. Planning Commission approval of the architectural design, landscaping, drainage, sewerage, parking, signage, lighting and access to the property shall be necessary prior to:

(1) The establishment of any use of the land in the Corridor Overlay district;

(2) The issuance of any improvement location permit in the Corridor Overlay district;

(1) Topography;

(2) Zoning on-site;

(3) Surrounding zoning and existing land use;

(4) Roads, streets, curbs, gutters and sidewalks;

- (5) Access to public roads or streets;
- (6) Driveway and curb cut locations in relation to other sites;
- (7) General vehicular and pedestrian traffic;
- (8) Internal site circulation;
- (9) Special and general easements for public or private use;
- (10) On-site and off-site surface and subsurface storm and water drainage;
- (11) On-site and off-site utilities;
- (12) The means and impact of sanitary sewage disposal and water supply technique;
- (13) Dedication of roads, streets and rights-of-way;
- (14) Proposed protective restrictions or covenants and/or recorded commitments;
- (15) Provisions for adequate and acceptable setbacks, lighting, signage, screening, landscaping and compatibility with existing platted residential uses; and
- (16) Any effects the proposed project might have on the entire Corridor Overlay district.
(Ord. 2004-1-1-28, passed 1-28-2004)

(1) Exterior metal walls shall be prohibited on all buildings erected, constructed, altered, repaired or used in this Corridor Overlay district that abut or are adjacent to significant corridors. Exceptions to this requirement may be permitted on a case-by-case basis by the Planning Commission or its duly appointed or designated representative.

(2) Building facades may be constructed from masonry or glass, as defined below, or other materials or products that provide the same desired stability and quality. Products other than those listed below must be approved by the Planning Commission

' 150.232 BUILDING DESIGN STANDARDS.

(A) *General standards.*

(1) All structures will be evaluated on the overall appearance of the project and shall be judged on the quality of their design and their relationship to the surrounding area.

(2) The quality of design goes beyond the materials of construction to include scale, mass, color, proportion and compatibility with adjoining developments.

(3) Colors shall be harmonious and only the use of compatible accents shall be permitted.

(4) Building components, like windows, doors, eaves and parapets, shall have good proportions and relationships to one another.

(5) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.

(6) Monotony of design in single- or multiple-building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest. In multiple-building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

(B) *Architectural design requirements.*

or its duly appointed or designated representative.

(a) Masonry construction shall be of the types composed of solid, cavity, faced or veneered-wall construction, unless otherwise approved by the Planning Commission or its duly appointed or designated representative.

1. Stone material used for masonry construction may be composed of granite, sandstone, slate, limestone, marble or other hard and durable all-weather stone. Ashlar, cut stone and dimension stone construction techniques are acceptable.

2. Brick material used for masonry construction shall be composed of hard-fired (kiln-fired), all-weather, standard size brick or other all-weather facing brick.

3. Concrete finish or precast concrete panel (tilt wall) construction shall be exposed aggregate, bush-hammered, sand blasted or other concrete finish as approved by the Planning Commission or its duly appointed or designated representative.

(b) Glass walls shall include glass curtain walls or glass block construction. **GLASS CURTAIN WALL** shall be defined as an exterior wall that carries no floor or roof loads and that may consist of a combination of metal, glass and other surfacing material supported in a metal framework.

(3) The materials and finishes of exposed roofs shall compliment those used for the exterior walls. **EXPOSED ROOFS** shall be defined as those portions of a roof visible from five feet above ground level of a corridor traffic-way.

(4) Roof-mounted equipment on exposed roofs shall be screened from view. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.

(5) All building mechanical and electrical equipment located adjacent to the building and visible from a public traffic-way or a residentially zoned or used area shall be screened from view. The screens and enclosures shall be treated as integral elements of the building's appearance.

(4) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

(5) Newly installed utility services and service revisions necessitated by exterior alterations shall be underground.

(D) *Building orientation.* All structures shall be sited to front onto corridor traffic-ways (as herein defined) or give the appearance of a front-like facade on corridor traffic-ways.

(6) The exposed walls and roofs of buildings shall be maintained in a clean, orderly and attractive condition, free of cracks, dents, punctures, breakage and other forms of visible marring. Materials that become excessively faded, chalked or otherwise deteriorated shall be refinished, repainted or replaced.

(7) Refuse and waste removal areas, loading berths, service yards, storage yards and exterior work areas shall be screened from view from public ways.

(8) All accessory buildings shall be constructed with materials that are similar to and compatible with materials used in the principal structure.

(C) *Relationship of buildings to site.*

(1) The site shall be planned to accomplish a desirable transition from the streetscape and to provide for adequate planting, safe pedestrian movement and parking area.

(2) Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged to provide an interesting relationship between buildings.

(3) Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms or other innovative means so as to attractively landscape and/or screen parking areas from view from public ways.

(E) *Minimum building height.* All uses shall have a minimum building height of 14 feet with a minimum of seven feet to the lowest eaves for a building with a gable, hip or gambrel roof.

(F) *Minimum gross floor area.*

(1) All non-residential buildings shall have a minimum of 2,000 square feet of floor area, excluding the floor area of any basement or any accessory building(s). Exceptions to this requirement may be made on a case-by-case basis by the Planning

Commission or its duly appointed or designated representative.

(2) Accessory buildings shall not be used in the computation of floor area. Accessory buildings need not meet the minimum floor area requirement. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.233 SIGNAGE STANDARDS.

(A) Signage shall be designed to be an integral part of the architectural and landscaping plans. The colors, materials and styles of signage shall be architecturally compatible with and accentuate the buildings and landscaping on the site. The colors, materials and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.

(B) All signs, except private traffic direction signs, are prohibited in the required greenbelt areas.

(C) Private traffic direction signs and pavement markings for the direction and control of traffic into, out of and within the site shall conform to the *Manual on Uniform Traffic Control Devices* as published by the State Department of Highways.

(D) The integration of project signage to identify multiple businesses is encouraged.

(E) Off-premises signage shall be prohibited in the Corridor Overlay district.

' 150.234 PARKING REQUIREMENTS.

Efforts to break up large expanses of pavement are to be encouraged by the interspersing of appropriate planting areas wherever possible. The number of parking spaces required is as established in ' 150.150, depending upon the zoning and the intended land use. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.235 LIGHTING REQUIREMENTS.

(A) In reviewing the lighting plan for a lot proposed to be developed in the Corridor Overlay

(F) All on-premises signage shall conform to the standards and requirements of the underlying zoning districts except that individual pole signs shall not be permitted in the Corridor Overlay district.

(1) There shall be a minimum spacing of 200 feet between ground signs located along significant corridors; and

(2) In no instance shall pole signs for multiple businesses, strip commercial centers or strip business centers exceed 200 square feet of copy area.

(G) Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.

(H) The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.

(I) Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.

(J) Identification signs of standardized design such as corporation logos shall conform to the criteria of all other signs.

(K) No portable or flashing signs shall be permitted in the Corridor Overlay district. (Ord. 2004-1-1-28, passed 1-28-2004)

district, factors to be considered by the Planning Commission shall include, but are not limited to, the following:

(1) Safety provided by the lighting;

(2) Security provided by the lighting;

(3) Possible light spillage or glare onto adjoining properties or roads or streets. Down-shielding is encouraged and spillage or glare onto adjoining properties is prohibited;

(4) Attractiveness of the lighting standards and their compatibility with the overall treatment of the property; and

(5) Height and placement of lighting standards considering the use.

(B) Exterior lighting, when used, shall enhance the building design and the adjoining landscape:

(1) Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas; and

(2) Lighting shall be restrained in design and excessive brightness avoided.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.236 INDIVIDUAL SITE ACCESS.

(A) The corridor traffic-ways, by their functional nature as primary thoroughfares, must have reasonable restrictions as to the number and location of access points within the Corridor Overlay district.

(B) In order to provide safe and sufficient traffic movement to and from adjacent lands and to protect the functional integrity of the corridor= primary thoroughfares, in many cases frontage roads, access roads and distributor roads will have to be built.

' 150.238 ADDITIONAL STANDARDS.

(A) *Outside storage prohibited.* No outside, unenclosed storage of refuse or recyclable material (whether or not in containers) or display of merchandise shall be permitted on any lot. All refuse or recyclable material shall be contained completely within the principal or accessory building(s) or screened from view by an appropriate enclosure. Exceptions to this requirement may be made on a case-by-case basis by the Planning Commission or its duly appointed or designated representative.

(C) (1) The roads shall be coordinated with those of contiguous lots and designed to preserve the aesthetic benefits provided by the greenbelt areas. Access at the side or rear of buildings is encouraged. New access points onto the primary thoroughfares in the corridors shall be coordinated with existing access points whenever possible.

(2) The following curb cut policy shall apply throughout the Corridor Overlay district.

(a) Curb cuts shall be spaced a minimum of 400 feet apart.

(b) No curb cuts shall be located within 200 feet of any intersection of public roads or streets.

(c) Opposing curb cuts shall align squarely or be offset a minimum of 200 feet.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 150.237 POTENTIAL DEVELOPMENT SITE ACCESS.

Stub roads or streets shall be built in all cases where adjacent lots have reasonable potential for development. **REASONABLE POTENTIAL** shall include any adjacent parcel of adequate size for commercial or residential development or any adjacent parcels determined by the Planning Commission or its duly appointed or designated representative.

(Ord. 2004-1-1-28, passed 1-28-2004)

(B) *Loading berth requirements.* Loading berth requirements shall be as specified in the underlying zoning district(s), except that any loading or unloading berth or bay shall be screened from view beyond the site by landscaping or other screening.

(C) *Accessory buildings and uses.* All accessory buildings and uses that are permitted in the underlying zoning district(s) shall be permitted within the Corridor Overlay district, except that any detached accessory building(s) on any lot shall be

architecturally compatible with the principal building(s) with which it is associated. All accessory buildings shall have roofs.

(D) *Paving requirements.* All parking areas shall be finished with a hard surface like hot asphaltic concrete or portland cement concrete. (Ord. 2004-1-1-28, passed 1-28-2004)

' 150.999 PENALTY.

(A) *Civil zoning violations.*

(1) Any person who uses property in violation of this chapter is deemed to have committed a civil zoning violation and may be issued a citation by the Zoning Administrator, or his or her duly authorized designees, pursuant to division (E) below of this section.

(2) Each day a violation remains uncorrected is a distinct and separate civil zoning violation subject to an additional citation and fine in the amount prescribed by division (D)(3) below, provided a warning ticket has first been issued pursuant to division (E)(2) of this section.

(3) The monetary fine for each civil zoning violation shall be \$50 and for a repeated civil zoning violation, the following fines shall apply.

<i>Citation</i>	<i>Fine</i>
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(2) No citation shall be issued unless the person who commits a civil zoning violation or the legal owner, the contract vendee or any person or entity with a possessory interest in the real estate upon which the violation occurs has been issued a warning ticket not less than 14 days before the issuance of the citation, allowing the person to correct the violation and come into compliance with the prescribed zoning ordinance or regulation.

(3) If a person who receives a warning ticket elects to file a land use petition, then the person must indicate his or her intent to file the land use petition by notifying the Planning Commission within ten days of receipt of the warning ticket. A person shall have 14 days following the issuance of the

First citation	\$50
Second citation	\$100
Third citation	\$150
Fourth citation	\$200
Each citation in excess of four	\$300

(4) All fines prescribed by this section for civil zoning violations shall be paid to the Zoning Administrator, who shall render to the person making the payment a receipt stating the amount and purpose for which the fine has been paid, a duplicate of which shall be made a part of the records of the Planning Commission. All fines thus received shall be deposited with the County Auditor.

(B) *Citations for civil zoning violations.*

(1) The Zoning Administrator, and/or his or her duly authorized designees, may issue a civil citation to a person who commits a civil zoning violation or to the legal owner, the contract vendee or any person or entity with a possessory interest in the real estate upon which the violation occurs. The citation may be served by personal service, by certified mail, by first class U.S. mail or by placement in a conspicuous place on the property where the civil zoning violation occurs and shall serve as notice to a person that he or she has committed a civil zoning violation.

warning ticket to file the land use petition and additional monetary fines as prescribed in division (D)(3) of this section shall be stayed upon the filing of the land use petition. A person who files the land use petition within the time period must pursue the land use petition in an expeditious fashion. If the land use petition is denied, withdrawn or dismissed for lack of prosecution and the civil zoning violation continues, then a lawsuit may be commenced in the Circuit or Superior courts of the county.

(4) The warning ticket shall include:

- (a) Date;
- (b) Name and address;

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(c) Section number of code in violation and name of code;

(d) Nature of violation;

(e) Place and date the violation was observed;

(f) Specific time allowed to bring the violation activity into compliance;

(g) Name, business address and phone number of the person issuing the warning ticket; and

(h) Statement to violator of the option to appear before the Planning Commission or the Board of Zoning Appeals or file a land use petition.

(5) The citation shall appear on a serialized, designated form and shall include:

(a) Date;

(b) Name and address;

(c) Section number of code in violation and name of code;

(d) Nature of violation;

(e) Place and date the violation was observed;

(2) If a person who receives a citation fails to pay the assessed fine by the date of payment set forth in the citation and fails to give notice of his or her intention to stand trial as prescribed in division (F)(1) above, the designated enforcement entity may file a civil lawsuit as provided by applicable laws and seek penalties as prescribed in division (G) below. A person adjudged to have committed a civil zoning violation is liable for the court costs and fees, including attorneys' fees.

(3) In proceedings before the court for a civil zoning violation, the state rules of trial procedure shall govern. The designated enforcement entity has the burden of proving the civil zoning violation by a preponderance of the evidence.

(f) Amount of fine assessed;

(g) Time, manner and location to pay fine;

(h) Notice that each day is a new violation;

(i) Name, business address and phone number of the person issuing the citation; and

(j) Statement to violator of right to elect trial.

(C) *Trial for civil zoning violations.*

(1) A person who receives a citation may elect to stand trial for the offense by indicating on the citation his or her intent to stand trial and returning a copy of the citation to the Zoning Administrator. The returned copy of the citation shall serve as a notice of the person's intent to stand trial, and additional monetary fines prescribed in division (D)(3) above shall be stayed upon receipt of the notice. The notice shall be given at least seven days before the date of payment set forth in the citation. On receipt of the notice of intention to stand trial, a lawsuit will be commenced by the designated enforcement entity in the Circuit or Superior courts of the county. The matter shall be scheduled for trial, and a summons and an order to appear shall be served upon the defendant.

(4) Seeking a civil penalty as authorized in this section does not preclude the designated enforcement entity from seeking alternate relief from the court in the same action or from seeking injunctive relief or any other remedy in a separate action for the enforcement of I.C. 36-7-4 or any ordinance adopted or action taken under I.C. 36-7-4.

(5) A change of venue from the county shall not be granted in a case, as provided in I.C. 36-7-4-101436-7-1014.

(G) *General penaltiesBcourt actions.*

(1) Whenever in any title or section of the County Development Code as amended, or in any ordinance amendatory thereof or supplemental thereto, the doing of any act or the omission to do any act or to perform any duty is a violation, any person found liable by a court of competent jurisdiction for the violation shall be subjected to a fine of \$2,900 for each violation, act or omission.

(2) For violations continued or renewed, each day=s violation shall constitute a separate offense.

(3) In addition to the penalties prescribed in divisions (G)(1) and (2) above, the designated enforcement entity may enjoin or abate any violation of the zoning ordinance and land use regulations by appropriate action.

(4) Reasonable attorney=s fees incurred by the designated enforcement entity may be assessed against the violator as a general penalty in addition to the prescribed fines defined in this section.
(Ord. 2004-1-1-28, passed 1-28-2004)

APPENDIX A: DEVELOPMENT CODE JURISDICTION

<i>Location</i>	<i>Planning Commission</i>		<i>Building Inspector</i>	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
All unnamed unincorporated areas of Henry County	X		X	
<i>Named unincorporated cities and towns</i>				
Ashland a.k.a. Mullen=s Station	X		X	
Chicago	X		X	
Circleville	X		X	
Devon	X		X	
Fairfield	X		X	
Goose Creek	X		X	
Grant City a.k.a. Snyder	X		X	
Hillsboro a.k.a. Dan Webster	X		X	
Honey Creek a.k.a. Warlock=s Station	X		X	
Luray	X		X	
Maple Valley a.k.a. Elizabeth City	X		X	
Mechanicsburg	X		X	
Messick	X		X	
Millville	X		X	
Needmore	X		X	
New Lisbon a.k.a. Jamestown or Jimtown	X		X	
Ogden a.k.a. Middletown	X		X	
Petersburgh	X		X	
Pumpkintown a.k.a. West Lebanon	X		X	
Raysville	X		X	
Rockland	X		X	
Rogersville	X		X	

<i>Location</i>	<i>Planning Commission</i>		<i>Building Inspector</i>	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
Sharington	X		X	
Uniontown a.k.a. Union	X		X	
West Liberty	X		X	
Westwood	X		X	
Wheeland	X		X	
White Raven	X		X	
Winona	X		X	
<i>Named incorporated cities and towns</i>				
Blountsville	X			X
Cadiz		X		X
Dunreith a.k.a. Coffin=s Station	X		X	
Greensboro		X		X
Kennard		X		X
Knightstown		X		X
Lewisville	X			X
Middletown	X		X	
Mooreland	X			X
Mount Sunnit	X			X
New Castle		X		X
Shirley		X		X
Spiceland	X			X
Springport	X			X
Straughn	X			X
Sulphur Springs	X			X

(Ord. 2004-1-1-28, passed 1-28-2004)

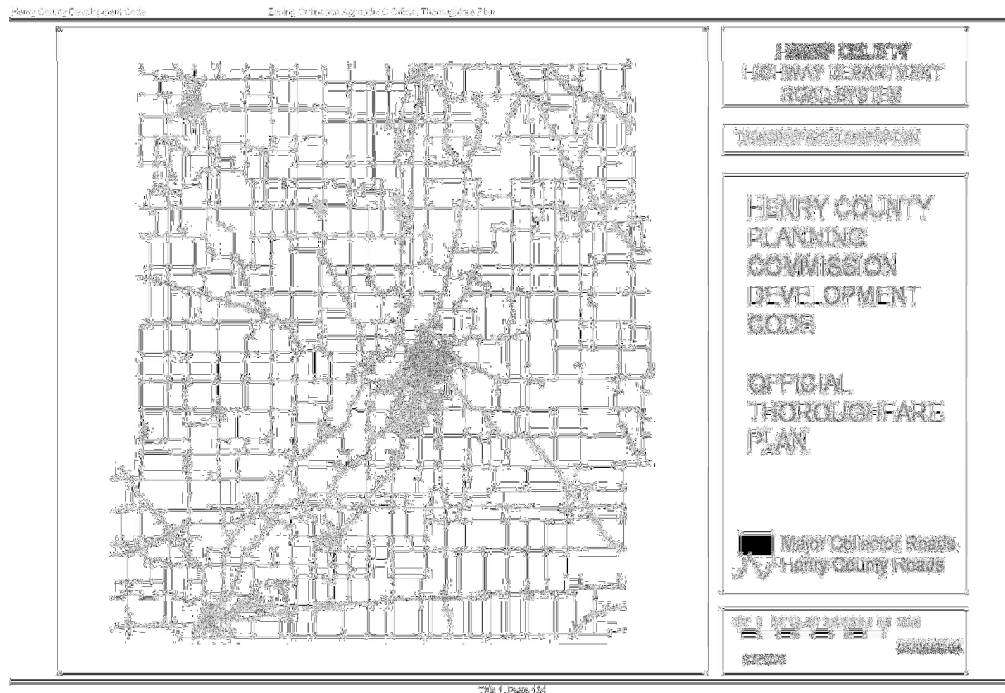
APPENDIX B: ZONING MAP INDEX

<i>Civil townships</i>	<i>Incorporated</i>	<i>Unincorporated</i>
1 Blue River	2 Mooreland	3 Messick
4 Dudley	5 Straughn	6 New Lisbon
7 Fall Creek	8 Middletown	9 Honey Creek 10 Mechanicsburg
11 Franklin	12 Lewisville	C
13 Greensboro	14 Kennard 15 Shirley 16 Greensboro	C
17 Harrison	18 Cadiz	C
19 Henry	20 Westwood	21 Westwood
22 Jefferson	23 Sulphur Springs	C
24 Liberty	C	25 Ashland 26 Millville
27 Prairie	28 Mount Summit 29 Springport	30 Hillsboro 31 Johnstown 32 Luray
33 Spiceland	34 Dunreith 35 Spiceland	36 Ogden 37 Knightstown Lake AdditionBEast and North
38 Stoney Creek	39 Blountsville	40 Rogersville
41 Wayne	42 Knightstown	43 Grant City 44 Knightstown Lake AdditionBWest and South 45 Maple Valley 46 Raysville

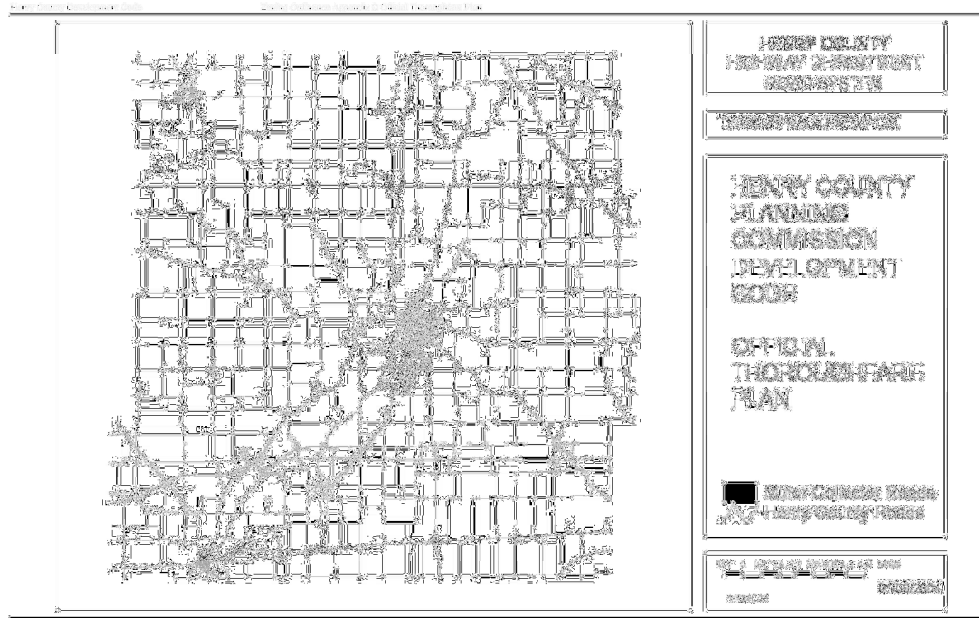
(Ord. 2004-1-1-28, passed 1-28-2004)

APPENDIX C: OFFICIAL THOROUGHFARE PLAN

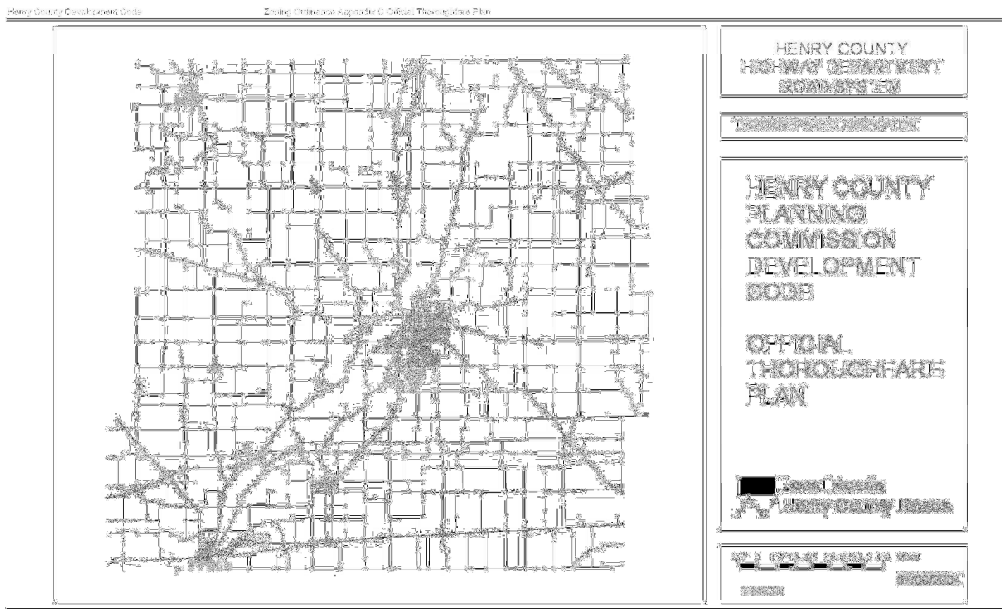
I. Major Collector Roads



II. Minor Collector Roads



III. Local Roads



CHAPTER 151: SUBDIVISIONS

Section

General Provisions

- 151.01 Interpretation of terms
- 151.02 Definitions

Major Subdivisions

- 151.15 Establishment of control
- 151.16 Procedures
- 151.17 Primary plat approval; step one
- 151.18 Primary plat approval; step two
- 151.19 Secondary plat
- 151.20 Secondary plat approval
- 151.21 Planned unit development
- 151.22 Modifications
- 151.23 Appeals
- 151.24 Design principles and standards
- 151.25 Standards of improvements
- 151.26 Amendments

Minor Subdivisions

- 151.40 Procedure
- 151.41 Survey drawing
- 151.42 Standards

- 151.99 Penalty
- Appendix A: Sample Forms

GENERAL PROVISIONS

' 151.01 INTERPRETATION OF TERMS.

(A) For the purpose of this chapter, certain numbers, abbreviations, terms, words and phrases used herein shall be used, interpreted and defined as set forth in this section.

(B) Whenever any words and phrases used herein are defined in the state laws regulating the creation and function of various planning agencies, the definitions shall apply to the words and phrases used herein, except where the context requires otherwise.

(C) For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows.

(1) **PERSON** includes a corporation, company, firm, partnership, association, organization, trust, unit of government, or any other group that acts as a unit, as well as a natural person.

(2) The masculine includes the feminine.

(3) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

(4) The word **SHALL** indicates a mandatory requirement, the word **MAY** indicates a permissive requirement and the word **SHOULD** indicates a preferred requirement.

(5) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED OR ARRANGED TO BE USED OR OCCUPIED.**

(6) The word **LOT** includes **PLOT** or **PARCEL.**

(D) All other words not defined herein shall be defined according to the most recent edition of *Webster=s New Collegiate Dictionary*. (Ord. 2004-1-1-28, passed 1-28-2004)

' 151.02 DEFINITIONS.

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

ALLEY. Public thoroughfare that affords only secondary access to abutting property.

ACCESS EASEMENT. Private way that provides access to lots, tracts or parcels of land and that meets the minimum standards set forth in these regulations.

APPLICANT. Person who applies to the Planning Commission for approval, primary or secondary, of a plat of a proposed subdivision.

BLOCK. Tract of land bound by streets or by a combination of streets and public parks, railroad rights-of-way, waterways, boundary lines of municipalities or natural or artificial barriers.

BUILDING LINE. Line that establishes the minimum permitted distance on a lot between the front line of a building and the road or street right-of-way.

COMPREHENSIVE PLAN or **MASTER PLAN.** Complete plan, or any of its parts, for the development of the county and the towns, prepared by the Planning Commission and adopted in accordance with I.C. 36-7-4, as is now or may hereafter be in effect.

COUNTY. Henry County.

COUNTY COMMISSIONERS. Board of County Commissioners of Henry County.

COUNTY JURISDICTIONAL AREA. The **OWNER.** Owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the County

unincorporated territory of Henry County, the incorporated area of the towns of Blountsville, Dunreith, Lewisville, Middletown, Mooreland, Mount Summit, Spiceland, Springport, Straughn and Sulphur Springs, and any other incorporated areas that may, in the future, designate the Planning Commission as their planning agency.

COUNTY ROAD AND STREET PLAN or **OFFICIAL THOROUGHFARE PLAN.** Part of the Comprehensive Plan, now or hereafter adopted, that includes a road and street plan and sets forth the location, alignment, dimensions, identification and classification of existing and proposed roads, streets, highways and other thoroughfares.

CUL-DE-SAC (COURT or **DEAD END ROAD** or **STREET).** Road or street having one end open to traffic and being permanently terminated by a vehicle turn-around.

DEVELOPER. Any person engaged in developing or improving a lot or group of lots or structures thereon for use or occupancy.

EASEMENT. Recorded authorization grant made by a property owner for use by another of any designated part of his or her property for a clearly specified purpose.

LOCATION MAP. Map showing the general area of the property proposed to be subdivided. The map shall show the closest cross streets in all directions.

LOT.

(1) Parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on a road or street.

(2) Tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.

Assessor=s office. **OWNER** also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who

presents to Zoning Administrator a copy of a deed or contract of sale showing date, book and page of recording.

PLANNING COMMISSION. County Planning Commission.

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

PLAT, PRIMARY. Drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

PLAT, SECONDARY. Drawing or drawings on which the subdivision plan is submitted to the Planning Commission for approval and which, if approved, will be submitted to the County Recorder for recording, on which will be the seal of the Planning Commission and signatures of the President and Secretary of the Planning Commission.

ROAD or STREET. Right-of-way, other than an alley, dedicated or otherwise legally established to the public use, that affords the principal means of access to abutting property. A road or street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

ROAD OR STREET OR ALLEY IMPROVEMENT. Construction of a road, street or alley to its full thickness, commencing at the subgrade according to the specifications contained in Chapter 152, ' 152.05 hereinafter. The placing of a new surface over an existing paved or closed surface road, street or alley shall not be considered as an improvement, but as maintenance.

ROAD OR STREET, LOCAL. Road or street used primarily for access to abutting properties. Certain **LOCAL ROADS AND STREETS** may be marginal access roads or streets parallel to minor collector roads or streets, therefore providing access from abutting properties.

TOWN. Any of the incorporated towns of

ROAD OR STREET, MAJOR COLLECTOR. Road or street planned to facilitate the collection of traffic from local roads or streets and to provide circulation within neighborhood areas and convenient ways for traffic to reach principal arterial roads or streets.

ROAD OR STREET, MINOR COLLECTOR. Road or street with lower traffic volumes fulfilling the same function as major collectors.

ROAD OR STREET, PRIVATE. Right-of-way that has the characteristics of a road or street, as defined herein, except that it is not dedicated to the public use. A driveway that is located on a lot and that serves only the use on that lot is not considered as a **PRIVATE ROAD OR STREET**.

SUBDIVIDER. Any person engaged in developing or improving a tract of land that complies with the definition of a subdivision as defined in this section.

SUBDIVISION, GENERAL. Any land, vacant or developed, that is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development by a subdivider wherein areas of land are dedicated or intended to be dedicated to public use. The division of land into lots two or more in number, each lot containing 20 acres or more, and not involving any new road, street, alley, easement or other means of access shall not be deemed a **SUBDIVISION** for the purposes of this chapter.

SUBDIVISION, MAJOR. Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new road or street, extension of the local governmental facilities or the creation of any public improvements.

SUBDIVISION, MINOR. Any subdivision containing not more than four lots, not involving any new road or street, the extension of public facilities or the creation of any public improvements and not in conflict with any provision or portion of the Comprehensive Plan, official zoning maps, zoning ordinance or this chapter.

Blountsville, Dunreith, Lewisville, Middletown,

Mooreland, Mount Summit, Spiceland, Springport, Straughn and Sulphur Springs, and any other incorporated towns that may, in the future, designate the Planning Commission as their planning agency.

ZONING ADMINISTRATOR. The Zoning Administrator of Henry County.

ZONING ORDINANCE. The part of the Comprehensive (master) Plan that includes a code and zoning maps that divide the area under the jurisdiction of the Planning Commission into zoning districts, with regulations, requirements and procedures for the establishment of land use controls as set forth in Chapter 150.

(Ord. 2004-1-1-28, passed 1-28-2004)

MAJOR SUBDIVISIONS

' 151.15 ESTABLISHMENT OF CONTROL.

A plat or replat of a subdivision of land located within the county jurisdictional area shall not be recorded until it has been approved by the Planning Commission and certified by the signatures of the President and Secretary of the Planning Commission on the plat.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.16 PROCEDURES.

(A) A subdivider desiring approval of a plat for the subdivision of land lying within the county jurisdictional area shall submit a written application therefor to the Zoning Administrator. The application shall be accompanied by the information, requirements and plans set forth in ' ' 151.17 through 151.20, in accordance with the requirements set forth in this chapter.

(B) It is recommended that, prior to the filing of an application for the approval of a primary plat, the

(A) The owner or subdivider shall provide a primary plat for the subdivision that shall show the manner in which the proposed subdivision is coordinated with the Comprehensive Plan and its

subdivider consult with all affected utilities and the Zoning Administrator in order to obtain advice and assistance. The consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the county Comprehensive Plan and duly adopted plan implementation ordinances of the county and to otherwise assist the subdivider in planning the development. In so doing, both the subdivider and the Zoning Administrator may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and county and the subdivider will gain a better understanding of the subsequent required procedures.

(C) Upon receipt of the application, the Zoning Administrator shall, if he or she determines that the standards in this chapter have been met, set a date for a hearing before the Planning Commission, notify the applicant in writing and notify by general publication any person or governmental unit having a probable interest in the proposed plat. The cost of publication of the notice of hearing shall be met by the applicant.

(D) If the Zoning Administrator determines that the standards in this chapter have not been met, he or she shall reject the application and provide the applicant with a notice of the items of non-compliance.

(E) The Technical Review Committee is hereby established with the membership composed of the members set forth in the Planning Commission=s rules of procedure. The Technical Review Committee shall examine each application to determine if the proposed improvements meet the requirements of this chapter. The Technical Review Committee shall report its findings to the Planning Commission staff prior to the date set for a hearing.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.17 PRIMARY PLAT APPROVAL; STEP ONE.

provisions, specifically with relation to the requirements of the county road and street plan, school and recreational sites, shopping centers, community facilities, sanitation, water supply and

drainage and other developments, existing and proposed, in the vicinity. No land shall be subdivided for residential use unless adequate access to the land over improved roads, streets or thoroughfares exists or will be provided by the subdivider or if the land is considered by the Planning Commission to be unsuitable for the use by reason of flooding or improper drainage, objectionable earth and rock formation, topography or any other feature harmful to the health and safety of possible residents and the community as a whole.

(B) The application for approval of a plat of a subdivision shall be accompanied by seven copies of all maps and data. No application shall be considered at a meeting unless it has been filed with the Zoning Administrator at least 20 days before the date of the meeting.

(C) The subdivider shall provide the following:

(1) A location map (that may be prepared by indicating the data by notations on available county-prepared maps) showing:

(a) Proposed subdivision name and location;

(b) Any thoroughfares related to the subdivision;

(c) Existing elementary and high schools, parks and playgrounds serving the area proposed to be subdivided and other community facilities; and

(d) Title, scale, approximate true north arrow and date.

(2) A primary plat showing:

(a) Proposed subdivision name;

(b) Names and addresses of the owner, subdivider and the planner, land planning consultant or surveyor who prepared the plat;

(l) Groundwater levels stated in depth to water table and a description of the surface and sub-surface drainage systems to an approved outlet;

(c) Scale, approximate true north arrow and date. The primary plat of the subdivision shall be drawn to a scale of 50 feet to one inch or 100 feet to one inch;

(d) Accurate boundary lines of the parent tract and all proposed lots, with dimensions and angles that provide a survey of the tract, in accordance with I.A.C. 865-1-12, as amended;

(e) Roads, streets and rights-of way on and adjoining the site of the proposed subdivision, showing the names (that shall not duplicate other names of roads or streets in the community, except as designated by the Planning Commission) and including roadway widths, approximate gradients, types and widths of pavement, curbs, sidewalks, cross-walks, tree planting and other pertinent data;

(f) Layout of lots, showing dimensions, lot number and area of each lot. For lots smaller than one acre, the lot area shall be indicated in square feet. For lots one acre or larger, the lot area shall be indicated in acres;

(g) Building setback lines and dimensions;

(h) Location, size, details and specifications of storm and sanitary sewers, water distribution system and street lighting system;

(i) Locations, widths and purposes of existing and proposed easements;

(j) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semipublic or community purposes;

(k) Contours at vertical intervals of two feet if the general slope of the site is less than 10% and at vertical intervals of five feet if the general slope is greater than 10%;

(m) Location and frontage of all adjoining property, the names of adjoining plats and the owners of unplatted adjacent property;

- (n) Legend and notes;
- (o) Other features or conditions that would affect the subdivision favorably or adversely;
- (p) Erosion control plan to be followed during construction;
- (q) Accurate distances and directions to the nearest established road or street corners and official section corner monuments. Reference corners shall be accurately described on the plat;
- (r) Accurate locations of all existing and recorded roads and streets intersecting the boundaries of the tract;
- (s) Road and street lines with accurate dimensions in feet and hundredths of feet, with angles to road, street, alley and lot lines;
- (t) Location, type, material and size of all monuments and markers;
- (u) Accurate location of proposed sidewalks;
- (v) Drainage improvements with calculations supporting the design of the drainage system;
- (w) The delineation of the phases, if any, of the development, including the lots and improvements to be included in each phase; and
- (x) All required plat certifications as described in ' 151.19.
- (3) The following support information shall be submitted with the primary plat:
- (a) Proof of septic or sanitary sewer service in the form of approved septic system permits for each lot within the subdivision or a letter from a sanitary sewer service provider indicating that
- (B) At least ten days prior to the Planning Commission=s hearing on the application, the applicant, in the manner prescribed in the Planning Commission=s rules of procedure, shall notify all
- sufficient capacity exists to accommodate the proposed subdivision;
- (b) A description of the composition and operation of the owners association, if any; and
- (c) The protective covenants or private restrictions, if any, to be incorporated in the plat of the subdivision. These may be on separate sheets.
- (4) (a) The application shall be accompanied by the filing fees specified by Planning Commission rule and posted in the Planning Commission office.
- (b) No part of any filing fee shall be returnable to the applicant except by order of the Planning Commission or of a court of competent jurisdiction. All fees shall be payable to the County Planning Commission and shall be deposited according to procedures established by the County Auditor.
- (c) Governmental agencies shall be exempt from paying fees for improvement location permits, land use certificates or any other permit prescribed by these regulations.
- (d) An applicant or petitioner may request a waiver of the fee requirement pursuant to and in accordance with the county code. (Ord. 2004-1-1-28, passed 1-28-2004)
- ' 151.18 PRIMARY PLAT APPROVAL; STEP TWO.**
- (A) After an application has been filed for approval of a primary plat, the Planning Commission shall hold a public hearing on the application. Public notice setting forth the time and place of the hearing shall be given at least ten days before the date of the hearing in a newspaper of general circulation in the county.
- interested parties, the appropriate school corporation and Fire Department of the hearing by certified mail. Prior to the hearing, the applicant shall provide the Planning Commission with an affidavit that affirms

that the required notices were mailed and with certified mail receipts demonstrating that the required notices were delivered or returned as undeliverable. If the applicant fails to provide the proof of notice before the meeting, the application shall be tabled.

(C) Following the Planning Commission's hearing on the application, the Planning Commission shall take the following actions:

(1) Approve, approve with conditions or disapprove the primary plat based on the plat's compliance with the improvement, reservation and design standards and all other relevant procedures and requirements of these regulations;

(2) Approve, approve with conditions or disapprove requested modifications in the manner prescribed by ' 150.195;

(3) Approve, approve with conditions or disapprove a plan for sectionalizing (phasing) secondary plat approval in the manner prescribed by ' 150.195;

(4) If primary plat approval is granted, establish the estimated completion cost of the required improvements (itemized by type of improvement and by phase) based on the recommendations of the County Highway Engineer and the Zoning Administrator; and

(5) If primary plat approval is granted and the applicant desires to complete the required improvements prior to secondary plat approval, authorize the Planning Commission President to execute the subdivision improvement agreement on behalf of the Planning Commission, in the manner prescribed in the Planning Commission's rules of procedure.

(D) The Planning Commission shall make written findings of fact in support of its decision during or before the following month's Planning Commission meeting. For purposes of review, the Planning Commission's decision shall be deemed to

(H) (1) The applicant must obtain subdivision improvement agreement approval from the Planning Commission before commencing the construction or installation of the required improvements.

have been made on the date that the written findings of fact are approved by the Planning Commission. The Zoning Administrator shall provide the applicant with a copy of the Planning Commission's written findings within ten days of the Planning Commission's approval of the findings.

(E) If the Planning Commission approves the application, the President and the Secretary of the Planning Commission shall sign the primary plat approval certification.

(F) Unless extended, primary plat approval shall be effective for a period of two years (primary plat approval period) after the date of primary plat approval (including conditional approval), at the end of which time secondary plat approval of the subdivision must have been obtained by the applicant and certified by the designated officials. Any plats not receiving secondary plat approval within the period of time set forth herein shall be null and void and the applicant shall be required to submit a new application for subdivision approval subject to the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon the request of an applicant and upon a finding that the applicant has been unable to prepare the proposed development for secondary plat approval despite due diligence, the Planning Commission may extend the primary plat approval period for one period of two years beyond the expiration date of the original primary plat approval period without further notice and public hearing.

(G) If the Planning Commission disapproves the application, the applicant or the applicant's heirs, successors or assigns may not refile the application unless the Technical Review Committee determines that the circumstances have changed so as to defeat the basis of the Planning Commission's disapproval (such as relevant portions of the zoning ordinance and/or the subdivision control regulations have been amended or the proposed primary plat has been amended to address the deficiencies identified in the Planning Commission's findings).

(2) The purpose and objective of subdivision improvement agreement approval is to establish a written understanding, in contract form,

regarding the nature, extent and completion of the required improvements before the applicant contracts for or commences the construction or installation of the required improvements, so that:

(a) Compliance with primary plat approval and these regulations may be promoted;

(b) The Planning Commission and the county may share information and public improvement experience with the applicant;

(c) The activities of the applicant, governmental service providers and utility service providers may be coordinated; and

(d) The unnecessary expenditure of development resources, both public and private, may be avoided.

(I) (1) Following primary plat approval and prior to or simultaneous with the submission of the plat for secondary plat approval, the applicant shall, by letter, request subdivision improvement agreement approval from the Planning Commission. The applicant's letter shall be accompanied by three sets of detailed construction plans as described in ' 151.19 and a proposed form of subdivision improvement agreement as described in this section.

(2) Within 15 days of receipt, the Zoning Administrator and the County Highway Engineer shall review the subdivision improvement agreement and the construction plans for compliance with these regulations and primary plat approval. Following their review, the Zoning Administrator and County Highway Engineer shall each prepare a written report, with recommendations, on the agreement and plans and shall provide the applicant and the Planning Commission with copies of their reports.

(3) Upon a finding by the Planning

(2) The original drawing of the secondary plat of the subdivision shall be drawn to a scale of 50 feet to one inch or 100 feet to one inch. Three black or blue line prints shall be submitted with the original secondary plat or, in order to conform to modern drafting and reproduction methods, three black line prints and one reproducible print shall be submitted.

Commission that the subdivision improvement agreement and the construction plans comply with these regulations and primary plat approval, the President of the Planning Commission shall execute the agreement on behalf of the Planning Commission and the Zoning Administrator shall stamp the plans approved and return one set to the applicant.

