

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.01 JURISDICTION AND GENERAL APPLICABILITY.

This subchapter applies in general to all one and two family dwellings, accessory buildings, multifamily dwellings, commercial buildings, industrial buildings, and public buildings now or hereafter located within the unincorporated area of the county except as hereinafter otherwise provided; however, pursuant to I.C. 36-7-8-3(d), a single-family dwelling built by a person for his or her own occupancy may be exempt from applicability and enforcement of certain specific

standards as referred to in § 150.03 of this subchapter which govern matters set forth under I.C. 36-7-8-3(a); provided further, however, that any such exemption does not prevent the building from being declared unsafe when conditions are found therein which can be shown to pose actual and present hazards to persons or property.

(1985 Code, § 7-4-1) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other words and terms of a technical character as used herein shall generally be construed to have the same meanings as applicable thereto under I.C. 22-12-1-1 et seq.

ACCESSORY BUILDING. A detached outbuilding or structure used in connection with a one- or two-family dwelling, including private garages, sheds, barns, and farm service buildings.

BUILDING AUTHORITY. The Board of County Commissioners unless otherwise designated, provided, however, that the Board of Commissioners may hereafter create by ordinance or resolution and appoint a separate body to act as the County Building Authority.

DEPARTMENT OF BUILDINGS. The Office of the County Surveyor, provided, however, that the Board of Commissioners may hereafter create by ordinance or resolution a separate and distinct Department of Buildings.

ENFORCEMENT AUTHORITY. As used herein and as used within the context of I.C. 36-7-9 as hereinafter adopted, includes the Building Authority and Department of Buildings, but also includes (with respect to any law, ordinance, regulation, or condition concerning fire prevention or fire safety of buildings or premises) the chief of any fire department providing fire protection service within the unincorporated parts of the county and within the fire protection jurisdiction of the fire department.

EXISTING BUILDING. Any building or structure, and any modifications or included installations made thereto, constructed, established, or made thereto prior to the taking effect of this act. The term does not apply to modifications or included installations made thereafter, nor to conversions from one occupancy class to another, notwithstanding the fact that the primary building or structure may be an **EXISTING BUILDING** within the meaning of this subchapter.

HEARING AUTHORITY. As used herein and as used within the context of I.C. 36-7-9 as herein adopted means the operant “Building Authority” as determined under the definition of that term above in this section.

INCLUDED INSTALLATION.

(1) A part of the built-in or permanently installed electrical, plumbing, heating, cooling, ventilating, or mechanical systems appurtenant to a building as originally constructed or subsequently modified.

(2) The term does not include small portable or self-contained appliances such as window air conditioners, space heaters, electrical appliances, and so forth, which are not designed to be a permanent part of a building or structure, except to the extent that the appliances are specifically contemplated and controlled under any applicable regulations.

OCCUPANCY CLASS. Refers to the primary use or proposed use of a building or part thereof. The primary occupancy classes of concern under this act are those denominated under § 150.01. **OCCUPANCY CLASSIFICATION** is mainly of importance because different or stricter regulations and standards may apply to one occupancy class rather than another, or may have to be complied with when converting an existing building from one class to another, as provided in § 150.03 of this chapter.

SUBSTANTIAL PROPERTY INTEREST. As used within the context of I.C. 36-7-9 as herein adopted has the same meaning as defined therefor under I.C. 36-7-9-2.

UNSAFE BUILDING OR PREMISES.

(1) A building or structure, or any part of a building or structure, that is:

- (a) In an impaired structural condition that makes it unsafe to a person or property;
- (b) A fire hazard;
- © A hazard to the public health;
- (d) A public nuisance;
- (e) A building which is constructed or maintained in violation of applicable provisions of state-wide building regulations and construction standards as adopted and promulgated by the Fire Prevention and Building Safety Commission pursuant to I.C. 22-13-2-2 as referred to under § 150.03; or
- (f) Is otherwise dangerous to a person or property because of a violation of a statute or county ordinance concerning building condition or maintenance.

(2) An unsafe building and the tract of land on which the unsafe building is located are considered unsafe premises. (1985 Code, § 7-4-2) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.03 APPLICABILITY OF STATE-WIDE BUILDING CONSTRUCTION AND SAFETY REGULATIONS.