(4) Prior to the approval and execution of the subdivision improvement agreement and the stamping of the construction plans:

(a) The applicant shall not commence the construction or installation of the required improvements; and

(b) The Zoning Administrator shall neither approve building or improvement location permits for the required improvements nor grant secondary plat approval of the plat or any section thereof.

(5) The installation of the required improvements shall be inspected by the County Highway Engineer. The inspections are required in all instances, regardless of whether the work is performed before or after secondary plat approval. Failure to request or to procure the inspection of the work performed before secondary plat approval may be cause for denial of secondary plat approval.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.19 SECONDARY PLAT.

The secondary plat shall meet the following specifications.

(A) (1) The secondary plat may include all or only a part of the primary plat that has received approval.

(3) The following basic information shall be shown:

(a) Subdivision name;

(b) Name and address of the owner and subdivider;

(c) Graphic scale, approximate true north arrow and date;

(d) Accurate boundary lines, with dimensions and angles, that provide a survey of the tract, closing with an error of not more than one foot in 5,000 feet;

(e) Accurate metes and bounds description of the boundary;

(f) Accurate distances and directions to the nearest established road or street corners or official monuments. Reference corners shall be accurately described on the plat;

(g) Accurate locations of all existing and recorded roads or streets intersecting the boundaries of the tract;

(h) Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder;

(i) Road or street names;

(j) Complete curve notes for all curves included in the plat;

(k) Road or street lines with accurate dimensions in feet and hundredths of feet, with angles to road, street, alley or lot lines;

(l) Lot numbers and dimensions;

(m) Building lines and dimensions;

(n) Accurate locations of easements for utilities and any limitations on semi-public or community use;

(o) Accurate dimensions for any property to be dedicated or reserved for public, This subdivision shall be known and designated as _____, an addition to _____. All roads, streets and alleys shown and not heretofore dedicated are hereby dedicated to the public.

semi-public or community use;

(p) Location, type material and size of all monuments and lot markers;

(q) Plans and specifications for the improvements required in this chapter;

(r) Restrictions of all types that will run with the land and become covenants in the deeds for lots; and

(s) Plat certifications:

1. Certification by a registered land surveyor in the following form:

I hereby certify that I am a registered land surveyor, licensed in compliance with the laws of the State of Indiana, that this plat correctly represents a survey completed by me on _____, 20____, that all the monuments shown thereon actually exist and that the location, size, type and material of said monuments are accurately shown.

(SEAL)
Signature

_____;

2. Certification of dedication of roads and streets and other public property in the following form:

We, the undersigned _____, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do thereby lay off, plat and subdivide, said real estate in accordance with the within plat.

Front and sideyard building lines are hereby established as shown on this plat, between which lines and the property lines of the roads or streets there shall be erected or maintained no building or structure.

There are strips of ground _____

Henry County - Land Usage

feet in width as shown on this plat and marked "EASEMENT" reserved for the use of utilities for the installation of water and sewer mains, surface drainage, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the utilities.

(Additional dedications and protective covenants or private restrictions would be inserted here upon the subdividers' initiative or upon the recommendation of the Planning Commission. Important provisions are those specifying the use to be made of the property and, in the case of residential use, the minimum habitable floor area.)

The foregoing covenants (or restrictions) are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20__, (a 25-year period is suggested), at which time the covenants (or restrictions) shall be automatically extended for successive periods of ten years unless changed by vote of a majority of the then owners of the building sites covered by these covenants or restrictions, in whole or in part. Invalidation of any one of the foregoing covenants or restrictions by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect.

Witness our Hands and Seals this _____ day of _____, 20__.

State of Indiana)
) SS:
County of Henry)

Signature

Before me, the undersigned Notary Public, in and for the County and State, personally appeared _____,
_____,
_____ and

each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notarial seal this _____ day of _____, 20__.

(SEAL)
Signature
_____;

3. Certificate for approval by the Planning Commission in the following form:

Under authority provided by Chapter 17-Acts of 1947, enacted by the General Assembly of the State of Indiana, and all acts amendatory thereto, and an ordinance adopted by the Board of County Commissioners of Henry County, this plat was given approval as follows:

Approved by the Planning Commission of Henry County at a meeting held _____, 20__.

Henry County Planning Commission

President

(SEAL)

Secretary

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.20 SECONDARY PLAT APPROVAL.

(A) The Planning Commission may grant secondary plat approval for any or all of a plat of a subdivision that has theretofore been given primary plat approval by the Planning Commission or the Planning Commission may designate to the Planning Commission staff the authority to grant secondary plat approvals; provided that secondary plat approvals may be granted only after expiration of the time for appeal under ' 151.23 and the submission of the subdivision improvement agreement. When the secondary plat is submitted to the Planning Commission, it shall be accompanied by a notice from the County Commissioners stating that one of the following has been filed with and approved by that body:

(1) A certificate that all improvements and installations for the subdivision required for its approval have been made or installed in accordance with specifications.

(2) A bond or other proof of financial responsibility as prescribed herein that shall:

(a) Run to the County Commissioners;

(b) Be 110% of an amount determined by the Planning Commission to be sufficient to complete the improvements and

(D) (1) The applicant may seek secondary plat approval of a portion or section of the primary plat. The Planning Commission may impose conditions upon filing of applications for secondary plat approval of the sections as it deems necessary to assure the orderly development of the subdivision

installations in compliance with this chapter;

(c) Be with surety satisfactory to the Planning Commission; and

(d) Specify the time for the completion of the improvements and installations.

(3) Other proof of financial responsibility may take the following forms:

(a) An irrevocable letter of credit;

(b) A performance bond; or

(c) An escrow agreement.

(4) The proof of financial responsibility may be released only upon receipt of a certificate by a registered professional engineer or a registered land surveyor that all improvements and installations for the plat of the subdivision required for its approval have been made or installed in accordance with specifications and approved by the County Highway Engineer.

(B) Within a reasonable time after application for secondary plat approval, the Planning Commission shall approve or disapprove it. If the Planning Commission approves, the certifying signature of its President and Secretary shall be affixed thereto. If it disapproves, it shall set forth the reasons for the disapproval in its own records and provide the applicant with a copy.

(C) A plat of a subdivision shall not be filed with the County Auditor, and the County Recorder shall not record it, unless it has been granted secondary plat approval and signed by all required signatories. If submitted and recorded, the plat shall not be considered a legal subdivision and building permits for lots within the illegally recorded subdivision shall not be issued.

(for example, sequential lot numbering). The Planning Commission may require that the performance bond and financial responsibility be in the amount as will be commensurate with the section or sections of the plat for which secondary plat approval is sought and may defer the remaining

required performance bond (or other assurance) principal amount until the remaining sections of the plat are offered for filing. The sections must contain at least 20 lots or 10% of the total number of lots contained in the approved primary plat, whichever is less. The approval of all remaining sections not filed with the Zoning Administrator shall automatically expire four years from the date of primary plat approval, unless the primary plat approval period has been extended.

(2) Real estate parcels, rights-of-way, subdivision boundaries and lot lines shall be drafted with precise endpoints snapped together. Easements and setback lines should be trimmed to meet the snapped boundary features. Lot numbers or parcel identifiers may be either blocks or text, but each lot should be individually labeled, with the label insertion point within the lot boundary. If lot monumentation symbols are used, they should be inserted at the intersection or endpoint of the snapped boundary features.

(E) Until the secondary plat is recorded, secondary plat approval shall be effective for a period of one year (secondary plat approval period) after the date of secondary plat approval, at the end of which time the secondary plat shall have been recorded. Any plats not recorded within the period of time set forth herein shall be null and void, and the applicant shall be required to resubmit a new application for subdivision approval subject to the zoning restrictions and subdivision regulations in effect at the time of resubmission. Upon the request of an applicant and upon a finding that the applicant has been unable to satisfy the requirements to execute the certificate of secondary plat approval despite due diligence, the Planning Commission may extend the secondary plat approval period for one year beyond the expiration date of the original period, without further notice and public hearing, or for a longer period of time upon notice to interested parties and hearing.

(F) It shall be the responsibility of the subdivider to file the approved secondary plat with the County Recorder within 30 days of the date of

(5) Provide that for a period of three years after the installations and improvements have been completed or are accepted for public maintenance by any appropriate governmental unit or agency thereof,

execution of the certificate of secondary plat approval. Failure of the subdivider to file the plat, as herein provided, within 30 days shall constitute a violation of this chapter.

(G) Within 30 days of secondary plat approval, the applicant shall submit one electronic copy of the secondary plat to the County GIS Department for incorporation into the county's mapping system. The digital drawing file shall be in AutoCAD format, unless otherwise specified by the County GIS Department staff. For the county to efficiently manage the geographic information system, applicants shall submit their plats in conformance with the layering requirements specified by the County GIS Department.

(H) Upon the completion of the improvements and installations required of a subdivider for the approval of a secondary plat and prior to the acceptance thereof for public maintenance by the County Commissioners or, if applicable, by any other governmental unit, the subdivider shall provide a three-year maintenance bond that shall:

(1) Run to the County Commissioners and, if applicable, to any other governmental unit having legal responsibility for the maintenance of the improvements and installations;

(2) Be in amount equal to 25% of the cost of the improvements and installations as estimated by the Planning Commission;

(3) Provide surety satisfactory to the County Commissioners;

(4) Warrant the workmanship and all materials used in the construction, installation and completion of the improvements and installations to be of good quality and to have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this chapter and the satisfactory plans and specifications therefor; and

the subdivider shall, at his or her own expense, make all repairs to the improvements and installations or the foundations thereof that may become necessary by reason of improper workmanship or materials,

with the maintenance, however, not to include any damage to the improvements and installations resulting from forces or circumstances beyond the control of the subdivider or occasioned by the inadequacy of the standards, specifications or requirements of this chapter.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.21 PLANNED UNIT DEVELOPMENT.

The owner or subdivider or prospective developer of an area proposed to be developed as a planned unit development pursuant to this title shall make application for a preliminary development plan of the proposed development at the same time application is made for a primary plat for a subdivision of land. The Planning Commission shall act on both applications at the same time.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.22 MODIFICATIONS.

(A) The Planning Commission may authorize modifications from the requirements and standards of this chapter (including the waiver of standards or regulations) upon finding that:

(1) Practical difficulties have been demonstrated;

(2) The requested modifications would not contravene the intent of the Comprehensive Plan, Chapter 150, the official zoning maps of the county or these regulations;

(3) Granting the modifications would not be detrimental to the public safety, health or welfare and would not adversely affect the delivery of governmental services (for example, water, sewer, fire protection and the like);

(4) Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;

(5) The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;

(6) The requested modifications represent the minimum modifications necessary to meet the intent of the regulations;

(7) The practical difficulties were not created by the applicant, developer, owner or subdivider; and

(8) The practical difficulties cannot be overcome through reasonable design alterations.

(B) In approving modifications, the Planning Commission may impose the conditions as will, in its judgment, substantially secure the objectives of this chapter.

(C) With respect to each requested modification and each imposed condition, the Planning Commission shall prepare and approve written findings of fact. The findings shall address each of the conclusory findings set forth in division (A) above and shall cite the specific facts that support each of the conclusory findings and that support each of the imposed conditions.

(D) Applications for modifications shall be submitted to the Planning Commission, in writing, as a part of the primary plat application. On the application, the applicant shall describe the requested modifications and shall submit proposed findings of fact in support of each requested modification. The applicant shall bear the burden of establishing a sufficient factual basis for each requested modification.

(E) The Planning Commission's decision to grant or deny a modification or to impose a condition is discretionary.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.23 APPEALS.

The primary plat approval or disapproval by the Planning Commission or the imposition of a condition on primary plat approval is a secondary decision of the Planning Commission that may be reviewed by certiorari procedure as provided by I.C. 36-7-4-1016.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.24 DESIGN PRINCIPLES AND STANDARDS.

The secondary plat of the subdivision shall conform to the following principles and standards of design.

(A) *General.* The subdivision plat shall conform to the principles and standards that are generally exhibited in the Comprehensive (Master) Plan.

(B) *Roads or streets.* The subdivision roads or streets shall meet the standards and requirements set forth in Chapter 152. Where the requirements established herein are more restrictive, however, the subdivision shall conform to the more restrictive standard.

(C) *Blocks.*

(1) Blocks should not exceed 1,320 feet in length.

(2) Blocks should be of sufficient width to permit two tiers of lots of appropriate depth except where an interior road or street parallels a limited access highway or a railroad right-of-way.

(D) *Lots.*

(1) All lots shall abut on a public or private road or street.

(2) Side lines of lots shall be at approximately right angles to straight roads or streets and on radial lines on curved roads or streets. Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.

(3) Double frontage lots should not be platted, except that where desired along limited access highways, lots may face on an interior road or street and back on the thoroughfares. In that event, a planting strip for a screen, at least 20 feet in width, shall be provided along the back of each lot.

(4) Widths and areas of lots shall not be less than required in Chapter 150 for single-family dwellings for the zoning district in which the subdivision is located, except that when a water main supply system or a sanitary sewer system is not available, the lot area necessary to install a private water supply or private sewage disposal system on the lot in accordance with State Board of Health regulations shall become the required minimum lot area.

(5) The depth-to-width ratio of the usable area of a lot shall be a maximum of three to one.

(6) Wherever possible, unit shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

(7) Corner residential lots shall be wider than normal in order to permit appropriate setbacks from both roads or streets.

(8) Building pads shall have a six-inch drop within the first ten feet from the proposed structure.

(9) When a major subdivision is created on property where the principal use is agriculture, the agricultural portion of the parent tract remaining after the subdivision (the Agricultural remainder[®]) shall be shown on the plat. The agricultural remainder shall be labeled on the plat as ANot a Building Lot.[®] The agricultural remainder does not have to be surveyed and monumented in the field. Permits on the agricultural remainder shall not be issued until that portion of the agricultural remainder is platted as a lot. Existing dwellings on an agricultural remainder may be repaired, remodeled or replaced, as long as there is only one dwelling on the agricultural remainder.

(E) *Easements.* Where alleys are not provided, easements for utilities shall be provided. The easements shall have minimum widths of 20 feet, and where located along lot lines, one-half of the width shall be taken from each lot. In the case of lots extending to the boundary of the lands platted and not adjoining another plat, the full width of the easement shall be provided on the peripheral lots. Before determining the location of the easements, the plat shall be discussed with the local utility companies to assure their proper placement for the installation of the services.

(F) *Building lines.* Building lines shall be as provided in Chapter 150.

(G) *Public open spaces.* Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown in the Comprehensive Plan, the Planning Commission may request their dedication for the purposes or their reservation for a period of one year following the date of the secondary plat approval of the plat. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six months.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.25 STANDARDS OF IMPROVEMENTS.

The improvement of the subdivision shall conform to the following standards.

(A) *Monuments and markers.*

(1) Monuments and markers shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked and shall be set so that the top of the monument or marker is level with the finished grade.

(2) Monuments shall be set:

(a) At the intersection of all lines forming angles in the boundary of the subdivision; and

(b) At the intersection of road or

street property lines.

(3) Markers shall be set:

(a) At the beginning and ending of all curves along road or street property lines;

(b) At all points where property lines intersect curves, either front or rear;

(c) At all angles in property lines of lots; and

(d) At all other lot corners not established by a monument.

(4) (a) Monuments shall be of stone, pre-cast concrete or concrete poured in place with minimum dimensions of four inches by four inches by 30 inches. They shall be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross.

(b) Markers shall consist of iron pipes or steel bars at least 30 inches long and not less than five-eighths inch in diameter.

(B) *Roads and streets.* Roads and streets shall be designed and installed per Chapter 152.

(C) *Sewer and water.* Sewage disposal systems and potable water systems shall be designed and installed per Chapter 153.

(D) *Utilities.* Utilities shall be designed and installed per Chapter 154.

(E) *Stormwater drainage.* Stormwater drainage systems shall be designed and installed per Chapter 155.

(F) *Erosion control.* Erosion control systems shall be designed and installed per Chapter 156.

(G) *Curbs and gutters.* Curbs and gutters shall be designed and installed per Chapter 152.

(H) *Sidewalks.*

(1) Whenever a proposed subdivision lies adjacent to or between other subdivisions that have been provided with sidewalks, the Planning Commission may require that sidewalks be installed along both sides of all roads or streets.

(2) Proposed sidewalks shall be labeled upon the plat in accordance with the satisfactory construction plans and specifications therefor submitted by the applicant and in accordance with the following specifications and requirements:

(a) Sidewalks shall be composed of portland cement concrete, shall have a minimum width of four feet, a minimum depth of four inches and shall otherwise conform to ' ' F3301, F3302 and F3303 of the *Standard Specifications for Road and Bridge Construction and Maintenance* of the State Highway Department, 1957, or any subsequent amendments thereto.

(b) The outside edge of sidewalks shall normally be placed one foot from the right-of-way line, and the area between the sidewalk and curb or road or street pavement shall constitute a parkstrip.

(I) *Road or street signs.* The subdivider shall provide the subdivision with standard city, county or town road or street signs at the intersections of all roads or streets.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.26 AMENDMENTS.

All amendments to this title shall be in conformance with I.C. 36-7-4.

(Ord. 2004-1-1-28, passed 1-28-2004)

MINOR SUBDIVISIONS

' 151.40 PROCEDURE.

The following alternate procedure for the administration of minor subdivision applications may not be used until it has been adopted by rule of the

Planning Commission.

(A) For subdivisions classified by the Zoning Administrator as minor subdivisions, the applicant may choose to seek primary plat approval under the procedures of this section in lieu of those specified by ' 151.17.

(B) Applications for primary plat approval shall:

(1) Be made on the forms available at the office of the Planning Commission and be signed by the owner of the property to be subdivided;

(2) Be presented to the Zoning Administrator in duplicate;

(3) Be accompanied by seven copies of the survey drawing as described in ' 151.17, together with the supporting material specified in ' 151.17.

(4) Be accompanied by a copy of the driveway permit issued by the County Highway Department for each lot to be accessed by a county road or street;

(5) Be accompanied by the fee established by the Planning Commission;

(6) Be accompanied by a copy of the deed prepared for each of the proposed lots. Each deed must contain at least the following information:

(a) Metes and bounds legal description with reference to any existing or proposed easements;

(b) Dedication of right-of-way to the public, where applicable. Right-of-way dedication shall be of a width sufficient to meet one-half the required right-of-way width for that specific public road or street as indicated on the County Road and Street Map and of a length along that public road or street equal to the length of that parcel along the roadway; and

(c) The following notation:

This parcel was created through the Minor

Subdivision procedure and approved by the Henry County Planning Commission on

(C) Within ten days of receipt of a complete primary plat approval application, the Zoning Administrator shall:

(1) Review the primary plat approval application for technical conformity with these regulations;

(2) Prepare a report and recommendation, including recommended conditions of approval;

(3) Schedule a Technical Review Committee review of the primary plat approval application. This review shall take place within 15 days of the Zoning Administrator=s receipt of the complete primary plat approval application. The Zoning Administrator shall be responsible for determining whether the primary plat approval application is complete and shall promptly notify the applicant, in writing, if the primary plat approval application is determined to be incomplete. The Technical Review Committee must provide notice of its review at least 48 hours prior to the date and time scheduled for the review, in accordance with I.C. 5-14-1.5;

(4) Provide the report to the Technical Review Committee; and

(5) Provide the applicant with a copy of the report and notify the applicant of the date, time and place of the Technical Review Committee review.

(D) The Technical Review Committee shall review the primary plat approval application for compliance with these regulations. The Technical Review Committee may continue its review from time to time, as it deems necessary. The Technical Review Committee may approve the primary plat approval application, approve the primary plat approval application with conditions or disapprove the primary plat approval application. However, if the Technical Review Committee determines that the primary plat approval application and plat comply with these regulations, it shall grant primary approval.

[date of Planning Commission approval].

(E) Upon approval, the Zoning Administrator shall sign a certificate of primary plat approval for the applicant=s survey drawing.

(F) Within five days of making its decision, the Technical Review Committee shall prepare written findings of fact in support of its decision. For purposes of review, the Technical Review Committee=s decision shall be deemed to have been made on the date of its adoption of the findings.

(G) Within ten days of the Technical Review Committee=s decision on the primary plat approval application, the Zoning Administrator, in the manner prescribed in the Planning Commission=s rules of procedure, shall notify interested parties, by certified mail, of their right to appeal the Technical Review Committee=s decision.

(H) In order to appeal a decision of the Technical Review Committee, the applicant or appellant must file notice of appeal with the Zoning Administrator within ten days after a copy of the Technical Review Committee=s decision and findings are mailed to the interested parties. The appeal of a decision of the Technical Review Committee may be taken only to the Planning Commission.

(I) Upon the filing of a notice of appeal, the primary plat approval application shall be subject to the procedures of ' 151.17.

(J) The applicant=s proposed subdivision shall be subject to the procedures and requirements for secondary plat approval.

(1) The Planning Commission shall disapprove or grant secondary plat approval of the minor subdivision application and make written findings in support of its decision. In order to be recorded, the deeds and survey drawing must be found by the Planning Commission to be in conformance with these regulations and with the primary plat approval.

(2) Secondary plat approval may not be granted within 31 days of the primary plat approval.

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(3) After the Planning Commission has granted secondary plat approval, the Planning Commission's seal shall be affixed to the deeds and

(4) It shall be the responsibility of the subdivider to file the approved deeds and survey drawing with the County Recorder within 30 days of the date of secondary plat approval. Failure of the subdivider to file the deeds and survey drawing, as herein provided, shall constitute a violation of this chapter.

(5) The subdivider, upon recording, shall provide the Zoning Administrator with one copy of each recorded deed and survey drawing.

(K) When a minor subdivision is created on property where the principal use is agriculture, the agricultural portion of the parent tract after the subdivision (the Agricultural remainder) shall be shown on the survey drawing based on the metes and bounds or other deed descriptions. The agricultural remainder shall be labeled on the survey drawing as ANot a Building Lot. The agricultural remainder does not have to be surveyed and monumented in the field. Permits on the agricultural remainder shall not be issued until that portion of the agricultural remainder is platted as a lot. Existing dwellings on an agricultural remainder may be repaired, remodeled or replaced, so long as there is only one dwelling unit on the agricultural remainder.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.41 SURVEY DRAWING.

(A) The minor subdivision survey drawing shall be presented in permanent black ink on reproducible matte-finish mylar or reproducible matte-finish polyester film, at least four-mils thick, at an appropriate scale (as determined by the Zoning Administrator) on 11-inch by 17-inch sheets. The sheets shall be numbered in sequence, if more than one sheet is used.

(B) The survey drawing shall contain:

(1) The name of the subdivision, followed by the words ASurvey Drawing@;

(2) The names, addresses, telephone

survey drawing.

numbers and registration numbers of the professionals responsible for:

(a) The design of the proposed subdivision;

(b) The design of the proposed public improvements;

(c) The property survey; and

(d) The preparation of the plat and supporting materials;

(3) The names and deed records of all interested parties, as defined in ' 151.17;

(4) The written legal description of the property to be subdivided;

(5) The date of the plat, legend, notes, approximate true north arrow and graphic scale;

(6) The parcel boundary lines with dimensions, bearings, curve data and references to section, township and range lines or corners of the property to be subdivided;

(7) The boundary lines of all subdivision lots, with dimensions, bearings, curve data and lot numbers;

(8) The acreage of each lot, to the nearest hundredth (may be presented in a table);

(9) The accurate location of all existing and platted roads or streets intersecting or abutting the boundaries of the property to be subdivided;

(10) The accurate locations and dimensions of any existing or proposed easements;

(11) The location of all monuments erected, corners and other points established in the field shall be shown and noted in their places on the plat. The legend for metal monuments shall indicate the kind of metal and the diameter and length of the monuments;

(12) The surveyor=s certificate and seal;
and

(13) A reference to the county or state highway right-of-way, existing or dedicated as necessary, in the written legal description and illustrated on the drawing.

(C) The survey drawing shall be prepared by a land surveyor licensed by the state.

(D) All numbers appearing on the survey drawing shall be in Arabic style and all letters and/or words shall be in Roman print and in the English language.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 151.42 STANDARDS.

By definition, minor subdivisions do not involve construction of the elements mentioned in ' ' 151.15 through 151.26. However, minor subdivisions must meet the following standards in order to be considered for approval.

(A) Access.

(1) All parcels created from the parent tract shall have safe ingress and egress, as determined by the County Highway Engineer, without the construction of any new roads or streets or substantial improvements to existing roads or streets.

(2) All lots must have legal access to a platted private or public road or street that has been accepted and continuously maintained by a public agency. Right-of-way must be dedicated to the county in accordance with the road classification specified in the county Road and Street Plan.

(3) Platted access easements may be used, provided each access easement serves a maximum of two lots, has a minimum width of 22 feet, is less than 600 feet in length and provides a 50-foot radius cul-de-sac at the end of the road or street.

(4) Roads, streets or access easements shall have an all-weather gravel or hard surface suitable for the vehicular traffic they will carry. Access easements shall have a stone base of at least

six inches of Type O Compacted Aggregate (No. 53).

(5) Frontage on limited access roads or streets where driveways cannot open shall not be considered legal access for the lot. The lots shall be shown with a ANO ACCESS@ notation on the survey drawing.

(6) If better access can be provided through construction of a new road or street, because of topography, natural or human-made features or other conditions, the subdivision shall be considered a major subdivision and follow the process described in ' 151.17.

(B) *Suitability for building.* All lots in the subdivision shall provide suitable building sites for the purpose for which the land is to be used. A minor subdivision shall only be approved if it meets the following criteria:

(1) If the property contains slopes of 10% or more, contours at a maximum interval of ten feet shall be shown on the plat. Lots served by an individual septic system must have contiguous land area with slopes of less than 10% for at least the minimum area required by the State Department of Health;

(2) The location and acreage of all bodies of water must be shown on the plat. Each lot shall have a contiguous land area with at least 75% of the minimum zoning district lot size available for a building site. The remaining area may contain permanent or seasonal water bodies;

(3) Limits of the floodway and floodway fringe shall be shown on the proposed plat. Each lot shall contain enough land outside of the floodway to accommodate the permitted uses of the property and an individual septic system if a public or private sewage disposal system is not available. Development in the floodplain may only occur when the lowest floor is two feet above the 100-year flood level; and

(4) Building pads shall have a six-inch drop within the first ten feet from the proposed

building.

(C) *Utilities and drainage.*

(1) *Sewage disposal.* Each lot shall be served by an existing or proposed public or private sewage disposal system approved by the State Department of Health or the County Health Department or each lot shall have adequate land with soils suitable for a septic system. If the soil survey indicates that the soils have severe limitations for septic systems, then each lot shall be large enough to accommodate two absorption fields. A four-inch perimeter tile is required around all septic systems. If sewer service is required and lines must be extended to any lots, then the subdivision will be considered a major subdivision.

(2) *Water service.* Each lot shall be served by an existing or proposed public water system approved by the State Department of Health or the County Health Department or by a private well that has received a location approval from the County Health Department. If water service is required and lines must be extended to any lots, then the subdivision will be considered a major subdivision.

(3) *Drainage.* All lots shall be provided with drainage improvements. A drainage plan must be submitted and each lot must have eight-inch drainage tiles with outlet.

(D) *Orderly development.*

(1) The subdivision shall not impede orderly development of land or the provision of public services or improvements.

(2) The subdivision shall not interfere with the implementation of the Comprehensive Plan.

(3) The subdivision shall not interfere with the provision of roads or streets for access to adjoining properties, in the event that the adjacent property is developed in the future.

(E) *Endangerment.* The subdivision shall not be detrimental to nor endanger the public health, safety or general welfare.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **151.99 PENALTY.**

Any person in violation of this chapter may be punished in accordance with the provisions of I.C. 36-1-3-8, specifically a fine of not more than \$2,500 per violation, cost of prosecution and attorneys= fees. Each day a violation exists constitutes a separate violation.

(Ord. 2004-1-1-28, passed 1-28-2004)

APPENDIX A: SAMPLE FORMS

Schedule

- I. Sample Subdivision Improvement Agreement Form
- II. Sample Maintenance Agreement Form
- III. Sample Completion Affidavit

SCHEDULE I. SAMPLE SUBDIVISION IMPROVEMENT AGREEMENT FORM.

This agreement, made by and between Henry County, Indiana, and [name of subdivider] (ASubdivider@) .

Preamble

WHEREAS, subdivider applied to the Henry County Planning Commission (APlanning Commission@) for primary plat approval for the [name of subdivision];

WHEREAS, on [date of approval], the Planning Commission granted subdivider primary plat approval for the [name of subdivision] but conditioned such approval on the installation of certain public improvements throughout the subdivision;

WHEREAS, Chapter 151 of the Henry County Development Code states and requires that each secondary plat submitted to the Planning Commission shall be accompanied by a subdivision improvement agreement that is secured by a financial guarantee, if the required public improvements have not been completed;

WHEREAS, subdivider applied to the Henry County Zoning Administrator (AZoning Administrator@) for secondary plat approval, as authorized by the Planning Commission, for the [name of subdivision];

WHEREAS, subdivider has not completed the required public improvements, namely improvements to [general description of public improvements], and desires to submit a subdivision improvement agreement, secured by [type of financial guarantee], in order to qualify for secondary plat approval.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND MUTUAL COVENANTS CONTAINED IN THIS AGREEMENT:

Promises and Mutual Covenants:

1. Subdivider agrees to obtain and submit to the Planning Commission Attorney a(n) [type of financial guarantee] in the amount of [amount of financial guarantee], in favor of Henry County, to secure the completion of all required public improvements at the [name of subdivision].

2. Subdivider agrees to complete the [name of subdivision] public improvements on or before [date of dedication of public improvements], in accordance with the construction and design standards set forth or incorporated in Title XV, Chapter 151 of the Development Code and in accordance with the development plans

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set forth or incorporated in the approved [name of subdivision] plat and application materials.

3. The parties acknowledge and agree that the Zoning Administrator may withhold improvement location permits for any undeveloped [name of subdivision] lot unless and until subdivider has completed the public improvements that serve that lot.

4. The parties acknowledge and agree that time is of the essence and that any failure by subdivider to strictly adhere to the foregoing schedule (paragraph number 2 above) would constitute a material breach of this agreement. Upon the violation, or any other violation of this agreement, the Planning Commission may submit a claim under the [type of financial guarantee] in an amount sufficient to cover the breach.

5. The parties acknowledge and agree that by accepting the [type of financial guarantee] from subdivider and that by entering into this agreement, the county has not and does not waive any of its rights with respect to the enforcement of Chapter 151 of the Henry County Development Code and/or approval granted thereunder in relation to the [name of subdivision], against the subdivider.

IN WITNESS WHEREOF, the Henry County Planning Commission, by its President, the Henry County Board of County Commissioners and subdivider execute this agreement this _____ day of [month], [year].

SUBDIVIDER

[name of subdivider]

**HENRY COUNTY
PLANNING COMMISSION**

President

Vice President

Zoning Administrator

**HENRY COUNTY
BOARD OF COUNTY COMMISSIONERS**

President

Member

Member

ATTEST:

Henry County Auditor

SCHEDULE II. SAMPLE MAINTENANCE AGREEMENT FORM.

State of Indiana:
County of Henry:

THIS AGREEMENT made and entered into this _____ day of _____, 20____, by and between [name of subdivider] (Asubdivider@) and Henry County, Indiana, herein represented by the Board of County Commissioners.

WITNESSETH:

WHEREAS, the subdivider has subdivided lots _____ through _____, _____ subdivision, and has received approval and acceptance from the Henry County Planning Commission for subdivision improvements constructed therein; and

WHEREAS, under the provisions of Chapter 151 of the Henry County Development Code, the subdivider is required to maintain certain improvements for a period of three years;

NOW THEREFORE, it is hereby agreed by and between the subdivider and the Board of County Commissioners that the subdivider hereby agrees to keep all filled trenches, pipes, manholes, structures and paved and unpaved surfaces created in _____ subdivision in good condition and to make repairs to any defect in materials or workmanship as may develop or be discovered when called upon to do so by the Planning Commission.

It is agreed that this agreement shall be in full force and effect for a period of three years from _____, 20____.

IN WITNESS WHEREOF, these presents have been signed in the presence of the undersigned competent witnesses at _____ on this _____ day of _____, 20____.

WITNESSES: [Name of subdivider or development company]

HENRY COUNTY INDIANA
BOARD OF COUNTY COMMISSIONERS

President

Member

Member

ATTEST:

Henry County Auditor

SCHEDULE III. SAMPLE COMPLETION AFFIDAVIT.

This is to certify:

A. That the following improvements as shown in the approved plans and specifications for _____ subdivision are complete and that inspection reports attested by a professional engineer or land surveyor approved by the Henry County Commissioners show them to be in substantial accordance with the specifications and requirements of Chapter 151 of the Henry County Development Code;

B. That surety has been posted to guarantee all materials and workmanship and to guarantee repair of any damage that may be inflicted upon the improvements listed in the course of completion of the subdivision; and

C. That the Board of Commissioners of Henry County, Indiana, has accepted these improvements and will henceforth be responsible for all maintenance on them, subject to the terms of the maintenance agreement with the subdivider dated _____.

[List Improvements]

HENRY COUNTY INDIANA
BOARD OF COUNTY COMMISSIONERS

President

Date

Member

Member

ATTEST:

Henry County Auditor

(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 152: ROADS, STREETS AND TRAFFIC-WAYS

Section

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GENERAL PROVISIONS

' 152.01 INTENT; SCOPE.

(A) (1) The regulations, specifications, special provisions, standards and drawings contained in this chapter are solely for the purpose of establishing standards of workmanship, quality and durability for any road, street, highway, alley or any other public way contained within or being a part of any subdivision or other area development and that may be, or is intended to be, dedicated to the public and proposed for inclusion into the County Highway Department system of roads by and through action of the Board of County Commissioners.

(3) The acceptance of any plat of a

(2) Nothing in these regulations shall be interpreted or construed as limiting or restricting the right of any person or persons, organizations or corporations to establish, provide and improve any road, street, drive or alley upon lands they own or control, unless the road, street, drive or alley is at any time offered to the county for inclusion into the County Highway Department system of roads.

(3) These regulations, together with the specifications, standards and special provisions included in this chapter, shall repeal and supersede all previous regulations and/or specifications and standards heretofore adopted having relation to the construction of roads, streets and other traffic-ways within privately developed subdivisions or other area developments.

(B) (1) The intent of these regulations is to provide for a uniform standard of workmanship and establish a uniform quality of product in and for the traffic-ways, streets and/or roadways that are to be offered to the Board of County Commissioners for inclusion into the County Highway Department system of roads.

(2) It is the intent to herein set forth minimum standards for materials and methods of construction, as well as sections of roadbeds and appurtenant features that will be considered by the county as prima facie evidence of good workmanship when adhered to and may be considered by the Board of Commissioners as an inducement for acceptance into the County Highway Department system of roads.

subdivision of land or of any area proposed for

private development that proposes therein the establishment of any road, street or other traffic-way that may ultimately be dedicated to the public use and maintained by the County Highway Department as a part of its normal system of roads shall not constitute an acceptance of the road, street or traffic-way. (Ord. 2004-1-1-28, passed 1-28-2004)

' 152.02 DEFINITIONS.

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

APPLICANT. Owner or owners, legal and equitable, of land within the limits of the county who submit a proposal for the inclusion of any traffic-way or traffic-ways into the County Highway Department system of roads for the purpose of administration and maintenance.

BERM. Portion of the roadbed outside the traveled way that is generally of grass or dirt.

COUNTY. Henry County.

COUNTY COMMISSIONERS. Board of County Commissioners of Henry County.

CULVERT.

(1) Any conduit installed for the purpose of directing and controlling the flow of surface waters.

(2) Pipe, box or small slab-top structure having limited waterway area, as distinguished from a bridge structure.

DEVELOPER. Applicant, as defined above, or any person, persons or organization authorized to act as his or her agent, responsible for the prosecution of all phases necessary to complete the project as proposed.

SPECIFICATIONS. General term comprising all the directions, provisions and requirements contained herein, together with such as may be added or adopted, and including the current standard

DITCH. Artificially constructed open depression for the purpose of controlling and removing surface waters.

OWNER. Owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the County Assessor=s office. **OWNER** also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to Zoning Administrator a copy of a deed or contract of sale showing date, book and page of recording.

PLANS. Official approved drawings or accurate reproductions thereof that show the location, character, dimensions, shape and details of the work to be done and that are identified in the proposal.

PLAT. Map or drawing, intended for recording, indicating the subdivision of land, showing thereon the dimensions of the roads, streets, sewers and/or other pertinent details.

PROPOSAL. Statement of the applicant showing intent to subdivide lands, establish traffic-ways and other details relative to the development of land areas, with the intent to submit the completed work to the county for inclusion into the County Highway Department system of roads.

RIGHT-OF-WAY. Land area within a development that is secured and reserved to the public for free access.

ROADBED. Portion of the right-of-way between the outside shoulder lines.

ROADWAY. Portion of the right-of-way reserved for traffic uses.

SHOULDER. Portion of the roadbed outside the traveled way that is generally of hot mix asphalt or aggregate.

specifications of the State Highway Commission, when and as designated or included by reference, all of which are necessary to complete the proposal.

SPECIAL PROVISIONS. Special directions, provisions or requirements peculiar to the type of project involved and not otherwise thoroughly or satisfactorily detailed or covered by a general specification.

SURETY. The corporate body that is bound with and for the developer.

TRAFFIC-WAY. A public way, road, street, avenue or alley reserved for the special use of moving or vehicular traffic and reserved to the general use of the public.

(1) **ALLEY.** A minor traffic-way used primarily for vehicular access to the rear or side of properties otherwise abutting on a traffic-way and providing access for utility, sanitary or general salvage services.

(2) **COLLECTOR ROAD OR STREET.** A traffic-way that provides access from local traffic-ways to arterial traffic-ways.

(3) **LOCAL ROAD OR STREET.** A traffic-way that provides immediate access to the abutting properties within a development, generally considered residential.

(4) **ROAD.** A traffic-way reserved for the use of the general public; in general, a rural traffic-way, as opposed to a Street.

(5) **STREET.** A traffic-way reserved for the use of the general public; in general, a subdivision or town traffic-way.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.03 GENERAL PROCEDURES.

(A) (1) The applicant, developer or subdivider of land areas into lots or estate areas for private sale and whose plan of subdivision requires that traffic-ways ultimately be dedicated to the public use and administered and maintained by the county shall submit his or her plan and proposal to the County

(b) Elevations on all culverts, pipes, drop inlets, bridges, headwalls and all related drainage structures or installations;

Highway Engineer, or such other officer of the county as may be designated by the County Commissioners to receive and approve the plans and proposals as they may deem proper. The proposal shall set forth construction plans, specifications and an approximate date of completion. The proposal shall be prepared and signed by a registered professional engineer or a registered land surveyor.

(2) Plans, specifications and/or construction methods may be determined by the applicant, providing they are equal to or better than the minimums set forth herein. Judgment as to whether the applicant's plans, specifications and/or construction methods are equal to or better than these minimums shall lie with the County Highway Engineer or the county officer designated by the County Commissioners to determine the matters.

(3) In lieu of preparing his or her own plans and specifications, the applicant may elect to make a written statement, over the signature of his or her engineer or surveyor, that he or she proposes and intends to comply with the specifications, special provisions and standards as hereinafter set forth, subject to the approval of the County Highway Engineer.

(B) Proposals submitted to the County Highway Engineer for consideration and primary approval shall show the following minimum details:

(1) *Traffic-ways and drainage.*

(a) 1. Profiles and typical cross sections of roadbeds and/or curbs (if any);

2. Proposed type of paving or surfacing of traffic-ways;

3. Width and slope of shoulders or berms;

4. Side ditches, if required; and

5. Rate of back slopes in cuts and of slopes for fills.

(c) Minimum lengths and sizes of all driveway pipes or culverts to be placed in any

drainage line; and

(d) Size and length of any pipe, culvert or other drainage structure that is to cross under any traffic-way; also, type of pipe to be installed and, if metal pipe, gauge and depth of cover over the pipe structure.

(2) *Stormwater drainage system.* Whenever, for any reason, the installation of open drainage systems is not feasible or desirable, and the applicant or developer proposes to install a closed stormwater system, the applicant shall submit a plan of the proposed system with all intended mains and laterals indicated and showing profiles, elevations and relative depths, together with details of inlets, manholes and other related structures. The applicant shall clearly show that the outfall of the system is to a natural water course and will not directly do damage to owners of adjacent lands, unless with his, her or their written approval, copies of the approvals to be furnished with the plans.

(3) *Plans.* Upon approval by the County Commissioners, as may be recommended by the County Highway Engineer, the applicant or developer shall file with the County Highway Engineer two blue line or black line clear prints or reproductions of the approved proposal before proceeding with the construction of any of the traffic-ways or drainage systems.

(4) *Inspection.* Inasmuch as the interest of the county is to secure adequately constructed and good quality traffic-ways for its future administration and maintenance, the developer and/or any of his or her agents shall permit and cooperate in the inspection of any part of the construction at any time by the County Highway Engineer or his or her assigned inspector.

(5) *Bond.* Upon completion of the traffic-ways in any subdivision and at the time acceptance by the County Commissioners is intended, the applicant shall furnish to the county a three-year maintenance bond that shall:

(2) In cases of conflict between the standard specifications of the State Highway Commission and these special provisions, the special provisions shall govern.

(a) Secure to the County Board of Commissioners an amount equal to 25% of the cost of all traffic-ways in the subdivision or development, as certified by the applicant and approved by the County Commissioners;

(b) Provide surety satisfactory to the County Commissioners;

(c) Warrant the materials and workmanship used in the construction of all traffic-ways to be of good quality;

(d) Warrant the construction has been in accordance with the regulations, procedures and requirements of the specifications and the approved proposal of the applicant; and

(e) Provide that for a period of three years after the date of the hearing by the County Commissioners at which the applicant submitted his or her maintenance bond, the applicant will, at his or her own expense, make all repairs to the traffic-ways as may become necessary by reason of deficient materials or poor or improper workmanship; except, however, that the repairs or replacements shall not be required when damage to the traffic-ways can be shown to have resulted from causes, forces or circumstances clearly beyond the control of the applicant.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.04 SPECIAL PROVISIONS.

(A) *Application of provisions.*

(1) Unless specifically noted, the standard specifications of the State Highway Commission, dated 1999, and all subsequently dated issues, shall apply for materials, construction or methods therefor, when applicable, and for maintenance to all traffic-ways until accepted by the county.

(B) *Rights-of-way.* All rights-of-way herein defined shall be considered as minimum and shall be increased if conditions warrant; however, all

rights-of-way to be included in the County Highway Department system of roads shall be of adequate width for the maintenance thereof.

(1) Rights-of-way designated for commercial, industrial or other non-residential land uses shall have a minimum width of 60 feet, with a surfaced width of not less than 22 feet or two traffic lane widths.

(2) Rights-of-way designated for residential land use shall have a minimum width of 50 feet, with a surfaced width of 22 feet, or two traffic lane widths.

(3) Rights-of-way required for those special cases not covered in divisions (B)(1) or (2) above shall be at the discretion of the County Commissioners, the decisions to be based upon type of construction considered, control of access or other factors.

(C) *Signs.* The names of all the traffic-ways to be included in the County Highway Department system of roads shall be subject to the approval of the County Commissioners; signs shall be installed at all main intersections of any county or state highway with any main traffic-way within a subdivision or development, the signs to be of identical type with those in use by the county.

(D) *Drainage structures.*

(1) The developer shall provide for the controlled and unobstructed flow of surface water and/or water percolating through the soil (groundwater) in such a way as to protect the entire right-of-way from damage by the flow.

(2) Open ditches, pipes, culverts, drop inlets, bridges, box culverts, headwalls and similar or related installations shall be utilized to carry excess flow of water to outlets, which may be either natural watercourses or artificial watercourses or lakes, ponds and the like.

(Ord. 2004-1-1-28, passed 1-28-2004)

(2) Jogs at street ends shall not be permitted, except that offsets of 125 feet will be permitted between intersection lines of traffic-ways.

' **152.05 DESIGN STANDARDS.**

(A) *Gradients.*

(1) The maximum gradient for collector roads or streets, local roads or streets or alleys within a development shall not exceed 7%.

(2) Maximum gradient for major and minor collector roads or streets in commercial areas shall not exceed 5%.

(3) Ditch and/or gutter gradients shall, in general, parallel the roadbed gradients, but in no case shall any ditch or gutter gradient be less than 0.3%.

(B) *Visibility.*

(1) Minimum vertical visibility measured from height of eye at three feet, zero inches to height of object at six inches above crest shall be 200 feet on local traffic-ways and 350 feet on collector traffic-ways.

(2) Minimum horizontal visibility along the centerlines of curved traffic-ways shall be 200 feet on collector and/or local traffic-ways.

(C) *Alignment.*

(1) The minimum radius of traffic-way centerline shall be 360 feet, or approximately 16-degree curvature for collector traffic-ways, and 231 feet, or approximately 25-degree curvature for local traffic-ways.

(2) The minimum tangent distance between reversed curves shall be 100 feet.

(D) *Intersections.*

(1) Traffic-ways shall not intersect at interior angles of less than 60 degrees.

(3) Not more than two traffic-ways shall intersect at one common point, except that a traffic circle having a centerline radius of 40 feet may be provided to allow the intersection of more than two

traffic-ways at any one intersection.

(4) Curbed pavements and/or pavement edges shall be rounded at any or all intersecting traffic-ways by arcs having a minimum radius of 30 feet at intersections with collector traffic-ways and 20 feet where the intersecting traffic-ways are local.

(5) Where traffic-ways intersect with angles other than 90 degrees, curbs or pavement edges shall be rounded with an arc having a radius of 75 feet in the obtuse quadrants.

(6) Minimum standards for pavement design and for walks or curbs shall be in accordance with these specifications and special provisions, including all drawings, cross sections and details contained herein or attached hereto. Any designs required for unusual circumstances or for special requirements not covered herein shall be at the discretion of the County Commissioners. (Ord. 2004-1-1-28, passed 1-28-2004)

' 152.06 CONSTRUCTION STANDARDS.

(A) *General.* The minimum requirements for construction of traffic-ways to be submitted to the County Commissioners for incorporation in the County Highway Department system of roads shall be in accordance with the standard specifications of the State Highway Commission that are currently in use at the time applicant=s proposal is submitted for primary approval. Any variations from the standard specifications of the State Highway Commission that may be set forth herein, or that may be later set forth as amendments hereto, shall prevail over the standard specifications of the State Highway Commission, except that no variation or amendment to the specifications or these regulations or standards shall be retroactive and shall not have the effect of changing any of the provisions of a previously approved proposal.

(1) *Roadbed.*

(f) 1. Prior to the final dressing of the subgrade, all cross-drainage structures, whether pipe culverts, box culverts or other types of drainage structures, shall be laid in trenches excavated to

(a) All vegetable matter subject to deterioration, including sod, turf, roots, brush, shrubs or trees (including stumps thereof) shall be removed from the roadbed area and disposed of.

(b) All muck, peat, marl or other unsuitable substance, if existing within the right-of-way area, shall be removed and replaced with satisfactory material that will hold its form.

(c) Within the area defined as Roadbed, or within the area limited by the outside edges of the shoulders, the surface of the cleared earth shall be treated as follows.

1. For areas where the proposed gradients require excavation to profile elevations, the excavations shall proceed directly.

2. For areas where embankment is to be placed, or subsequent to excavation operations, the areas within roadbed limits shall be compacted with a three-wheeled or a tandem roller weighing at least ten tons. If the material at the surface is granular, the compaction should be accomplished by the use of crawler-tread equipment having a bearing of not less than six pounds per square inch of tread or with vibratory compactors or both.

(d) Upon the prepared surface as outlined in division (A)(1)(c)(2) above, any embankment required shall be constructed in accordance with ' ' B3 and B85 of the standard specifications of the State Highway Commission, except that density shall be in accordance with ' B502.3 of the standard specifications of the State Highway Commission.

(e) Upon completion of all excavation or embankment, the subgrade area that is to receive the base courses for pavements shall be fine graded and dressed to the true cross-section as previously approved by the County Highway Engineer.

receive them and all trenches shall be backfilled with granular material and the material thoroughly compacted.

2. At this stage, any underground utilities or sewer facilities must be placed and excavated trenches for the facilities also backfilled and compacted as required above in this section.

(2) *Inspection.*

(a) After completion of the subgrade and before any base courses are to be placed, the developer shall notify the County Highway Engineer that the roadbed area may be inspected.

(b) The County Highway Engineer, or his or her authorized agent, will make the inspection and indicate approval or disapproval of the work at this stage.

(c) The inspection shall be made within three days after notice. The notice shall be in writing.

(B) *Pavement and surfacing.*

(1) Unless otherwise noted, all cement used in cement concrete pavement shall be air-entrained portland cement manufactured by a source acceptable to the State Highway Commission.

(2) All aggregates to be used in any type of surfacing or paving shall comply with the requirements of the standard specifications of the State Highway Commission and, if required, the developer shall certify to the County Highway Engineer that the stipulation has been complied with.

(3) Unless otherwise specified, all paving or surfacing shall be constructed only upon a prepared base, placed and compacted upon the fine-graded subgrade, as shown and dimensioned upon the drawings that are a part hereof.

(4) Furnishing, placing and compaction of the bases shall be strictly in accordance with the methods stipulated in the standard specifications of the State Highway Commission.

(C) *Concrete pavements.*

(1) *Option no. 1: plain cement concrete pavement.* This type of surfacing consists of placing a pavement of uniform thickness, homogenous concrete on a previously compacted and prepared aggregate base of the depth shown on the standard drawings and finished to the crown, shape and cross-section as shown. This type of pavement is intended for local traffic-ways.

(2) *Option no. 2: reinforced cement concrete pavement.*

(a) This type of surfacing consists of placing a pavement of uniform thickness, reinforced with steel mesh and bars, as shown on the standard drawings, finished to the crown, shape and cross-section shown.

(b) This type of pavement is intended primarily for collector traffic-ways where heavy and frequent traffic may occur.

1. *General.*

a. It may be placed directly upon a prepared subgrade without aggregate base.

b. All concrete pavements shall contain not less than six bags of cement per cubic yard of concrete and be air-entrained. Aggregates used in preparation of concrete mixes shall be those specified by the standard specifications of the State Highway Commission.

c. Methods of preparing, placing and finishing shall be in accordance with ' D1 of the standard specifications of the State Highway Commission, except that, unless machine methods of depositing and finishing are used, aggregate size 2 (U) need not be used.

2. *Joints.*

a. In both types of concrete pavements, transverse contraction joints, formed as shown on standard drawings, shall be placed at intervals not exceeding 20 feet.

b. Expansion joints as shown on drawings shall be placed at intervals not exceeding 60 feet.

c. No two transverse joints of any kind may be placed within ten feet of each other.

(D) *Asphalt pavements.*(1) *Class 1.*

(a) This type of construction is intended primarily for those roads, streets or traffic-ways where the land usage adjacent requires the frequent passage of heavily loaded vehicles having a possible equivalent single axle load of up to 18,000 pounds. Generally, these are major collector traffic-ways.

(b) 1. The minimum standard for this class of pavement shall be ten inches of compacted aggregate placed in three separate layers or courses and six inches of compacted aggregate placed in two layers or courses.

2. Each course shall be compacted to the highest practical density in accordance with ' C10 of the standard specifications of the State Highway Commission, except that no calcium chloride shall be used.

3. Upon the prepared granular base, there shall be placed a base course of hot asphaltic concrete consisting of 680 pounds of asphaltic mixture per square yard of surface area, using aggregate size No. 5 as per ' D304.2 of the standard specifications of the State Highway Commission. This course is to be compacted to high density.

5. Upon the prepared and

4. Upon the prepared base course, there shall be placed a binder course of hot asphaltic concrete consisting of 330 pounds of asphaltic mixture per square yard of surface area, using aggregate size No. 9 as per ' D304.2 of the standard specifications of the State Highway Commission.

5. Finally, upon the last specified asphaltic binder course, a surfacing course, consisting of 220 pounds per square yard of area, of Type B hot asphaltic concrete shall be placed and rolled to the final crown, shape and cross-section shown, in accordance with ' D3 of the standard specifications of the State Highway Commission.

(2) *Class 2.*

(a) This type of hot asphaltic concrete paving is intended to be used for minor collector traffic-ways not continually subjected to heavy industrial or commercial traffic loads.

(b) 1. The minimum standard for this class of pavement shall be six inches of compacted aggregate placed in two separate layers or courses and six inches of compacted aggregate placed in two layers or courses.

2. Each course shall be compacted to the highest practical density in accordance with ' C10 of the standard specifications of the State Highway Commission, except that no calcium chloride shall be used.

3. Upon this prepared granular base shall be constructed a base course of hot asphaltic concrete consisting of 500 pounds per square yard of area and using aggregate size No. 5 in accordance with ' D3 of the standard specifications of the State Highway Commission.

4. Upon the prepared base course, there shall be placed a binder course of hot asphaltic concrete consisting of 330 pounds of asphaltic mixture per square yard of surface area, using aggregate size No. 9 as per ' D304.2 of the standard specifications of the State Highway Commission.

compacted asphaltic base, a surfacing course of Type

B hot asphaltic concrete consisting of 220 pounds per square yard of area shall be placed and finished to the final crown, shape and cross-section shown.

(3) *Class 3.*

(a) This type of hot asphaltic concrete pavement is intended for use in local traffic-ways or alleys in residential areas, where heavy loads are rare or unlikely.

(b) 1. The minimum standard for this class of pavement shall be four inches of compacted aggregate placed in two separate layers or courses and four inches of compacted aggregate placed in two layers or courses.

2. Each course shall be compacted to the highest practical density in accordance with ' C10 of the standard specifications of the State Highway Commission, except that no calcium chloride shall be used.

3. Upon this prepared granular base shall be constructed a base course of hot asphaltic concrete consisting of 330 pounds per square yard of area and using aggregate size No. 5, in accordance with ' D3 of the standard specifications of the State Highway Commission.

4. Upon the prepared base course, there shall be placed a binder course of hot asphaltic concrete consisting of 330 pounds of asphaltic mixture per square yard of surface area, using aggregate size No. 9 as per ' D304.2 of the standard specifications of the State Highway Commission.

5. Upon this prepared and compacted asphaltic base, a surfacing course of Type B hot asphaltic concrete consisting of 140 pounds per square yard of area shall be placed and finished to the final crown, shape and cross-section shown.
(Ord. 2004-1-1-28, passed 1-28-2004)

ACCESS STANDARDS FOR DRIVEWAY CONNECTIONS

' 152.20 PURPOSE; SCOPE.

(A) The purpose of this section is to establish standards, criteria and guidelines subject to variation, based on engineering judgment, so as to provide a basis for the review and approval of all requests for access to public traffic-ways.

(B) It is the scope of this section to cover in detail as many conditions as possible regarding various types of residential, commercial and industrial access points to the public highways, regardless of the type of access control exercised. The intent is to consider all types of access for rural, suburban, urban or intermediate conditions, within the jurisdiction of the Board of County Commissioners of Henry County (hereinafter referred to as Athe county@).

(C) The efficiency and safety of a roadway facility, with limited access control or without access control, depends greatly on the amount and character of roadside interference. Most of this interference originates in vehicular movements to and from residential, commercial and industrial development along the facility.

(D) The rights of abutting property owners for access are realized, but it is necessary for the county to establish controls regarding the number, location and geometrics of access points. This is necessary to maintain good operational characteristics on the facility and to provide adequate safety features for expeditious movement of people and goods.

(E) Highway interference resulting from excessive roadside development and uncontrolled driveway connections precludes the orderly and safe movement of traffic in and out of private properties and, therefore, results in poor levels of service, increased hazards and early obsolescence of the highway.

(F) The necessary regulations and geometrics of access points are very closely associated with traffic volumes and operations, right-of-way, land use and zoning control.

(G) It is understood that residential, commercial and industrial growth within an expanding area is inevitable. Therefore, it is necessary to provide access to these concerns in accordance with a well developed plan, as compatible as possible with the adjacent highway facilities, as it can easily be shown that traffic congestion adversely affects conditions for ingress and egress, produces accidents, interferes with the effective operation of fire and police forces and, in general, reduces the enjoyment of many phases of daily life and activity.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.21 DEFINITIONS.

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

ACCESS CONTROL. Facilities where the right of owners or occupants of abutting land, or other persons, to access, light, air or view in connection with a highway, road, street or traffic-way is fully or partially controlled by the county authorities.

(1) **FULL.** The access is controlled to such a degree that no access will be permitted directly to the roadway from abutting property. The physical means of access shall be limited to interchange ramps, approaches or other facilities located on public right-of-way at points designated by the county authorities for specific entrance to or exit from the facility by the general public.

(2) **NORMAL.** The rights of abutting property owners of access to the public roadway are recognized. On these facilities, entrances to the roadway will be allowed for abutting property, providing the access points comply with the standards and regulations established by the county authorities.

(3) **PARTIAL.** The access is controlled to such a degree that the public access will be restricted
DESIGN SPEED. Speed determined for design

to interchange ramps, at-grade intersections, approaches or other facilities located on public right-of-way. Private driveways may be permitted at locations designated by the county authorities solely for residential or agricultural purposes, when so agreed or stipulated with the property owner, when access rights are required. Any permit for an entrance will show the use limits. No direct access for commercial or industrial use will be allowed. All other access for abutting property will be as indicated for AFull Access Control@ facilities. Median openings for U-turns for public use may be provided in accordance with established criteria.

APPROACH PAVEMENT. Portion of roadway adjoining the traveled way, including tapers, for recovery lanes, deceleration, speed change, turning movements or other purposes supplementary to the through traffic movement. The auxiliary lane may be existing or proposed to be constructed by the applicant.

CHANNELIZATION. The separation of conflicting traffic movements into defined paths of travel by use of pavement markings, raised islands or other suitable means to facilitate the safe and orderly movement of traffic.

COMMERCIAL. The purchase, sale or other transaction involving the handling or disposition (other than that included in the term Aindustrial@ as defined herein) of any article, substance or commodity for profit or livelihood, including, in addition, operation of automobile or trailer courts, tourist courts and motels, public garages, office buildings, offices of doctors and other professionals, outdoor advertising signs and structures, public stables, recreational and amusement enterprises conducted for profit, shops for the sale of personal services, places where commodities or services are sold or are offered for sale either by direct handling of merchandise or by agreements to furnish them, but not including dumps and junk yards.

COUNTY AUTHORITIES. Board of Commissioners of Henry County, the Henry County Highway Engineer and/or the Supervisor of the Henry County Highway Department.

and correlation of the physical features of a highway

that influence vehicle operations. It is the maximum safe speed that can be maintained over a specified section of the highway when conditions are favorable, so that the design features of the highway govern.

DESIGN VOLUME. Volume determined for use in design, representing traffic expected to use the facility. Unless otherwise stated, it is an hourly volume.

DIVIDED HIGHWAY. Highway with separate roadways for traffic in opposite directions.

DRIVEWAY. Every way or place not in the right-of-way of any public highway that is used for vehicular traffic.

ENTRANCE. Connecting line of the driveway and the approach.

HIGHWAY, ROAD, STREET or ROADWAY. General term denoting a public way for the purposes of vehicular travel, including the entire area within the right-of-way. Recommended usage in urban area: roadway or street; in rural area: highway or road.

INDUSTRIAL. Manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity or any other treatment thereof in a manner as to change the form, character or appearance thereof, and including storage elevators, truck storage yard warehouses, wholesale storage and other similar types of enterprise.

MEDIAN. Portion of a divided highway separating the traveled ways for traffic in opposite directions.

MEDIAN LANE. Speed-change lane within the median to accommodate left-turning vehicles.

MULTI-RESIDENTIAL. Building or buildings designed and used for occupancy by three or more families, all living independently of each other, and having separate kitchen and toilet facilities for each family.

OPERATING SPEED. The highest overall speed at which a driver can travel on a given highway

under favorable weather conditions and under prevailing traffic conditions without at any time exceeding the safe speed as determined by the design speed on a section by section basis. On posted sections of highways, roads and streets, the properly posted speed can be considered the **OPERATING SPEED**.

PARKING CAPACITY. Maximum number of parking spaces available within the proposed facility having clear access to each space.

PERMIT. Authorization to construct an access driveway of a specified class granted by the local governing agency upon application and in accordance with this chapter.

PERMITTEE. Applicant for the permit to whom the Board authorizes the permit.

RESIDENTIAL. Detached building designed or used exclusively for occupancy of one or two families and having kitchen and toilet facilities for each family.

RIGHT OF ACCESS. Right of ingress to a highway from abutting land and egress from highway to abutting land.

RIGHT-OF-WAY. General term denoting land, property or interest therein, usually in a strip, acquired for or dedicated to street, roadway or highway purposes to include any additional **RIGHT-OF-WAY** as designated in the Comprehensive Plan of the responsible planning agency.

ROAD. See **HIGHWAY**.

SETBACK LINE. Line outside of the right-of-way, established by public authority, on the highway side of which the erection of buildings or other permanent improvements is controlled.

SIGHT DISTANCE. Length of unobstructed view required by a motorist entering the traffic stream from a stopped position with the front of the bumper five feet from the edge of the traveled way.

SITE. Area consisting of one or more contiguous lots or parts of lots that is to be used as one consolidated area.

SPEED CHANGE LANE. Auxiliary lane, including tapered areas, primarily for the acceleration or deceleration of vehicles entering or leaving the through traffic lanes.

STACKING. Distance between the right-of-way line and the (extended) driveway access point.

STREET. See **HIGHWAY.**

TRAFFIC LANE. Portion of the traveled way for the movement of a single line of vehicles.

TRAVELED WAY. Portion of the roadway for the movement of vehicles, exclusive of shoulders, berms and auxiliary lanes.

ZONING. Division of a municipality (or other governmental unit) into zoning districts and the regulation within those zoning districts of the height and bulk of buildings and other structures, the area of a lot that may be occupied and the size of required open spaces, the density of population and the uses of buildings and land for trade, industry, residence or other purposes.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.22 APPLICATION REQUIREMENTS.

(A) No person, firm, corporation or developer shall construct any entrance, driveway or approach connecting with any public roadway, nor shall any curb along the roadway be cut or removed, without a written permit from the county authorities, and then only in accordance with the regulations and requirements contained herein.

(B) The county authorities shall determine and establish the requirements and restrictions for private entrances, driveways and approaches as may be necessary to provide for drainage of the roadway, for preservation of the roadway and for the safety and convenience of traffic on the roadway.

(3) Upon the completion of the roadway, the owners or occupants of adjoining land shall keep

(C) The regulations and requirements to facilitate stacking may include the minimum distance that gasoline pumps, buildings and other structures to which private entrances, driveways or approaches make a connection may be placed next to the right-of-way line of the roadway or next to the outside edge of sidewalks along those roadways.

(D) All work on private entrances, driveways and approaches shall be done under the supervision and to the satisfaction of the county authorities and the entire expense of constructing the private entrances, driveways and approaches shall be borne by the person, firm, corporation or developer to whom the permit is given.

(E) The county authorities are authorized to require, before granting a permit, that a sufficient bond be given or cash deposit be made with the county authorities to ensure the carrying out of the terms of the permit, which bond or deposit shall be returned when the requirements of the permit have been met.

(F) The owners or occupants of the abutting property shall maintain and keep in repair all private entrances, driveways and approaches that shall be constructed or maintained in such a manner as to not obstruct or interfere with the roadway, the traffic thereon or with any drain or ditch that has been constructed on or that serves that highway.

(G) (1) When any roadway is constructed, the construction of all public road approaches and existing private approaches, together with the drainage structures required for its protection, shall be included as a part of the improvement of the roadway.

(2) The county authorities may require the changing of the location of any existing drives, in the interest of safety to the motoring public, when the roadway is constructed or reconstructed, and the person, firm, corporation or developer owning or occupying the abutting property shall make the change in location under the direction of the county authorities.

in repair all private approaches or driveways from the highways.

(H) When there is a change in the type of business and/or land use of an existing property, regardless of how slight or minor, a new application for a permit must be submitted to the county authorities for approval of existing driveways or changes that may be required.

(I) The person, firm, corporation or developer must obtain a driveway permit before an improvement location permit and/or building permit will be issued.

(J) Any person, firm, corporation or developer violating any of the provisions of this section shall be subject to a fine not to exceed the amount set forth as a fine for the offense.

(K) The expense of relocation or replacement of any and all improvements within the right-of-way shall be the sole responsibility of the permittee.

(L) In no case shall vehicles be allowed to stand on any portion of the roadway. It will be the owner's responsibility to close the entrance of the facility before the condition occurs.

(M) No entrance shall be altered, relocated or remodeled without permission of the county authorities.

(N) Construction of entrance and approach shall be completed within one year of issuance of the permit. If the construction is not completed, then a new permit application must be filed.

(O) The angle of any drive or approach shall be 90 degrees unless otherwise approved by the county authorities.

(P) When access is requested to a loading dock, there must be sufficient distance between the dock and the sidewalk or right-of-way to prevent encroachment while parking or maneuvering.

(Q) A performance bond shall be posted to ensure compliance with the terms of the permit at the discretion of the county authorities.

(R) Liability insurance must be furnished
(10) Proposed type of surface and width of

according to the county authorities' requirements.

(S) The county authorities reserve the right to remove or barricade non-conforming access installations.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.23 REQUIRED DRAWINGS AND INFORMATION.

(A) All applications for permits under these regulations shall be accompanied by clear drawings, one drawing to accompany each application form. Information to be shown on drawings shall include a plot plan to scale of the entire tract of land as recorded in the office of the County Recorder and properly dimensioned, including the proposed improvements, location and intended use.

(B) The plot plan or additional attached detailed plans, to scale, shall depict the following:

- (1) Property lines;
- (2) Right-of-way lines and width;
- (3) Nearest intersecting roads, streets or railroads on either side of proposed driveway;
- (4) Width and type of road or street surface;
- (5) Necessary and existing pipe, tile or other drains, stating size and kind;
- (6) Existing utilities;
- (7) Proposed and existing driveways and approaches;
- (8) Distance from right-of-way lines to proposed and existing structures, including gasoline pumps, signs, barriers and landscaping and the like;
- (9) Proposed type of surface and width of driveways;
- (10) Proposed type of surface and width of approaches;

(11) Proposed type of surface, length and width of recovery and deceleration lanes, if required;

(12) Proposed radii;

(13) Proposed treatment of right-of-way area adjacent to and between approaches;

(14) Proposed rate of slope or grade of approaches and driveways; and

(15) Proposed internal parking details.

(C) (1) Class III and IV entrance permit applications shall include a plot plan with all pertinent topography to scale and properly dimensional for at least 150 feet in each direction of property and on both sides of all roadways affected; i.e., all existing driveway entrances, approaches and crossovers in the case of a median.

(2) Class I, II and V entrance permit applications shall include to reasonable scale and reasonable dimension all adjacent property in each direction of the property requiring access and on both sides of all roadways affected, all existing driveway entrances, approaches and, in the case of a median, crossovers.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.24 TEMPORARY PERMITS.

(A) The issuance of a temporary permit for the construction of access driveways will be considered under the following circumstances:

(1) Existing facilities that have been designated Alimited access controlled highways@; or

(2) Existing highways with normal access

The applicant hereby states that he or she is the owner of record of the tract of land to be served by the access driveway described herein, the land being situated in the County of Henry, State of Indiana. [Description of property here.] The applicant understands that the above-described driveway is within the limits of designated limited access

control that are scheduled for improvement.

(B) The designation of an existing highway as a limited access control facility has brought about special problems as related to the issuance of permits for access driveways. This is especially true where the actual implementation of limited access control features is delayed for some period of time after the designation order and no program for acquiring access rights has been undertaken.

(C) There are many cases under these conditions where a property owner abutting a facility that has been designated a Alimited access controlled highway@ is considering the development of commercial property. In some circumstances, the property owner or developer might be willing to risk obtaining a considerable return on his or her investment if he or she could have direct access to the highway during the period in which plans are being developed and right-of-way obtained for physical conversion to Alimited access control@ status. Under these and similar circumstances, and, in compliance with the regulations of the county authorities, temporary access permits for the construction of driveways may be granted abutting owners, provided the proposed improvements to the property do not increase the cost of acquiring right-of-way and access rights.

(D) The granting of temporary access permits for access to designated Alimited access control highways@ and to highways, roads and streets with normal control of access scheduled for improvement will be considered where the permits will be accepted by the owner or developer with the inclusion of a suitable clause protecting the county authorities against improvement costs. First, the permits shall be prominently labeled Atemporary driveway permit.@ The permit should then contain a paragraph worded essentially as follows:

control or limits of existing or proposed public right-of-way and that the entrance will be removed or revised at the time as the county authorities complete negotiations for access rights to the property or right-of-way. It is further understood that the applicant will not claim additional damages because of the existence of the

driveway described herein. It is also understood that this permit is accepted with the full understanding that any improvement or construction on the property after [date] shall not be considered as increasing the value of the rights of access or right-of-way at the time as these rights are obtained for the purpose of developing the adjacent facility. It is also understood that this permit will expire and may be renewed within one year from date of issue or upon negotiation of right-of-way, whichever is latest.

(E) (1) Since temporary permits of this sort will have a direct bearing on the acquisition of access rights and right-of-way in the future, they are to be recorded in the deed or abstract and duly recorded with the proper agency.

(2) In case the property under permit changes ownership before the facility is physically converted to a limited access control facility or improved, as the case may be, a recorded permit will be more effective in maintaining the rights of the county authorities as noted in the application.

(3) The same standards and criteria shall govern temporary driveway permits as previously outlined for all driveways to highway facilities. (Ord. 2004-1-1-28, passed 1-28-2004)

' 152.25 CLASSES OF DRIVEWAY ENTRANCES.

(A) All entrances from highways, roads or streets to public or private property shall be generally classified as follows, and a permit shall be required.

(B) (1) *Class I: residential entrance.* A driveway by which a road or street with a raised curb is connected to a one- or two-family residence and that is ordinarily used only by the owner or occupant of the premises, such as a garage, barn, residence or other improved property.

(2) *Class II: residential entrance.* A driveway by which a road or street without a raised curb, but only a shoulder or berm, is connected to a one- or two-family residential facility and that is ordinarily used only by the owner or occupant of the premises, such as a garage, barn, residence or other improved property.

(3) *Class III: commercial entrance.* A driveway or driveways by which a road or street with a raised curb is connected to public or private property that is multi-residential, commercial, industrial, school or church in nature.

(4) *Class IV: commercial entrance.* A driveway or driveways by which a road or street without a raised curb, but only a shoulder or berm, is connected to public or private property that is multi-residential, commercial, industrial, school or church in nature.

(5) *Class V: private entrance.* A driveway connecting a road or street with unimproved property that is not used commercially, such as fields or vacant lots.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 152.26 GENERAL ENTRANCE SPECIFICATIONS.

(A) *Class I, class II and class V entrances for residential, private garages and other improved and unimproved properties.*

(1) The application shall be accompanied by a plot plan, properly dimensioned, showing all existing driveway entrances, approaches and other pertinent features.

(2) Common driveways for adjacent property owners are encouraged, provided a written agreement between the property owners is properly documented.

(3) The location of driveways shall be so that no part of the radius shall extend beyond the extension of the adjacent property line, unless a written agreement is obtained from the adjacent property owner.

(4) Drive approach surfaces shall be of a type acceptable to the county authorities, but in any case, they shall be of a material similar to the adjacent roadway.

(5) All access geometrics, such as entrance, location and driveway width, shall be in accordance with Appendix C of this chapter.

(B) *Class III and class IV entrances for multi-residential, commercial, industrial, school and church properties.*

(1) *General requirements.*

(a) No application for access to a public road, street or highway will be considered until all facilities within the development have been agreed upon. A completed site plan showing proposed use, improvements and layout of parking spaces shall be submitted to the county authorities.

(b) The application shall be accompanied by a plot plan and site plan (minimum scale: one inch equals 50 feet), properly dimensioned, showing all existing driveway entrances, approaches and other pertinent planimetric and topographical features for a distance equal to the sight distance as shown in Table 2 below.

Table 2 Sight Distance Requirements	
Mph*	Distance
20	150 feet
30	200 feet

40	300 feet
50	450 feet
* Based on posted speed limits	

(c) All access geometrics (minimum scale: one inch equals 50 feet), such as entrance location, driveway spacing and width, deceleration, recovery and passing lanes, shall be in accordance with Appendices A, B and C of this chapter.

(d) It will be the responsibility of the permittee to construct any and all improvements as set forth by the approved application at the time of the entrance construction.

(2) *Special requirements.*

(a) Two entrances may be permitted with a minimum of 150 feet frontage, based on anticipated traffic generation, provided the distance from any driveway approach to an adjacent property line or alleyway is a minimum of ten feet. Minimum distance between drives shall be 50 feet.

(b) Divided entrance may be required for major traffic generators. The county authorities reserve the right to permit or require a divided entrance, based on the parking capacity of the establishment and the effect on the traffic service of the adjacent highway. Driveways shall be operated in a one-way pattern. Additionally, the length of the median and barrier curb along the right edge of the entrance shall be of sufficient length to preclude the internal conflicts within the parking lot from causing interference with traffic on the roadway.

(c) Entrances for use primarily by tractor-trailer combinations may be permitted by the county authorities. Wheel path templates shall be used to determine geometric design.

(d) Traffic control signals, if warranted, shall be in accordance with current standards. Signals installed at entrances or exits directly to or from the development will be installed and power furnished in compliance with the *Industrial and Commercial Signal Policy* and in accordance with the terms of the permit. Subsequent to installation, all traffic control signals will be operated, maintained and become the property of the industrial or commercial establishment requesting the signal. The county authorities shall determine the need for signal control, and the design and type of signal to be installed. The county authorities shall regulate the timing and synchronization of the signals. A signed agreement between the permittee and the county authorities will be required.

(e) Median crossovers on divided highways will not be permitted unless the spacing is in conformance with dimension AP@ as indicated on Appendix C of this chapter.

(3) *Design details.*

(a) For establishments or developments with high turnover rates and limited parking areas (drive-in restaurants, drug stores, grocery stores and the like), the parking spaces shall be laid out in such a manner as to preclude entering vehicles from interfering with traffic on the roadway.

(b) The closest edge of the driveway shall be a minimum of 50 feet or 25% of the frontage, whichever is greater, from the existing or future proposed right-of-way line (extended) of the intersecting road or street. (See Appendix C of this chapter).

(c) The capacity and stacking requirements of the subject intersection shall be

checked by the county authorities, based on a projection of the existing traffic for a period of ten years, and if the indicated minimum dimensions are below stacking requirements, they shall be increased accordingly.

(d) The permittee shall be responsible for any curbings, pavement widening, deceleration lanes, recovery lanes, islands or drainage structures required. All construction shall be of a structural design and type acceptable to the agency responsible for the adjacent public roadway.

(e) No part of the driveway entrance may extend beyond a line extended perpendicularly from the roadway centerline to the point of intersection of the property line and right-of-way without the written permission of the adjacent property owner.

(f) When the parking or driving area of a property is adjacent to a sidewalk or an alley, then a non-mountable barrier must be constructed to prevent encroachment.

Table 1
Entrance Specifications

<i>Class</i>	<i>Maximum Driveway Width</i>	<i>Divided Entrance</i>	<i>Recommended Entrances per Road or Street</i>	<i>Approach Pavement Required</i>
I	16	No	1	No
II	16	No	1	No

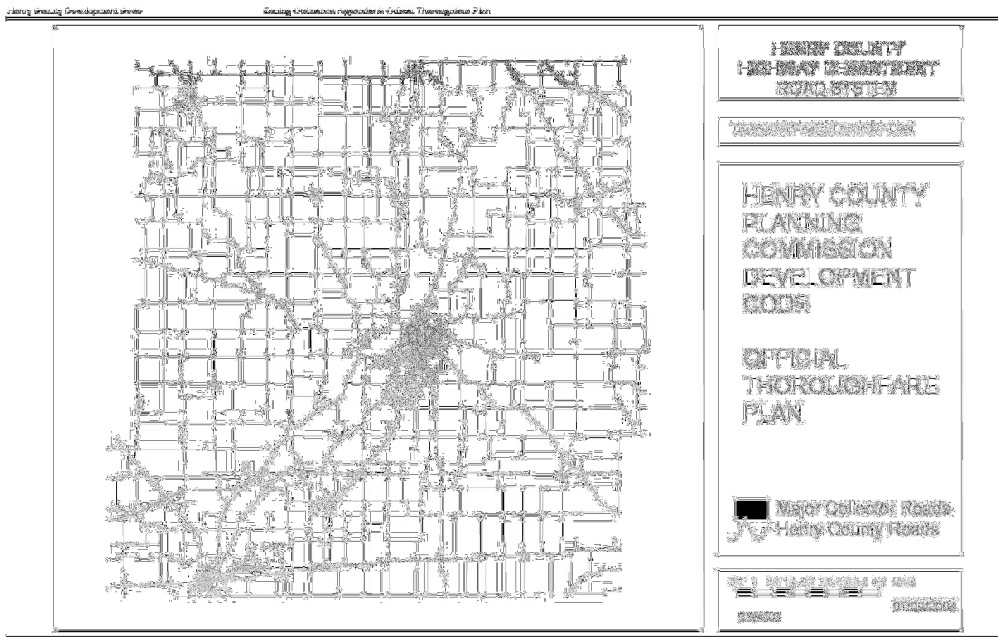
Henry County - Land Usage

III	30	Yes	2	Yes*
IV	30	Yes	2	Yes*
V	20	No	1	No
*Approach pavements may be required as specified herein or as required by county authorities.				

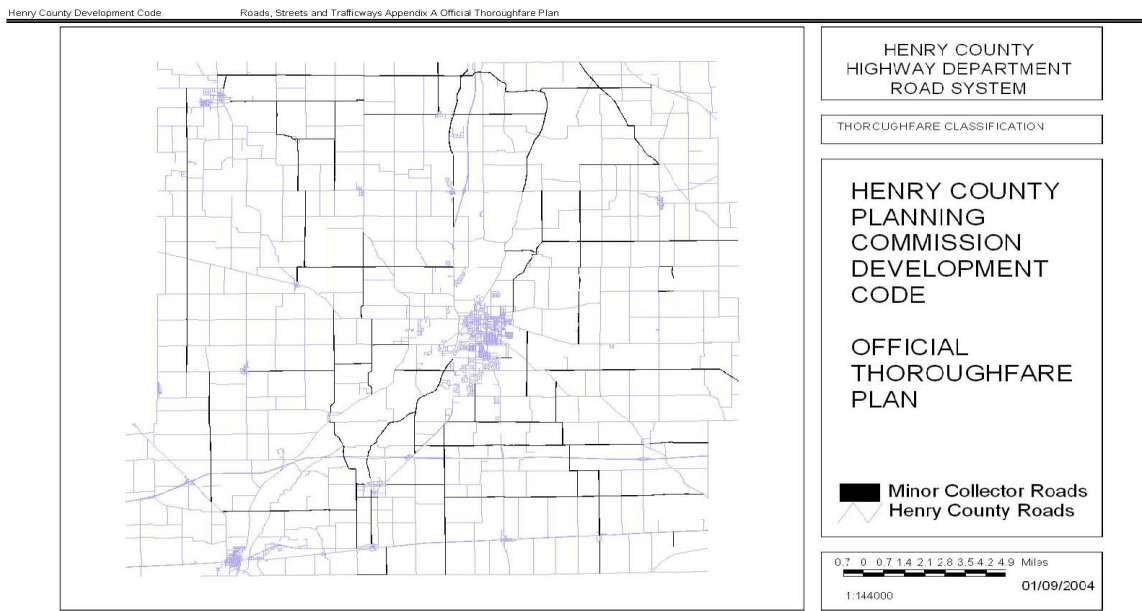
(Ord. 2004-1-1-28, passed 1-28-2004)

APPENDIX A: OFFICIAL THOROUGHFARE PLAN

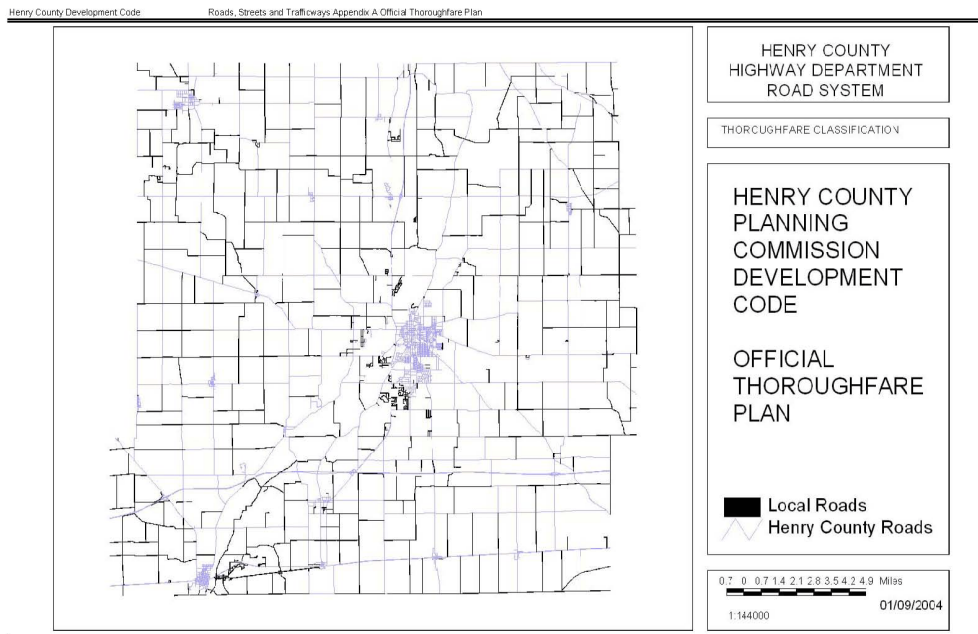
I. Major Collector Roads.