(A) All persons proposing to construct, modify, repair, remodel, relocate, or convert from one occupancy class to another, any building within the unincorporated area of the county, or make included installations therein, are hereby apprised that there exist certain state-wide building construction and safety standards with which they must comply, as applicable, under state administrative law (675 I.A.C.). At the time this section takes effect, these standards and regulations include those listed in Schedule A, set forth as an appendix to this chapter, which have been adopted and promulgated by the

State Fire Prevention and Building Safety Commission under authority of I.C. 22-13-2-2; however, the requirements of this section also contemplate the inclusion and applicability of any future amendments and additions to the regulations so adopted and promulgated under I.C. 22-13-2-2 or any other statute and having state-wide applicability.

(B) In the case of construction or other work to buildings other than one- or two-family dwellings and accessory buildings, plans and specifications of the proposed work complying with any such regulations (as applicable) must be submitted to and approved by the State Building Commissioner of the state in accordance with I.C. 22-15-3 and I.C. 22-15-3 before work commences.

© Complying plans and specifications may also have to be submitted to the local enforcement authority, in accordance with its rules and procedures as adopted, pursuant to §§ 150.06 and/or 150.08(A)(1)(b) hereinafter.

(D) The current (November 5, 1985) regulations specifically referred to are listed in Schedule A set forth as the appendix following this chapter. The Indiana Administrative Code (I.A.C.) and the Indiana Register (IR) as referred to in Schedule A are promulgated public documents which may be obtained from the Legislative Services Agency of the state. Copies of the particular regulations and standards as in effect and applicable at any given time are also available from the State Department of Fire Prevention and Building Safety, 1099 North Meridian Street, Indianapolis, Indiana 46204. (1985 Code, § 7-4-3) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.04 APPLICABILITY OF UNSAFE BUILDING LAW.

Any building or structure (except certain single-family residences to the extent provided under § 150.01) which is found by the enforcement authority to have been constructed, modified, repaired, remodeled, relocated, or converted from one occupancy class to another without complying with the state regulations enumerated or referred to in

§ 150.03, as applicable, or with a variance granted as provided under § 150.07, may be declared by the Building Authority to be prima facie an unsafe building or premises subject to corrective measures and abatement in accordance with procedures as hereinafter provided. This section may not be construed to require the modification of any existing building, excepting only insofar as any state regulation referred to above is expressly applicable to existing buildings pursuant to state administrative law or insofar as it is shown upon inspection that any noncomplying condition of a building or premises is such as to engender a clear and present hazard to the safety of persons or property.

(1985 Code, § 7-4-4) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.05 NONEFFECT ON FURTHER OR MORE STRINGENT STANDARDS.

(A) The operation of the state-wide building construction and safety regulations referred to in § 150.03 may not be construed to supersede any further or stricter requirements as may concurrently govern the design, materials, or methods of construction of buildings and included installations through the operation of the following:

(1) By any special regulations or standards as to design, materials, method of construction, use or location of buildings in the designated flood plain districts as required by rules of the Federal Insurance Administration (or any successor body) pursuant to the participation of the county under the National Flood Insurance Program;

(2) By any standards of design, materials, and methods of construction of sanitary sewage disposal systems as provided by county ordinance or by rules of the state or county Board of Health, the U.S. Environmental Protection Agency, or other governmental entities having jurisdiction; and

(3) By any special regulations or requirements as adopted by the appropriate municipal or county utility authorities or by an investor-owned or cooperative utility company respecting the design

and specifications of any utility service connection between the utility service distribution system and a served building or premises or included installations, and which are made a condition of the initial or continuing rendering of the utility service.

(B) Any special regulations and requirements contemplated under this section shall apply only if and to the extent that they set forth more detailed specifications or provide further or more stringent regulations and requirements than the regulations described in § 150.03, and in no instance shall be construed to permit any lesser standard.

(1985 Code, § 7-4-5) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.06 LOCAL BUILDING PERMIT.

(A) *General provisions.* As they shall deem necessary for the purposes of local enforcement of the applicable state regulations as referred to in § 150.03, the Building Authority may adopt a resolution requiring that a local building permit be obtained before any construction or other regulated work (as described under § 150.03) is commenced. The permit requirement may apply to all occupancy classes and types of work, or may be made applicable only to certain occupancy classes and/or types of work, as specified in the resolution. The resolution may also prescribe a schedule of reasonable permit fees for each class of permit required. The issuance of any such permit shall be based upon examination of plans and specifications and their compliance with any applicable requirements under § 150.03, and any further requirements as described by § 150.05 which may be applicable, and shall be conditional on inspection of the permitted work as may be required by the enforcement authority, all as provided under § 150.08 hereinafter.