II. Minor Collector Roads.



III. Local Roads.



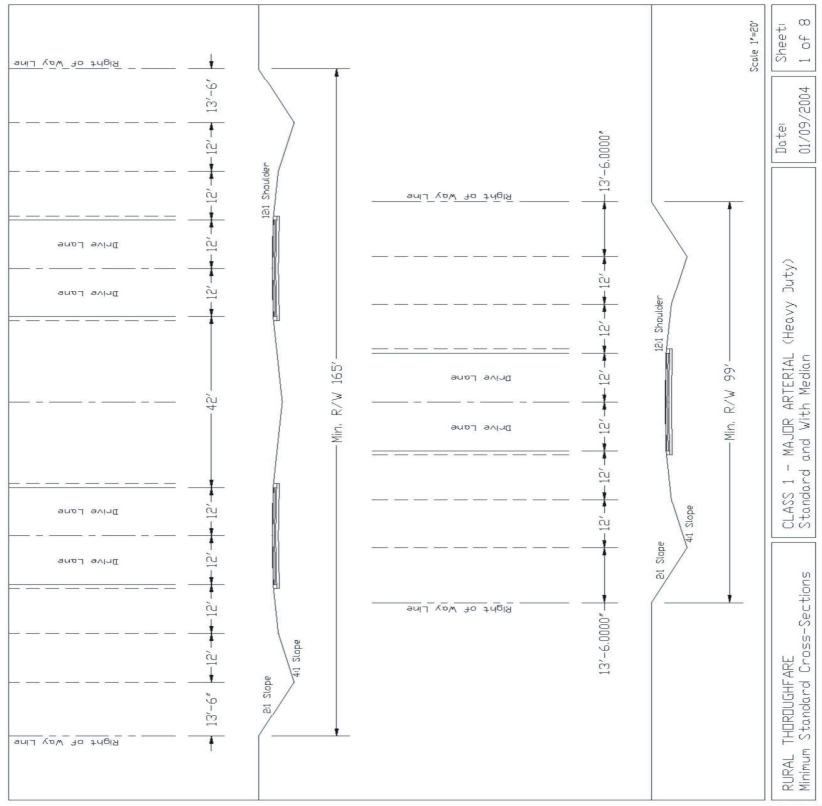
Title 3, Page 25

(Ord. 2004-1-1-28, passed 1-28-2004)

APPENDIX B: MINIMUM STANDARD CROSS SECTIONS

I. Class 1. Major Arterial (Heavy Duty)-Standard and with Median.

Appendix B Minimum Standard Cross-Sections



RURAL THOROUGHFARE Minimum Standard Cross-Sections	Date: 01/09/2004
CLASS 1 - MAJOR ARTERIAL (Heavy Duty) Standard and With Median	
Scale 1"=60'	
Sheet: 1 of 8	

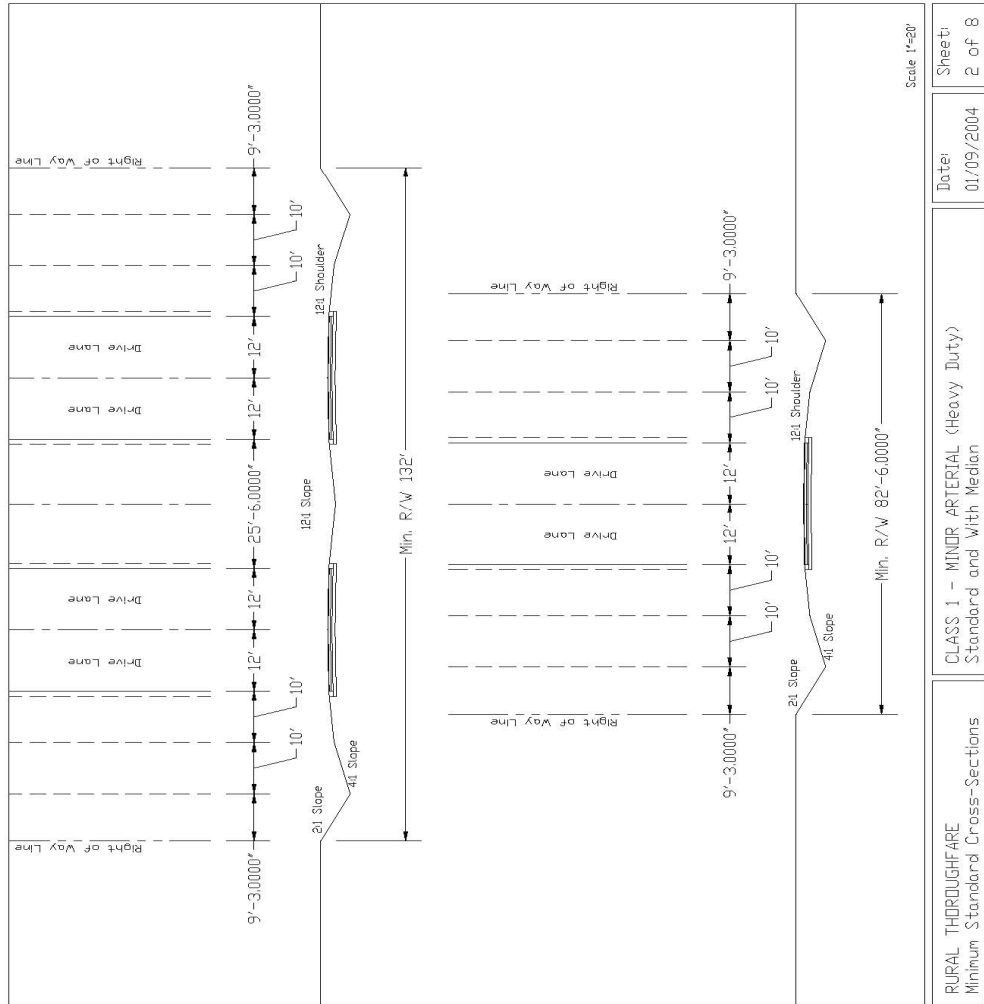
1 of 8

II. Class 1. Minor Arterial (Heavy Duty)-Standard and with Median.

Henry County Development Code

Roads, Streets and Trafficways

Appendix B Minimum Standard Cross-Sections



Scale 1"=20'

Date: 01/09/2004
Sheet: 2 of 8

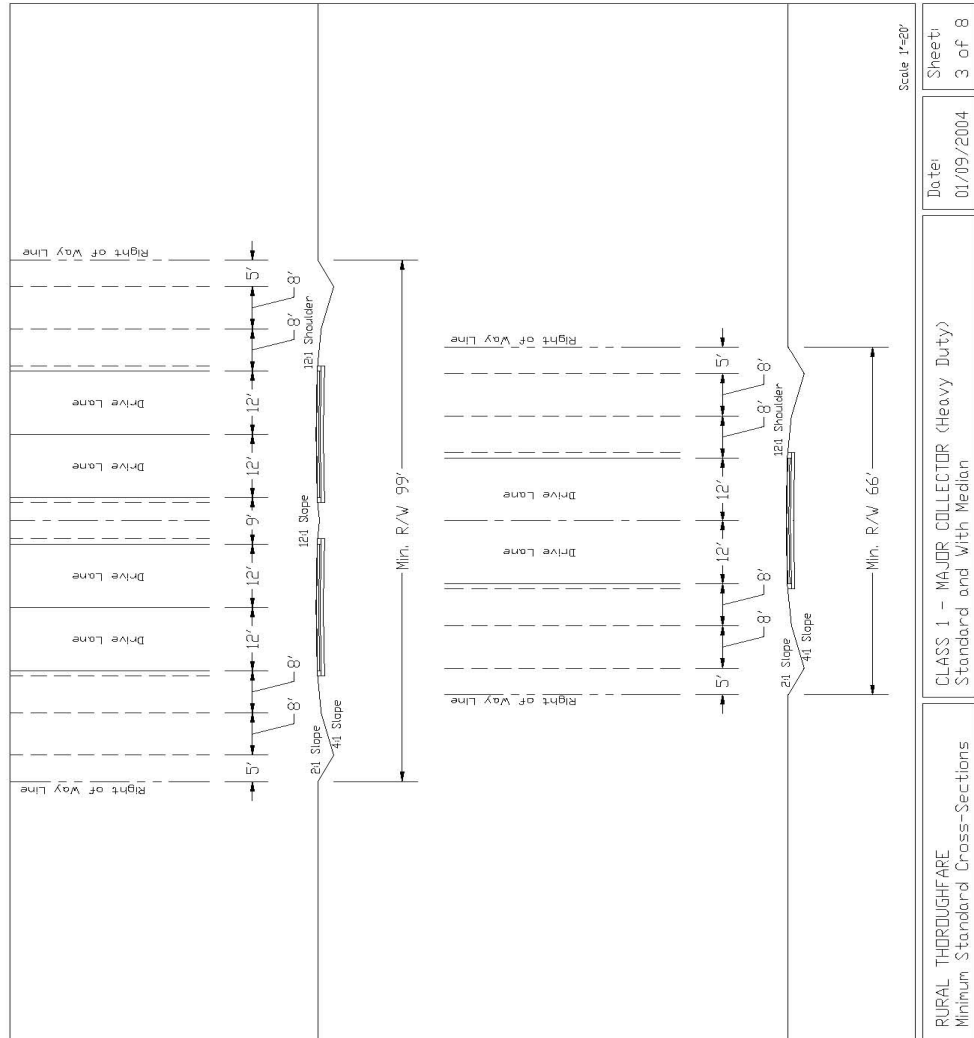
CLASS 1 - MINOR ARTERIAL (Heavy Duty)
Standard and with Median

RURAL THROUGHFARE
Minimum Standard Cross-Sections

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III. Class 1. Major Collector (Heavy Duty)-Standard and with Median.

Appendix B Minimum Standard Cross-Sections



Scale 1"=20'

Date: 01/09/2004
Sheet: 3 of 8

CLASS 1 - MAJOR COLLECTOR (Heavy Duty)
Standard and With Median

RURAL THOROUGHFARE
Minimum Standard Cross-Sections

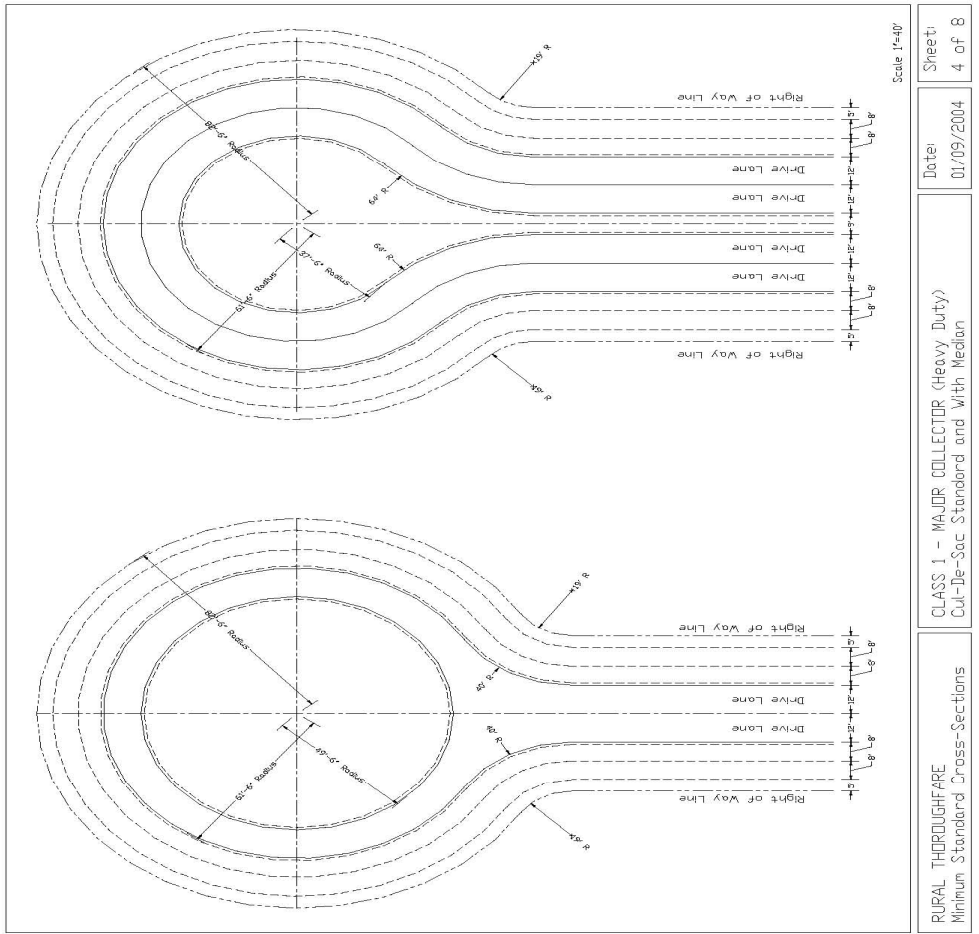
3 of 8

IV. Class 1. Major Collector (Heavy Duty)-Cul-De-Sac Standard and with Median.

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Roads, Streets and Trafficways

Appendix B Minimum Standard Cross-Sections

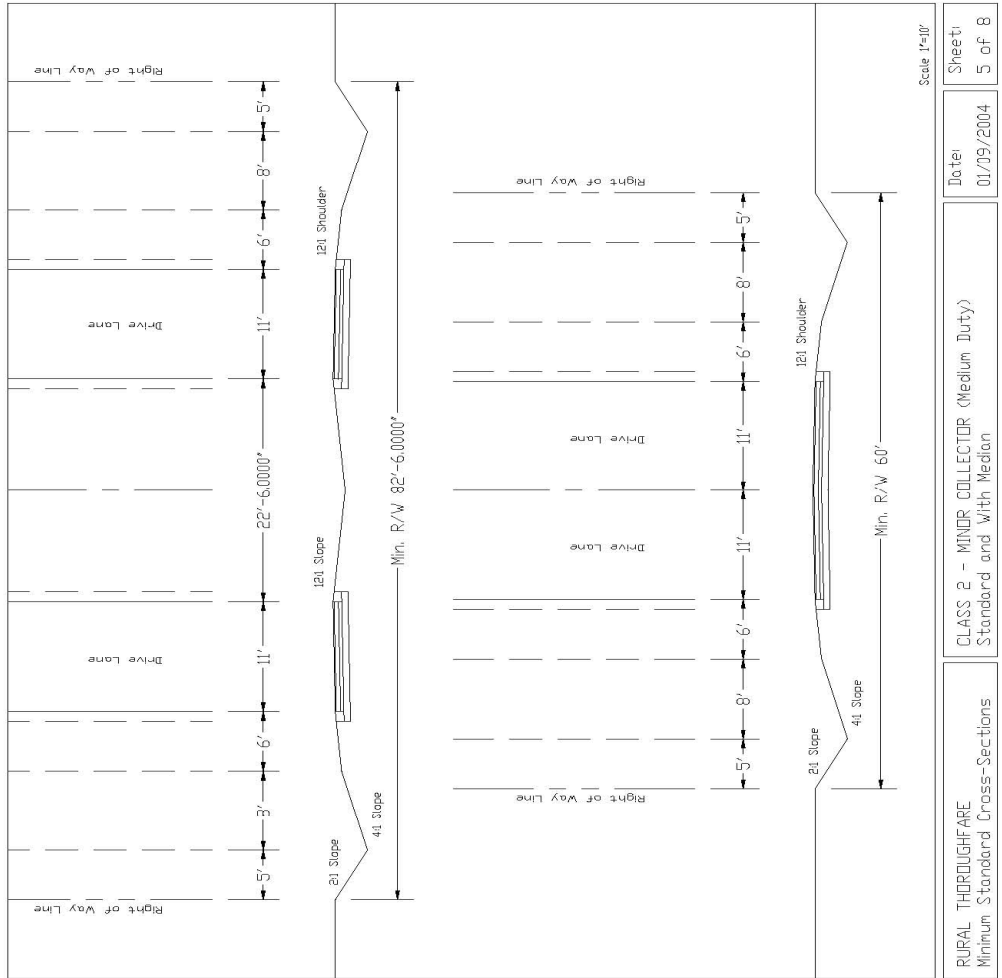


RURAL THOROUGHFARE Minimum Standard Cross-Sections	CLASS 1 - MAJOR COLLECTOR (Heavy Duty) Cul-De-Sac Standard and With Median	Date: 01/09/2004	Sheet: 4 of 8
	Scale: 1/4"=1'-0"		

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V. Class 2. Minor Collector (Medium Duty)-Standard and with Median.

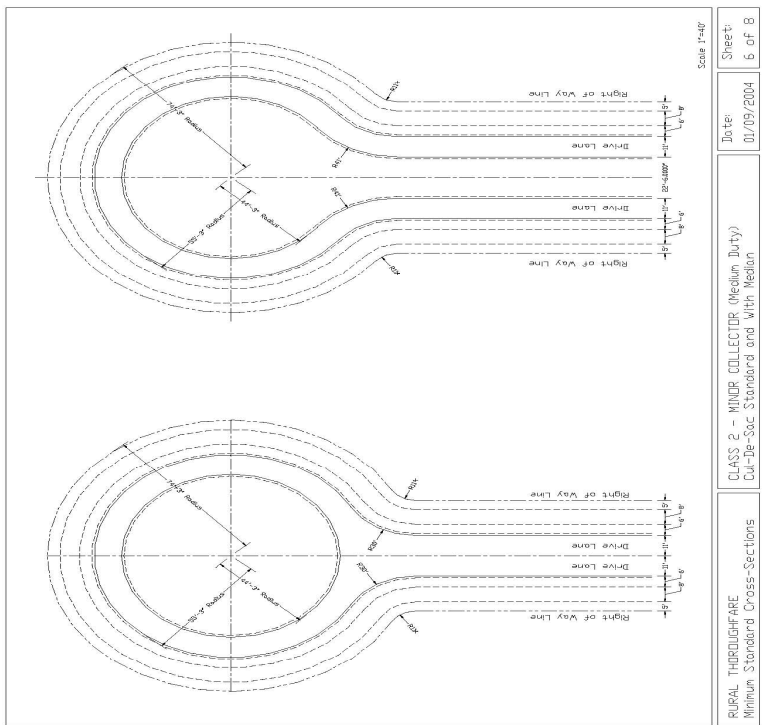
Appendix B Minimum Standard Cross-Sections



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VI. Minor Collector (Medium Duty)-Cul-De-Sac Standard and with Median.

Appendix B Minimum Standard Cross-Sections



Scale 1"=40'

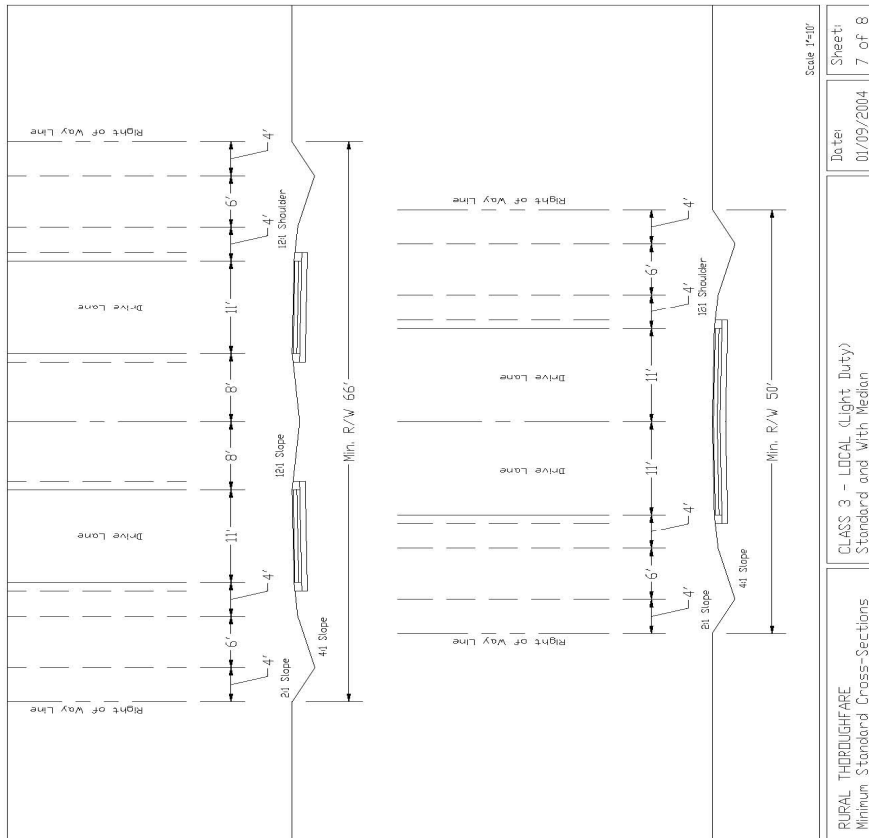
Date: 01/09/2004

Sheet: 6 of 8

RURAL THROUGHTFARE Minimum Standard Cross-Sections

VII. Class 3 Local (Light Duty)-Standard and with Median.

Appendix B Minimum Standard Cross-Sections



Scale: 1"=10'

Sheet: 7 of 8
Date: 01/09/2004

CLASS 3 - LOCAL (Light Duty)
Standard and With Median

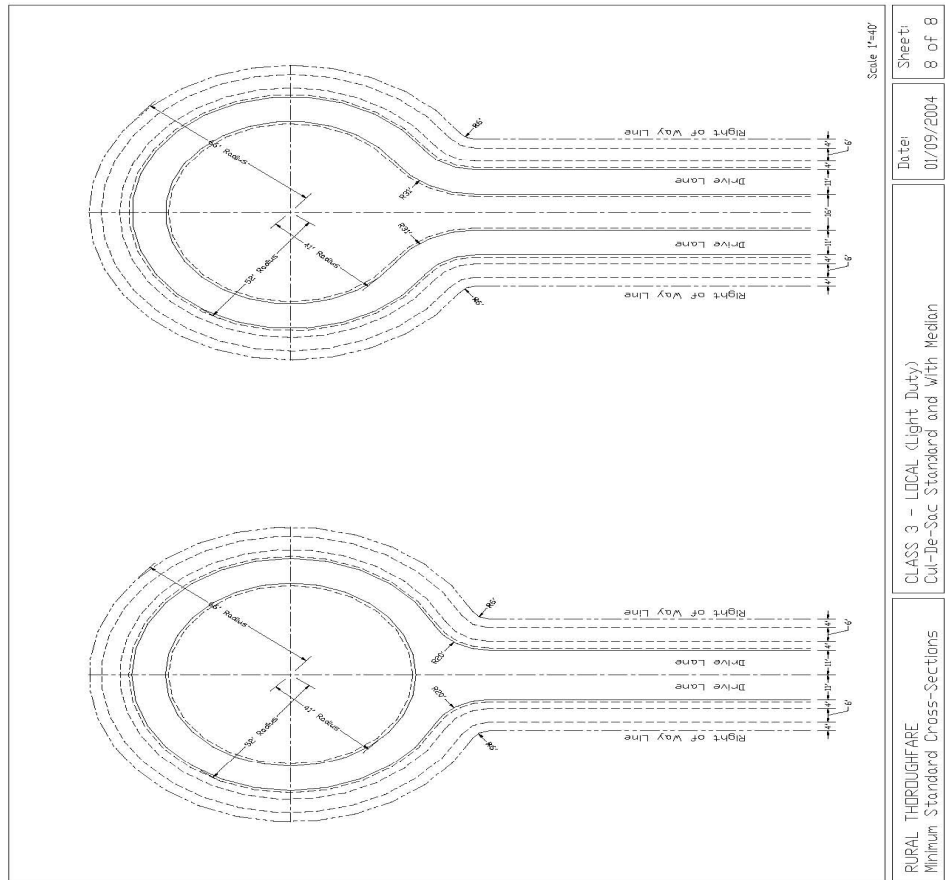
RURAL THOROUGHFARE
Minimum Standard Cross-Sections

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VIII. Class 3 Local (Light Duty)-Cul-De-Sac Standard and with Median.

(Ord. 2004-1-1-28, passed 1-28-2004)

Appendix B Minimum Standard Cross-Sections



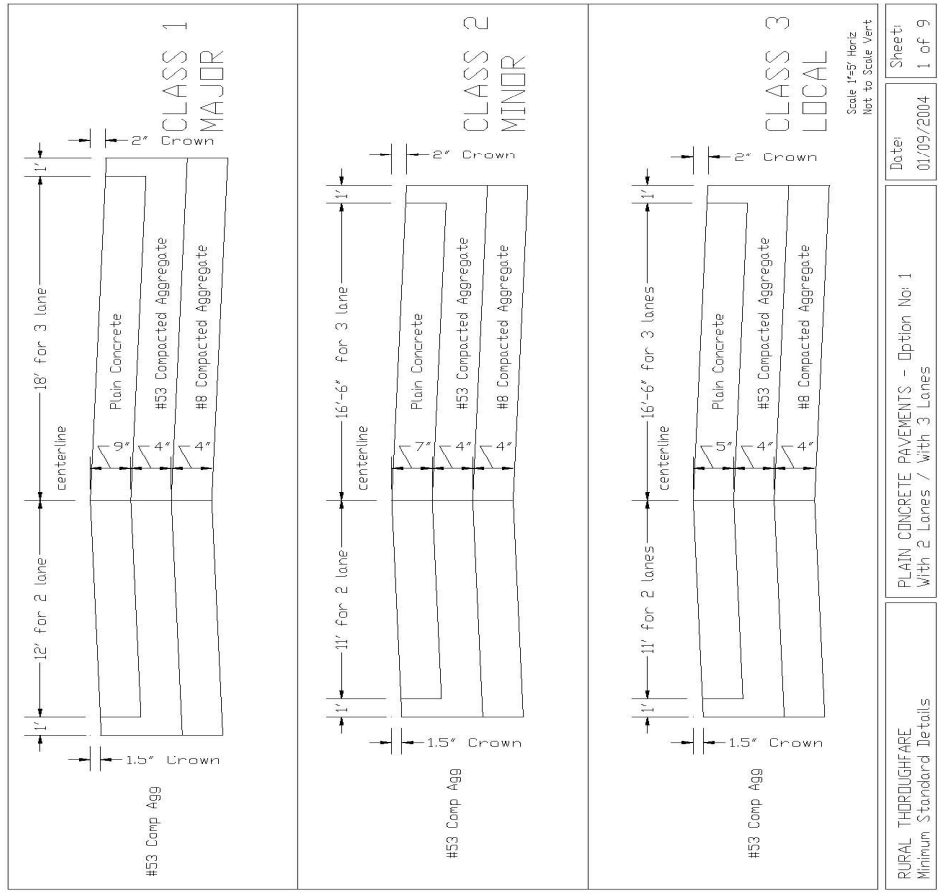
APPENDIX C: MINIMUM STANDARD DETAILS

I. Plain Concrete Pavements. Option No. 1 with 2 Lanes/with 3 Lanes.

Roads, Streets and Trafficways

Henry County Development Code

Appendix C Minimum Standard Details

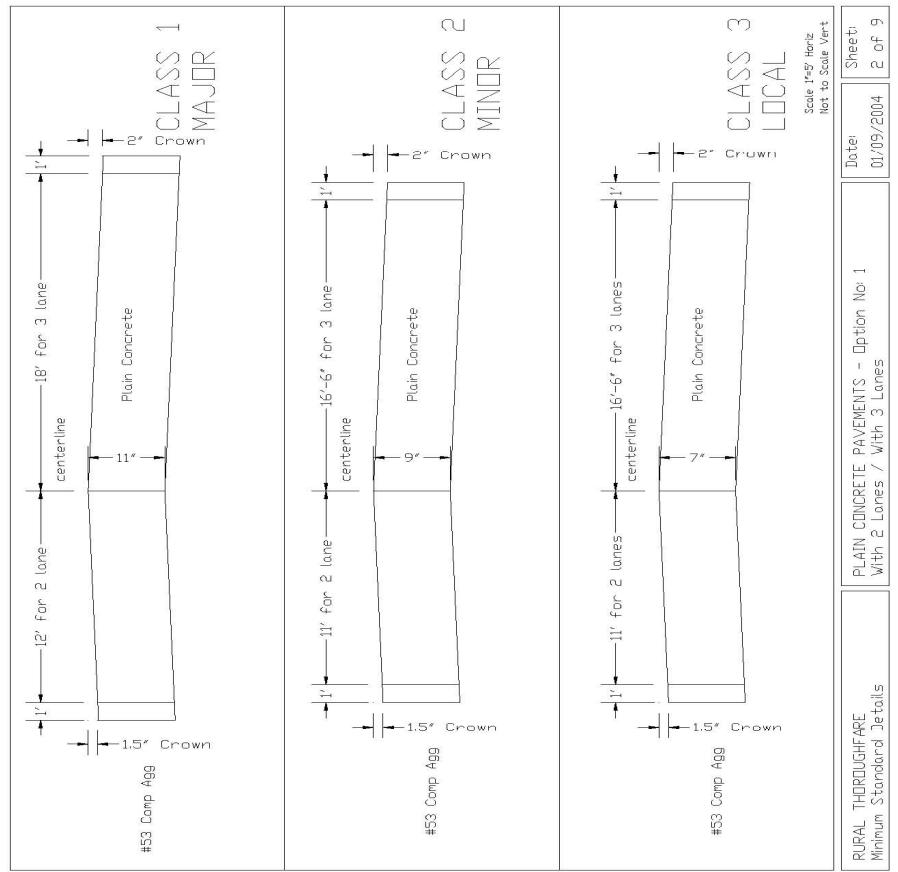


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II. Plain Concrete Pavements. Option No. 1 with 2 Lanes/with 3 Lanes.

Henry County Development Code Roads, Streets and Trafficways

Appendix C Minimum Standard Details



RURAL THOROUGHFARE Minimum Standard Details	Date:	01/09/2004	Sheet:	2 of 9
	PLAIN CONCRETE PAVEMENTS - Option No. 1 With 2 Lanes / With 3 Lanes			

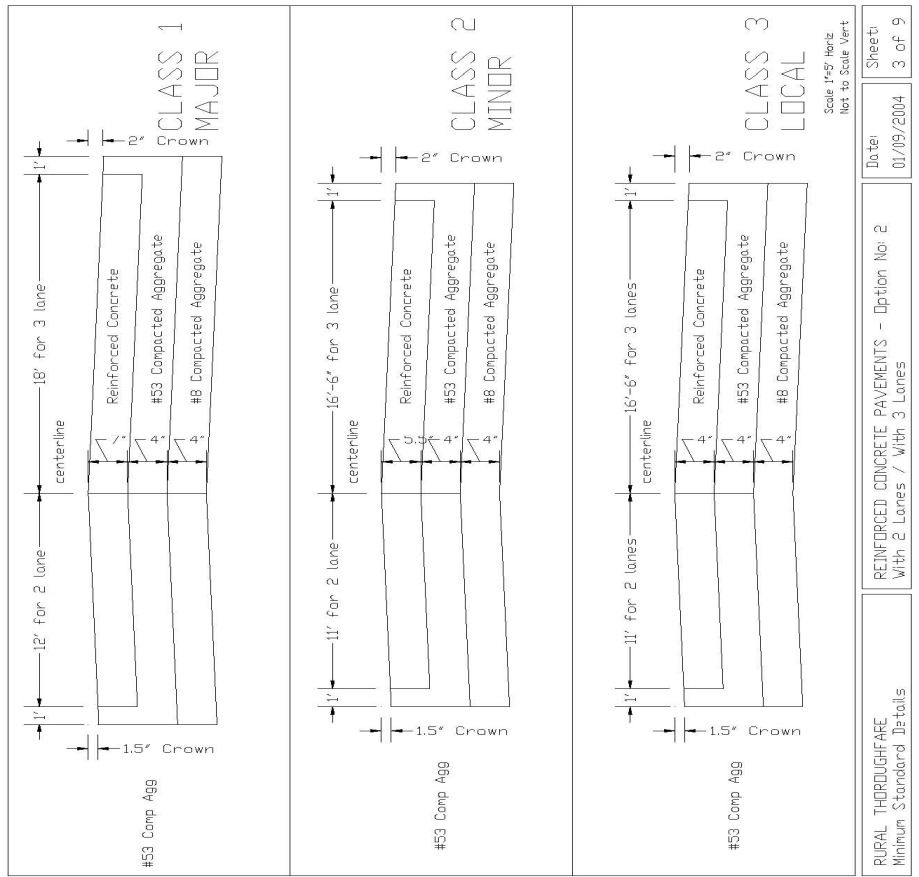
2 of 9

III. Reinforced Concrete Pavements. Option No. 2 with 2 Lanes/with 3 Lanes.

Roads, Streets and Trafficways

Henry County Development Code

Appendix C Minimum Standard Details



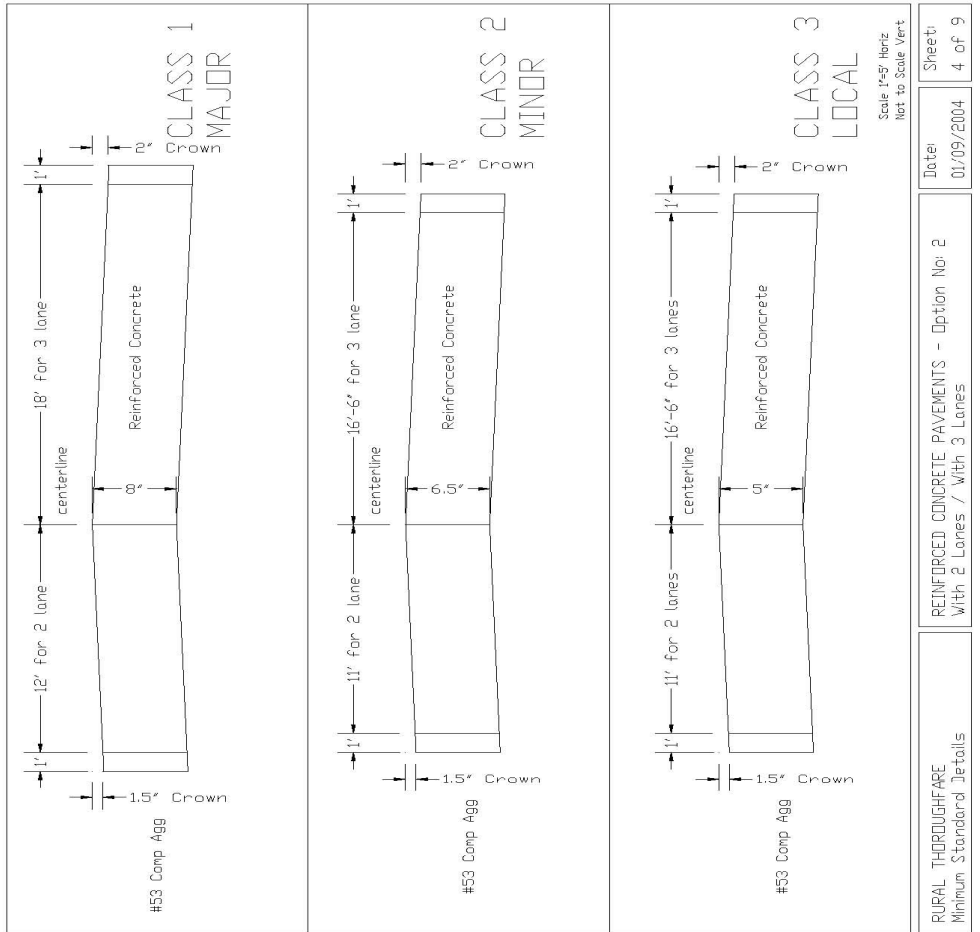
Scale 1"=5' Horiz
Not to Scale Vert

REINFORCED CONCRETE PAVEMENTS - Option No. 2 With 2 Lanes / With 3 Lanes	Date: 01/09/2004	Sheet: 3 of 9
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IV. Reinforced Concrete Pavements. Option No. 2 with 2 Lanes/with 3 Lanes.

Appendix C Minimum Standard Details



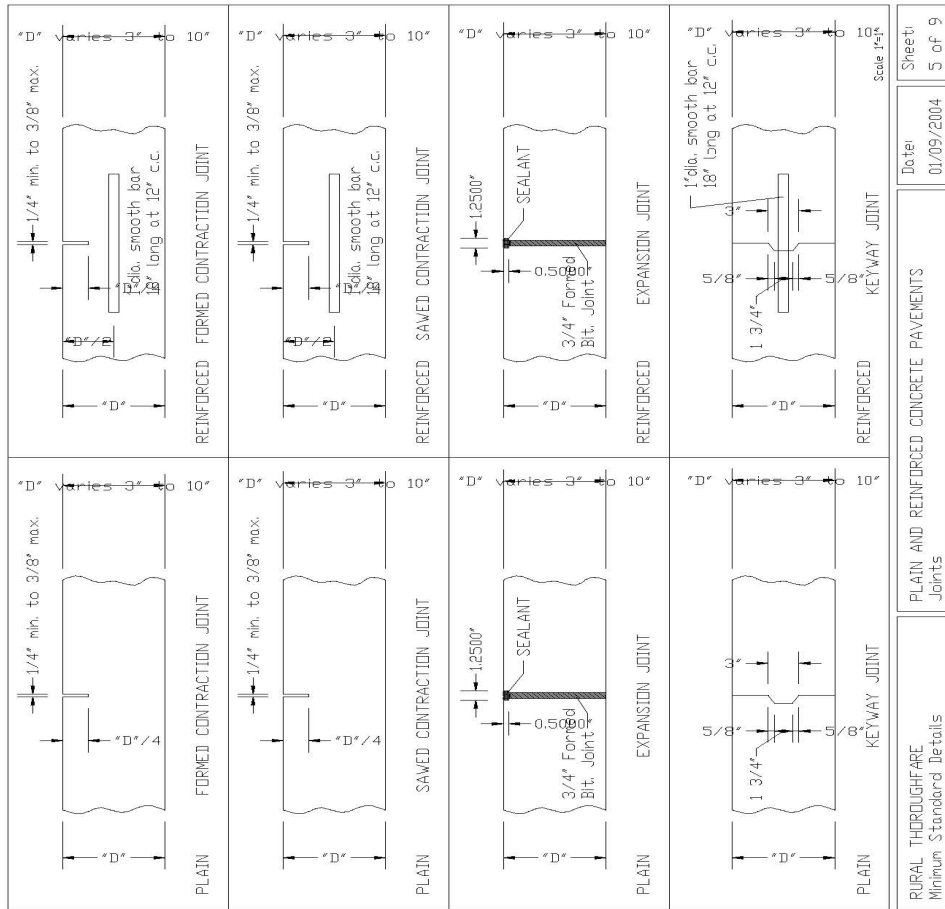
RURAL THOROUGHFARE Minimum Standard Details	REINFORCED CONCRETE PAVEMENTS - Option No. 2 With 2 Lanes / With 3 Lanes	Date: 01/09/2004	Sheet: 4 of 9
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V. Plain and Reinforced Concrete Pavements-Joints.

Roads, Streets and Trafficways

Henry County Development Code

Appendix C Minimum Standard Details



Scale: 1"=4'

Date: 01/09/2004

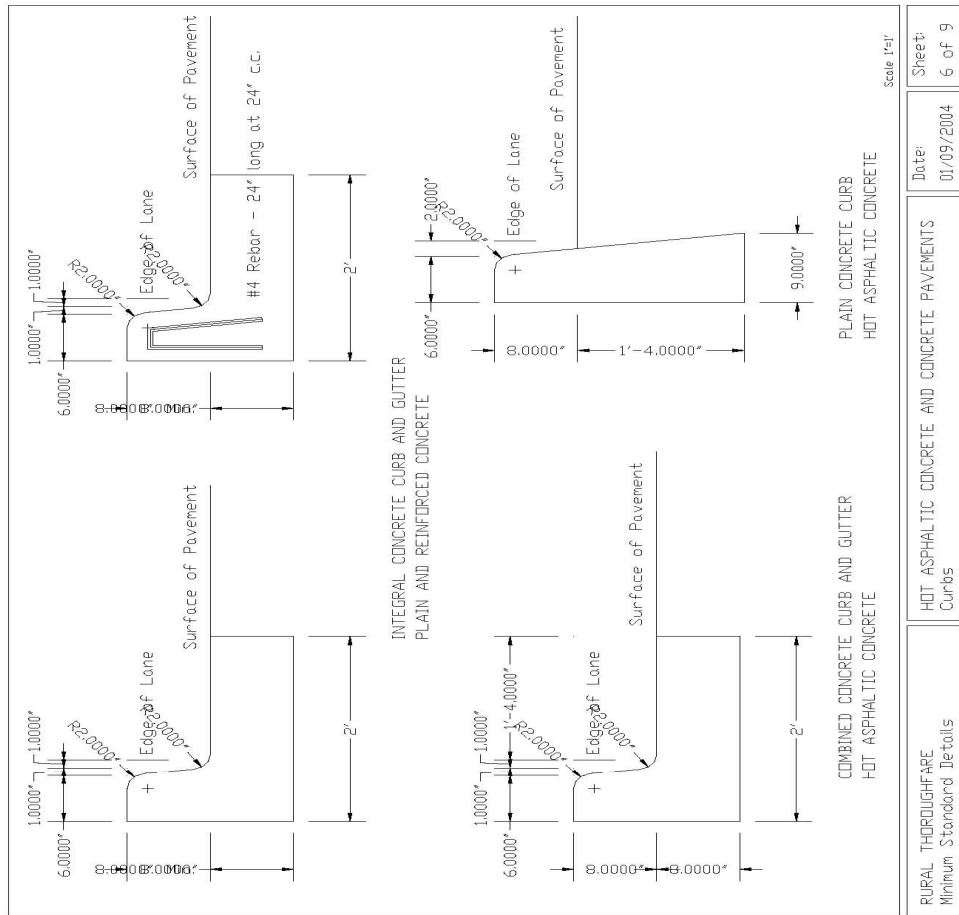
PLAIN AND REINFORCED CONCRETE PAVEMENTS Joints

RURAL THOROUGHFARE Minimum Standard Details

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VI. Hot Asphaltic Concrete and Concrete Pavements-Curbs.

Appendix C Minimum Standard Details



Sheet: 6 of 9

Date: 01/09/2004

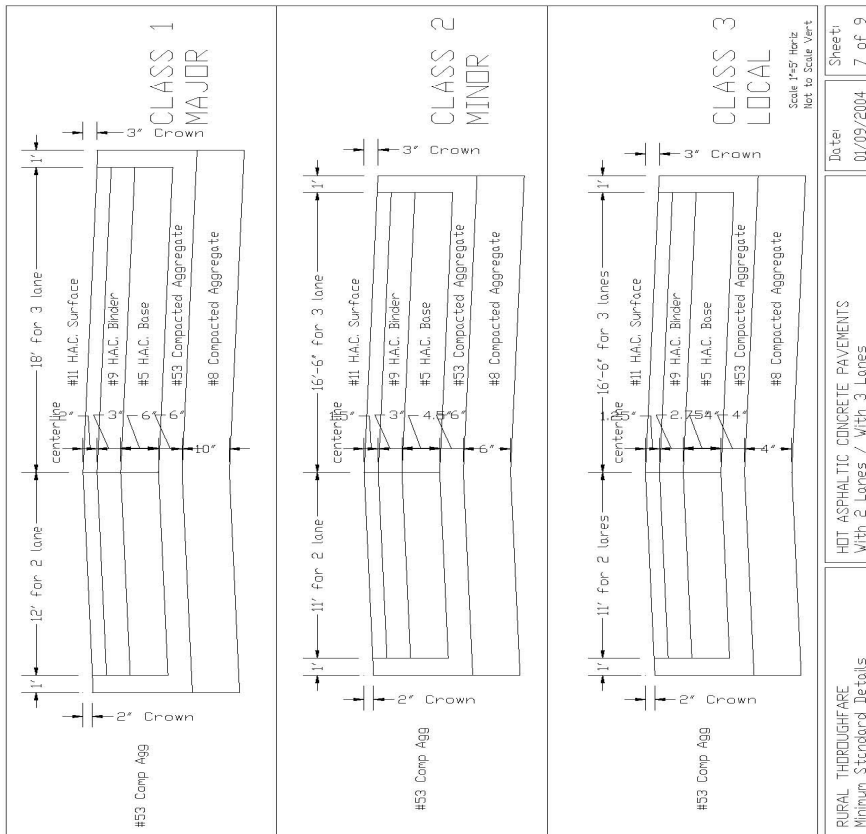
HOT ASPHALTIC CONCRETE AND CONCRETE PAVEMENTS
Curbs

RURAL THROUGHFARE
Minimum Standard Details

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VII. Hot Asphaltic Concrete Pavements with 2 Lanes/with 3 Lanes.

Appendix C Minimum Standard Details



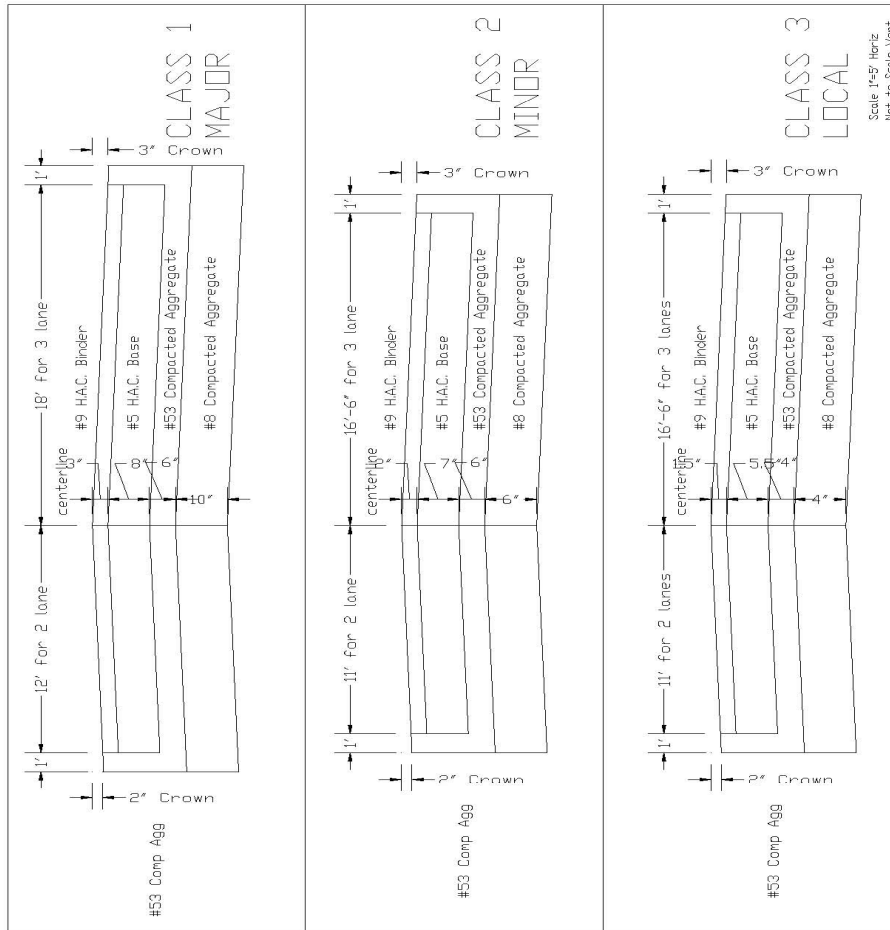
RURAL THROUGHFARE Minimum Standard Details	HOT ASPHALTIC CONCRETE PAVEMENTS With 2 Lanes / With 3 Lanes		Date: 01/09/2004	Sheet: 7 of 9
	7 of 9			

VIII. Hot Asphaltic Concrete Pavements with 2 Lanes/with 3 Lanes-Modified.

Henry County Development Code

Roads, Streets and Trafficways

Appendix C Minimum Standard Details



Scale: 1/4" = 1' Horiz
1/8" = 1' Vert

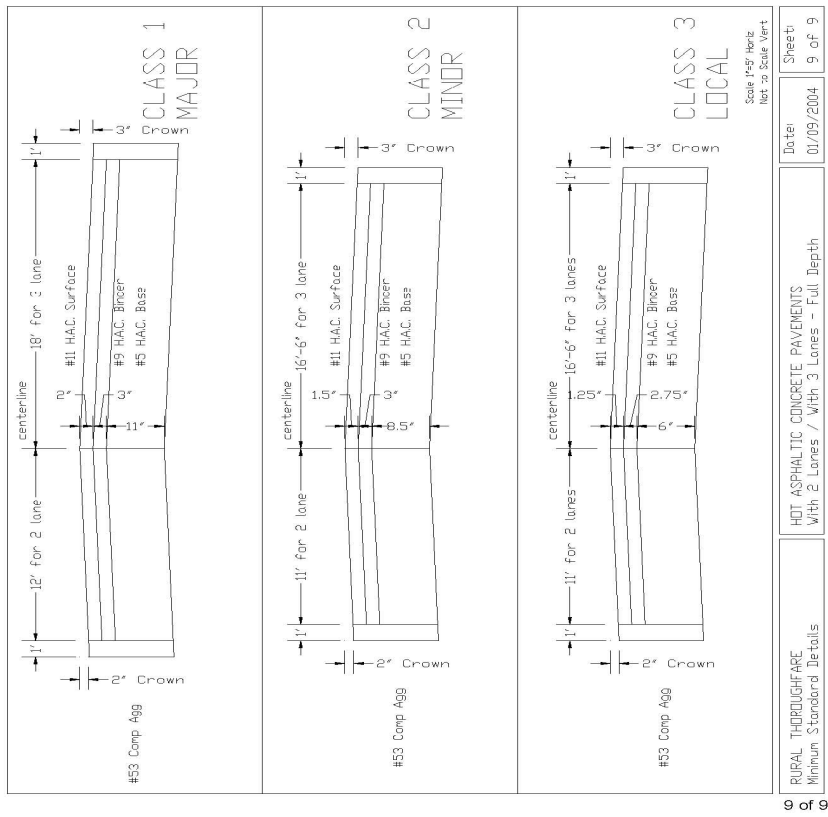
RURAL THOROUGHFARE Minimum Standard Details	HOT ASPHALTIC CONCRETE PAVEMENTS With 2 Lanes / With 3 Lanes - Modified	Date: 01/09/2004	Sheet: 8 of 9
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IX. Hot Asphaltic Concrete Pavements with 2 Lanes/with 3 Lanes-Full Depth.

Roads, Streets and Trafficways Henry County Development Code

Appendix C Minimum Standard Details



RURAL THROUGHFARE Minimum Standard Details	HOT ASPHALTIC CONCRETE PAVEMENTS With 2 Lanes / With 3 Lanes - Full Depth	Date: 01/09/2004	Sheet: 9 of 9
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(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 153: WATER AND SEWERAGE

Section

General Provisions

- 153.01 Purpose
- 153.02 Interpretation with other provisions
- 153.03 Liability disclaimer; retention of remedies
- 153.04 Exempt projects

Potable Water Distribution System

- 153.15 Policy
- 153.16 Standard specifications

Public Sanitary Sewer System

- 153.30 Policy
- 153.31 Standard specifications

Private Sewage Disposal System

- 153.45 Policy
- 153.46 Standard specifications

GENERAL PROVISIONS

' 153.01 PURPOSE.

The purpose of this chapter is to promote public health, safety and general welfare through the orderly extension, design and construction of public potable water and sanitary sewerage facilities and private sewage disposal systems.
(Ord. 2004-1-1-28, passed 1-28-2004)

(2) All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 153.02 INTERPRETATION WITH OTHER PROVISIONS.

(A) The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other ordinances of the county. In the case of conflicting requirements, the most restrictive shall apply.

(B) In addition to the requirements of this chapter, compliance with the requirements set forth in other applicable chapters with respect to submission and approval of primary and secondary subdivision plats, improvement plans, building and zoning permits, construction inspections, appeals and similar matters and compliance with applicable state statutes and regulations shall be required.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 153.03 LIABILITY DISCLAIMER; RETENTION OF REMEDIES.

(A) (1) The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study.

(2) This chapter shall not create liability on the part of the county or any officer or employee thereof for any damage that may result from reliance on this chapter or on any administrative decision lawfully made thereunder.

(B) (1) Nothing herein contained shall prevent the county from taking other lawful action as may be necessary to prevent or remedy any violation.

' 153.04 EXEMPT PROJECTS.

Any residential (major or minor), commercial or industrial subdivision or construction project thereon that has had its drainage plan approved by the Planning Commission prior to the effective date of this chapter shall be exempt from all the requirements of this chapter.

(Ord. 2004-1-1-28, passed 1-28-2004)

POTABLE WATER DISTRIBUTION SYSTEM

' 153.15 POLICY.

(A) (1) If access to a public water system is available, a complete water main supply system that connects to the public water system shall be installed to the specifications of the water utility that will serve the subdivision and/or with all other applicable state statutes, rules, regulations, orders and specifications.

(2) The water system shall include any required hydrants.

(B) If access to a public water system is not available, the subdivider shall require on each lot, as a condition of sale, the installation of a private water system in accordance with all minimum standards and requirements of the State Board of Health or other state or county agency.

(C) All water systems installed to serve the subdivision or any lot thereon must be inspected and approved by the officially designated state, county or municipal agency and by any water utility concerned.

(D) (1) If sufficient water flow is available, fire hydrants shall be provided at intervals recommended by the local fire department.

(2) Generally, hydrant spacing may range from 350 to 600 feet, depending upon the nature of the area being served.

(E) If the subdivided area is planned or
PUBLIC SANITARY SEWER SYSTEM

scheduled to be served by a public or community water system in the future, the Planning Commission may require the applicant to provide facilities for future connection.

(F) Water lines shall be located within road, street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access into the easements shall be provided.

(G) Private water systems on non-residential properties shall be designed to the standards specified within the State Department of Health Bulletin S.E. 13, *On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments*, as amended.

(H) Wells on parcels containing residential uses shall be located a minimum of 75 feet from any property line adjoining agricultural uses to contain any buffers around wells required by the application of herbicides, pesticides and fertilizers on the agricultural use within the residential lot.

(I) (1) The plans for the installation of a water main supply system shall be provided by the applicant and approved by the Planning Commission.

(2) Upon the completion of the water supply installation and one week prior to acceptance, record drawings for the system shall be filed with the Planning Commission staff.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 153.16 STANDARD SPECIFICATIONS.

Specifications for the construction and installation of potable water systems are governed by the local service providers to which the development will connect.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 153.30 POLICY.

(A) If access to a public sanitary sewer system

is available, a complete sanitary sewer system that connects to the public sanitary sewer system shall be installed to the specifications of the sewage disposal utility that will serve the subdivision and/or with all other applicable state statutes, regulations, orders and specifications.

(B) (1) Sanitary sewers shall be located within road, street or alley rights-of-way unless topography dictates otherwise.

(2) When located in easements on private property, access shall be provided to all manholes.

(C) The plans for the installation of a sanitary sewer system shall be provided by the applicant and approved by the Planning Commission.

(D) Mandatory connection to the sewer system is required if the edge of the property to be developed is within 300 feet of the sewer line unless the connection is declined by the sewer service provider.

(E) An approval letter that the sewer service provider can accept the additional flow or a septic permit for each proposed lot is required with the submission of the primary plats of subdivisions or site plans of projects not requiring subdivision.

(F) Upon the completion of the sanitary sewer installation and one week prior to acceptance, the plans for the system as built shall be filed with the Planning Commission staff.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 153.31 STANDARD SPECIFICATIONS.

(A) Specifications for the construction and installation of sanitary sewer systems are governed by the local service providers to which the development will connect.

(B) Private sewage disposal systems (septic systems) shall meet the standards of the State and County Health Department.

(Ord. 2004-1-1-28, passed 1-28-2004)

PRIVATE SEWAGE DISPOSAL SYSTEM

' 153.45 POLICY.

(A) If access to a public sanitary sewer system is not available, the subdivider shall require on each lot, as a condition of sale, the installation of a private sewage disposal system in accordance with all minimum standards and requirements of the State Board of Health or other state or county agency.

(B) All sewage disposal systems installed to serve the subdivision or any lot thereon must be inspected and approved by the officially designated state, county or municipal agency and by any sewage disposal utility concerned.

(C) If access to a public sanitary sewer system is not available and private sewage disposal systems are proposed, minimum lot areas shall conform to the requirements of Chapter 150 or of any other county ordinance establishing lot areas for private sewage disposal systems.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 153.46 STANDARD SPECIFICATIONS.

Private sewage disposal systems shall be designed to the standards specified within the State Department of Health Rule 410, *Residential Sewage Disposal Systems*, as amended, and Bulletin S.E. 13, *On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments*, as amended.

(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 154: UTILITIES

Section

General Provisions

- 154.001 Purpose
- 154.002 Interpretation with other provisions
- 154.003 Liability disclaimer; retention of remedies
- 154.004 Exempt projects
- 154.005 Definitions
- 154.006 Utility policy

Electrical Service

- 154.020 Local service provider
- 154.021 Fuel cells

Natural Gas Service

- 154.035 Service
- 154.036 LP gas service

Cable Television Service

- 154.050 Specifications governed

Telephone Service

- 154.065 Specifications governed

Telecommunications Facilities; Towers

- 154.080 General provisions
- 154.081 Application procedure and approval process
- 154.082 Performance standards
- 154.083 Zoning specific performance standards

Wind Energy Conversion Systems

- 154.095 Purpose
- 154.096 Intent
- 154.097 Applicability
- 154.098 Prohibition
- 154.099 Conflict
- 154.100 Application requirements
- 154.101 Setback requirements
- 154.102 Safety design and installation standards
- 154.103 Other applicable standards
- 154.104 Use of roads and services
- 154.105 Operation and maintenance
- 154.106 Decommissioning plan
- 154.107 Liability insurance

- 154.999 Penalty

GENERAL PROVISIONS

' 154.001 PURPOSE.

The purpose of this chapter is to promote public health, safety and general welfare through the orderly extension, design and construction of public and private utility systems.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 154.002 INTERPRETATION WITH OTHER PROVISIONS.

(A) (1) The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other ordinances of the county.

(B) In addition to the requirements of this

(2) In the case of conflicting requirements, the most restrictive shall apply.

chapter, compliance with the requirements set forth in other applicable ordinances with respect to submission and approval of primary and secondary subdivision plats, improvement plans, building and zoning permits, construction inspections, appeals and similar matters and compliance with applicable state statutes and regulations shall be required.
(Ord. 2004-1-1-28, passed 1-28-2004)

**' 154.003 LIABILITY DISCLAIMER;
RETENTION OF REMEDIES.**

(A) (1) The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff depths may be increased by human-made or natural causes.

(2) This chapter does not imply that land uses permitted will be free from stormwater damage.

(3) This chapter shall not create liability on the part of the county or any officer or employee thereof for any damage that may result from reliance on this chapter or on any administrative decision lawfully made thereunder.

(B) Nothing herein contained shall prevent the county from taking other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 154.004 EXEMPT PROJECTS.

Any residential (major or minor), commercial or industrial subdivision or construction project thereon that has had its utility plan approved by the Board prior to the effective date of this chapter shall be exempt from all of the requirements of this chapter.
(Ord. 2004-1-1-28, passed 1-28-2004)

CELLULAR TELECOMMUNICATIONS.
Commercial low power mobile radio service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete

' 154.005 DEFINITIONS.

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

ACT. Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, including future amendments to the Communications Act of 1934.

ALTERNATIVE TOWER STRUCTURES. Human-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or facilities/towers. See also **STEALTH FACILITY**.

ANTENNA. Any exterior apparatus designed for telephonic, radio or television communications through sending and/or receiving of electromagnetic waves.

ANTENNA HEIGHT. Vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the **ANTENNA HEIGHT**.

ANTENNA SUPPORT STRUCTURE. Any pole, telescoping mast, tower, tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

APPLICANT. Person who applies for a wireless facility/tower or a WECS siting. An **APPLICANT** can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, lessee or architect with the owner=s consent.

channels that are assigned in groups to geographic cells within a service area and that are capable of being reused in different cells within the service area.

CELLULAR TELECOMMUNICATIONS

FACILITY. The equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer that connects the mobile unit with the land-based telephone lines.

CO-LOCATION. Locating wireless communication equipment from more than one provider on a single site.

COMMUNICATIONS FACILITY. Land use facility supporting antennas and/or microwave dishes that send and/or receive radio frequency signals. **COMMUNICATIONS FACILITIES** include structures or facilities/towers, supporting equipment and accessory buildings.

COMMUNICATIONS TOWER. Guyed, monopole or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic communication.

COMMUNICATIONS TRANSMISSION SYSTEM or **COMMUNICATIONS SYSTEM.** Wired communication transmission system, open video system or wireless communications transmission system regulated by this chapter.

COMPREHENSIVE OR MASTER PLAN. Current adopted **COMPREHENSIVE/MASTER PLAN** of the county.

COUNTY. Henry County.

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

FINANCIAL ASSURANCE/COMMITMENT.

Sources of private or public funds or combinations thereof that have been identified which will be sufficient to finance public facilities or private development necessary to support development and that there is reasonable assurance that the funds will be timely put to that end. Examples include a surety bond, cash escrow, irrevocable letter of credit or combinations thereof.

FREQUENCY. Number of cycles completed each second by a sound wave; measured in hertz (Hz).

GOVERNING AUTHORITY. County Commissioners of Henry County.

GRADE. Lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and the property line or, when the property line is more than five feet from the structure, between the structure and a line five feet from the structure.

GUYED TOWER. Communication tower that is supported, in whole or in part, by guy wires and ground anchors.

LATTICE TOWER. Guyed or self-supporting three- or four-sided, open, steel frame structure used to support telecommunications equipment.

LICENSE. The rights and obligations extended by the county to an operator to own, construct, maintain and operate its system within the boundaries of the county for the sole purpose of providing services to persons or areas outside the county.

Mgz. Megahertz, or 1,000,000 Hz.

MW. Megawatt, or 1,000,000 watts.

METEOROLOGICAL TOWER. Tower that provides a platform for instrumentation to evaluate meteorological conditions. For the purpose of this chapter, a **METEOROLOGICAL TOWER** is a temporary structure that is intended to be on any one site for a period of five years or less.

MICROWAVE. Electromagnetic radiation with frequencies higher than 1,000 Mgz; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

MONOPOLE TOWER. Communication tower consisting of a single pole, constructed without guy wires and ground anchors.

OPERATOR. Entity responsible for the day-to-day operation and maintenance of the unit, including any third party subcontractors.

OWNER. Owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the County Assessor=s Office. **OWNER** also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to Zoning Administrator a copy of a deed or contract of sale showing date, book and page of recording.

PRE-EXISTING TOWER OR ANTENNA. Any tower or antenna for which a permit has been issued prior to the effective date of this chapter and that is exempt from the requirements of this chapter so long as the tower or antenna is not modified or changed.

PRIMARY BUILDING/STRUCTURE. Building or structure in which the primary use of the lot or premises is located or conducted. With respect to residential uses, the **PRIMARY STRUCTURE OR BUILDING** shall be the main dwelling.

PROFESSIONAL ENGINEER. Qualified individual who is licensed as a professional engineer by the state.

PUBLIC PROPERTY. Any real property, easement, air-space or other interest in real estate, including a road, street, or traffic-way, owned by or controlled by the county or any other government unit.

ROOF AND/OR BUILDING MOUNT FACILITY. A low power mobile radio service telecommunications facility on which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.

SCENIC VIEW. View that may be framed, side angle or panoramic and may include natural and/or man-made structures and activities. A **SCENIC VIEW** may be from a stationary viewpoint or be seen as one travels along a roadway, waterway or path. A **VIEW** may be to a far away object, such as a mountain, or of a nearby object.

SELF-SUPPORT TOWER. Communication tower that is constructed without guy wires and ground anchors.

SPECTRUM. Relating to any transmission or reception of electromagnetic waves.

STEALTH FACILITY. Any communication facility/tower that is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements and antennas designed to look like light poles. See also **ALTERNATIVE TOWER STRUCTURE.**

SUBSTATION. Apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility=s transmission lines.

SWITCHING STATION. Apparatus/structure in the system similar to a substation but not necessarily increasing voltage into the grid.

SYSTEM. Communications transmission system operated by a service provider in the county.

TELECOMMUNICATIONS. Transmission between or among points specified by the user of information of the user=s choosing without change in the form or content of the information as sent and received.

TEMPORARY WIRELESS COMMUNICATION FACILITY/TOWER. Any tower, pole, antenna and the like designed for use while a permanent wireless facility/tower is under construction or for a special event or conference where a majority of people attending are wireless users.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

WECS. Wind energy conversion system.

WECS OWNER. Entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. **OWNER** does not mean:

(1) Property owner from whom land is leased for locating the WECS (unless property owner has an equity interest in the WECS); or

(2) Any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on the security interest, provided that after foreclosure, the person seeks to sell the WECS(s) within one year of the event.

WECS PROJECT. Collection of WECS and substations as specified in the siting approval application pursuant to this chapter.

WECS TOWER. Support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.

WECS TOWER HEIGHT. Distance from the rotor blade at its highest point to the surface of the ground existing prior to construction.

WIND ENERGY CONVERSION SYSTEMS (WECS). All necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including, but not limited to, the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the substations, switching stations, communications facilities, and other required facilities and equipment, as related to a WECS project.

(1) **COMMERCIAL WECS.** Wind energy collection system constructed on the property of another by a company or corporation or other entity, whose general intent is to capture wind energy and place it on the electrical grid for resale.

(2) **MICRO-WECS.** Small wind energy collection system whose general purpose is to provide energy to a residential or small business user such as a farmer or homeowners. Height shall not exceed 60 feet.

(3) **NON-COMMERCIAL WECS.** Wind energy collection system that is generally smaller than a commercial WECS and the primary purpose is to collect wind energy for purpose of supplying energy to the owners, such as a business, school, or factory. Height shall not exceed 200 feet.

WIRELESS COMMUNICATION. All-encompassing definition; any facilities/towers, poles, antennas or other structures intended for use in connection with transmission or reception of radio or television signals or any other spectrum-based transmission/reception.

WHIP ANTENNA. Antenna that transmits signals in a 360 degree pattern. **WHIP ANTENNAS** are typically cylindrical in shape and are less than six inches in diameter and measure up to 18 inches in height. Also called **OMNIDIRECTIONAL, STICK OR PIPE ANTENNAS.**

VIEW CORRIDOR. Three-dimensional area extending out from a viewpoint. The width of the **VIEW CORRIDOR** depends on the focus of the view. The focus of the view may be a single object, such as a mountain, that would result in a narrow corridor, or a group of objects, such as a downtown skyline, that would result in a wide corridor. Panoramic views have very wide corridors and may include a 360 degree perspective. Although the **VIEW CORRIDOR** extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights shall be limited in order to protect the view.

(Ord. 2009-08-11-11, passed 11-11-2009; Ord. 2004-1-1-28, passed 1-28-2004)

' **154.006 UTILITY POLICY.**

All utility lines, including, but not limited to, gas, sewer, electric power, telephone and cable television, shall be located underground throughout the subdivision. Wherever existing lines are located above ground, except on public roads and rights-of-way, they shall be removed and placed underground. All utility lines and other facilities/towers existing and proposed throughout the subdivision shall be shown on the primary plat. Underground service connections to the traffic-way property line of each platted lot shall be installed at the subdivider=s expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots that are to be retained in single ownership and that are to be developed for the same primary purpose.

(Ord. 2004-1-1-28, passed 1-28-2004)

ELECTRICAL SERVICE

' **154.020 LOCAL SERVICE PROVIDER.**

Specifications for the design, construction and installation of electrical service systems are governed by the local service providers to which the development will connect.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **154.021 FUEL CELLS.**

Specifications for the design, construction and installation of fuel cell systems are governed by the local service providers that will service the development.

(Ord. 2004-1-1-28, passed 1-28-2004)

NATURAL GAS SERVICE

' **154.035 SERVICE.**

Specifications for the design, construction and installation of natural gas service systems are governed by the local service providers to which the development will connect.

(Ord. 2004-1-1-28, passed 1-28-2004)

' **154.036 LP GAS SERVICE.**

Specifications for the design, construction and installation of LP gas service systems are governed by the local service providers that will service the development.

(Ord. 2004-1-1-28, passed 1-28-2004)

CABLE TELEVISION SERVICE

' **154.050 SPECIFICATIONS GOVERNED.**

Specifications for the design, construction and installation of cable television service systems are governed by the local service providers to which the development will connect.

(Ord. 2004-1-1-28, passed 1-28-2004)

TELEPHONE SERVICE

' **154.065 SPECIFICATIONS GOVERNED.**

Specifications for the design, construction and installation of telephone service systems are governed by the local service providers to which the **TELECOMMUNICATIONS FACILITIES; TOWERS**

development will connect.
(Ord. 2004-1-1-28, passed 1-28-2004)

sketches, primary and secondary plats.

(D) *Jurisdiction.*

' **154.080 GENERAL PROVISIONS.**

(A) *Title.* This subchapter shall also be known, cited and referred to as the Wireless Telecommunications Facility/Tower Regulations of Henry County, @ hereinafter, A these regulations. @

(B) *Purposes.* In order to protect the public health, safety and general welfare of the community, while accommodating the communications needs of residents and businesses, these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the county;

(2) Minimize adverse visual effects of facilities/towers through careful design and siting standards;

(3) Encourage the location of facilities/towers in non-residential areas through performance standards and incentives;

(4) Avoid potential damage to adjacent properties from facility/tower failure through structural standards and setback requirements; and

(5) Provide mechanisms for the mitigation of facility/tower proliferation through facility/tower sharing requirements for all new facility/tower applicants and those existing facilities/towers that are physically capable of sharing.

(C) *Authority.* The Planning Commission of the county (hereinafter A Planning Commission @) is vested with the authority to review, approve, conditionally approve or disapprove applications for wireless communication facilities/towers, including

(1) These regulations apply to all wireless communications facilities/towers, as defined in ' 154.005, located within the county jurisdictional area. (See ' 150.005.)

(2) No wireless communications facility/tower may be constructed without an approved and signed site plan from the Planning Commission.

(E) *Enactment.* In order that wireless communications facilities/towers may be constructed in accordance with these purposes and policies, these regulations are hereby adopted and made effective as of the date of their approval by the County Commissioners. All applications for wireless communication facility/tower sitings pending on the effective date of these regulations or thereafter filed shall be reviewed under these regulations.

(F) *Interpretation, conflict and separability.*

(1) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(2) *Conflict.* These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law, except as provided in these regulations. Where any provision of these regulations imposes restrictions different from any other ordinance, rule or regulation, statute or other provision of law, the provision that is more restrictive or imposes higher standards shall control.

(3) *Separability.* If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confirmed in its operations only to the part, provision or application that is judged to be invalid.

(G) *Amendments.* For the purpose of protecting the public health, safety and general welfare, the Planning Commission may from time to time propose amendments to these regulations that shall be approved or disapproved by the County Commissioners at a public meeting following public notice. Realizing that communication technologies are evolving and changing quickly, future innovations may reduce the impacts of individual facilities/towers and render portions of these regulations obsolete. Therefore, periodic review and revision of these regulations will be necessary.

(H) *Public purpose.* Regulation of the siting of wireless communication facilities/towers is an exercise of valid police power delegated by the state and as stipulated in the Federal Telecommunications Act of 1996. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission.

(I) *Enforcement.* The enforcement of these regulations shall be the responsibility of the Zoning Administrator.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 154.081 APPLICATION PROCEDURE AND APPROVAL PROCESS.

(A) *General procedure.* The submission of applications for wireless communications facilities/towers shall follow the same procedure as detailed in the Chapter 150 for permitted uses and/or Commission-approved uses, as the circumstances would require.

(B) *Additional procedures.* In addition to the information required elsewhere in Chapter 150 for permitted uses and/or Commission-approved uses, development applications for wireless communications facilities/towers shall include the

following supplemental information.

(1) A report from a qualified and licensed professional engineer that:

(a) Describes the facility/tower height and design, including a cross section and elevation;

(b) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

(c) Describes the facility/tower=s capacity, including the number and type of antennas it can accommodate;

(d) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

(e) Includes an engineer=s stamp and registration number; and

(f) Includes other information necessary to evaluate the request.

(2) For all commercial wireless telecommunications service facilities/towers, a letter of intent committing the facility/tower owner and his, her or its successors to allow the shared use of the facility/tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(3) Before the issuance of a building permit, the following supplemental information shall be submitted to the Zoning Administrator:

(a) A copy of the FAA=s response to the submitted ANotice of Proposed Construction or Alteration@ (FAA Form 7460-1);

(b) Proof of compliance with applicable FCC regulations;

(c) A report from a qualified and licensed professional engineer that demonstrates the facility/tower=s compliance with the county=s structural and electrical standards; and

(d) A copy of any purchase

agreement and/or lease for the land upon which the subject facility/tower is to be located, which

(C) *Site plan requirements.* In addition to the site plan requirements found elsewhere in Chapter 150, site plans for wireless communications facilities/towers shall include the following supplemental information:

(1) Location and approximate size and height of all buildings and structures within 500 feet adjacent to the proposed wireless communication facility/tower;

(2) Site plan of entire development, indicating all improvements, including landscaping and screening, at a scale of one inch equals 50 feet; and

(3) Elevations showing all facades, indicating exterior materials and color of the facility(ies)/tower(s) on the proposed site.

(D) *General approval standards.* Generally, approval of a wireless communication facility/tower can be achieved if the following items are met:

(1) The location of the proposed facility/tower is compatible with the county=s Master Plan and Chapter 150;

(2) All efforts to co-locate on an existing facility/tower have been made and have not been successful or legally/physically possible;

(3) The submitted site plan complies with the performance standards set forth in these regulations;

(4) The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district or major view corridor;

(5) The lowest six feet of the facility/tower will be visually screened by trees, large shrubs, solid walls, solid fences and/or nearby buildings;

(6) The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety;

document shall contain language in accordance with ' 154.080.

(7) The owner of the wireless communication facility/tower has agreed to permit other persons/cellular providers to attach cellular antennas or other communications apparatuses that do not interfere with the primary purpose of the facility/tower;

(8) There exists no other existing facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower;

(9) The proposed facility/tower is not constructed in such a manner as to result in needless height, mass and guy-wire supports;

(10) The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and the facility/tower will have a security fence around the facility/tower base or the lot where the facility/tower is located; and

(11) The facility/tower is in compliance with any other applicable local, state or federal regulations.

(E) *Additional considerations.* The Planning Commission, in reviewing the Commission-approved use application, shall give consideration to the particular needs and circumstances of each application and shall examine the following items as they relate to the proposed conditional use:

(1) Topography;

(2) Zoning on-site;

(3) Surrounding zoning and land use;

(4) Streets, curbs, gutters and sidewalks;

(5) Access to public traffic-ways;

(6) Driveway and curb cut locations in relation to other sites;

(7) General vehicular and pedestrian

traffic;

(9) Number of parking spaces needed for the particular special use;

(10) Internal site circulation;

(11) Building height, bulk and setback;

(12) Front, side and rear yard setbacks;

(13) Site coverage by building(s), parking area(s) and other structures;

(14) Trash and material storage;

(15) Alleys, service areas and loading bays;

(16) Special and general easements for public or private use;

(17) Landscaping and tree masses;

(18) Necessary screening and buffering;

(19) Necessary fencing;

(20) Necessary exterior lighting;

(21) On-site and off-site, surface and subsurface storm and water drainage;

(22) On-site and off-site utilities;

(23) Dedication of traffic-ways and rights-of-way;

(24) Proposed signage, subject to regulations established by Chapter 158; and

(25) Protective restrictions and/or covenants.

(Ord. 2004-1-1-28, passed 1-28-2004)

(8) Parking location and arrangement;

with the following requirements.

(1) (a) A proposal for a new commercial wireless telecommunication service facility/tower shall not be approved unless the Planning Commission finds that the telecommunications equipment planned for the proposed facility/tower cannot be accommodated on an existing or approved facility/tower or building within a one-mile search radius, one-half-mile search radius for facilities/towers less than 120 feet in height, one-quarter-mile search radius for facilities/towers less than 80 feet in height, of the proposed facility/tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved facility/tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved facility/tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;

2. The planned equipment would cause interference materially impacting the usability of the other existing or planned equipment at the facility/tower or building, as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost;

3. Existing or approved facilities/towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a qualified and licensed professional engineer; and/or

4. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved facility/tower or building.

' 154.082 PERFORMANCE STANDARDS.

(A) *Co-location requirements.* All commercial wireless telecommunication facilities/towers erected, constructed or located within the county shall comply

(b) It is the applicant=s responsibility to adequately show due diligence in seeking to co-locate telecommunications facilities/towers. The applicant shall submit documented refusals of

(2) Any proposed commercial wireless telecommunication service facility/tower shall be designed, structurally, electrically and in all respects, to accommodate both the applicant=s antennas and comparable antennas for at least two additional users if the facility/tower is more than 100 feet in height or for at least one additional user if the facility/tower is more than 60 feet in height. Facilities/towers shall be designed to allow for future rearrangement of antennas upon the facility/tower and to accept antennas mounted at varying heights.

(B) *Facility/tower and antenna design requirements.* Proposed and modified facilities/towers and antennas shall meet the following design requirements.

(1) Facilities/towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the FFA.

(2) Commercial telecommunication service facilities/towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.

(C) *Facility/tower height.* The maximum facility/tower height permitted in the county is to be calculated by applying the following:

(1) If the facility/tower is designed to accommodate only one service provider, the maximum height shall be 120 feet from grade.

(2) If the facility/tower is designed to accommodate two service providers, the maximum height shall be 160 feet from grade.

(3) If the facility/tower is designed to accommodate more than two service providers, the maximum height shall be 199 feet from grade.

attempts to co-locate on facilities/towers within the search area.

(D) *Accessory utility buildings.* All utility buildings and structures accessory to a facility/tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be completely screened from view by suitable landscaping and/or vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(E) *Facility/tower lighting.* Facilities/towers shall not be illuminated by artificial means and display strobe lights unless the lighting is specifically required by the FAA or other federal or state authority for a particular facility/tower.

(F) *Antennas mounted on structures, roofs, walls and existing facilities/towers.* The placement of wireless telecommunications antennas on roofs, walls and existing facilities/towers may be approved by the Zoning Administrator, provided the antennas meet the requirements of these regulations, after submission of:

(1) A final site and building plan as specified by ' 150.202; and

(2) A report prepared by a qualified and licensed professional engineer indicating the existing structure or facility/tower=s suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(G) *Temporary wireless communications facilities.* Any facility/tower designed for temporary use as defined in ' 154.005 is subject to the following:

(1) Use of a temporary facility is allowed only if the owner has received a temporary user permit from the Planning Commission.

(2) Temporary wireless facilities are permitted for use of no longer than 30 days for use while constructing permanent facilities/towers and no longer than five days for use during a special event.

(H) *Interference with public safety telecommunications.* Neither new nor existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of a new service or changes in existing service, telecommunications providers shall notify the Zoning Administrator at least ten calendar days in advance of the changes to allow the county to monitor interference levels during the testing process.

(I) *Abandoned or unused facilities/towers or portions of facilities/towers.* Abandoned or unused facilities/towers or portions of facilities/towers shall be removed as follows:

(1) The owner of a wireless facility/tower shall file annually with the Zoning Administrator a declaration as to continuing operation of every facility/tower installed subject to these regulations. Failure to do so shall be determined to mean that the facility/tower is no longer in use and considered abandoned, thus subject to the following.

(2) All abandoned or unused facilities/towers and associated facilities shall be removed within 180 days of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. A copy of the relevant portions of a signed lease that requires the applicant to remove the facility/tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a facility/tower is not removed within 180 days of the cessation of operations at a site, the facility/tower and associated facilities may be removed by the county and the costs of removal assessed against the property.

(3) Unused portions of facilities/towers above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a facility/tower

(3) Temporary facilities are subject to all applicable portions of these regulations, excluding division (C)(2) and (3) above.

previously removed requires the issuance of a new wireless facility/tower permit.

(J) *Signs and advertising.* The use of any portion of a facility/tower for signs other than warning or equipment information signs is prohibited. (Ord. 2004-1-1-28, passed 1-28-2004)

' 154.083 ZONING SPECIFIC PERFORMANCE STANDARDS.

(A) *Wireless facility/tower siting standards: zoning.* Commercial wireless communications facilities/towers are allowed only as a Commission-approved use, requiring the approval of a Commission-approved use permit in all of the zoning districts.

(B) *Non-commercial wireless facility/tower standards: zoning.*

(1) Facilities/towers supporting amateur radio antennas and conforming to all applicable provisions of these regulations shall be allowed only in the rear yard of residentially-zoned parcels.

(2) In accordance with the FCC=s preemptive ruling *PRB 1*, facilities/towers erected for the primary purpose of supporting amateur radio antennas may exceed 30 feet in height, provided that a determination is made by the Zoning Administrator that the proposed facility/tower height is technically necessary to successfully engage in amateur radio communications. (Ord. 2004-1-1-28, passed 1-28-2004)

WIND ENERGY CONVERSION SYSTEMS

' 154.095 PURPOSE.

These zoning regulations are adopted for the following purposes:

(A) To assure that any development and production of wind-generated electricity in the county

(B) To facilitate economic opportunities for the county and its residents;

(C) To assist in the reduction of carbon-based emissions and the dependence on petroleum and coal-based energy systems; and

(D) To provide a regulatory scheme for the construction and operation of wind energy facilities in the county, subject to reasonable restrictions, in order to preserve the public health, safety and general welfare.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.096 INTENT.

It is the intent of the wind energy conversion systems (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in the county; subject to reasonable restrictions, these regulations will preserve the health, safety and general welfare of the public.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.097 APPLICABILITY.

This chapter governs the siting of WECS and substations that generate electricity. This chapter applies to all townships.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.098 PROHIBITION.

No applicant or entity shall construct, operate, or locate within the county a wind energy conversion system (WECS) without having fully complied with the provisions of this chapter.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.099 CONFLICT.

Nothing in this subchapter is intended to preempt other applicable state and federal laws or

is safe and effective;

regulations, including compliance with all Federal Aviation Administration rule and regulations and shall comply with the notification requirements of the FAA. Nor are they intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or provision of law, the provision that is more restrictive or that imposes higher standards shall govern.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.100 APPLICATION REQUIREMENTS.

(A) Prior to construction of a WECS, the applicant shall obtain approval for the following:

(1) An application for a Commission-approved use (CAU) to provide for WECS use from the County Planning Commission (HCPC);

(2) Request a variance from the County Board of Zoning Appeals (BZA) for any variances anticipated for the WECS project as described below; and

(3) An improvement location permit from the County Planning Commission as described below and in ' 150.200.

(B) *The application for WECS Commission-approved use (CAU).*

(1) The application shall be filed with the HCPC and include the following items.

(a) A WECS project summary, including, to the extent available:

1. A general description of the project, including its approximate name plate generating capacity, the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS, the maximum height of the WECS tower(s) and maximum diameter of the WECS(s) rotor(s), the general location of the project; and

2. A description of the applicant, owner and operator, including their

(b) The name(s), address(es), and phone number(s) of the applicant(s), owner and operator, and all property owner(s) with WECS on their properties, if known;

(c) A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter-mile radius from the proposed project site with contours of not more than five-foot intervals;

(d) 1. A site plan at an appropriate scale showing (maximum sheet of 36-inches by 24-inches and individual tower site not greater than one inch equals feet):

a. The proposed location of the wind energy facility (including planned locations of each WECS tower, guy lines and anchor bases (if any);

b. WECS access roads;

c. Substations;

d. Electrical cabling; and

e. Ancillary equipment).

2. In addition, the site plan shall show:

a. Principal structures within one-quarter of one mile of any WECS;

b. Property lines, including identification of adjoining properties;

c. Setback lines;

d. Public roads;

e. Location of all above-ground utility lines within a distance of two times the WECS tower height of any WECS tower;

respective business structures.

f. Recognized historic or heritage sites as noted by the Division of Historic Preservation and Archaeology of the State Department of Natural Resources; and

g. Any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.

(e) Location of all existing underground utility lines associated with the WECS.

(2) In determining whether to approve the application for WECS Commission-approved use (CAU), the HCPC shall determine whether the application satisfies each of criteria set forth in this chapter for Commission-approved use (CAU), and make written findings thereof.

(3) The Commission-approved use (CAU) granted by the HCPC for a WECS project shall be valid for a period of one year, after which approval shall terminate and be of no further force or effect if construction in earnest of the approved WECS has not commenced. The applicant shall be granted one extension up to one year from the date of the HCPC approval if the applicant presents its request for an extension to the HCPC which shows the progress made on the WECS project. Thereafter, an additional extension shall be at the HCPC=s discretion.

(C) *Applications for contiguous projects.* Contiguous projects (adjoining properties, single owner) may submit a single application and be reviewed under proceedings, including notices, hearing, and reviews and as appropriate, approvals.

(D) *The application for improvement location permit.*

(1) The applicant shall apply to the Zoning Administrator for an improvement location permit, as described in the ' 150.200.

(2) In addition to the information required on the improvement location permit application, the applicant shall provide the following information to

the Zoning Administrator prior to the issuance of an improvement location permit:

(a) Location of all above-ground utility lines within a radius equal to two times the height of the proposed WECS;

(b) Location of all underground utility lines associated with the WECS site;

(c) Dimensional representation of the structural components of the tower construction including the base and footings;

(d) Schematic of electrical systems associated with the WECS, including all existing and proposed electrical connections;

(e) Manufacturer=s specifications and installation and operation instructions or specific WECS design information;

(f) Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by International Code Council;

(g) All turbines shall be new equipment commercially available. Used, experimental, or proto-type equipment still in testing shall be approved by the HCPC as per the normal Commission-approved use (CAU) process;

(h) Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the HCPC;

(i) No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the HCPC;

(j) A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation;

(k) A re-vegetation plan for restoring areas temporarily disturbed during construction (' 156.05);

(l) A fire protection plan for construction and operation of the facility;

(m) Any other item reasonably requested by the HCPC;

(n) A drainage plan for construction and operation must be developed and approved by the Henry County Drainage Board; and

(o) An erosion control plan must be developed in consultation with the County Soil and Water Conservation District (' 156.05).

(3) Each WECS tower shall require an improvement location permit. The fee for each improvement location permit shall be \$500 per commercial WECS, \$300 per non-commercial WECS, and \$150 per micro-WECS. (Ord. 2009-08-11-11, passed 11-11-2009)

' 154.101 SETBACK REQUIREMENTS.

(A) *Commercial.*

(1) No WECS or meteorological tower shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county and owner of any utility easement if applicable.

(2) Installation of any WECS or meteorological tower may not be nearer than 1.1 times the height of the WECS tower height to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New structures built adjacent to wind power facilities shall maintain these same minimum setbacks. Participating landowners within the area comprising the WECS may waive property line setbacks with written approval from all landowners sharing the property line.

(3) Except as provided herein, the setback distance for any WECS shall be, at a minimum, 1,500 feet or more from any residential zoning district or 1,000 feet or more from any business zoning district. The setback distance will be followed except in specific instances allowed by the BZA.

(4) The setback distance for the WECS will be, at a minimum, 1,500 feet from any platted community under the zoning jurisdiction of a separate municipality. Distance shall be measured from the center of the foundation at the base of the WECS to the closest corporate limit boundary line.

(B) *Non-commercial.*

(1) No WECS or meteorological tower shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county and owner of any utility easement if applicable.

(2) Installation of any WECS or meteorological tower may not be nearer than 1.1 times the height of the WECS tower height to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New structures built adjacent to wind power facilities shall maintain these same minimum setbacks.

(3) Except as provided herein, the setback distance from any principal building for any WECS shall be, at a minimum, either:

(a) Tower height plus blade length plus ten feet; or

(b) Tower height plus blade length multiplied by one and one-half, whichever number is the greater. New structures built adjacent to wind power facilities shall maintain these same minimum setbacks.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.102 SAFETY DESIGN AND INSTALLATION STANDARDS.

(A) *Equipment type.*

(1) *Turbines.* All turbines shall be constructed of new, commercially available equipment.

(2) *Meteorological towers.* Meteorological towers may be guyed.

(B) *Design safety certification.* All WECS shall conform to applicable industry standards, as well as all local, state, and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyd Wind Energie, or an equivalent third party.

(C) *Controls and brakes.*

(1) *Braking system.* All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over speed protection.

(2) *Operation mode.* All mechanical brakes shall be operated in a fail-safe mode.

(D) *Electrical components.*

(1) *Standards.* All electrical components of all WECS shall conform to applicable local, state, and national codes, and any relevant national and international standards.

(2) *Collection cables.* All electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior county approval.

(3) *Transmission lines.* All transmission lines that are buried shall be trenched at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

(E) *Color and finish.* In addition to all applicable FAA requirements, the following shall also apply.

(1) *Wind turbines and towers.* All wind turbines and towers that are part of WECS shall be white, grey, or another non-obtrusive color.

(2) *Blades.* All blades shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing.

(3) *Finishes.* Finishes shall be matte or non-reflective.

(4) *Exceptions.* Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

(F) *Warnings.*

(1) *Towers, transformers, and substations.* A sign or signs shall be posted on the tower, transformer, and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

(2) *Guy wires and anchor points.* For all guyed towers, visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the innermost guy wires up to eight feet above the ground. In addition, visible fencing shall be installed around anchor points of guy wires.

(3) *Meteorological towers.* All meteorological towers shall meet all FAA regulations as applicable.

(G) *Climb prevention.* All WECS tower designs shall include features to deter climbing, or be protected by anti-climbing devices such as:

(1) Fences with locking portals at least six feet in height;

(2) Anti-climbing devices 15 feet vertically from the base of the WECS tower; or

(3) Locked WECS tower doors.

(H) *Blade clearance.* The minimum distance between the ground and any protruding blades utilized on all WECS shall be 15 feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

(I) *Lighting.*

(1) *Intensity and frequency.* All lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.

(2) *Strobe lights.* Red strobe lights shall be required for night-time illumination to reduce harm to migrating birds. Red pulsating incandescent lights are expressly prohibited.

(3) *Shielding.* Except with respect to lighting required by the FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of any WECS.

(J) *Materials handling, storage, and disposal.*

(1) *Solid wastes.* All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the facility, including old parts and equipment related to the construction, operation and/or maintenance of any WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

(2) *Hazardous materials.* All hazardous materials or waste related to the construction, operation and/or maintenance of any WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.
(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.103 OTHER APPLICABLE STANDARDS.

(A) *Guyed wire anchors.* No guyed wire anchors shall be allowed within any required road right-of-way setback.

(B) *Sewer and water.* All WECS facilities shall comply with the existing septic and well regulation as required by the County Health Department and/or the State Department of Public Health.

(C) *Noise and vibration.* At no point within 200 feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in any other county ordinance.

<i>Octave Bands for Henry County in Hertz (Hz), per ANSI</i>	<i>Maximum Permitted Sound Level (in decibels) (measured 200 feet from edge of any primary structure)</i>
63	75
125	70
250	65
500	59
1,000	53
2,000	48
4,000	44
8,000	41

(D) *Utility interconnection.* The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as amended from time to time.