(B) *Structures requiring permit.* A local building permit shall be required for the following specific instances:

- (1) All new one- and two-family dwellings;
- (2) All new commercial buildings;

(3) All manufactured homes, including modular homes, single wide manufactured homes or double wide manufactured homes and all other preconstructed or manufactured trailers or units, recreation vehicles or otherwise, in which a permanent place of residence is being established and being transported into the county for installation in the county;

(4) All new industrial structures or developments; and

(5) Any new apartment or condominium complex of whatever number of units.

© *Exemptions.* The permitting process authorized hereunder is not intended to include the following activities:

(1) The remodeling of existing structures; or

(2) The replacement of portions or items of existing structures (including, but not limited to, replacement of windows, walkways, roofs, and the like).

(1985 Code, § 7-4-6) (BCC Ord. 1985-C5-A, passed 12-2-1985; BCC Ord. 97-05, passed 4-16-1997)

§ 150.07 VARIANCES AND APPEALS.

The regulations referred to above in § 150.03 and their applicability are not controlled by any local authorities. Variances from any such regulations must be applied for to, and may only be granted by, the State Fire Prevention and Building Safety Commission in accordance with I.C. 22-13-2-11. Any final decisions of the Building Authority or Department of Buildings respecting the application, administration, or enforcement of the regulations with respect to one- and two-family dwellings and accessory buildings may also be appealed to the Fire Prevention and Building Safety Commission in accordance with I.C. 22-12-7. This section applies only to the administration and enforcement of state-wide building construction and safety standards referred to under § 150.03 above,

and has no effect on nor applicability to any other statutes, ordinances, or regulations sought to be administered or enforced under the provisions of this act including in particular (but not by limitation) those referred to under § 150.05.

(1985 Code, § 7-4-7) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.08 ENFORCEMENT POWERS.

(A) *Power to inspect property and examine plans and specifications.*

(1) The enforcement authority or their authorized representatives are, for the purposes of enforcing this chapter, empowered:

(a) To enter at any reasonable hour upon any premises or into any building to inspect any part of same, including work at any stage of progress, to determine compliance with this subchapter or to determine whether the same constitutes an unsafe building or premises; and/or

(b) To require that any person proposing to construct any building, perform modifications thereto, or make included installations therein, submit a copy of all plans and specifications describing the proposed work.

(2) The submission of approved plans and specifications to the Building Authority by the State Department of Fire Prevention and Building Safety for buildings or work governed under § 150.03 shall be considered a sufficient compliance with any requirement under division (A)(1)(b) above, excepting in the case of buildings subject to further and more stringent standards as referred to under § 150.05. Copies of any plans and specifications required under division (A)(1)(b) above shall be filed with the Department of Buildings.

(1985 Code, § 7-4-8)

(B) *Statutory provisions.* This section applies to enforcement of compliance with state-wide regulations referred to in § 150.03, but may also be applied to and used for purposes of enforcing other statutes,

ordinances, or regulations when noncompliance therewith has made buildings or premises unsafe, or when the general condition of the buildings or premises has made them unsafe, as defined under § 150.02. Whereas I.C. 36-7-9-3 authorizes any county to adopt by ordinance and make effective within such county the provisions of I.C. 36-7-9, the statute, excepting § 28 thereof, is hereby adopted and made effective as a procedure for enforcing building standards and abating unsafe buildings and premises within the jurisdictional area defined by § 150.01. The adoption shall include by implication any amendments or additions to I.C. 36-7-9 hereafter enacted by the General Assembly of the state; however, should the General Assembly repeal I.C. 36-7-9 in its entirety, the provisions of the statute in effect immediately prior to the repeal shall continue in effect within the county irrespective of the repeal. Copies of I.C. 36-7-9 shall be available for public examination in the office of the County Auditor. In accordance with I.C. 36-7-9 and subject to its provisions, the enforcement authority shall be construed to have all powers necessary to issue and enforce orders or take other actions as needed to require compliance of buildings or premises with applicable statutes, ordinances, and regulations, or to alleviate or prevent unsafe conditions found to occur or to be likely to occur therein. (1985 Code, § 7-4-9) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.09 CRITERIA FOR ORDERING A BUILDING SEALED.