(E) *Signage.*

(1) In addition to complying with sign standards, the following signage regulations and standards shall also apply. In the event that one of the following regulations or standards conflicts with another sign regulation or standard prescribed by the County Development Code, the most restrictive regulation or standard shall apply.

(2) (a) *Surface area.* No sign shall exceed 16 square feet in surface area.

(b) *Height.* No sign shall exceed eight feet in height.

(c) *Manufacturers or owner=s company name and/or logo.* The manufacturers or owner=s company name and/or logo may be placed upon the compartment containing the electrical equipment.

(d) *Development signs.* No more than two ground/monument identification signs relating to the development shall be located on any portion of the project site.

(e) *Other signs and logos.* No other advertising signs or logos shall be erected, placed, or painted on any WECS, including but not limited to, off-premise advertising signs (billboards) or free-standing pole signs.

(F) *Feeder lines.* With the exception of minimum setback distances, feeder lines installed as part of any WECS shall not be considered an essential service. To wit, all communications and feeder lines installed as part of any WECS shall be buried underground.

(G) *Other appurtenances.* No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the HCPC.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.104 USE OF ROADS AND SERVICES.

(A) *Roads.*

(1) Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the County Engineer/Highway Department. The Engineer shall conduct a preconstruction baseline survey to determine existing road conditions for assessing potential future damage.

(2) (a) Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, shall be repaired to the satisfaction of the County Engineer. The Engineer must choose to require either remediation of road repair upon completion of the project or is authorized to collect fees for oversized load permits.

(b) Further, a corporate surety bond made out to the County Commissioners in an amount to be fixed by the Engineer shall be required by the Engineer to insure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.

(3) Newly constructed WECS access roads may not impede the flow of water and shall be approved by the County Drainage Board.

(B) *Dust and debris control.* Reasonable dust and debris control measures will be required by the county during construction of WECS. For instance, a stormwater runoff fence shall be required on all construction sites during construction and installation.

(C) *Sewer and water.* Any facility shall comply with existing septic and well regulations as required by the County Health Department and the State Department of Public Health.

(D) *Drainage repair.* All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within 60 days and must be approved by the County Drainage Board.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.105 OPERATION AND MAINTENANCE.

(A) *Physical modifications.* In general, any physical modifications to any WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification.

Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall

(B) *Inspections.* Inspections, at a fee to be determined from time to time by the County Planning Commission and paid by the applicant, may be made by County Planning Commission no more than once annually to certify the safety and maintenance of the WECS and any accessory structures.

(C) *Interface.* No WECS shall be constructed so as to interfere with any county, state, or federally owned and operated microwave transmissions. The applicant, owner, and/or operator shall minimize and if necessary mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. In addition, the applicant, owner, and/or operator shall:

(1) *Notification of existing communication tower owners.* The applicant shall notify all existing communication tower owners within two miles of the proposed WECS upon application to the county for permits.

(2) *Mitigating interference following a complaint.* If after construction of the WECS, the owner or operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate the interference.

(3) *Failure to remedy a complaint.* If the interference is not remedied within 30 days, the WECS shall remain inactive until the interference is remedied. Remedies may include relocation or removal.

(4) *Declaration of public nuisance.* Any WECS thereof declared to be unsafe by the County Planning Commission by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this chapter.

confer with the Planning Commission to determine whether the physical modification requires re-certification.

(5) *Operation and maintenance summaries and reports.* The owner or operator shall submit, on an annual basis, a summary of the operation and maintenance reports to the county. In addition, the applicant shall also make available operation and maintenance reports as the county reasonably requests.

(6) *Access to the site and facility.* The County Planning Commission, along with licensed third party professionals retained by the county for the specific purpose of conducting inspections of the WECS, shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his or her agent, on the premises where a WECS has been constructed to inspect all parts of the WECS installation and to require that repairs or alterations be made. The owner or operator of a WECS may retain a licensed third party professional engineer familiar with WECS systems to prepare and submit to the County Planning Commission a written report which suggests alternate methods for addressing the concerns or provides evidence that the repairs or alterations are unnecessary, within 30 days after receiving notice from the County Planning Commission that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The County Planning Commission will consider any written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the County Planning Commission and the owner or operator, or the owner or operator=s third party professional engineer, as to the repairs or alterations which are being required, the decision of the Planning Commission shall be final.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.106 DECOMMISSIONING PLAN.

(A) Prior to receiving an improvement location permit, or siting approval under this chapter, the county and the applicant, owner and/or operator shall formulate a decommissioning plan outlining the anticipated means and cost of removing a WECS at

the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the

(B) A decommissioning plan shall include, at a minimum, language to the following.

(1) *Assurance.* Written assurances will be provided that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.

(2) *Cost estimates.* The applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning WECS.

(3) *Financial assurance.* Applicant will provide financial assurance in an amount at least equal to the demolition and removal contractor cost estimate, through the use of a bond, or other security acceptable to the county, for the cost of decommissioning each tower constructed under the permit. The security will be released when each tower is properly decommissioned as determined by the County Planning Commission.

(4) *Discontinuation and abandonment.*

(a) *Discontinuation.* All WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the County Planning Commission outlining the steps and schedule for returning the WECS to service.

(b) *Abandonment by the owner or operator.* In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the County Planning Commission representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the decommissioned within one year of expiration or earlier terminations of the project.

WECS is properly decommissioned.

(c) *Removal.* An applicant's obligations shall include removal of all physical material pertaining to the project improvements to a depth of four feet below ground level within 90 days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of the improvements by the owner, or by the county at the owner's expense.

(d) *Written notices.* Prior to implementation of the existing procedures for the resolution of the default(s), the appropriate county body shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). The written notice shall provide the owner and/or operator a reasonable time period not to exceed 60 days for good faith negotiations to resolve the alleged default(s).

(e) *Unresolved defaults.* If the county determines at its discretion, that the parties cannot resolve the alleged default(s) during the good faith negotiation period, the existing county ordinance provision(s) addressing the resolution of the default(s) shall govern.

(f) *Costs incurred to the county.* If the county removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to the county to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.107 LIABILITY INSURANCE.

The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and name the county as an additional insured with dollar amount limits of at least \$2,000,000 per occurrence, and \$5,000,000 in the aggregate, and a deductible of no more than \$5,000.

(Ord. 2009-08-11-11, passed 11-11-2009)

' 154.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person who violates the provisions of ' ' 154.080 through 154.083 shall be subject to a fine in an amount of \$2,500 per violation. Each day the violation exists constitutes a separate violation pursuant to the provisions of the statutes of the state.
(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 155: STORMWATER DRAINAGE

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GENERAL PROVISIONS

' 155.001 PURPOSE.

(A) It is recognized that smaller streams and drainage channels serving the county may not have sufficient capacity to receive and convey stormwater runoff resulting when land use changes from open or agricultural use to a more urbanized use. It is further recognized that deposits of sediment from developments during and after construction can reduce capacities of storm sewers and drainage systems and result in damages to receiving lakes and streams.

(B) (1) Therefore, it shall be the policy of the County Drainage Board (Drainage Board) that the storage and controlled release of stormwater runoff shall be required of all new development, any redevelopment and other new construction in the county. The release rate of stormwater from developed lands shall not exceed the release rate from the land area in its present land use.

(2) Because topography and the availability and adequacy of outlets for stormwater runoff vary with almost every site, the requirements for stormwater drainage tend to be an individual matter for any project. It is recommended that each proposed project be discussed with the County Surveyor=s Office at the earliest practical time in the planning stage.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.002 INTERPRETATION WITH OTHER PROVISIONS.

(A) The provisions of this chapter shall be deemed as additional requirements to minimum standards required by other ordinances of the county. In the case of conflicting requirements, the most restrictive shall apply.

(B) In addition to the requirements of this chapter, compliance with the requirements set forth in other applicable ordinances with respect to submission and approval of primary and secondary subdivision plats, improvement plans, building and zoning permits, construction inspections, appeals and similar matters and compliance with applicable state statutes and regulations shall be required.
(Ord. 2004-1-1-28, passed 1-28-2004)

' **155.003 LIABILITY DISCLAIMER;
RETENTION OF REMEDIES.**

(A) The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records and scientific methods of study. Larger storms may occur or stormwater runoff depths may be increased by man-made or natural causes. This chapter does not imply that land uses permitted will be free from stormwater damage. This chapter shall not create liability on the part of the county or any officer or employee thereof for any damage that may result from reliance on this chapter or on any administrative decision lawfully made thereunder.

(B) Nothing herein contained shall prevent the county from taking other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2004-1-1-28, passed 1-28-2004)

' **155.004 EXEMPT PROJECTS.**

Any residential (major or minor), commercial or industrial subdivision or construction project thereon that has had its drainage plan approved by the Drainage Board prior to the effective date of this chapter shall be exempt from all the requirements of this chapter.
(Ord. 2004-1-1-28, passed 1-28-2004)

' **155.005 DEFINITIONS.**

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

CAPACITY OF A STORM DRAINAGE FACILITY. Maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

CHANNEL. A natural or artificial watercourse that periodically or continuously contains moving water or that forms a connecting link between two bodies of water. It has a defined bed and banks that

serve to confine the water.

COMPENSATORY STORAGE. An artificial volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

CONTIGUOUS. Adjoining or in actual contact with.

CULVERT.

(1) Any conduit installed for the purpose of directing and controlling the flow of surface waters.

(2) Pipe, box or small slab-top structure having limited waterway area, as distinguished from a bridge structure.

DETENTION BASIN. Facility constructed or modified to redirect the flow of stormwater to a prescribed maximum rate and to detain concurrently the excess waters that accumulate behind the outlet.

DETENTION BASIN, DRY BOTTOM. Basin designed to be completely dewatered after having provided its planned detention of runoff during a storm event.

DETENTION BASIN, WET BOTTOM or **RETENTION BASIN.** Basin designed to retain a permanent pool of water after having provided its planned detention of runoff during a storm event.

DETENTION STORAGE. Temporary detaining or storage of stormwater in storage basins, on rooftops, in roads, streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of drainage therefrom regulated by appropriately installed devices.

DRAINAGE AREA.

(1) Area from which water is carried off by a drainage system.

(2) Watershed or catchment area.

DRAINAGE BOARD. Drainage Board of Henry County, and any subordinate employee to whom they shall specifically delegate a responsibility authorized by this chapter.

DRAINAGE SYSTEM, MAJOR. Drainage system carrying runoff from an area of one or more square miles.

DRAINAGE SYSTEM, MINOR. Drainage system carrying runoff from an area of less than one square mile.

DRAINAGE SYSTEM, STORMWATER. All means, natural or human-made, used for conducting stormwater to, through or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, roads or streets and pumping stations.

DURATION. Time period of a rainfall event.

EROSION. Wearing away of the land by running water, waves, temperature changes, ice or wind.

FLOOD ELEVATION. Elevation at all locations delineating the maximum level of high waters for a flood of given return period and rainfall duration.

FLOOD or FLOOD WATERS. Water of any watercourse that is above the banks of the watercourse and/or the water of any lake that is above and outside the banks thereof.

FLOOD HAZARD AREA. Any floodplain, floodway, floodway fringe or any combination thereof that is subject to inundation by the regulatory flood or any floodplain as delineated as AZone A@ on a flood hazard boundary map.

FLOOD PROTECTION GRADE. The elevation of the lowest floor of a building. If a basement is included, the basement floor is considered the lowest floor.

FLOOD, REGULATORY. Flood having a peak discharge that can be equaled or exceeded on the average of once a 100-year period calculated by a method that is acceptable to the State Department of Natural Resources. This **REGULATORY FLOOD** is equivalent to a flood having a probability of occurrence of 1% in any given year.

FLOODPLAIN. Area adjoining the river or stream that has been or may hereafter be covered by floodwaters.

FLOODWAY. See **FLOODWAY, REGULATORY.**

FLOODWAY FRINGE. Portion of the floodplain lying outside the floodway that is inundated by the regulatory flood.

FLOODWAY, REGULATORY. Channel of a river or stream and those portions of the floodplains adjoining the channel that are reasonably required to carry and discharge the peak flow of the regulatory flood of any river or stream. A permit from the State Department of Natural Resources is required for construction in the **FLOODWAY** (see ' 155.035). When the permit is issued, then the regulatory flood peak discharge should be calculated by a method that is acceptable to the State Department of Natural Resources.

FOOTING DRAIN. Drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

GRADE. Inclination or slope of a channel, canal, conduit and the like, or natural ground surface, usually expressed in terms of the percentage the vertical rise or fall bears to the corresponding horizontal distance.

IMPACT AREAS. Areas defined and mapped by the Drainage Board that are unlikely to be easily drained because of one or more factors, including, but not limited to, any of the following:

- (1) Soil type;
- (2) Topography;

- (3) Land where there is no adequate outlet;
- (4) A floodway or floodplain; or

(5) Land within 75 feet of each bank of any regulated drain or within 75 feet from the centerline of any regulated tile ditch.

IMPERVIOUS. Term applied to material through which water cannot pass or through which water passes with difficulty.

INLET. Opening into a storm sewer system for the entrance of surface stormwater runoff, more completely described as a **STORM SEWER INLET**.

JUNCTION CHAMBER. Converging section of conduit, usually large enough for a person to enter, used to facilitate the flow from one or more conduits into a main conduit.

MANHOLE. Storm sewer structure through which a person may enter to gain access to an underground storm sewer or enclosed structure.

MANHOLE, DROP. Manhole having a vertical drop pipe connecting the inlet pipe to the outlet pipe. The vertical drop pipe shall be located immediately outside the manhole.

OFF-SITE. Everything not on-site.

ON-SITE. Located within the controlled area where runoff originates.

OUTFALL. Point or location where storm runoff discharges from a sewer or drain. Also applies to the outfall sewer or channel that carries the storm runoff to the point of **OUTFALL**.

PEAK FLOW. The maximum rate of flow of water at a given point in a channel or conduit resulting from a particular storm or flood.

RADIUS OF CURVATURE. Length of radius of a circle used to define a curve.

RAINFALL INTENSITY. Cumulative depth of rainfall occurring over a given duration, normally expressed in inches per hour.

REACH. Any length of river, stream or storm sewer.

REGULATED AREA. All of the land under the jurisdiction of the Planning Commission.

RELEASE RATE. Amount of stormwater released from a stormwater control facility per unit of time.

RETURN PERIOD. Average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a 1% probability of being equaled or exceeded in any one year.

RUNOFF COEFFICIENT. Decimal fraction relating the amount of rain that appears as runoff and reaches the storm drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50% of the rain falling on a given surface appears as stormwater runoff.

SEDIMENT. Material, of soil in origin, transported, carried or deposited by water.

SIPHON. Closed conduit or portion of which that lies above the hydraulic grade line, resulting in a pressure less than the atmospheric pressure and requiring a vacuum within the conduit to start flow. A **SIPHON** utilizes atmospheric pressure to effect or increase the flow of water through a conduit. An inverted siphon is used to carry stormwater flow under an obstruction such as a sanitary sewer.

SPILLWAY. Waterway for the escape of excess water in or about a hydraulic structure.

STILLING BASIN. Basin used to slow water down or dissipate its energy.

STORAGE DURATION. Length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

STORM SEWER. Closed conduit for conveying collected stormwater.

STORM SEWER, LATERAL. Storm sewer that has inlets connected to it but has no other storm sewer connected.

STORMWATER RUNOFF. Water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

TRIBUTARY. Any watercourse contributing stormwater from upstream land areas.

URBANIZATION. Development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

WATERCOURSE. Any river, stream, creek, brook, branch or natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either regularly or intermittently.

WATERSHED. See **DRAINAGE AREA.** (Ord. 2004-1-1-28, passed 1-28-2004)

STORMWATER CONTROL POLICY

' 155.020 POLICY PROVISIONS.

(A) It is recognized that smaller streams and drainage channels serving the county may not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release rate of excess stormwater runoff shall be required for any development, redevelopment or new construction located within the county.

(B) The release rate of stormwater from development, redevelopment or new construction may not exceed the stormwater runoff from the land area in its present state of development. The developer must submit detailed computations of runoff before and after development, redevelopment or new construction to the Drainage Board that demonstrate that runoff will not be increased.

(C) (1) These computations must show that the peak runoff rate after development for the 100-year return period storm of critical duration will not exceed the ten-year return period pre-development peak runoff rate.

(2) The **CRITICAL DURATION STORM** is that storm duration that requires the greatest detention storage.

(D) (1) Computations for areas up to and including 6,000 acres may be based on the methods of Chart A below; typical runoff coefficients are listed herein.

(2) For areas larger than 6,000 acres, hydrograph techniques and/or computer drainage modeling methods may be used. Hydrograph techniques and computer drainage modeling methods used to determine stormwater runoff shall be proven methods, subject to approval of the Drainage Board.

<i>Chart A</i> <i>Computation formulas for computing stormwater runoff for areas up to and including 6,000 acres</i>			
<i>Acreeage</i>	<i>Method</i>	<i>Formula</i>	<i>Notes</i>
0 # 20	Rational (logical)	$Q=ACI$	1 and 2
0 # 80	McMath (empirical)	$Q=ACI^{.5}S/A$	2
0 # 6,000	TR-55 (analytical)	$Q=(P-Ia)^2$ $(P-Ia) + S$	1 and 3
Notes References:			
1. HERPICC, Stormwater Drainage Manual, H-94-6, July 1994			
2. Seelye, Elwyn E., Data Book for Civil Engineering Design, 3rd Edition, Chapter 18 - Drainage			
3. U.S. Soil Conservation Service, Urban Hydrology for Small Watersheds, Technical Release 55, June 1986.			

(Ord. 2004-1-1-28, passed 1-28-2004)

FLOODWAY CONSTRUCTION PERMITS**' 155.035 APPLICATION; FEE; APPROVAL.**

(A) I.C. 14-28-1 requires State Department of Natural Resources approval of any construction in a floodway and of any works for flood control. This includes bridges, dams, levees, dikes, floodwalls, wharves, piers, dolphins, booms, weirs, bulkheads, jetties, groins, excavations, fills or deposits of any kind, utility lines or any other building, structure or obstruction. Also, any ditch work (new construction, deepening or modification) within one-half mile of a freshwater lake of ten acres or more in area.

(B) The approval of the State Department of Natural Resources, in writing, must be obtained before beginning construction. Applications for approval should be submitted to: Department of Natural Resources Division of Water, 402 West Washington Street, Room W264, Indianapolis, Indiana 46204.

(C) All applications should be made on the standard application form provided by the State Department of Natural Resources and should be accompanied by plans, profiles, specifications and other data necessary for the State Department of Natural Resources to determine the effect of the proposed construction upon the floodway and on flood control in the state.

(D) Application made to and approval granted by the State Department of Natural Resources does not in any way relieve the owner of the necessity of securing easements or other property rights and permits and/or approvals from affected property owners and local, state and federal agencies.

(E) The engineering staff of the State Department of Natural Resources Division of Water is available to discuss and offer suggestions regarding requirements in the design of structures in floodways. High water marks have been set on many of the streams in the state, and information is available from

(A) A soils map of the proposed development, indicating soils names and their hydrologic classifications, must be provided when the Soil Conservation Service (SCS) methods are used. In

the Division of Water on actual and/or potential flooding. Information regarding bench marks set to Mean Sea Level Datum, General Adjustment of 1929, is available from the Division of Water, Surveying and Mapping section.

(F) Applications are considered by the State Department of Natural Resources at regular meetings, usually held each month. After the application and plans have been approved by the State Department of Natural Resources, a certificate of approval is forwarded to the applicant.

(G) A fee is charged by the State Department of Natural Resources for approvals under the Flood Control Act being I.C. 14-28.

(H) Unless stated otherwise in the approval, construction is considered to be a permanent development, and no renewals of the approval are necessary, except in the cases where temporary approvals are granted for temporary construction. The right is reserved to require additional data where necessary.

(Ord. 2004-1-1-28, passed 1-28-2004)

INFORMATION REQUIREMENTS**' 155.050 INFORMATION REQUIRED.**

The following information provided by a professional engineer or land surveyor registered by the state, engaged in stormwater drainage design, shall be submitted to the Drainage Board at the time of application for a building permit for any development, redevelopment or construction on real estate within the regulated area.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.051 TOPOGRAPHIC AND SOILS MAPS.

addition, a topographic map of the land to be subdivided and the adjoining land the topography of which may affect the layout or drainage of the development must be provided. The contour intervals

shall be one foot when slopes are less than 4% and shall be two feet when the slope exceeds 4%.

(B) On this map, the following shall be shown:

(1) The location of streams and other floodwater runoff channels, the extent of the floodplains at the established 100-year flood elevation where available (regulatory floodway) and the limits of the floodway, all properly identified;

(2) The normal shorelines of lakes, ponds, swamps and detention basins, their floodplains and lines of inflow and outflow, if any;

(3) The location of regulated drains, farm drains, inlets and drain outfalls, if any of record;

(4) Storm, sanitary and combined sewers and outfalls, if any of record;

(5) Septic tank systems and outlets, if any of record; and

(6) Seeps, springs, flowing and other wells that are visible or of record.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.052 PRELIMINARY DRAINAGE PLANS.

(A) A comprehensive plan, in preliminary form (or in combined preliminary and final form), designed to handle safely the stormwater runoff and to detain the increased stormwater runoff, must be provided.

(B) The plan shall provide or be accompanied by maps or other descriptive materials indicating the feasibility of the drainage plan and showing the following:

(1) The extent and area of each watershed affecting the design of detention facilities, as shown on U.S.G.S. quadrangle maps, or other, more detailed maps as required by the Drainage Board;

(2) The preliminary layout and design of proposed storm sewers, the outfall and outlet locations and approximate elevations, the receiving stream or channel and its 100-year return period

water elevation;

(3) The location and design of the proposed road or street system, especially including depressed pavements used to convey or temporarily store overflow from the heavier rainstorms and the outlets for the overflow;

(4) The locations, cross sections and profiles of exiting streams and floodplains to be maintained and new channels to be constructed;

(5) The materials, elevations, waterway openings and the basis for design of proposed culverts and bridges;

(6) Existing detention ponds and basins to be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design;

(7) The estimated depth and amount of storage required in the new ponds or basins;

(8) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed; and

(9) Any interim plan that is to be incorporated into the development pending completion of the development and the final drainage plan.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.053 VALLEY CROSS SECTION.

One or more typical cross sections must be provided showing all existing and proposed channels or other open drainage facilities carried to a point above the 100-year high water elevation, the elevation of the existing land and the proposed changes thereto, together with the high water elevations expected from the 100-year storm under the controlled conditions called for by this chapter and the relationship of structures, roads, streets and other facilities.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.054 SITE PLAN.

A plan drawn to scale showing dimensions of the site with existing and proposed storm drainage facilities must be provided.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.055 FINAL DRAINAGE PLANS.

(A) Upon approval of the preliminary drainage plans by the Drainage Board, final drainage plans shall be submitted to the Drainage Board.

(B) The final plans shall provide or be accompanied by calculations, maps and/or other descriptive materials showing the following:

(1) The extent and area of each watershed tributary to the drainage channels in the development;

(2) The road or street storm sewers and other storm drains to be built, the basis of their design, outfall and outlet locations and elevations, the receiving stream or channel and its high water elevation and the functioning of the drains during high water conditions;

(3) The parts of the proposed road or street system where the pavements are planned to be depressed sufficiently to convey or temporarily store overflow from storm sewers and over the curb runoff resulting from the heavier rainstorms and the outlets for the overflow;

(4) Existing streams and floodplains to be maintained and new channels to be constructed, their locations, cross sections and profiles;

(5) Proposed culverts and bridges to be built, their materials, elevations, waterway openings and basis of design;

(6) Existing detention basins and ponds to be maintained, enlarged or otherwise altered and new basins or ponds to be built and the basis of their design;

(7) The estimated location and percentage of impervious surfaces existing and expected to be constructed when the development is completed;

(8) The slope, type and size of all sewers and other waterways; and

(9) For all detention basins, a plot or tabulation of storage volumes with corresponding water surface elevations and a plot or tabulation of the basin outflow rates for those water surface elevations.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.056 PLAN SUBMISSION AND CONSIDERATION.

(A) (1) Preliminary and final drainage plans and/or construction plans shall be submitted to the Drainage Board 15 working days prior to their regularly scheduled meeting. All preliminary plans, final plans and/or construction plans in compliance with the standards of this chapter shall be approved by the Drainage Board. The Drainage Board and/or the County Surveyor shall stamp the approval on a copy of the plans and deliver the same to the applicant.

(2) The Drainage Board shall approve or disapprove any preliminary plans, final plans and/or construction plans within 45 working days of submission unless the applicant consents to a continuance or extension. All approvals and disapprovals with written reasons shall be incorporated into the Drainage Board minutes.

(B) (1) The County Surveyor is authorized to review engineering summaries of projects and, based upon the same, grant exemptions from any and all requirements of this chapter and/or waive any requirements of this chapter.

(2) Any applicant may appeal the decision of the County Surveyor to the Drainage Board, which shall also be authorized to grant exemptions from any and all requirements of this chapter at its discretion.
(Ord. 2004-1-1-28, passed 1-28-2004)

DETERMINATION OF RUNOFF QUANTITIES

' 155.070 CALCULATION.

Runoff quantities shall be computed for the area of the parcel under development plus the area of the watershed flowing into the parcel under development. The quantity of runoff that is generated as the result of a given rainfall intensity may be calculated as follows.

(A) (1) For areas up to and including 20 acres in area, the Rational Method may be used. In the Rational Method, the peak rate of runoff, AQ_c in cubic feet per second, is computed as:

$$Q=ACI,$$

where:

C=Runoff coefficient, representing the characteristics of the drainage area and defined as the ratio of runoff to rainfall;

I=Average intensity of rainfall in inches per hour for a duration equal to the time of concentration (t_c) for a selected rainfall frequency; and

A=Tributary drainage area in acres.

(2) Guidance to selection of the runoff coefficient AC_c is provided by Tables 1 and 1A in division (D) below, which show values for different types of surface and local soil characteristics. The composite AC_c value used for a given drainage area with various surface types shall be the weighted average value for the total area calculated from a breakdown of individual areas having different surface types.

(3) Table 2 in division (D) below provides runoff coefficients and inlet times for different land use classifications. In the instance of undeveloped land situated in an upstream area, a coefficient or coefficients shall be used for this area in its present or existing state of development.

(4) (a) Rainfall intensity shall be determined from the rainfall frequency curves shown in Figure 1C.

1. The time of concentration (t_c) to be used shall be the sum of the inlet time and flow time in the drainage facility from the most remote part of the drainage area to the point under consideration.

2. The flow time in the storm sewers may be estimated by the distance in feet divided by velocity of flow in feet per second. The velocity shall be determined by the Manning Formula.

(3) Inlet time is the combined time required for the runoff to reach the inlet of the storm sewer. It includes overland flow time and flow time through established surface drainage channels such as swales, ditches and sheet flow across such areas as lawns, fields and other graded surfaces. It may be computed by using Figure 2.

(B) (1) For areas up to and including 80 acres in area, the McMath (empirical) Method may be used.

(2) In the McMath Method, the peak rate of runoff, AQ_c in cubic feet per second is computed as:

(C) (1) For areas up to and including 6,000 acres, the TR-55 (analytical) Method may be used.

(2) In the TR-55 Method, the peak rate of runoff, AQ_c in cubic feet per second, is computed as follows:

(D) The runoff rate for areas in excess of 6,000 acres shall be determined by methods described in ' 155.174(B).

Henry County - Land Usage

<i>Table 1 Suburban Runoff Coefficients^{1,2}</i>	
<i>Type of Surface Runoff</i>	<i>Coefficient AC@</i>
Asphalt	0.80
Concrete	0.80
Roof	0.80
Lawns (sandy)	
Flat (0-2% slope)	0.08
Rolling (2-7% slope)	0.12
Steep (greater than 7% slope)	0.16
Lawns (clay)	
Flat (0-2% slope)	0.16
Rolling (2-7% slope)	0.20
Steep (greater than 7% slope)	0.28
¹ The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies. Coefficients for less frequent higher intensity storms shall be modified as follows:	
<i>Return Period (Years)</i>	<i>Multiply AC@ By</i>
25	1.10
50	1.20
120	1.25
² For use in Rational and McMath Methods	

<i>Table 1A Rural Runoff Coefficients^{1,2}</i>	
<i>Type of Surface</i>	<i>Runoff Coefficient AC@</i>
Woodland	
Flat (0-5% slope)	0.32
Rolling (5-10% slope)	0.40
Steep (greater than 10% slope)	0.48
Pasture	
Flat (0-5% slope)	0.32
Rolling (5-10% slope)	0.36
Steep (greater than 10% slope)	0.40
Cultivated	

<i>Table 1A Rural Runoff Coefficients^{1,2}</i>	
<i>Type of Surface</i>	<i>Runoff Coefficient AC@</i>
Flat (0-5% slope)	0.48
Rolling (5-10% slope)	0.56
Steep (greater than 10% slope)	0.64
¹ The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies. Coefficients for less frequent higher intensity storms shall be modified as follows:	
<i>Return Period (Years)</i>	<i>Multiply AC@ By</i>
25	1.10
50	1.20
120	1.25
² For use in Rational and McMath Methods.	

<i>Table 2 Runoff Coefficients By Land Use and Typical Inlet Times^{1,2,3}</i>				
<i>Land Use</i>	<i>Runoff Coefficients</i>			<i>Inlet Times (minutes)</i>
	Flat ⁴	Rolling ⁵	Steep ⁶	C
Commercial (CBD)	0.76	0.76	0.80	5
Commercial (neighborhood)	0.54	0.60	0.64	C
Industrial	0.63	0.70	0.77	5-10
Garden apartments	0.54	0.60	0.66	C
Churches	0.54	0.60	0.66	C
Schools	0.31	0.35	0.39	10-15
Semi-detached residential	0.45	0.50	0.55	C
Detached residential	0.40	0.45	0.50	C
Quarter-acre lots	0.36	0.40	0.44	C
Half-acre lots	0.31	0.35	0.39	C
Parkland	0.18	0.20	0.22	To be computed
¹ The coefficients of this tabulation are applicable to storms of five- to ten-year frequencies. Coefficients for less frequent higher intensity storms shall be modified as follows:				

<i>Return Period (Years)</i>	<i>Multiply AC@ By</i>
25	1.10
50	1.20
120	1.25

²For use in Rational and McMath Methods.
³Interpolation, extrapolation and adjustment for local conditions shall be based on engineering experience and judgment.
⁴Flat terrain=0-2% slopes.
⁵Rolling terrain=2-7% slopes.
⁶Steep terrain=greater than 7% slopes.

Figure 1C.

Rainfall Intensity-Duration-Frequency Curves

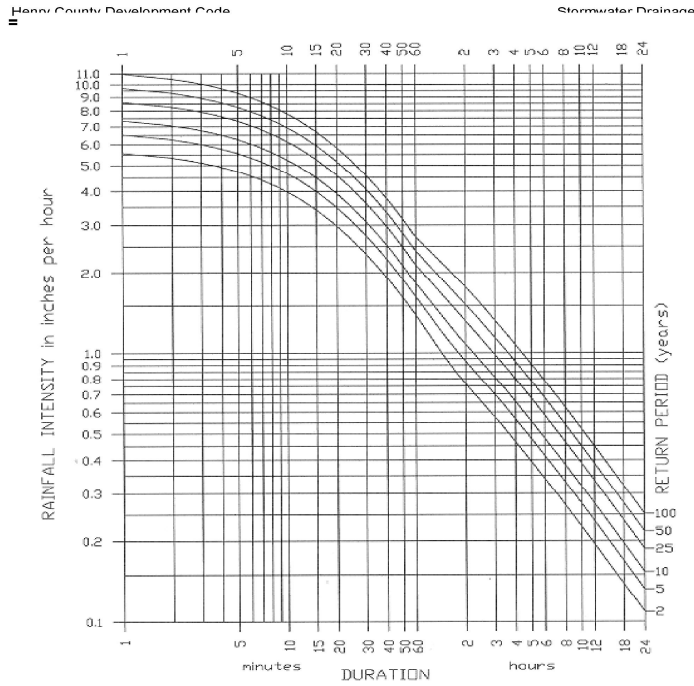


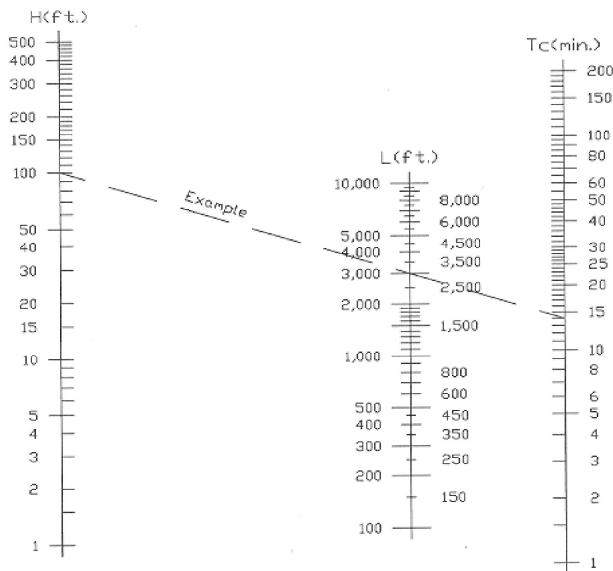
Figure 1C Rainfall Intensity - Duration - Frequency Curves
Henry County, Indiana

Figure 2.

Nomograph for Determining Time of Concentration

Stormwater Drainage Henry County Development Code

EXAMPLE
 Height = 100 feet
 Length = 3,000 feet
 Time of Concentration (Tc) = 14 minutes



NOTE:
 Use nomograph Tc for natural basins with well defined channels,
 for overland flow on bare earth, and for mowed grass roadside channels.
 For overland flow, grassed surfaces, multiply Tc by 2.
 For concrete channels, multiply Tc by 0.2.
 For overland flow, concrete or asphalt surfaces, multiply Tc by 0.4.

Figure 2 Nomograph for Determining Time of Concentration

(Ord. 2004-1-1-28, passed 1-28-2004)

FACILITY ACCOMMODATION OF RUNOFF AMOUNT

' 155.085 DRAINAGE FACILITY RUNOFF ACCOMMODATION.

Various parts of a drainage facility must accommodate runoff water as follows.

(A) (1) (a) The minor drainage system, such as inlets, catch basins, road or street gutters, swales, sewers and small channels that collect stormwater, must accommodate peak runoff from a ten-year return period storm.

(b) Rainfall duration shall be equal to the time of concentration or one hour if the time of concentration is less than one hour.

(2) A first quartile distribution shall be used for computer modeling. These minimum requirements must be satisfied:

(a) The allowable spread of water on collector traffic-ways is limited to maintaining two clear ten-foot moving lanes of traffic. One lane is to be maintained on local roads or streets.

(b) Open channels carrying peak flows greater than 30 cubic feet per second shall be capable of accommodating peak runoff for a 50-year return period storm within the drainage easement.

(c) Culverts shall be capable of accommodating peak runoff from a 50-year return period storm when crossing under a road that is part of the State Department of Highways rural functional classification system and is classified as a major or minor collector road.

(B) Major drainage systems are defined in ' 155.005 and shall be designed in accordance with State Department of Natural Resources standards as described in ' 155.035.
(Ord. 2004-1-1-28, passed 1-28-2004)

STORM SEWER DESIGN STANDARDS

' 155.100 CONFORMANCE REQUIRED.

All storm sewers, whether private or public, and whether constructed on private or public property, shall conform to the design standards and other requirements contained herein.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.101 MANNING EQUATION.

(A) The hydraulic capacity of storm sewers shall be determined using Manning=s Equation:

V = mean velocity of flow in feet per second
R = the hydraulic radius in feet
S = the slope of the energy grade line in feet per foot
n = roughness coefficient.

(B) The hydraulic radius, AR,@ is defined as the cross sectional area of flow divided by the wetted flow surface or wetted perimeter. Typical An@ values and maximum permissible velocities for storm sewer materials are listed in Table 3 in ' 155.104. Roughness coefficient An@ values for other sewer materials can be found in standard hydraulics texts and references.

<i>Table 3 Typical Values of Manning=s An@</i>		
<i>Material</i>	<i>Manning=s An@</i>	<i>Desirable Maximum Velocities</i>
Closed conduits		
Brick	0.015	15 f.p.s
Cast Iron	0.013	15 f.p.s
Concrete	0.013	15 f.p.s
<i>Material</i>	<i>Manning=s An@</i>	<i>Desirable Maximum</i>

		<i>Velocities</i>
Vitrified clay	0.013	15 f.p.s
Circular corrugated metal pipe, annular corrugations, 2-2/3 x 2 in.		
Unpaved	0.024	7 f.p.s
25% paved	0.021	7 f.p.s
50% paved	0.018	7 f.p.s
100% paved	0.013	7 f.p.s
Circular corrugated metal pipe, helical, 2-2/3 x 2 in., unpaved corrugations		
12-inch	0.011	
18-inch	0.013	
24-inch	0.015	
36-inch	0.018	
48-inch	0.020	
60-inch or larger	0.021	
Corrugated polyethylene, smooth	0.012	15 f.p.s
Interior pipe		
Concrete, broom or float finish	0.015	
Concrete channels	0.013	
Concrete, trowel finish	0.013	
Dense growth of weeds	0.040	
Dense weeds and brush	0.040	
Existing earth (fairly uniform, with some weeds)	0.030	
Gabion	0.028	
Gunite	0.018	

<i>Material</i>	<i>Manning =s An @</i>	<i>Desirable Maximum Velocities</i>
New earth (uniform, sodded, clay)	0.025	
Open channels		
Riprap, dumped	0.035	
Riprap, placed	0.030	
Swale with grass	0.035	

(Ord. 2004-1-1-28, passed 1-28-2004)

' **155.102 MINIMUM SIZE.**

The minimum size of all storm sewers shall be 12 inches. An orifice plate or other devices, subject to the approval of the Drainage Board, shall control rate of release for detention storage where the 12-inch pipe will not limit the rate of release as required. (Ord. 2004-1-1-28, passed 1-28-2004)

' **155.103 GRADE.**

Storm sewer grade shall be such that, in general, a minimum of two feet of cover is maintained over the top of the pipe. Pipe cover less than the minimum may be used only upon approval of the Drainage Board. Uniform slopes shall be maintained between inlets, manholes and inlets to manholes. Final grade shall be set with full consideration of the capacity required, sedimentation problems and other design parameters. Minimum and maximum allowable slopes shall be those capable of producing velocities of two and one-half and 15 feet per second, respectively, when the sewer is flowing full. (Ord. 2004-1-1-28, passed 1-28-2004)

' **155.104 ALIGNMENT.**

Storm sewers shall be straight between manholes insofar as possible. Where long radius curves are necessary to conform to road or street layout, the minimum radius of curvature shall be no less than 100 feet for sewers 42 inches and larger in diameter. Deflection of pipe sections shall not exceed the maximum deflection recommended by the pipe manufacturer. The deflection shall be uniform and finished installation shall follow a smooth curve. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.105 MANHOLES.

(A) Manholes shall be installed to provide access to continuous underground storm sewers for the purpose of inspection and maintenance. Manholes shall be provided at the following locations:

- (1) Where two or more storm sewers converge;
- (2) At the point of beginning (PC) or at the end of a curve (PT) and at the point of reverse curvature (PRC);
- (3) Where pipe size changes;
- (4) Where an abrupt change in alignment occurs;
- (5) Where a change in grade occurs; and
- (6) At suitable intervals in straight sections of sewer.

(B) The maximum distance between storm sewer manholes shall be as follows:

<i>Size of Pipe (inches)</i>	<i>Maximum Distance (feet)</i>
12 through 42	400
48 and larger	600

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.106 INLETS.

Inlets or drainage structures shall be utilized to collect surface water through grated openings and convey it to storm sewers, channels or culverts. Inlet design and spacing shall be in accordance with ' 7-400 of the State Department of Highways= *Road Design Manual, Volume 1*, or other approved design procedure. The inlet grate opening provided must be adequate to pass the design ten-year flow with 50% of the sag inlet areas clogged. An overload channel from sag inlets to the overflow channel or basin shall be provided at sag inlets, so that the maximum depth of water that might be ponded in the street sag shall not exceed seven inches. (Ord. 2004-1-1-28, passed 1-28-2004)

WORKMANSHIP AND MATERIALS

' 155.120 WORKMANSHIP.

The specifications for the construction of storm sewers shall not be less stringent than those set forth in the latest edition of the State Department of Highways= standard specifications; additionally, ductile iron pipe shall be laid in accordance with American Water Works Association (AWWA) C-600 and clay pipe shall be laid in accordance with American Society of Testing Materials (ASTM) C-12. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.121 MATERIALS.

(A) Storm sewer manholes and inlets shall be constructed of masonry, cast in place concrete or precast reinforced concrete. Material and construction shall conform to the State Department of Highways= standard specifications, ' 720.

(B) Pipe and fittings used in storm sewer construction shall be extra-strength clay pipe (ASTM C-70), ductile iron pipe (AWWA C-151) or concrete pipe (ASTM C-76). Other pipe and fittings not specified herein may be used only when specifically authorized by the Drainage Board. Pipe joints shall be flexible and watertight and shall conform to the requirements of ' 719.02, *Materials*, of the latest edition of the State Department of Highways= standard specifications, ' 720.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.122 SPECIAL HYDRAULIC STRUCTURES.

Special hydraulic structures required to control the flow of water in storm runoff drainage systems include junction chambers, drop manholes, inverted siphons, stilling basins and other special structures. The use of these structures shall be limited to those locations justified by prudent planning and by careful and thorough hydraulic engineering analysis.

(Ord. 2004-1-1-28, passed 1-28-2004)

OPEN CHANNEL DESIGN STANDARDS

' 155.135 CONFORMANCE REQUIRED.

All storm sewers, whether private or public, and whether constructed on private or public property, shall conform to the design standards and other requirements contained in this chapter.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.136 MANNING EQUATION.

The waterway for channels shall be determined using Manning=s Equation:

Where:

Q=Discharge in cubic feet per second (cfs);

A=Waterway area of channel in square feet; and

V, R, S and n are as explained in ' 155.101. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.137 CHANNEL CROSS SECTION AND GRADE.

The required channel cross section and grade are determined by the design capacity, the material of which the channel is to be constructed and the requirements for maintenance. A minimum depth may be required to provide adequate outlets for subsurface drains and tributary ditches or streams. The channel grade shall be such that the velocity in the channel is high enough to prevent siltation but low enough to prevent erosion. Velocities less than one and one-half feet per second should be avoided because siltation will take place and ultimately reduce the channel cross section. The maximum permissible velocities in vegetal-lined channels are shown in Table 4 below. Developments through which the channel is to be constructed must be considered in design of the channel cross section.

Table 4 Maximum Permissible Velocities in Vegetal-Lined Channels*			
		Permissible Velocity¹	
Cover	Slope Range²	Erosion Resistant Soils	Easily Eroded Soils
	(percent)	(feet per second)	(feet per second)
Bermudagrass	0-5	8	6
	5-10	7	5
	more than 10	6	4
Bahia Buffalograss Kentucky bluegrass Smooth brome Blue grama	0-5	7	5
	5-10	6	4
	more than 10	5	3
Grass mixtures			

Reed canarygrass	0-5 ²	5	4
	5-10	4	3
Table 4 <i>Maximum Permissible Velocities in Vegetal-Lined Channels*</i>			
		<i>Permissible Velocity¹</i>	
<i>Cover</i>	<i>Slope Range²</i>	<i>Erosion Resistant Soils</i>	<i>Easily Eroded Soils</i>
	<i>(percent)</i>	<i>(feet per second)</i>	<i>(feet per second)</i>
Lespediza sericea Weeping lovegrass Yellow bluestem Redtop Alfalfa Red fescue	0-5 ³	3.4	2.5
Common lespediza ^{4,5} Sudangrass ⁴	0-5	3.5	2.5
¹ Use velocities exceeding five feet per second only where good covers and proper maintenance can be obtained. ² Do not use on slopes steeper than 10% except for vegetated side slopes in combination with a stone, concrete or highly resistant vegetative center section. ³ Do not use on slopes steeper than 5% except for vegetated side slopes in combination with a stone, concrete or highly resistant vegetative center section. ⁴ Annuals: Use on mild slopes or as temporary protection until permanent covers are established. ⁵ Use on slopes steeper than 5% is not recommended. * From Soil Conservation Service, SCS-TP-61, <i>Handbook of Channel Design for Soil and Water Conservation</i> .			

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.138 SIDE SLOPES.

Earthen channel side slopes shall be no steeper than a ratio of two to one. Flatter slopes may be required to prevent erosion and for ease of maintenance. Where channels will be lined, side slopes shall be no steeper than a ratio of one and one-half to one with adequate provisions made for weep holes. Side slopes steeper than one and one-half

to one may be used for lined channels, provided that the side lining and structural retaining wall are designed and constructed with provisions for live and dead load surcharge.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.139 CHANNEL STABILITY.

(A) Characteristics of a stable channel are:

- (1) It neither aggrades or degrades beyond tolerable limits;
- (2) The channel banks do not erode to the extent that the channel cross section is changed appreciably;
- (3) Excessive sediment bars do not develop;
- (4) Excessive erosion does not occur around culverts, bridges or elsewhere; and
- (5) Gullies do not form or enlarge due to the entry of uncontrolled surface flow to the channel.

(B) Channel stability shall be determined for an aged condition and the velocity shall be based on the design flow or the bank full flow, whichever is greater, using An@ values for various channel linings as shown in Table 3 of ' 155.04. In no case is it necessary to check channel stability for discharges greater than that from a 100-year return period storm.

(C) (1) Channel stability must be checked for conditions immediately after construction. For this stability analysis, the velocity shall be calculated for the expected flow from a ten-year return period storm on the watershed or the bank full flow, whichever is smaller. The An@ value for newly constructed channels in fine-grained soils and sands may be determined in accordance with the *National Engineering Handbook 5, Supplement B*, Soil Conservation Service, and shall not exceed 0.025.

(2) The allowable velocity in the newly constructed channel may be increased by a maximum of 20% to reflect the effects of vegetation to be established under the following conditions:

(a) The soil and site in which the channel is to be constructed are suitable for rapid establishment and support of erosion controlling vegetation;

(b) Species of erosion controlling vegetation adapted to the area and proven methods of establishment are shown; and

(c) The channel design includes detailed plans for establishment of vegetation on the channel side slopes.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.140 DRAINAGE OF WATERWAYS.

Vegetated waterways that are subject to low flows of long duration or where wet conditions prevail shall be drained with a tile system or by other means such as paved gutters. Tile lines may be outletted through a drop structure at the end of the waterway or through a standard tile outlet.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.141 ESTABLISHMENT OF NEW REGULATED DRAIN.

(A) When the Drainage Board determines it is necessary to establish a new regulated drain, each developer must provide the necessary information and meet the requirements of I.C. 36-9-27 for the establishment of a new regulated drain.

(B) The Drainage Board shall determine the necessary easements for adequate maintenance of any new regulated drain.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.142 APPURTENANT STRUCTURES.

(A) The design of channels will provide all structures required for the proper functioning of the channel and the laterals thereto and travel-ways for operation and maintenance. Recessed inlets and structures needed for entry of surface and subsurface flow into channels without significant erosion or degradation shall be included in the design of channel improvements. The design is also to provide the necessary flood gates, water level control devices and any other appurtenance affecting the functioning of the channels and the attainment of the purpose for which they are built.

(B) The effect of channel improvements on existing culverts, bridges, buried cables, pipelines and inlet structures for surface and subsurface drainage on the channel being improved and laterals thereto shall be evaluated to determine the need for modification or replacement. Culverts and bridges that are modified or added as part of channel improvement projects shall meet reasonable standards for the type of structure and shall have a minimum capacity equal to the design discharge or governmental agency design requirements, whichever is greater.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.143 DISPOSITION OF SPOIL.

Spoil material resulting from clearing, grubbing and channel excavation shall be disposed of in such a manner as will:

(A) Minimize overbank wash;

(B) Provide for the free flow of water between the channel and floodplain unless the valley routing and water surface profile are based on continuous dikes being installed;

(C) Not hinder the development of travel-ways for maintenance;

(D) Leave the right-of-way in the best condition feasible, consistent with the project purposes, for productive use by the owner;

(E) Improve the aesthetic appearance of the site to the extent feasible; and

(F) Be approved by the State Department of Natural Resources or the U.S. Army Corps of Engineers (whichever is applicable) if deposited in the floodway.
(Ord. 2004-1-1-28, passed 1-28-2004)

(B) Other lining materials shall receive specific approval of the Drainage Board. Materials shall comply with the latest edition of the State Department of Highways= standard specifications.
(Ord. 2004-1-1-28, passed 1-28-2004)

CONSTRUCTION AND MATERIALS

STORMWATER DETENTION

' 155.155 CONSTRUCTION.

Specifications shall be in keeping with the current standards of engineering practice and shall describe the requirements for proper installation of the project to achieve its intended purpose.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.170 ACCEPTABLE DETENTION METHODS.

(A) (1) The increased stormwater resulting from a proposed development should be detained on-site by the provision of appropriate wet or dry bottom reservoirs, by storage on flat roofs, parking lots, streets, lawns or other acceptable techniques.

' 155.156 MATERIALS.

(A) Materials acceptable for use as channel lining are:

- (1) Grass;
- (2) Revetment riprap;
- (3) Concrete;
- (4) Hand-laid riprap;
- (5) Precast cement concrete riprap;
- (6) Grouted riprap; or
- (7) Gabions.

(2) Measures that retard the rate of overland flow and the velocity in runoff channels shall also be sized to store excess flows from storms with a 100-year return period.

(B) Control devices shall limit the discharge to a rate no greater than that prescribed by this chapter.
(See ' 155.174)
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.171 DESIGN STORM.

Design of stormwater detention facilities shall be based on a return period of once in 100 years. The storage volume and outflow rate shall be sufficient to handle stormwater runoff from a critical duration storm, as defined in ' 155.174. Rainfall depth-duration-frequency relationships and density-duration-frequency relationships shall be those given in Tables 5 and 5A below.

Henry County - Land Usage

<i>Table 5 Rainfall Depths for Various Return Periods and Storm Durations for Henry County</i>						
	<i>Return Period (years)</i>					
	<i>2</i>	<i>5</i>	<i>10</i>	<i>25</i>	<i>50</i>	<i>100</i>
<i>Duration</i>	<i>Depth (inches)</i>					
5 mins.	0.40	0.46	0.52	0.61	0.69	0.78
10 mins.	0.66	0.78	0.88	1.02	1.15	1.30
15 mins.	0.85	1.00	1.12	1.32	1.48	1.67
20 mins.	0.99	1.16	1.31	1.53	1.72	1.94
30 mins.	1.17	1.37	1.54	1.81	2.04	2.30
40 mins.	1.28	1.49	1.68	1.97	2.22	2.50
50 mins.	1.34	1.57	1.77	2.07	2.34	2.63
1 hr.	1.36	1.62	1.82	2.14	2.41	2.71
90 mins.	1.37	1.67	1.94	2.36	2.74	3.17
2 hrs.	1.52	1.85	2.15	2.62	3.04	3.52
3 hrs.	1.73	2.10	2.44	2.96	3.44	3.99
4 hrs.	1.86	2.27	2.63	3.20	3.71	4.30
5 hrs.	1.96	2.39	2.77	3.37	3.91	4.53
6 hrs.	2.04	2.49	2.88	3.51	4.07	4.72
7 hrs.	2.11	2.57	2.98	3.62	4.20	4.87
8 hrs.	2.17	2.64	3.06	3.72	4.31	5.00
9 hrs.	2.22	2.70	3.13	3.80	4.41	5.12
10 hrs.	2.26	2.75	3.19	3.88	4.50	5.22
12 hrs.	2.34	2.84	3.29	4.01	4.65	5.39
14 hrs.	2.40	2.92	3.38	4.12	4.77	5.54
16 hrs.	2.45	2.98	3.45	4.21	4.88	5.66
18 hrs.	2.50	3.04	3.53	4.29	4.97	5.77
20 hrs.	2.54	3.09	3.59	4.36	5.06	5.87
24 hrs.	2.61	3.18	3.69	4.49	5.21	6.04

<i>Table 5A Rainfall Intensities for Various Return Periods and Storm Durations for Henry County</i>						
	<i>Return Period (years)</i>					
	<i>2</i>	<i>5</i>	<i>10</i>	<i>25</i>	<i>50</i>	<i>100</i>
<i>Duration</i>	<i>Intensity (inches per hour)</i>					
5 mins.	4.75	5.56	6.26	7.33	8.26	9.31
10 mins.	3.98	4.66	5.25	6.15	6.93	7.61
15 mins.	3.41	3.99	4.50	5.27	5.93	6.69
20 mins.	2.97	3.48	3.92	4.59	5.17	5.83
30 mins.	2.34	2.74	3.09	3.62	4.07	4.59
40 mins.	1.91	2.24	2.53	2.96	3.33	3.76
50 mins.	1.61	1.89	2.12	2.49	2.80	3.16
1 hr.	1.38	1.62	1.82	2.14	2.41	2.71
90 mins.	0.92	1.12	1.29	1.57	1.82	2.12
2 hrs.	0.78	0.93	1.08	1.31	1.52	1.76
3 hrs.	0.58	0.70	0.81	0.99	1.15	1.33
4 hrs.	0.47	0.57	0.66	0.80	0.93	1.08
5 hrs.	0.39	0.48	0.55	0.67	0.78	0.91
6 hrs.	0.34	0.41	0.48	0.58	0.68	0.79
7 hrs.	0.30	0.37	0.43	0.52	0.60	0.70
8 hrs.	0.27	0.33	0.38	0.47	0.54	0.63
9 hrs.	0.25	0.30	0.35	0.42	0.49	0.57
10 hrs.	0.23	0.27	0.32	0.39	0.45	0.52
12 hrs.	0.19	0.24	0.27	0.33	0.39	0.45
14 hrs.	0.17	0.21	0.24	0.29	0.34	0.40
16 hrs.	0.15	0.19	0.22	0.26	0.31	0.35
18 hrs.	0.14	0.17	0.20	0.24	0.28	0.32
20 hrs.	0.13	0.15	0.18	0.22	0.25	0.29
24 hrs.	0.11	0.13	0.15	0.19	0.22	0.25

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.172 ALLOWABLE RELEASE DATE.

(A) The allowable release rate of stormwater originating from a proposed development shall not exceed the amount specified in ' 155.020, and as described in ' 155.174.

(B) In the event the natural downstream channel or storm sewer system is inadequate to accommodate the release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system, and additional detention as determined by the Drainage Board shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or waterways.

(C) If more than one detention basin is involved in the development of the area upstream of the limiting restriction, the allowable release rate from any one detention basin shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.173 DRAINAGE SYSTEM OVERFLOW DESIGN.

Drainage systems shall have adequate capacity to convey the stormwater runoff from all upstream tributary areas through the development under consideration for a storm of 100-year design return period calculated on the basis of the upstream land in its present state of development. An allowance, equivalent to the reduction in flow rate provided, shall be made for upstream detention when the upstream detention and release rate have previously been approved by the Drainage Board and evidence of its construction can be shown. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.174 DETERMINATION OF STORAGE VOLUME.

(A) For areas of 80 acres or less, the Rational Method and/or McMath Method may be used to

(B) Methods other than the Rational Method and/or McMath Method for determining runoff and

determine the required volume of stormwater storage. The following 11-step procedure may be used to determine the required volume of storage. Other design methods may also be used, subject to approval of the Drainage Board, and as described in division (B) below.

<i>Table 6 Determination of Storage Volume: Rational Method</i>	
<i>Step</i>	<i>Procedure</i>
1	Determine total drainage area in acres (A_A).
2	Determine composite runoff coefficient (A_{C_u}) based on existing land use (undeveloped).
3	Determine time of concentration (A_{t_c}) in minutes, based on existing conditions.
4	Determine rainfall intensity (A_{I_u}) in inches per hour, based on time of concentration and using Figure 1 or from data given in Table 5A for the ten-year return period.
5	Compute runoff based on existing land use (undeveloped) and ten-year return period: $Q_u = C_u I_u A$
6	Determine composite runoff coefficient (A_{C_d}) based on developed conditions and a 100-year return period.
7	Determine the 100-year return period rainfall intensity, (A_{I_d}) for various storm durations (A_{t_d}) up through the time of concentration for the developed area using Table 5A.
8	Determine developed inflow rates (A_{Q_d}) for various storm durations (A_{t_d}) measured in hours: $Q_d = C_d I_d A$
9	Compute a storage rate ($A_{S_{td}}$) for various storm durations (A_{t_d}) up through the time of concentration of the developed area: $S_{td} = Q_d - Q_u$
10	Compute required storage volume (A_{S_R}) in acre-feet, for each storm duration, (A_{t_d}). This assumes a triangular hydrograph of duration ($2 * t_d$) hours with the peak flow of S_{td} at t_d hours: $S_R = S_{td} (t_d / 12)$
11	Select the largest storage volume computed in Step 10 for detention basin design.

routing of stormwater may be used to determine the storage volume required to control stormwater runoff.

The procedures or methods used must receive the prior approval of the Drainage Board. The ILLUDAS, TR-20 and TR-55 models are approved by the Drainage Board in analysis of the runoff and routing of stormwater. The use of these models or other approved procedures can be defined in a seven-step procedure to determine the required storage volume of the detention basin.

<i>Table 7 Determination of Storage Volume: Other Methods</i>	
<i>Step</i>	<i>Procedure</i>
1	Calibrate the hydrologic/hydraulic model that is to be used for prediction of runoff and routing of stormwater.
2	For each storm duration listed in Table 5, perform Steps 3 through 6.
3	Determine the ten-year, undeveloped peak flow. Denote this flow by Q_u^{10} .
4	Determine the 100-year runoff hydrograph (AH_d^{100}) for developed conditions.
5	Determine the hydrograph that must be stored (AH_s^{100}) by subtracting a flow up to Q_u^{10} from the hydrograph H_d^{100} found in Step 4.
6	Determine the volume of water to be stored ($AV_s@$) by calculating the area under the 100-year hydrograph H_s^{100} .
7	The detention basin must be designed to store the largest volume ($AV_s@$) found for any storm duration analyzed in Step 6.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.175 GENERAL DETENTION BASIN DESIGN REQUIREMENTS.

(A) Basins shall be constructed to detain temporarily the stormwater runoff that exceeds the maximum peak flow rate authorized by this chapter. The volume of storage provided in these basins, together with the storage as may be authorized in other on-site facilities, shall be sufficient to control excess runoff from the 100-year storm.

(B) The following design principles shall be observed:

(1) The maximum volume of water stored and subsequently released at the design release rate shall not result in a storage duration in excess of 48 hours unless additional storms occur within the period.

(2) The maximum planned depth of stormwater stored without a permanent pool shall not exceed four feet.

(3) All stormwater detention facilities shall be separated by not less than 50 feet from any building or structure to be occupied.

(4) All excavated excess spoil may be spread so as to provide for aesthetic and recreational features such as sliding hills, sports fields and the like. Slopes no steeper than four-foot horizontal to one-foot vertical for safety, erosion control, stability and ease of maintenance shall be permitted.

(5) Safety screens having a maximum opening of four inches shall be provided for any pipe or opening to prevent children or large animals from crawling into the structures.

(6) Danger signs shall be mounted at appropriate locations to warn of deep water, possible flooding conditions during storm periods and other dangers that exist. Fencing shall be provided if deemed necessary by the Drainage Board.

(7) Outlet control structures shall be designed to operate as simply as possible and shall require no maintenance and/or attention for proper operation. They shall limit discharges into existing or planned downstream channels or conduits so as not to exceed the predetermined maximum authorized peak flow rate.

(8) Emergency overflow facilities such as weirs or spillways shall be provided for the release of exceptional storm runoffs or in emergency conditions should the normal discharge devices become totally or partially inoperative. The overflow facility shall be of such design that its operation is automatic and does not require manual attention.

(9) Grass or other suitable vegetative cover shall be provided throughout the entire basin area. Grass should be cut regularly at approximately

monthly intervals during the growing season or as required.

(10) Debris and trash removal and other necessary maintenance shall be performed on a regular basis to assure continued operation in conformance to design.

(11) (a) A report shall be submitted to the Drainage Board describing:

1. The proposed development;
 2. The current land use conditions;
 3. The method of hydraulic and hydrologic analysis used, including any assumptions or special conditions;
 4. The results of the analysis;
- and
5. The recommended drainage control facilities.

(b) Hydraulic and hydrologic calculations, including input and output files, shall be included as appendices to the report.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.176 DRY BOTTOM DETENTION BASIN DESIGN REQUIREMENTS.

Detention basins that will not contain a permanent pool of water shall comply with the following requirements.

(A) Provisions shall be incorporated to facilitate complete interior drainage of dry bottom basins, to include provisions of natural grades to outlet structures, longitudinal and transverse grades to perimeter drainage facilities, paved gutters or the installation of subsurface drains.

(B) The detention basin shall, whenever possible, be designed to serve a secondary or multipurpose function. Recreational facilities, aesthetic qualities (open spaces) or other types of use shall be considered in planning the detention facility.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.177 WET BOTTOM DETENTION BASIN DESIGN REQUIREMENTS.

(A) Where part of a detention basin will contain a permanent pool of water, all the items required for detention storage shall apply, except that the system of drains with a positive gravity outlet required to maintain a dry bottom retention basin will not be required. A controlled positive outlet will be required to maintain the design water level in the wet bottom detention basin and provide required detention storage above the design water level.

(B) However, the following additional conditions shall apply:

(1) Basins designed with permanent pools or containing permanent ponds shall have a water area of at least one-half acre. If fish are to be maintained in the pond, a minimum depth of approximately ten feet shall be maintained over at least 25% of the pond area. The remaining pond area shall have no extensive shallow areas, except as required by division (B)(3) below.

(2) In excavated ponds, the underwater side slopes in the pond shall be stable. In the case of valley storage, natural slopes may be considered to be stable.

(3) A safety ledge four to six feet in width is required and must be installed in all ponds approximately 30 to 36 inches below the permanent water level. In addition, a similar maintenance ledge 12 to 18 inches above the permanent water line shall be provided. The slope between the two ledges shall be stable and of a material such as stone or riprap that will prevent erosion due to wave action.

(4) A safety ramp exit from the pond is required in all cases and shall have a minimum width of 20 feet and exit slope of six horizontal to one vertical. The ramp shall be of a material that will prevent its deterioration due to vehicle use and/or wave action.

(5) Periodic maintenance is required in ponds to control weed and larval growth. The pond shall also be designed to provide for the easy removal of sediment that will accumulate during periods of pond operation. A means of maintaining the designed water level of the pond during prolonged periods of dry weather is also required.

(6) For emergency use, basin cleaning or shoreline maintenance, facilities shall be provided or plans prepared for auxiliary equipment to permit emptying and drainage.

(7) Facilities to enhance and maintain pool water quality shall be provided, if required to meet applicable water quality standards. Design calculations to substantiate the effectiveness of these aeration facilities shall be submitted with final engineering plans. Agreements for the perpetual operation and maintenance of aeration facilities shall be prepared to the satisfaction of the Drainage Board. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.178 ROOF TOP STORAGE.

Detention storage requirements may be met in total or in part by detention on flat roofs. Details of the designs are to be included in the building permit application and shall include the depth and volume of storage, details of outlet devices and downdrains and elevations of emergency overflow provisions. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.179 PARKING LOT STORAGE.

Paved parking lots may be designed to provide temporary detention storage of stormwaters on all or a portion of their surfaces. Outlets will be designed so as to empty the stored waters slowly. Depths of storage must be limited to a maximum depth of seven inches so as to prevent damage to parked vehicles and so that access to parked vehicles is not impaired. Ponding should, in general, be confined to those portions of the parking lots farthest from the area served.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.180 FACILITY FINANCIAL RESPONSIBILITY.

The construction cost of stormwater control systems and facilities as required by this chapter shall be accepted as part of the cost of land development. If general public use of the facility can be demonstrated, negotiations for public participation in the cost of the development may be considered.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.181 FACILITY MAINTENANCE RESPONSIBILITY.

(A) Maintenance of detention/retention facilities during construction and thereafter shall be the responsibility of the developer/owner. Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and shall be determined before the final drainage plans are approved.

(B) Stormwater detention and retention basins may be donated to the county or other unit of government designated by the county for ownership and permanent maintenance, providing:

(1) The county or other governmental unit is willing to accept responsibility;

(2) The facility has been designed and constructed according to all applicable provisions of this chapter;

(3) All improvements have been constructed, approved and accepted by the county for the land area served by the drainage basin;

(4) Retention ponds containing a permanent pool of water:

(a) Have all slopes between the riprap and high water line sodded and the remaining land area hydro seeded;

(b) Are with electrically driven aeration devices, if required to maintain proper aerobic conditions and sustain aquatic life;

(c) Have a four-foot wide crushed limestone walkway at the high water line entirely around the body of water;

(d) Provide suitable public access acceptable to the responsible governmental agency; and

(e) Have the high water line not closer than 50 feet to any property line.

(5) Dry detention ponds shall have all slopes, bottom of the basin and areas above the high water line hydroseeded and shall have the high water line not closer than 50 feet to any development boundary.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.182 INSPECTIONS.

Representatives of the county will inspect all public and privately owned detention storage facilities not less than once every two years. A certified inspection report covering physical conditions, available storage capacity and operational condition of key facility elements will be provided to the owner.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.183 CORRECTIVE MEASURES.

If deficiencies are found by the inspector, the owner of the detention/retention facility will be required to take the necessary measures to correct the deficiencies. If the owner fails to do so, the county

will undertake the work and collect from the owner using lien rights, if necessary.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.184 JOINT DEVELOPMENT OF CONTROL SYSTEMS.

Stormwater control systems may be planned and constructed jointly by two or more developers as long as compliance with this chapter is maintained.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.185 INSTALLATION OF CONTROL SYSTEMS.

Runoff and erosion control systems shall be installed as soon as possible during the course of site development. Detention/retention basins shall be designed with an additional 6% of available capacity to allow for accumulation resulting from development and to permit the pond to function for reasonable periods between cleanings. Basins should be designed to collect sediment and debris in specific locations so that removal costs are kept to a minimum.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.186 DETENTION FACILITIES IN FLOODPLAINS.

If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the elevation of the regulatory flood at the location unless compensatory storage is also provided.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 155.187 OFF-SITE DRAINAGE PROVISIONS.

When the allowable runoff is released in an area that is susceptible to flooding, the developer may be required to construct appropriate storm drains through the area to avert increased flood hazard caused by the concentration of allowable runoff at one point instead of the natural overland distribution. The requirement of off-site drains shall be at the discretion of the Drainage Board.

(Ord. 2004-1-1-28, passed 1-28-2004)

CERTIFICATIONS REQUIRED

' 155.200 REQUIRED CERTIFICATIONS.

(A) After completion of the project and before final approval and acceptance can be made, professionally prepared and certified record drawings shall be submitted to the Drainage Board for review. These plans shall include all pertinent data relevant to the completed storm drainage system and shall include:

- (1) Pipe size and pipe material;
- (2) Invert elevations;
- (3) Top rim elevations;
- (4) Lengths of all pipe structures;
- (5) Data and calculations showing detention basin storage volume; and

(6) Certified statement on plans stating the completed storm drainage system substantially complies with construction plans as approved by the Drainage Board.

(B) (1) All submitted plans shall be reviewed for compliance within 30 days after submission to the Drainage Board or County Surveyor.

(2) If notice of non-compliance is not given within 30 days of submission of the plans, the plans shall be construed as approved and accepted.
(Ord. 2004-1-1-28, passed 1-28-2004)

CHANGES IN PLAN

' 155.215 FILING AND APPROVAL OF PLAN CHANGES.

Any revision, significant change or deviation in the detailed plans and specifications after formal approval by the Drainage Board shall be filed in duplicate with and approved by the Drainage Board prior to implementation of the revision or change. Copies of the revisions or changes, if approved, shall be attached to the original plans and specifications.
(Ord. 2004-1-1-28, passed 1-28-2004)

DETERMINATION OF IMPACT DRAINAGE AREAS

' 155.230 IMPACT DRAINAGE AREAS.

(A) The Drainage Board is authorized, but is not required, to classify certain geographical areas as impact drainage areas and to enact and promulgate regulations that are generally applied. In determining impact drainage areas, the Drainage Board shall consider factors such as topography, soil type, capacity of existing regulated drains and distance from adequate drainage facility.

(B) The following areas shall be designated as impact drainage areas, unless good reason for not including them is presented to the Drainage Board:

- (1) A floodway or floodplain as designated by the State Department of Natural Resources;
- (2) Land within 75 feet of each bank of any regulated drain; and
- (3) Land within 75 feet of the centerline of any regulated drain tile.

(C) Land where there is not an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an impact drainage area by resolution of the Drainage Board. Special requirements for development within any impact drainage area shall be included in the resolution. (Ord. 2004-1-1-28, passed 1-28-2004)

OTHER REQUIREMENTS

' 155.245 SUMP PUMPS.

Sump pumps installed to receive and discharge groundwaters or other stormwaters shall be connected to the storm sewer where possible or discharged into a designated storm drainage channel. Sump pumps installed to receive and discharge floor drain flow or other sanitary sewage shall be connected to the sanitary sewers. A sump pump shall be used for one function only, either the discharge of stormwaters or the discharge of sanitary sewage. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.246 DOWN SPOUTS.

All down spouts or roof drains shall discharge onto the ground or be connected to the storm sewer. No down spouts or roof drains shall be connected to the sanitary sewers. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.247 FOOTING DRAINS.

Footing drains shall be connected to storm sewers where possible or designated storm drainage channels. No footing drains or drainage tiles shall be connected to the sanitary sewers. (Ord. 2004-1-1-28, passed 1-28-2004)

' 155.248 BASEMENT FLOOR DRAINS.

Basement floor drains shall be connected to the sanitary sewers. (Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 156: EROSION CONTROL

Section

- 156.01 Purpose
- 156.02 Plan and implementation requirement
- 156.03 Exemptions
- 156.04 Contents of erosion control and/or grading plan
- 156.05 Plan review and approval
- 156.06 Design principles and performance standards
- 156.07 Maintenance
- 156.08 Inspection and enforcement
- 156.09 Financial guaranty of performance

' 156.01 PURPOSE.

The purpose of this chapter is to control soil erosion and sediment damage and related environmental damage by requiring adequate provisions for surface water retention and drainage and for the protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the citizens of the county.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 156.02 PLAN AND IMPLEMENTATION REQUIREMENT.

(A) Unless otherwise provided, no land area shall be disturbed by any person and no site plans, construction plans or development plans shall be approved unless the applicant has submitted an erosion control/grading plan to the Zoning Administrator, designed to provide for soil erosion and sediment control for the land areas, and the plan has been approved and an improvement location

(C) Land disturbance activities directly associated with the use of existing one-family and two-family dwellings (for example, gardening, repairing septic field, and the like) and the

permit issued by the Zoning Administrator. The applicant shall submit a separate erosion control/grading plan for each non-contiguous site. The plan shall be prepared by a registered engineer licensed by the state, a registered land surveyor licensed by the state or a certified soil scientist.

(B) The owner of the subject property and/or the applicant shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this chapter. The Planning Commission, by rule, may require and establish standards for performance bonds or other assurances to guarantee compliance with the implementation requirement of this chapter.

(C) The failure to submit and/or implement an approved erosion control/grading plan shall constitute a violation of the Zoning Ordinance and may be enforced as one.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 156.03 EXEMPTIONS.

The following activities are specifically exempt from the requirements and standards of this chapter.

(A) Minor subdivisions of less than two and one-half acres.

(B) Site plans for development where the land will not be disturbed (for example, addition of a second story, location of a mobile home on an existing pad, and the like).

construction of a one-family or two-family dwelling on a specific lot of record, accessory buildings and agricultural structures, except those located within 200 feet of public waters (i.e., waters owned by

governmental entities and/or rivers and stream reaches covered by the State Department of Natural Resources flood control permit regulations).

(D) Agricultural use of lands involving land disturbance, when operated in accordance with a farm conservation plan approved the County Soil and Water Conservation District or when it is determined by the County Soil and Water Conservation District that the use will not cause excessive erosion and sedimentation.

(E) Projects that are performed by, or on behalf of, the United States, the state or any political subdivision of the state and that are subject to federal or state erosion regulations.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 156.04 CONTENTS OF EROSION CONTROL AND/OR GRADING PLAN.

(A) The applicant may consult with the County Soil and Water Conservation District in the selection of appropriate erosion and sediment control measures and the development of the plan.

(B) The plan shall contain:

(1) All information required by this chapter;

(2) Details and contours, at five-foot intervals, of the subject property;

(3) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, karst features and springs and the total acreage of land that will be disturbed;

(4) The location and description of any existing buildings or structures on the subject property where the work is to be performed, the location of any existing buildings or structures on land of adjacent owners that are within 100 feet of the subject property or that may be affected by any proposed land disturbing activities and proposed and approximate locations of structures relative to adjoining topography;

(5) The direction of drainage flow and the approximate grade of all existing or proposed streets;

(6) Limiting dimensions, elevations or finish contours to be achieved by any proposed grading, including all cut and fill slopes, proposed drainage channels and related construction;

(7) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed with, or as a part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways that may be affected by the proposed development and the estimated runoff of the area served by the drains;

(8) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site;

(9) Location and description of proposed changes to the site;

(10) Measures for soil erosion and sediment control that must meet or exceed the methods and standards adopted by the State Department of Natural Resources and/or set forth in the State Construction Site Erosion Control Manual and that must comply with the design principles, performance standards and requirements set forth in this chapter;

(11) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates and a schedule for the maintenance of the measures; and

(12) Any other information reasonably required by the Zoning Administrator to properly evaluate the plan.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 156.05 PLAN REVIEW AND APPROVAL.

Erosion control/grading plans shall be reviewed by the Zoning Administrator or other designated person and approved when in conformance with the design principles and performance standards of this chapter. The Zoning Administrator may seek the assistance of the County Soil and Water Conservation District in the review of the plans and may deem as approved those plans that have been reviewed and determined adequate by the District.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 156.06 DESIGN PRINCIPLES AND PERFORMANCE STANDARDS.

(A) Erosion control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity.

(B) The following principles and standards shall apply to the soil erosion and sediment control plan and to the development of the subject property.

(1) The methods and standards adopted by the State Department of Natural Resources and/or set forth in the State *Construction Site Erosion Control Handbook*, as administered by the Natural Resources Conservation Service (Rule 5, or 327 I.A.C. 15-5).

(2) Stripping of vegetation, grading or other soil disturbance shall be done in a manner that minimizes soil erosion.

(3) Whenever feasible, natural vegetation

(12) No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic or prehistoric ruins or monuments, objects of antiquity or geological landmarks or monuments are present. The erosion control/grading plan shall indicate all the areas on the subject property and shall indicate the

shall be retained and protected.

(4) The extent of the disturbed area and the duration of its exposure shall be kept within practical limits.

(5) Temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed critical areas during construction or other land disturbance.

(6) Drainage provisions shall accommodate increased runoff resulting from modified soil and surface conditions during and after development or disturbance. The provisions shall be in addition to all existing requirements.

(7) Water runoff shall be minimized and retained on-site wherever possible to facilitate groundwater recharge.

(8) Sediment shall be retained on-site.

(9) Diversions, sediment basins and other required structures shall be installed prior to any on-site grading or disturbance.

(10) Natural or constructed slopes in excess of 12% shall not be subjected to development unless the project engineer can demonstrate conclusively to the satisfaction of both the Zoning Administrator and the County Highway Engineer that the limitation can be overcome in a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel and adverse impact on the natural environment.

(11) The Zoning Administrator may require that grading operations and/or project designs and schedules be modified if delays occur that incur weather-generated problems not considered at the time plan approval was granted.

measures that will be taken to protect the areas. The State Department of Natural Resources shall approve the proposed protection measures before the erosion control/grading plan may be approved by the Zoning Administrator. Whenever during excavation there are uncovered or become apparent any historic or prehistoric ruins or monuments or objects of antiquity

or geological landmarks or monuments not previously accounted for in the erosion control/grading plan, all work in the immediate area shall cease until the State Department of Natural Resources determines what precautions should be taken to preserve the historic artifacts.

(C) The foregoing standards shall be implemented in a manner and to an extent that soil erosion and migration caused by certain land disturbing activities are reasonably minimized. The failure to reasonably minimize the erosion and migration shall constitute a violation of this chapter that may be enforced, regardless of plan compliance. (Ord. 2004-1-1-28, passed 1-28-2004)

' 156.07 MAINTENANCE.

All necessary soil erosion and sediment control measures installed under this chapter shall be adequately maintained for one year after completion of the approved plan or until the measures have stabilized, as determined by the Zoning Administrator. The Zoning Administrator shall provide the applicant, upon request, with a certificate indicating the date on which the measures called for in the approved plans were completed. The Planning Commission, by rule, may require and establish standards for maintenance bonds or other assurances to guarantee compliance with the maintenance requirement of this chapter. (Ord. 2004-1-1-28, passed 1-28-2004)

' 156.08 INSPECTION AND ENFORCEMENT.

The requirements and standards of this chapter shall be enforced by the Zoning Administrator, who shall inspect, or cause to be inspected, the implementation of the plan. If the Zoning Administrator finds existing conditions not as stated in the applicant's erosion control/grading plan, he or she may refuse to approve further work and may require necessary erosion and sediment control measures to be promptly installed and may seek other penalties and remedies as provided in this chapter. (Ord. 2004-1-1-28, passed 1-28-2004)

' 156.09 FINANCIAL GUARANTY OF PERFORMANCE.

(A) As a condition of approval for issuance of a grading permit, the Zoning Administrator shall require the applicant to post a performance bond (Aperformance bond@) to ensure that the required improvements are completed and/or dedicated in the manner prescribed by this chapter, unless exempted under the provisions of ' 156.03.

(B) For grading permits, the performance bond shall be in the amount of 10% of the estimated completion cost of the required erosion control improvements as set forth in the permit application.

(C) The period within which the required improvements must be completed (Aperformance period@) shall be specified by the Zoning Administrator as a condition of permit approval, shall be incorporated in the performance bond as a material and essential term and shall not exceed two years from the date of permit approval.

(D) The Zoning Administrator may amend the performance bond to extend the performance period for an additional one-year period upon a finding that the applicant has been unable to complete the required improvements despite due diligence. A request for a performance period extension must be submitted to the Zoning Administrator by the applicant at least four months prior to the expiration date of the original performance period. As a condition precedent of the performance bond amendment, at least one month prior to the expiration date of the original performance period, the applicant shall secure the amended performance bond in accordance with this chapter and shall submit the secured, amended performance bond to the Zoning Administrator.

(E) The performance bond shall name the Planning Commission and/or the county as obligees, shall comply with all statutory requirements and shall be satisfactory to the Planning Commission attorney and/or the County Attorney as to form, sufficiency and manner of execution as set forth in this chapter.

(F) A performance bond authorized or required by this chapter shall be secured by either an irrevocable letter of credit or a cashier=s check in the amount of the performance bond. The beneficiary of the financial guaranty shall be the Planning Commission and/or the county (Aguarantee@). The financial guaranty shall be issued by a financial institution (Aguarantor@) that maintains an office within 60 miles of the county, at which the financial guaranty may be presented for payment. Letters of credit submitted pursuant to this chapter shall comply with ' 151.20. Cashier=s checks submitted pursuant to this chapter shall be held by the County Auditor until the performance bond is released or reduced as provided in this chapter.

(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 157: FLOODPLAIN MANAGEMENT

Section

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GENERAL PROVISIONS

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(A) The flood hazard areas of unincorporated Henry County and the incorporated towns of Dunreith, Lewisville, Middletown, Mooreland, Spiceland, Springport, and Sulphur Springs are subject to periodic inundation which results in loss of life and property, health and safety hazards,

' 157.01 STATUTORY AUTHORIZATION.

The State Legislature has in I.C. 36-7-4 and I.C. 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Board of Commissioners does hereby adopt the following floodplain management regulations.
(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.02 FINDINGS OF FACT.

disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages. (Ord. 2007-1-1-10, passed 1-10-2007)

' **157.03 STATEMENT OF PURPOSE.**

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

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

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

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

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

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

(F) Make federally subsidized flood insurance available for structures and their contents in the jurisdiction of the County Planning Commission (including the unincorporated areas of the county and the incorporated towns of Dunreith, Lewisville, Middletown, Mooreland, Spiceland, Springport, and

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These

Sulphur Springs, which have designated the County Planning Commission as their planning agency) by fulfilling the requirements of the National Flood Insurance Program. (Ord. 2007-1-1-10, passed 1-10-2007)

' **157.04 OBJECTIVES.**

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

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

(D) To minimize prolonged business interruptions;

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

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in a manner as to minimize flood blight areas; and

(G) To ensure that potential homebuyers are notified that property is in a flood area. (Ord. 2007-1-1-10, passed 1-10-2007)

' **157.05 DEFINITIONS.**

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

areas are labeled as Zone A, Zone AE, Zone A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHBM. The definitions are presented below:

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

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

ZONE AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

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

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

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

COMMUNITY RATING SYSTEM (CRS). Program developed by the Federal Insurance

purchase requirements apply.

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

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

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

AREA OF SHALLOW FLOODING. Designated AO or AH Zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident. The flooding is characterized by ponding or sheet flow.

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

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

BUILDING. See **STRUCTURE**.

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

Administration to provide incentives for those communities in the regular program that have gone

beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

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

DEVELOPMENT.

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

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

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

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

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;

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

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

(g) Storage of materials; or

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Preparation of additional sites by the construction of facilities for servicing the lots on

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

ELEVATED STRUCTURE. Non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

ELEVATION CERTIFICATE. Certified statement that verifies a structure=s elevation information.

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

ENCROACHMENT. Advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING CONSTRUCTION. Any structure for which the start of construction commenced before the effective date of the community=s first floodplain ordinance.

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

which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. Federal Emergency Management Agency.

FIVE-HUNDRED-YEAR FLOOD (500-YEAR FLOOD). Flood that has a 0.2% chance of being equaled or exceeded in any year.

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

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

FLOOD HAZARD BOUNDARY MAP (FHBM). Official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

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

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

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

FLOODPLAIN MANAGEMENT. Operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to,

FREEBOARD. Factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to

emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

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

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

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

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

compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

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

FUNCTIONALLY DEPENDENT FACILITY. Facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

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

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

HISTORIC STRUCTURE. Any structure individually listed on the National Register of Historic Places or the State Register of Historic Sites and Structures.

INCREASED COST OF COMPLIANCE (ICC).

Cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood

(a) Walls are designed to automatically equalize the hydrostatic flood forces on

insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

LETTER OF MAP AMENDMENT (LOMA). Amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A *LOMA* is only issued by FEMA.

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

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

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

LOWEST FLOOR. Lowest of the following:

- (1) Top of the lowest level of the structure;
- (2) Top of the basement floor;
- (3) Top of the garage floor, if the garage is the lowest level of the structure;
- (4) Top of the first floor of a structure elevated on pilings or pillars;
- (5) Top of the first floor of a structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of division (6)(a) below; or
- (6) Top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless: the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in

addition to doorways and windows) having a total net area of one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade; and

(b) Enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. Structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. **MANUFACTURED HOME** does not include a recreational vehicle.

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

MAP AMENDMENT. Change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

MAP PANEL NUMBER. Four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter A is not used by FEMA; the letter B is the first revision.)

MARKET VALUE. Building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal,

replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

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

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

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

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

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

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

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

ONE-HUNDRED-YEAR FLOOD (100-YEAR FLOOD). Flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See **REGULATORY FLOOD**.

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

PARTICIPATING COMMUNITY. Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

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

POST-FIRM CONSTRUCTION. Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

PRE-FIRM CONSTRUCTION. Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

PROBATION. Means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

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

RECREATIONAL VEHICLE. Vehicle which is:

- (1) Built on a single chassis;
- (2) Four-hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

REGULATORY FLOOD. Flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the State Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in '157.07. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD, ONE-PERCENT ANNUAL CHANCE FLOOD, and 100- YEAR FLOOD**.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the

event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market

SECTION 1316. Section of the National Flood Insurance Act of 1968, being 42 USC 4001 through 4128, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Lands within the jurisdictions of the County Planning Commission subject to inundation by the regulatory flood. The **SFHAs** of the county are generally identified as such on the flood insurance rate map of the county and incorporated areas dated September 4, 1987, as well as any future updates, amendments or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

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

value of the structure at the time of each flood event.

building.

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

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

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage or repetitive loss regardless of the actual repair work performed. **SUBSTANTIAL IMPROVEMENT** does not include improvements of structures to correct existing violations of state or local Health, Sanitary or Safety Code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure.

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

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

VIOLATION. Failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be

in violation until the time as the documentation is provided.

WATERCOURSE. Lake, river, creek, stream, wash, channel or other topographic feature on or over
WATER SURFACE ELEVATION. Height, in relation to the North American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

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

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

ZONE A. See **A ZONE**.

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

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.06 LANDS COVERED.

This chapter shall apply to all SFHAs within the jurisdiction of the County Planning Commission.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

(A) This chapter's protection standard is the regulatory flood. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the State Department of Natural Resources for review and approval.

(B) The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs shall be as delineated on the 100-year flood profiles in the flood insurance study of the county and incorporated areas, dated September 4, 1987, and the corresponding FIRM dated September 4, 1987, as well as any future updates, amendments or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the unstudied SFHAs delineated as an A Zone on the FIRM of the county and incorporated areas shall be according to the best data available as provided by the State Department of Natural Resources.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

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

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.09 COMPLIANCE.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter

and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

**' 157.10 CONSTRUCTION;
INTERPRETATION.**

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

(B) In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

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

(Ord. 2007-1-1-10, passed 1-10-2007)

**' 157.11 DISCREPANCY BETWEEN MAPPED
FLOODPLAIN AND ACTUAL GROUND
ELEVATIONS.**

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

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

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

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.12 DISCLAIMER OF LIABILITY.

(Ord. 2007-1-1-10, passed 1-10-2007)

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

(Ord. 2007-1-1-10, passed 1-10-2007)

ADMINISTRATION

**' 157.25 DESIGNATION OF
ADMINISTRATOR.**

The County Board of Commissioners hereby appoints the Zoning Administrator for the County Planning Commission to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.26 PERMIT PROCEDURES.

(A) Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing:

(1) The nature, location, dimensions, and elevations of the area in question;

(2) Existing or proposed structures;

(3) Earthen fill;

(4) Storage of materials or equipment;

(5) Drainage facilities; and

(B) Specifically, the following information is required.