This section applies to the administration and enforcement of an order of an enforcement authority to seal an unsafe building under I.C. 36-7-9-5(a)(2). An enforcement authority may order a building sealed against intrusion by unauthorized persons if one or more of the following conditions is found to exist in the building:

(A) Imminent or unusual danger of fire or explosion;

(B) Imminent danger of structural collapse, falling objects; or unsound floorings or stairways;

© Unguarded or uncontrolled presence of toxic or radioactive substances;

(D) The building is vacant and has become or is deemed likely to become a harborage for vagrants or for the conduct of criminal activities which may pose dangers or nuisances for others in the area; or

(E) There are found to exist in the building any other specific hazards which may endanger the life or health of children or other persons who may unwarily wander into the building. (1985 Code, § 7-4-10) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.10 VIOLATIONS.

This section applies within the county in lieu of I.C. 36-7-9-28. No person shall:

(A) Perform or cause to be performed any work on a building or included installation without the prior approval of the State Department of Fire Prevention and Building Safety and/or a local building permit, when required, or in violation of the expressed or implied laws, ordinances, regulations and covenants made conditional thereto;

(B) Willfully or negligently continue to maintain and fail to remove, remedy, or abate any unsafe condition of a building or premises as required by an order of the enforcement authority under this chapter;

© Remain in, use, or enter a building in violation of an order made under authority of this chapter;

(D) Knowingly interfere with or delay the carrying out of an order made under this chapter;

(E) Knowingly obstruct, damage, or interfere with persons engaged or property used in performing any work or duty under this act;

(F) Refuse reasonable access at reasonable times to the authorized enforcement authority for the purpose of making any inspection as required or authorized by this subchapter or under any other

ordinance, statute, or regulation sought to be enforced under the provisions of this act, or attempt to interfere with or obstruct the inspection; or

(G) Fail to comply with applicable notification requirements under I.C. 36-7-9-27, as adopted under § 150.08(B) above. (1985 Code, § 7-4-11) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.11 PROCEDURES ALTERNATIVE OR SUPPLEMENTARY.

(A) The procedures set forth or adopted herein are intended to be alternative or supplementary to, and do not supersede, any other lawful enforcement procedures as provided by other county ordinances or by statute whereby requirements, restrictions, and regulations related to the safety, condition, and maintenance of buildings and premises may be enforced and violations abated or penalized. Specifically, but not by limitation, this includes actions for enforcement as provided by:

(1) I.C. 22-12-7, providing procedures for alleviation, or requiring the vacation of dwelling units unfit for human habitation;

(2) I.C. 36-1-6-2, authorizing a municipal corporation to enter onto real property to correct any condition thereof in violation of an ordinance and assessing costs by a property lien; or

(3) I.C. 36-1-6-4(a), authorizing a municipal corporation to bring a civil action to enjoin any person from violating an ordinance regulating or prohibiting a condition or use of property.

(B) When more than one alternative is available, the appropriate county authorities may pursue enforcement through whichever procedure appears to them most suitable, expeditious, and equitable in light of the particular case. (1985 Code, § 7-4-12) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.12 NONLIABILITY OF COUNTY AND ITS OFFICERS AND EMPLOYEES.

The intent of this chapter is only to provide a means by which the appropriate county officials, in their discretion, may have and exercise powers and functions as they deem necessary to ensure the reasonable safety of buildings and premises within the jurisdictional area defined under § 150.01 and to cooperate with the appropriate state officials as provided by state statute. All the powers and functions are intended to be permissive and discretionary. The county intends to assume no liability for failure to enforce any provision of this chapter or any statute or regulation referred to hereunder; nor respecting the issuance of or refusal to issue any permit; nor respecting the making of or failure to make any inspection; nor for the performance or nonperformance of any other official action as provided or authorized under this chapter. The county, for itself and on behalf of its several officers, employees, and agents operating pursuant to this chapter, hereby specifically claims all immunity from all the liability as provided under I.C. 34-30-2. (1985 Code, § 7-4-13) (BCC Ord. 1985-C5-A, passed 12-2-1985)

§ 150.13 BUILDING DEPARTMENT AND BUILDING COMMISSIONER.