(1) *Application stage.*

(a) A description of the proposed development;

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

(c) A legal description of the property site;

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

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

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be flood proofed; and

(g) Description of the extent to which any watercourse will be altered or related as a result of proposed development.

(2) *Construction stage.* Upon placement of the lowest floor or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders= risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The

(6) The location of the foregoing.

permit holder shall correct deficiencies detected by the review before any further work is allowed to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.27 FLOODPLAIN ADMINISTRATOR DUTIES AND RESPONSIBILITIES.

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The Administrator is further authorized to render interpretations of this chapter which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

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

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

(3) Ensure that construction authorization has been granted by the State Department of Natural Resources for all development projects subject to ' ' 157.44 and 157.46, and maintain a record of the authorization (either copy of actual permit or floodplain analysis/regulatory assessment);

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

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

(6) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, letters of map amendment (LOMA), letters of map revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and As-built@ elevation and floodproofing data for all buildings constructed subject to this chapter;

(7) Utilize and enforce all letters of map revision (LOMR) or physical map revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;

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

(9) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with ' 157.26;

(10) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with ' 157.26; and

(11) Review certified plans and specifications for compliance.

(C) (1) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

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

(D) (1) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the chapter, in cases where there has been any false statement or misrepresentation as to

the material fact in the application or plans on which the permit or approval was based.

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

(Ord. 2007-1-1-10, passed 1-10-2007)

FLOOD HAZARD REDUCTION PROVISIONS

' 157.40 GENERAL STANDARDS.

(A) In all SFHAs, the following provisions are required.

(B) (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

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

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

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

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(6) New and replacement water supply systems shall be designed to minimize or eliminate

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

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

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

(10) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this chapter shall be undertaken only if the non-conformity is not further, extended or replaced.
(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.41 SPECIFIC STANDARDS.

(A) In all SFHAs, the following provisions are required.

(B) (1) *Additional requirements.* In addition to the requirements of ' 157.40, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(a) Construction or placement of any new structure having a floor area greater than 400 square feet; and/or

(b) Structural alterations made to:

1. An existing (previously unaltered structure), the cost of which equals or exceeds 50% of the value of the pre-altered structure (excluding the value of the land);

2. Any previously altered structure;

3. Reconstruction or repairs

infiltration of flood waters into the system.

made to a damaged structure that are valued at more than 50% of the market value of the structure (excluding the value of the land) before damage occurred;

4. Installing a travel trailer or recreational vehicle on a site for more than 180 days;

5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This division does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

6. Reconstruction or repairs made to a repetitive loss structure.

(2) *Residential construction.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards division (B)(4) below.

(3) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation). Structures located in all A Zones may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) 1. A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood.

2. The structure design shall take into account flood velocities, duration, rate of

rise, hydrostatic pressures, and impacts from debris or ice.

3. The certification shall be provided to the official as set forth in ' 157.27(B)(10).

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

(4) *Elevated structures.* New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

2. The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade).

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

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

5. The interior portion of the enclosed area shall not be partitioned or finished into

separate rooms.

6. Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage.

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

(a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the standard Proctor Test method.

(b) The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.

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

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

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

(6) *Standards for structures constructed with a crawlspace.* A residential or non-residential structure may be constructed with a crawlspace located below the flood protection grade, provided that the following conditions are met:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(b) Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters, provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area, and the bottom of the openings shall be no more than one foot above grade;

(c) The interior grade of the crawlspace must be at or above the base flood elevation;

(d) The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four feet at any point;

(e) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event;

(f) Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage; and

(g) Utility systems within the crawlspace must be elevated above the flood protection grade.

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

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

2. This requirement applies to all manufactured homes to be placed on a site:

a. Outside a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

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

2. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

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

1. Be on-site for less than 180 days and be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

2. Meet the requirements for manufactured homes as stated earlier in this section. (Ord. 2007-1-1-10, passed 1-10-2007)

' 157.42 SUBDIVISION PROPOSAL STANDARDS.

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

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

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

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

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.43 CRITICAL FACILITY.

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

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.44 IDENTIFIED FLOODWAY STANDARDS.

(A) Located within SFHAs, established in ' 157.07 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the State Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit for construction in a floodway from the State Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local

floodway. This includes land preparation activities such as filling, grading, clearing, paving and the like, undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the State Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the State Department of Natural Resources.

(B) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the State Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the State Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in ' ' 157.40 through 157.46 have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the State Department of Natural Resources. However, a community=s more restrictive regulations (if any) shall take precedence.

(C) No development shall be allowed which, acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot.

(D) For all projects involving channel modifications or fill (including levees), the County Planning Commission shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.45 IDENTIFIED FRINGE STANDARDS.

floodplain development permit, provided the provisions contained in ' ' 157.40 through 157.46

have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG. (Ord. 2007-1-1-10, passed 1-10-2007)

' 157.46 SFHA STANDARDS WHEN NO ESTABLISHED BASE FLOOD ELEVATION OR FLOODWAYS/ FRINGES.

(A) *Drainage area upstream of the site is greater than one square mile.*

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

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100-year flood elevation and the recommended flood protection grade has been received from the State Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the State Department of Natural Resources and the provisions contained in ' ' 157.40 through 157.46 have been met.

(B) *Drainage area upstream of the site is less than one square mile.*

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the

floodway, fringe and 100-year flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in ' ' 157.40 through 157.46 have been met.

(C) *Total cumulative effect.* The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(Ord. 2007-1-1-10, passed 1-10-2007)

VARIANCES

' 157.60 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Board of Zoning Appeals as established by the County Board of Commissioners shall hear and decide appeals and requests for variances from requirements of this chapter.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.61 DUTIES OF BOARD.

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal the decision to the Circuit Court of the county, as provided in I.C. 36-7-4-1000 Series-Remedies and Enforcement.

(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.62 VARIANCE PROCEDURES.

In passing upon the applications, the Board of Zoning Appeals shall consider:

- (A) All technical evaluations;
 - (B) All relevant factors;
 - (C) All standards specified in other sections of this chapter; and
 - (D) (1) The danger of life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
 - (3) The importance of the services provided by the proposed facility to the community;
 - (4) The necessity to the facility of a waterfront location, where applicable;
 - (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (6) The compatibility of the proposed use with existing and anticipated development;
 - (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and
 - (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (Ord. 2007-1-1-10, passed 1-10-2007)

' 157.63 CONDITIONS FOR VARIANCE.

- (A) Variances shall only be issued when there is a:
 - (1) Showing of good and sufficient cause;
 - (2) Determination that failure to grant the variance would result in exceptional hardship; and
 - (3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (B) No variance for a residential use within a floodway subject to ' ' 157.44 or 157.46 may be granted.
- (C) Any variance granted in a floodway subject to ' ' 157.44 or 157.46 will require a permit from the State Department of Natural Resources.
- (D) Variances to the provisions for flood hazard reduction of ' 157.41 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the State Register of Historic Sites and Structures.

(G) Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See ' 157.64)

(H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the State Department of Natural Resources upon request. (See ' 157.64)
(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.64 VARIANCE NOTIFICATION.

(A) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

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

(2) Construction below the base flood level increases risks to life and property.

(b) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report the variances issued in the community=s biennial report submission to the Federal Emergency Management Agency.
(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.65 HISTORIC STRUCTURE.

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure=s continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure.
(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.66 SPECIAL CONDITIONS.

Upon the consideration of the factors listed in ' 157.62 and the purposes of this chapter, the Board of Zoning Appeals may attach the conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
(Ord. 2007-1-1-10, passed 1-10-2007)

' 157.999 PENALTY.

(A) Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of Title XV of this code of ordinances.

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

(C) The County Planning Commission shall inform the owner that any violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(D) Nothing herein shall prevent the county from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2007-1-1-10, passed 1-10-2007)

CHAPTER 158: SIGNAGE

Section

- 158.01 Purpose and effect
- 158.02 Applicability of provisions
- 158.03 Permits
- 158.04 Exemptions
- 158.05 Non-conforming signs by permit
- 158.06 Placement prohibitions
- 158.07 General regulations

' 158.01 PURPOSE AND EFFECT.

(A) These sign regulations are adopted under the zoning authority of the county for the purpose of:

(1) Providing guidelines for the placing, number, size and general characteristics of all signs throughout the county jurisdictional area;

(2) Encouraging the effective use of signs as a means of communication within the county jurisdictional area;

(3) Maintaining and enhancing the aesthetic environment and the county's ability to attract sources of economic development and growth;

(4) Improving pedestrian and traffic safety;

(5) Minimizing the possible adverse effect of signs on nearby public and private property;

(6) Enabling and promoting the fair and consistent enforcement of these sign restrictions; and

(7) Promoting the general purposes set forth in this title and the land use planning goals set forth in the Comprehensive Plan.

(B) The effect of this chapter as more specifically set forth herein is:

(1) To establish a permit system to allow a variety of types of signs in commercial and industrial zones and a limited variety of signs in other zones, subject to the standards and the permit procedures of this chapter;

(2) To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the standards and the permit procedures of this chapter;

(3) To prohibit all signs not expressly permitted by this chapter; and

(4) To provide for the enforcement of the provisions of this chapter.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 158.02 APPLICABILITY OF PROVISIONS.

A sign may be erected, placed, established, painted, created or maintained in the county jurisdictional area only in conformance with the standards, procedures, exemptions and other requirements of this title and other county codes and resolutions.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 158.03 PERMITS.

(A) After the effective date of this chapter, and except as otherwise provided, no person shall erect any sign as defined herein without first obtaining a permit from the Zoning Administrator.

(B) The application for the permit shall be made in writing, in duplicate, upon forms prescribed and approved by the Zoning Administrator, to the Zoning Administrator and shall contain the following information:

(1) Name, address and telephone number of applicant;

(2) Address or location, if no address, of building, structure or land on which the sign is to be erected;

(3) A scale drawing of the sign, showing the elevation of the sign, the face(s) composing the sign, the position of lighting or other extraneous devices and any other components of the sign;

(4) A site plan showing the position of the proposed sign, as well as any existing signage, on any building or land and its position in relation to nearby buildings or structures and to any private or public road, street or traffic-way right-of-way;

(5) Written consent of the owner of the building, structure or land on which the sign is to be erected, in the event the applicant is not the owner thereof; and

(6) The fee, as determined by the Planning Commission rules of procedure.

(C) The Zoning Administrator shall examine the plans, specifications and other data submitted with the application and, if necessary, the building or premises upon which it is proposed to erect the sign. If the proposed sign is in compliance with all of the requirements of this title, an improvement location permit shall be issued.

(Ord. 2004-1-1-28, passed 1-28-2004) Penalty, see ' 10.99

' 158.04 EXEMPTIONS.

The following signs shall be exempted from the provisions of this chapter:

(A) Publicly owned signs for traffic control and transit stops;

(B) Any sign of not more than one and one-half square feet in area, provided that no more than one sign shall be permitted per zone lot;

(C) Any sign required by law or code; and

(D) Political signs and signs offering the property on which they are situated for sale, lease or rent that comply with the provisions of ' 158.07(G). (Ord. 2004-1-1-28, passed 1-28-2004)

' 158.05 NON-CONFORMING SIGNS BY PERMIT.

Non-conforming signs by permit may not be expanded, altered or relocated except as follows.

(A) Ordinary maintenance is permitted, and shall include replacement of supports with different materials or design than the previous supports. Replacement of supports shall be subject to the requirements of ' 158.03.

(B) A non-conforming sign by permit may be moved on the same zone lot so as to retain the same setback from a traffic-way property line in the event of a traffic-way widening or a change of use or move necessitated by new construction on the zoning lot on which it is located. Any other change in location of a sign shall be subject to the requirements of ' 158.03.

(C) Off-premises sign relocation shall be permitted when a non-conforming off-premises sign by permit is removed for relocation to another zoning lot or to another location on the same zoning lot provided:

(1) The new location is within an LB, GB, LI or HI district if the new location is on a different zoning lot;

(2) The sign area at the new location shall not exceed the sign area at the previous location, nor shall the height of the sign at the new location exceed 35 feet, measured from the crown of the traffic-way directly in front of the sign to the top of the sign;

(3) The off-premises sign as relocated shall be at least 300 feet from the next nearest off-premises sign, except on limited-access highways, where the distance to the next nearest sign shall be 500 feet. The spacing shall apply to signs on the same side of the traffic-way, measured along the roadway between points on the roadway that are nearest to each sign. Spacing provisions shall not apply when signs are separated by obstructions in a manner so that only one sign within the spacing distances is visible from the traffic-way at any one time;

(4) The relocated off-premises sign shall be subject to the front, side and rear building setback requirements of the zoning district in which it is being relocated; and

(5) An application to relocate an off-premises sign shall be accompanied by a commitment to the removal of the sign from its existing location by both the owner of the property and of the sign. Each Commission-approved use approval shall include, as a condition of approval, a stipulation that the previous non-conforming use by permit at the previous location shall be deemed abandoned immediately upon relocation. (Ord. 2004-1-1-28, passed 1-28-2004)

' 158.06 PLACEMENT PROHIBITIONS.

The following prohibitions shall apply in all zoning districts.

(A) No sign shall be erected or maintained in any form or at any location where it may obstruct or in any way interfere with the view of or be confused with any approved traffic control device or where it may obstruct or in any way interfere with the minimum sight-distance necessary to promote public safety.

(B) On any corner lot, no sign that obstructs sight lines at elevations between two and one-half feet and ten feet above the crown of the adjacent roadway shall be placed or maintained within a triangular area of 25 feet along each of the intersecting traffic-ways, to be measured from the property line.

(C) No sign shall be placed in any public right-of-way except publicly owned traffic control and transit signs.

(D) No sign, either freestanding or mounted on a building, shall project into the public right-of-way, except marquee signs and marquees that conform with the following standards:

(1) A marquee shall provide a minimum of ten feet of clearance above the right-of-way over which it projects and shall not otherwise interfere with the reasonable use of the right-of-way;

(2) A marquee may not be wider than the building from which it projects; and

(3) A marquee sign may not extend above or below the vertical face of the marquee.

(E) No sign shall be mounted on a roof or extend above the eave or parapet of a building wall.

(F) No signs shall be affixed to trees, fence posts or utility poles. (Ord. 2004-1-1-28, passed 1-28-2004)

' 158.07 GENERAL REGULATIONS.

All signs shall conform to the following regulations.

(A) *Illumination.*

(1) Illuminated signs are permitted; however, signs that direct attention through the use of flashing, intermittent or strobe effects are prohibited.

(2) The source of light for any sign shall be directed toward the sign face and shall not be directed into any residential use or toward any oncoming traffic. The source of illumination by whatever means shall not reflect directly on residential uses.

(3) Except for permanent subdivision identification signs, in no instance shall any illuminated sign be located closer than 100 feet to any residential district.

(4) (a) The source of light for all illuminated off-premises signs (including non-conforming signs) shall be directed downward and toward the sign face and shall not be directed into any residential property or district or toward any oncoming traffic.

(b) The source of illumination shall not reflect directly on residential property.

(c) The total luminosity of light directed toward the sign shall not be increased.

(d) If lighting is installed with greater efficiency, smaller or fewer lights must be used to keep lighting at or below previous levels.

(5) This provision shall take effect 15 years after the adoption of this title (3-15-2004), and this 15-year period shall constitute a grace period during which the owners of off-premises signs are to come into compliance with this provision.

(B) *Prohibited signs.*

(1) Portable business or product-for-sale signs are prohibited.

(2) All signs that move by mechanical means or by the movement of air are prohibited.

(3) Temporary signs or devices consisting of a series of banners, streamers, pennants, balloons, propellers, strung light bulbs or similar devices are prohibited, except that new businesses, seasonal businesses, grand openings or special events may display signs or devices for 15 days, after having applied for and received a permit. Each business shall be limited to one permit per 12-month period.

(C) *Maintenance.* All signs must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in safe condition so as not to be detrimental to the public health or safety.

(D) *Total sign allocations based upon building mass and traffic-way frontage in business or industrial districts.*

(1) Location, size and variety of all signs existing upon a zoning lot are included in the total sign allocations.

(2) Total sign area permitted for any business or industrial premises shall be two square feet of sign area for each one linear foot of building fronting on a public traffic-way or one square foot of sign for each one linear foot of property fronting a publicly maintained right-of-way, whichever is greater.

(3) One pole or ground sign with a maximum permitted sign surface area of 60 square feet shall be permitted for each traffic-way frontage.

(4) Notwithstanding other provisions of these regulations, no premises within any commercial or industrial zoning district may be restricted to less than 75 square feet of sign area nor shall any premises be permitted to display more than 600 square feet of sign area, except as provided below in division (H).

(5) (a) The area of a sign face (which is also the area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, ellipse or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when the fence or wall otherwise meets the regulations of this title and is clearly incidental to the display itself.

(b) The sign area for a sign with more than one face shall be computed by adding together the areas of all sign faces visible from any one point. 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 when the sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

(E) *Sign allocations in non-business or non-industrial districts.* No sign shall be erected except for the following:

(1) Residential complex or subdivision signs, limited to 32 square feet or less, are permitted at the entrance to the areas.

(2) Home occupation signs shall be limited to one sign of a maximum size of four square feet per zone lot.

(3) Non-commercial message signs shall be limited to 32 square feet in total sign area per zone lot.

(F). *Height and setback of signs.*

(1) No sign shall exceed 25 feet in height (except advertising structures), measured from the base of the sign or from the crown of the traffic-way directly in front of the sign, whichever is higher.

(2) All signs shall conform to the side and rear yard setback requirements for buildings as set

forth in ' 150.149.

(3) (a) Signs shall have a minimum setback of ten feet from the traffic-way right-of-way. However, signs may be placed within less than ten feet, but no less than five feet, of the traffic-way right-of-way, provided that:

1. The bottom edge of the sign face support shall be at least nine feet above the ground;

2. Vision beneath the sign must be clear except for the supporting structure; and

3. The maximum permitted area of the sign shall be reduced by 50%.

(b) Setbacks shall be measured horizontally from the vertical plane of the edge of the sign nearest to the right-of-way.

(G) *Special regulations in all zoning districts.*

(1) Signs offering the property on which they are situated for sale, lease or rent shall not exceed four square feet and shall be removed within seven days of the sale, lease or rental of the property.

(2) Signs for garage and rummage sales and the like are limited to one sign on the premises where the event is to take place, not larger than four square feet and shall be removed within two days after the event.

(3) Signs for the promotion of commercial properties or real estate subdivisions are permissible, but shall not exceed 64 square feet of sign surface area and shall be removed within seven days of the lease or sale of the property or, in the case of a subdivision, of the initial sale of the final lot sold.

(4) Construction signs are not to exceed 32 square feet of sign surface area. These signs are permissible only for the duration of construction.

(5) Directional signs may not exceed four square feet per sign; in addition, one sign defining conditions of use not exceeding 12 square feet in size is permitted.

(6) Political signs may not exceed 32

(H) *Shopping centers.* Regardless of the zoning district in which it is located, the following regulations shall apply to property that is developed as a shopping center.

(1) Signs for individual stores or business establishments within a shopping center must be located on the front exterior wall of the tenant=s space and are limited to one and six-tenths square feet of sign area for each one linear foot of front exterior wall length.

(2) Independently placed buildings or buildings with corner locations are limited on each side or rear wall to one-half the amount of sign area permitted on the front wall, or to one and two-tenths square feet of sign for each one linear foot of building on the side or rear of the building, whichever is less.

(3) In addition to signs permitted for individual establishments within a shopping center, general shopping center signs bearing the name of the planned commercial development will be permitted on the basis of one sign per 50,000 square feet of gross building floor area within the development, with a total limit of four signs. These signs must be limited to the name of the development, except that signs not exceeding 36 square feet may be allowed for individual commercial enterprises as part of the main sign. The total area of each sign shall not exceed 240 square feet in area or 120 square feet per side of a double-sided sign.

(I) *Advertising structures or billboards.*

(1) It is the intent of this division to establish reasonable and uniform limitations, safeguards and controls for the operation and use of advertising structures or billboards. Advertising requirements are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interests of the community.

(2) For purposes of this division, an advertising structure shall be constructed in accordance with the definition and subject to the provisions of this division.

square feet per zone lot.

(3) One advertising structure may be permitted on any lot of at least 300 feet on a traffic-way designated as a major or minor arterial in the zoning districts in which advertising signs are permitted. One additional advertising structure shall be permitted for each 300 feet of additional frontage, provided that the advertising structures shall be separated a distance of at least 500 feet, even if located on opposite sides of a street frontage.

(4) Minimum setback lines shall be provided in accordance with the requirements of the applicable zoning district or 50 feet, whichever is greater.

(5) No advertising structure shall be permitted within 100 feet of a residential zoning district.

(6) The number of traffic access points shall not exceed one for each advertising structure frontage required.

(7) The face of an advertising sign shall not be greater than 18 feet in vertical dimension nor greater than 55 feet in horizontal dimension, except as provided in division (I)(9) below, and shall not contain more than two advertising signs per face.

(8) The full face of the sign shall be viewed along the line of travel to which it is exposed for a distance of at least 250 feet along the centerline of the frontage traffic-way measured from a point opposite the center of the sign and perpendicular to the traffic-way=s centerline. However:

(a) In the case of a sign parallel (or within 20 degrees of parallel) to a one-way traffic-way, the required viewing distance shall be at least 400 feet;

(b) In the case of a sign that is from three to 20 degrees of parallel to a two-way traffic-way, the required viewing distance shall be at least 400 feet;

(c) In the case of a sign parallel (or within three degrees of parallel) to a two-way traffic-way, the required viewing distance shall be at least 250 feet in each direction; and

(d) In the case of a sign so placed that it can be viewed from more than one traffic-way, the required viewing distance shall be applicable to only one traffic-way.

(9) The vertical dimension of the sign face may be increased to 22 feet, provided the required viewing distance in division (I)(8) above is increased to 500 feet and the face contains only one sign and the sign is perpendicular or within 15 degrees of being perpendicular to the frontage traffic-way.

(10) The maximum height of advertising signs erected on the ground shall not exceed 40 feet above the traffic-way elevation to which the sign is oriented.

(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 159: PLANNED UNIT DEVELOPMENT

Section

General Provisions

- 159.001 Purpose
- 159.002 Definition

(1) Encourage flexibility in the development of land in order to promote its most appropriate use;

Requirements and Procedures for Approval

- 159.015 Requirements
- 159.016 Procedure for approval.

(2) Improve the design, character and quality of new developments;

(3) Encourage a harmonious and appropriate mixture of uses;

Specific Plan Content

- 159.030 Documentation required.
- 159.031 Pre-design conference requirements
- 159.032 Outline plan requirements
- 159.033 Development plan requirements

(4) Facilitate the adequate and economic provision of traffic-ways, utilities and public services;

(5) Preserve the natural environmental and scenic features of the site;

Review Considerations

- 159.045 Review factors to be considered

(6) Encourage and provide a mechanism for arranging improvements on-sites so as to preserve desirable features; and

Planned Unit Development Changes

- 159.060 Changes requiring new outline plan approval
- 159.061 Changes requiring new development plan approval

(7) Mitigate the problems that may be presented by specific site conditions.

(B) It is anticipated that planned unit developments will offer one or more of the following advantages:

GENERAL PROVISIONS

' 159.001 PURPOSE.

(A) The purpose of the planned unit development is to:

(1) Reflect the policies of the Comprehensive Plan specific to the neighborhood in which the planned unit development is to be located;

(2) Provide substantial buffers and transitions between areas of different land use and development densities;

(3) Enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces;

(4) Counteract urban monotony and congestion on traffic-ways;

(5) Promote architecture that is compatible with the surroundings;

(6) Buffer differing types of land use and intensities of development from each other so as to minimize any adverse impact that new development may have on existing or zoned development;

(7) Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints of the site and surrounding area; and

(8) Effectuate implementation of the Comprehensive Plan.
(Ord. 2004-1-1-28, passed 1-28-2004)

' **159.002 DEFINITION.**

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

PLANNED UNIT DEVELOPMENT. Area under single ownership or control to be developed in conformance with an approved development plan, consisting of a map showing the development area and all improvements to the development area, a text that sets forth the uses and the development standards to be met and exhibits setting forth any aspects of the development not fully described in the map and text. The map, exhibits and text constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the planned unit development site in lieu of the regulations for the underlying zoning district.

(Ord. 2004-1-1-28, passed 1-28-2004)

(3) In the case of mixed uses, permanent

REQUIREMENTS AND PROCEDURES FOR APPROVAL

' **159.015 REQUIREMENTS.**

(A) The area designated in the planned unit development map must be a tract of land under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants and commitments that run to the benefit of the county.

(B) The outline plan shall indicate the land use, development standards and other applicable specifications of this title that shall govern the planned unit development. If the outline plan is silent on a particular land use, development standard or other specification of this title, the standard of the underlying zoning district or the applicable regulations shall apply.

(C) The planned unit development map shall show the location of all improvements. The location of planned unit developments shall be designated on the official zoning maps and adopted pursuant to this title.

(D) The planned unit development must comply with all required improvements, construction standards, design standards and all other engineering standards contained within this title and other pertinent regulations, except where specifically varied through the provisions of this chapter.

(E) (1) **PERMANENT OPEN SPACE.** Parks, playgrounds, landscaped green space and natural areas, not including schools, community centers or other similar areas in public ownership.

(2) No plan for a planned unit development shall be approved unless the plan provides for permanent landscaped or natural open space. A minimum of 25% of the proposed planned unit development area shall be designated as permanent open space.

open space shall be allocated to the property in

proportion to the uses assigned to the planned unit development and shall be located in reasonable proximity to those uses; provided, however, that the permanent open space need not be located in proximity to the use in the case of preservation of existing features.

(4) If the outline plan provides for the planned unit development to be constructed in stages, open space must be provided for each stage of the planned unit development in proportion to that stage.

(5) Permanent open space shall be conveyed in one of the following forms:

(a) To a municipal or public corporation;

(b) To a not-for-profit corporation or entity established for the purpose of benefitting the owners and tenants of the planned unit development or, where appropriate and where approved by the Planning Commission and the County Commissioners, adjoining property owners, or both. All conveyances hereunder shall be structured to ensure that the grantee has the obligation and the right to effect maintenance and improvement of the common open space, and that the duty of maintenance and improvement is enforced by the owners and tenants of the planned unit development and, where applicable, by adjoining property owners;

(c) To owners other than those specified in divisions (E)(5)(a) and (b) above and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the planned unit development or adjoining property owners, or both; or

(d) Included in single-family residential lots under the control of lot owners.

(6) Uses permitted in a planned unit development may be any uses that are found in Chapter 150, subject to the approval of the Planning Commission and the County Commissioners. (Ord. 2004-1-1-28, passed 1-28-2004)

(2) The application and the results of the

' 159.016 PROCEDURE FOR APPROVAL.

(A) *Application process.*

(1) The application shall be accompanied by all plans and documents required by Chapter 151.

(2) A three-step application process shall be used:

(a) Pre-design conference;

(b) Outline plan approval; and

(c) Development plan approval.

(B) *Pre-design conference.*

(1) Prior to filing a formal application for approval of a planned unit development, the applicant shall schedule a pre-design conference with the Zoning Administrator. The purpose of the pre-design conference shall be to:

(a) Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted county policies; and

(b) Allow the Zoning Administrator to inform the applicant of applicable policies, standards and procedures for the planned unit development.

(2) The pre-design conference is intended only for the above purposes; neither the developer nor the county is bound by any decision made during a pre-design conference.

(C) *Procedure for outline plan approval.*

(1) The outline plan and application for the planned unit development shall be submitted to the Zoning Administrator, who, after certifying the application to be complete, shall initiate a review by the Zoning Administrator.

review shall then be forwarded to the Planning

Commission for its consideration, public hearing and recommendations, together with the Planning Department=s report and other documents as may be pertinent to the planned unit development.

(3) The Planning Commission shall hold a public hearing in accordance with its rules of procedure.

(4) Where there are environmentally sensitive features on the site or the development plan is expected to be complex or there are other important planning implications involved, the Planning Commission may reserve the right to review the development plan, and where the Planning Commission recommends denial of an outline plan and the County Commissioners approve the plan, the Planning Commission shall review the development plan.

(5) Upon completion of its review, the Planning Commission shall certify the application to the County Commissioners with a favorable recommendation, an unfavorable recommendation or no recommendation.

(6) The County Commissioners shall vote on the proposal within 90 days after the Planning Commission certifies the proposal. The County Commissioners may adopt or reject the proposal. If the Planning Commission has given the proposal a favorable recommendation and the County Commissioners fail to act on the proposal within 90 days, the proposal takes effect as if it had been adopted as certified 90 days after certification. If the Planning Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the County Commissioners fail to act on the proposal within 90 days, the proposal is defeated.

(D) *Effect of approval of outline plan.*

(1) When an outline plan for a planned unit development has been approved by the County Commissioners, the plan shall become effective and its location shall be shown on the official zoning maps. The official zoning maps shall be amended to designate the site as a planned unit development.

(2) Upon the amendment of the official zoning maps, the use and development of the site shall be governed by the planned unit development outline plan, subject to approval of a development plan.

(3) No permit of any kind shall be issued until the development plan has been approved.

(E) *Development plan requirements.*

(1) The purpose of the development plan is to designate the controls for development of the planned unit development. The development plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.

(2) (a) The development plan shall be submitted to the Planning Department not more than 18 months following the County Commissioners= approval of the outline plan.

(b) The outline and development plans may be submitted as a single plan if all requirements of ' ' 151.15 through 151.26 are met. The development plan may be submitted and approved in stages, with each stage representing a portion of the outline plan, at the discretion of the Planning Commission. The time limit for submitting each stage for approval may be set forth in the outline plan, in which case that schedule shall control the timing of development, rather than the time period contained in this division. The Planning Commission may extend the time for application for approval of the development plan for good cause, consistent with the purposes of this title.

(3) (a) Periodically, the Zoning Administrator shall report to the Planning Commission on planned unit developments whose time limits have expired. The applicants shall be notified.

(b) The Planning Commission shall determine whether to consider extending the time or to initiate action to amend the official zoning maps so as to rescind the planned unit development designation.

(4) The development plan shall conform to the outline plan as approved.

(5) Procedure for approval of a development plan shall be:

(a) The development plan and supporting data shall be filed with the Planning Department staff.

(b) The Zoning Administrator shall review the development plan, to include site plan review, in accordance with the requirements of this title.

(c) It shall generally be the responsibility of the Technical Review Committee to review development plans unless the Planning Commission reviews the site development plans as provided in ' 150.202, or where a new development plan is required.

(d) If the Planning Commission has retained development plan approval authority, the Planning Commission shall hold a public hearing in accordance with its rules of procedure. The Planning Commission may approve, deny or approve with modifications.

(6) (a) The development plan shall expire two years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a development plan approved in stages.

(b) The applicant may request an extension of time in writing, and the approving authority may extend the time limit where appropriate. The extension may be considered at the time of development plan approval.

(7) No permit of any kind shall be issued for any purpose within a planned unit development except in accordance with the approved development plan and after acceptance by the Planning Commission of all required guarantees for improvements pursuant to ' 151.20.
(Ord. 2004-1-1-28, passed 1-28-2004)

SPECIFIC PLAN CONTENT

' 159.030 DOCUMENTATION REQUIRED.

Planned unit development plans and supporting data shall include all documentation listed in this subchapter unless certain documentation is deemed superfluous by the Zoning Administrator due to the specific circumstances of the particular request.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 159.031 PRE-DESIGN CONFERENCE REQUIREMENTS.

(A) A written letter of intent from the applicant describing the applicant=s intention for developing the site.

(B) A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major traffic-ways and the approximate location of any existing easements, natural features and topographic or geologic constraints.
(Ord. 2004-1-1-28, passed 1-28-2004)

' 159.032 OUTLINE PLAN REQUIREMENTS.

(A) A drawing of the planned unit development shall be prepared at a scale not less than one foot to 50 feet, or as considered appropriate by the Zoning Administrator, and shall show in concept major circulation, generalized location and dimensions of buildings, structures and parking areas, open space areas, recreation facilities and other details to indicate the character of the proposed development. The submission shall include:

(1) A site location map;

(2) The name of the development, with the words AOutline Plan@;

(3) Boundary lines and acreage of each land use component;

(4) Existing easements, including location, width and purpose;

(5) Existing land use on abutting properties;

(6) Other conditions on adjoining land:

(a) Topography (at two-foot contours) including any embankments or retaining walls, use and location of major buildings, railroads, power lines, towers and other influences; and

(b) Name of any adjoining subdivision plat.

(7) Existing traffic-ways on and adjacent to the tract, including name of traffic-way, right-of-way width, walks, curbs, gutters and culverts;

(8) Proposed public improvements, such as traffic-ways and other major improvements planned by the public for future construction on or adjacent to the tract;

(9) Existing utilities on the tract;

(10) Any land on the tract within the 100-year floodplain;

(11) Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees six inches or more in diameter, existing structures and other significant features;

(12) Existing vegetation to be preserved and the locations, nature and purpose of proposed landscaping; and

(13) Map data such as approximate true north arrow, scale and date of preparation.

(B) The Zoning Administrator shall inform the applicant of any additional documents or data requirements after the pre-design conference.

(C) (1) An explanation of the character of the planned unit development and the reasons why it has been planned to take advantage of the flexibility of these regulations.

(2) The written statement shall include:

(a) A specific explanation of how the proposed planned unit development meets the objectives of all adopted land use policies that affect the land in question.

(b) A statement of present and proposed ownership of all land within the project, including the beneficial owners of a land trust.

(c) A development schedule indicating:

1. Stages in which the project will be built, including the area, density, use, public facilities and open space to be developed with each stage. Each stage shall be described and mapped; and

2. Projected dates for beginning and completion of each stage.

(4) (a) *Residential uses.* Gross area, architectural concepts (narrative, sketch or representative photo), number of units, bedroom breakdown and proposed occupancy limits for each residential component.

(b) *Non-residential uses.* Specific non-residential uses, including gross areas, architectural concepts (narrative, sketch or representative photo) and building heights.

(5) Preliminary concepts and feasibility reports for:

(a) Traffic-ways;

(b) Sidewalks;

(c) Sanitary sewers;

(d) Stormwater management;

(e) Water supply system;

- (f) Street lighting; and
- (g) Public utilities.

(6) If requested by the Zoning Administrator or the Planning Commission, a study of the impact caused by the planned unit development and any measures proposed to accommodate that impact.

(Ord. 2004-1-1-28, passed 1-28-2004)

' 159.033 DEVELOPMENT PLAN REQUIREMENTS.

(A) The application for development plan approval shall include, but not be limited to, the following documents:

(1) The additional information as may have been required by the outline plan approval;

(2) An accurate map exhibit of the entire phase for which development plan approval is being requested, showing the following:

(a) Precise location of all buildings to be constructed and a designation of the specific use or range of uses for each building. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints;

(b) Design and precise location of all traffic-ways, drives and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters and culverts;

(c) Location of all utility lines and easements;

(d) A final detailed landscape plan; and

(e) Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown and limits on occupancy;

(3) If lands to be subdivided are included

in the planned unit development, a subdivision plat meeting the requirements of a primary plat, as modified by the outline plan approval, is required where platting is to be done concurrent with the development plan approval;

(4) Projected construction schedule; and

(5) Agreements and covenants that govern the use, maintenance and continued protection of the planned unit development and its common spaces, shared facilities and private traffic-ways.

(B) (1) A bond or other guaranty acceptable to the County Commissioners shall be provided for all required improvements and shall be executed at the time of permit application or platting, whichever comes first.

(2) Improvements that must be guaranteed include facilities that shall become public and may include other facilities or improvements as may be specified in the outline or development plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase.

(3) The guarantee shall specify the time for completion of improvements and shall be in an amount of 125% of the estimated cost of the improvements.

(Ord. 2004-1-1-28, passed 1-28-2004)

REVIEW CONSIDERATIONS

' 159.045 REVIEW FACTORS TO BE CONSIDERED.

In their consideration of a planned unit development outline plan, the Zoning Administrator in his or her report to the Planning Commission, the Planning Commission in its recommendation and the County Commissioners in their decision, shall consider as many of the following as may be relevant to the specific proposal.

(A) The extent to which the planned unit development meets the purposes of this title, the Comprehensive Plan and any other adopted planning objectives of the county;

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

(C) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to:

(1) The density, dimension, bulk, use, required improvements and construction and design standards; and

(2) The reasons that the departures are or are not deemed to be in the public interest;

(D) The extent to which the proposal will not be injurious to the public health, safety and general welfare;

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

(F) The extent to which the relationship and compatibility of the proposed plan to the adjacent properties and neighborhood is appropriate and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods;

(G) The extent to which the proposed plan is desirable to the county=s physical development, tax base and economic well being;

(H) The extent to which the proposal will not cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services; and

(I) The extent to which the proposal preserves significant ecological, natural, historical and architectural resources as much as possible. (Ord. 2004-1-1-28, passed 1-28-2004)

PLANNED UNIT DEVELOPMENT CHANGES

' 159.060 CHANGES REQUIRING NEW OUTLINE PLAN APPROVAL.

Changes that alter the concept or intent of the planned unit development, including, but not limited to:

(A) Significant increases in density;

(B) Significant changes in the proportion or allocation of land uses;

(C) Changes in the list of approved uses;

(D) Changes in the location of uses;

(E) Changes in functional uses of open space, where the change constitutes an intensification of use of the open spaces; and/or

(F) Changes in the final governing agreements where the changes conflict with the outline plan approval. (Ord. 2004-1-1-28, passed 1-28-2004)

' 159.061 CHANGES REQUIRING NEW DEVELOPMENT PLAN APPROVAL.

(A) Changes in lot arrangement or addition of buildable lots that do not change approved density of the development.

(B) Changes in site design requirements, such as location of required landscaping, signage, building height, cube and/or footprint or other requirements of this title.

(C) Changes to the internal traffic-way system or off-street parking areas.

(D) Changes in drainage management structures.

(E) Changes in access to the development site, where the change amounts to an intensification in the traffic patterns of roadways of classification higher than local.

(F) All other changes not expressly addressed under this section shall require new development plan approval.

(Ord. 2004-1-1-28, passed 1-28-2004)

CHAPTER 160: COMPREHENSIVE PLAN

Section

160.01 Comprehensive plan adopted by
reference

' 160.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE.

The Comprehensive Plan, copies of which are on file in the office of the County Planning Commission, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.
(Ord. passed 11-7-2001)

CHAPTER 161: UNSAFE BUILDINGS

Section

161.01	Establishment of law; statutory authority incorporated by reference	(Ord. 9(5-98), passed 5-4-1998)
161.02	Authority on file	' 161.03 DEFINITIONS.
161.03	Definitions	
161.04	Authority of Building Commissioner	For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
161.05	Declaration of public nuisance	
161.06	Quality of remedial action	
161.07	Unsafe Building Fund	
161.08	Prohibited conduct	<i>SUBSTANTIAL PROPERTY INTEREST.</i> I.C. 36-7-9-2 is hereby incorporated by reference herein as if copied in full.
161.99	Penalty	

' **161.01 ESTABLISHMENT OF LAW; STATUTORY AUTHORITY INCORPORATED BY REFERENCE.**

(A) Under the provisions of I.C. 36-7-9, there is hereby established the county unsafe building law.

(B) I.C. 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference in the county unsafe building law. The law and the provisions of this chapter shall govern all proceedings within the county for the inspection, repair, or removal of unsafe buildings. In the event the provisions of this chapter conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(Ord. 9(5-98), passed 5-4-1998)

' **161.02 AUTHORITY ON FILE.**

Two copies of I.C. 36-7-9-1 are on file in the office of the County Auditor.

UNSAFE BUILDING.

(1) The description of an ***UNSAFE BUILDING*** contained in I.C. 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the county by adding the following definition.

(2) Any building or structure that has any or all of the conditions or defects hereinafter described, provided that the conditions or defects exist to the extent that life, health, property or safety of the public or its occupants is endangered.

(a) Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(b) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(c) Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose, or location;

(d) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose or location;

(e) Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged or to collapse and thereby injure persons or damage property;

(f) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half that specified for new buildings of similar structure, purpose or location without exceeding the working stresses permitted for the buildings;

(g) Whenever any portion thereof has wacked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(h) Whenever the building or structure, or any portion thereof, is likely to partially or completely collapse because of:

1. Dilapidation, deterioration, or decay;
2. Faulty construction;
3. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;

(o) Whenever a building or structure, used or intended to be used for dwelling purposes,

4. The deterioration, decay, or inadequacy of its foundation; or

5. Any other cause.

(i) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(j) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(k) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(l) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated so as to become an attractive nuisance to children or freely accessible to persons for the purpose of committing unlawful acts;

(m) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of this county, or of any law or ordinance of the state or county relating to the condition, location or structure of buildings;

(n) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 66% of the strength, fire-resisting qualities or characteristics or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location;

because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement,

inadequate light, air or sanitation facilities, or otherwise, is determined by the County Building Commissioner or the County Health Officer to be unsanitary, unfit for human habitation, or in a condition that is likely to cause sickness or disease;

(p) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits or lack of sufficient fire-resistive construction is determined by the County Building Commissioner or the Fire Chief of the department which has jurisdiction where the building or structure is located to be a fire hazard;

(q) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute the building or portion thereof an attractive nuisance or hazard to the public.

UNSAFE PREMISES. Tract of real property on which an unsafe building is located, or a tract of real property which has accumulated trash, debris or other material that creates a fire hazard, health hazard, habitat for vermin or nuisance.
(Ord. 9(5-98), passed 5-4-1998)

' 161.04 AUTHORITY OF BUILDING COMMISSIONER.

(A) The County Building Commissioner, as chief administrative officer of the Department of Buildings, shall be authorized to administer and to proceed under the provisions of the law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(B) Wherever in the building regulations of the state or county or the State Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, or any other officer of the county, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been

No person, firm, or corporation, whether as

complied with, and no provisions shall be construed as giving any officer discretionary powers as to what the regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

(Ord. 9(5-98), passed 5-4-1998)

' 161.05 DECLARATION OF PUBLIC NUISANCE.

All buildings or portions thereof and/or surrounding premises within the county which are determined after inspection by the Building Commissioner to be unsafe as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.

(Ord. 9(5-98), passed 5-4-1998)

' 161.06 QUALITY OF REMEDIAL ACTION.

All work for the reconstruction, repair or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in I.C. 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission (675 I.A.C.), including 675 I.A.C. 12-4-9 and 675 I.A.C. 12-4-11(a), shall be considered standard and acceptable practice for all matters covered by this chapter or orders issued pursuant to this chapter by the County Building Commissioner.

(Ord. 9(5-98), passed 5-4-1998)

' 161.07 UNSAFE BUILDING FUND.

An Unsafe Building Fund is hereby established in the operating budget of the county in accordance with the provisions of I.C. 36-7-9-14.

(Ord. 9(5-98), passed 5-4-1998)

' 161.08 PROHIBITED CONDUCT.

owner, lessee, sublessee or occupant, shall erect,

construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this chapter or any order issued by the Building Commissioner.

(Ord. 9(5-98), passed 5-4-1998) Penalty, see ' 161.99

' 161.99 PENALTY.

Any person violating the provisions of this chapter or I.C. 36-7-9-28 shall commit a Class C infraction for each day the violation continues.

(Ord. 9(5-98), passed 5-4-1998)