(A) *Generally.*

(1) *Authority.*

(a) The Building Commissioner is hereby authorized to establish and operate a procedure for the issuance of local building permits in his or her office or in any other offices which he or she may designate. It is specifically provided that these permits shall be issued at no charge or fee.

(b) In establishing an operating procedure for the issuance and enforcement of local building permits the Building Commissioner shall include the issuance of a certificate of occupancy. No certificate of occupancy for any dwelling erected after the effective date of this code shall be issued unless the building was erected in compliance with the

provisions of the county code and the laws and regulations of the state. It shall be unlawful to occupy any dwelling unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.

(2) *Right of appeal.* All persons shall have the right to appeal the Building Commissioner's decision through the Board of Commissioners.

(3) *Remedies.* The Building Commissioner shall in the name of the county bring actions in the Circuit or Superior Court of the county, for any mandatory and injunctive relief in the enforcement of and to insure compliance with any order or orders, made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with any action to recover the penalties as provided for in this chapter or other applicable county or state law.

(B) *Application for installation of manufactured homes.* When an application is made to the County Building Department for the installation of manufactured homes for a family residence, there shall be provided with the application, one of the following:

(1) The foundation plan which are provided by the manufacturer of the manufactured home being installed; or

(2) If the manufactured home does not have foundation plans provided by the manufacturer, then the individualized foundation for that particular manufactured home must at the minimum have load points of the structural parts of the unit based upon load points of no less than eight-foot centers.

© *Enforcement authority of Building Commissioner.*

(1) The County Board of Commissioners do, hereby, authorize the Building Commissioner to allow electricity hook up on residential dwellings through the local utility companies only if all permits and inspections have been approved by the Health Department and the Building Department.

(2) The Building Commissioner may decline electricity hook-up authorization if requirements from both departments have not been satisfied.

(BCC Ord. 97-01, passed - -1997; BCC Ord. 97-03, passed 2-3-1997; BCC Ord. 2003-02, passed 3-17-2003; BCC Ord. 2003-05, passed 8-18-2003)

§ 150.14 FAILURE TO CALL FOR REQUIRED INSPECTIONS.

(A) *Title.* This section, and all ordinances supplemental or amendatory hereon, shall be known as "Ordinance Establishing Fines for Failure to Call for Required Inspections Pursuant to the Authority of the Washington County Building Commissioner."

(B) *Purpose.* The purpose of this code is to establish and create a specific fine for the failure by any party to comply with the inspection steps developed and enforced by the County Building Commissioner for the placement or construction of all single- or two-family dwellings.

© *Establishment of fines.* It is specifically established that for each violation by a party of the inspection provisions provided under this authority there shall be a fine assessed in the sum of \$250. (BCC Ord. 97-10, passed 10-6-1997)

GENERAL REQUIREMENTS

§ 150.25 TITLE.

This subchapter and all material included herein by reference shall be known as the "Building Code of Washington County, Indiana". (Ord. 2007-01, passed 12-4-2006)

§ 150.26 PURPOSE.

The purpose of this subchapter is to protect the life, public safety, health, and general welfare of the

citizens of the county, and shall be construed in a manner to effectuate this purpose. (Ord. 2007-01, passed 12-4-2006)

§ 150.27 DEFINITIONS.

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

BUILDING COMMISSIONER. The Washington County Building Commissioner and includes individuals employed by the Building Department that are authored to represent the Building Commissioner.

CLASS 1 STRUCTURE. Pursuant to I.C. 22-12-1-4:

(1) Any part of the following:

(a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

- 1. The public.
- 2. Three or more tenants.
- 3. One or more persons who act as the employees of another.

(b) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (1)(a) above.

© Outdoor event equipment.

(d) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in division (1)(a) above, except buildings or structures described in divisions (3) through (6) below.

(2) Division (1)(a) above includes a structure that contains three or more condominium units (as defined in I.C. 32-25-2-9) or other units that:

(a) Are intended to be or are used or leased by the owner of the unit; and

(b) Are not completely separated from each other by an unimproved space.

(3) Division (1)(a) above does not include a building or structure that:

(a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.

(4) Division (1)(a) above does not include a Class 2 structure.

(5) Division (1)(a) above does not include a vehicular bridge.

(6) Division (1)(a) above does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

- (a) The structure; or
- (b) Mechanical or electrical equipment located within and affixed to the structure

(7) Pursuant to I.C. 22-12-1 -24, **STRUCTURE** includes **SWIMMING POOL**.

CLASS 2 STRUCTURE. Pursuant to I.C. 22-12-1-5, has the following definition:

(1) Any part of the following:

(a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(b) An outbuilding for a structure described in division (1)(a) above, such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(2) Division (1) above does not include a vehicular bridge.

(3) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

CONSTRUCTION. Pursuant to I.C. 22-12-1-7, means any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;

(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;

(4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure; and

(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

INDUSTRIALIZED BUILDING SYSTEM.

Pursuant to I.C. 22-12-1-14, any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

MANUFACTURED HOME. Pursuant to I.C. 22-12-1-16 has the meaning set forth in 42 U.S.C. § 5402 as it existed on January 1, 2003. This definition is as follows: **MANUFACTURED HOME** means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in

length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this division, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. §§ 5401 et seq. and except that the term shall not include any self-propelled recreational vehicle

MOBILE STRUCTURE. Pursuant to I.C. 22-12-1-17, has the following definition:

(1) Any part of a fabricated unit that is designed to be:

(a) Towed on its own chassis; and

(b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(2) The term includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; and

(b) Two or more units that are separately towable but designed to be joined into one integral unit.

PERSON. Pursuant to I.C. 22-12-1-18, an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

STRUCTURE. Both Class 1 and Class 2 structures, unless specifically stated otherwise.

VEHICULAR BRIDGE. Pursuant to I.C. 22-12-1-26, any bridge that is neither:

(1) A pedestrian walkway; nor

(2) A passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings.
(Ord. 2007-01, passed 12-4-2006)

§ 150.28 SCOPE.

(A) All construction shall be accomplished in compliance with the provisions of this subchapter.

(B) Pursuant to I.C. 22-13-2-6, this subchapter shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4; however, the provisions of this subchapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under I.C. 22-15-4.

© Pursuant to I.C. 22-13-2-9, this subchapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.
(Ord. 2007-01, passed 12-4-2006)

§ 150.29 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this subchapter;

(B) Variances granted in accordance with I.C. 22-13-2-11; and

© Orders issued under I.C. 22-12-7.
(Ord. 2007-01, passed 12-4-2006)

§ 150.30 EFFECT OF ADOPTION ON PRIOR ORDINANCE.

(A) The expressed or implied repeal or amendment by this subchapter of any other ordinance or part of any other ordinance does not affect any

rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this subchapter.

(B) These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this subchapter had not been adopted.
(Ord. 2007-01, passed 12-4-2006)

§ 150.31 BUILDING PERMIT REQUIRED.

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.
(Ord. 2007-01, passed 12-4-2006)

§ 150.32 APPLICATION FOR BUILDING PERMIT.

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determines to be necessary to locate and contact the applicant;

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished;

(3) A plot plan drawn to scale; provided, however, the plot plan shall not be required in the instance where all the construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to the streets, curbs and sidewalks;

(4) If required by state law or any rule of the Fire Prevention and Building Safety Commission, a copy of a design release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3;

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws; and

(6) The fee established by the Building Commissioner.

© Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit. (Ord. 2007-01, passed 12-4-2006)

§ 150.33 ISSUANCE OF BUILDING PERMIT.

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws. (Ord. 2007-01, passed 12-4-2006)

§ 150.34 CERTIFICATE OF OCCUPANCY.

(A) No certificate of occupancy for any building or structure shall be issued unless the building or structure was constructed in compliance with the provisions of this subchapter.

(B) It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner. (Ord. 2007-01, passed 12-4-2006) Penalty, see § 150.99

§ 150.35 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this subchapter or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. The inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this subchapter and the rules of the Fire Prevention And Building Safety Commission. (Ord. 2007-01, passed 12-4-2006)

§ 150.36 INSPECTIONS BY FIRE DEPARTMENT.

The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (the Fire Department has independent authority to conduct inspections and take enforcement actions under I.C. 36-8-17). (Ord. 2007-01, passed 12-4-2006)

§ 150.37 WITHHOLD ISSUANCE OF PERMITS.

(A) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed, or inspection fees owed to the Building Commissioner) the Building Commissioner may withhold the issuance of subsequently requested permits until a time that the debt is satisfied.

(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until a time that the property is brought into conformance with applicable ordinances. (Ord. 2007-01, passed 12-4-2006)

§ 150.38 PERMIT REVOCATION.

The Building Commissioner may revoke a building permit when any of the following are applicable:

(A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact;

(B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures;

© There is failure to comply with this subchapter; and/or

(D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use. (Ord. 2007-01, passed 12-4-2006)

§ 150.39 STOP-WORK ORDER.

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.

(B) The stop-work order shall:

(1) Be in writing;

(2) State with specificity the construction to which it is applicable and the reason for its issuance;

(3) Be posted on the property in a conspicuous place;

(4) If practicable, be given to:

(a) The person doing the construction; and

(b) To the owner of the property or the owner’s agent.

(5) The stop-work order shall state the conditions under which construction may be resumed.

© The Building Commissioner may issue a stop-work order if:

(1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this subchapter or any state law pertaining to safety during construction;

(2) Construction is occurring in violation of this subchapter, or in a manner so that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation; and/or

(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this subchapter. (Ord. 2007-01, passed 12-4-2006)

§ 150.40 CIVIL ACTION.

Pursuant to I.C. 36-1-6-4, the county may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this subchapter. (Ord. 2007-01, passed 12-4-2006)

§ 150.41 RIGHT OF APPEAL.

Any person aggrieved by an order issued under this subchapter shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) Appeal to the Fire Prevention and Building Safety Commission.

(1) A person aggrieved by an order issued under this subchapter may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the County that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, a fire safety, or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this subchapter.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) Appeal to an established local administrative body or court. Pursuant to I.C. 36-7-8-9, a person aggrieved by a decision of the Building Department may appeal as in other civil actions. The appellant must, by registered mail, give the county executive a 15-day written notice of his or her intention to appeal. This notice must concisely state the appellant's grievance. If, pursuant to I.C. 36-1-6-9, the county has established by ordinance to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this

administrative body in accordance with this subchapter. If no such administrative body exists, then the person may petition a court for judicial review of the order.

(Ord. 2007-01, passed 12-4-2006)

§ 150.42 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to I.C. 22-13-2-3(b), the rules of the State Fire Prevention and Building Safety Commission as set out in the following I.A.C. Articles of Title 675 are hereby incorporated by reference in this code and shall include any later amendments to those rules.

(1) Article 13 - Building Codes:

(a) Fire and Building Safety Standards;

and

(b) State Building Code.

(2) Article 14, State Residential Code

(3) Article 16, State Plumbing Code

(4) Article 17, State Electrical Code

(5) Article 18, State Mechanical Code

(6) Article 19, State Energy Conservation Code

(7) Article 20, State Swimming Pool Code

(8) Article 22, State Fire Code

(9) Article 24, Migrant Day Care Nursery Fire Safety Code; and

(10) Article 25, State Fuel Gas Code.

(B) Two copies of the above building rules incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.

© The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this subchapter. Pursuant to I.C. 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.
(Ord. 2007-01, passed 12-4-2006)

§ 150.43 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

(A) Pursuant to I.C. 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016;

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016;

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016;

(4) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; and

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by I.C. 36-1-5-4.
(Ord. 2007-01, passed 12-4-2006)

MINIMUM HOUSING STANDARDS

§ 150.55 TITLE.

This subchapter and all ordinances supplemental or amendatory hereto shall be known as an ordinance establishing minimum housing standards in the county.
(BCC Ord. 2005-02, passed 9-6-2005)

§ 150.56 PURPOSE.

The purpose of this subchapter establishing minimum housing standards is to enforce the standards and in assisting the Building Commissioner in exercising his or her responsibilities pursuant to the Indiana Code and the county code.
(BCC Ord. 2005-02, passed 9-6-2005)

§ 150.57 AUTHORITY.

(A) The Building Commissioner is hereby authorized to establish and operate a procedure for the issuance of local building permits in his or her office or in any other offices which he or she may designate.

(B) In establishing an operating procedure for the issuance and enforcement of local building permits the Building Commissioner shall include the issuance of a certificate of occupancy.

© No certificate of occupancy for any dwelling erected after the effective date of this code shall be issued unless the building was erected in compliance with the provisions of the county code and the laws and regulations of the state.

(D) It shall be unlawful to occupy any dwelling unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.

(BCC Ord. 2005-02, passed 9-6-2005) Penalty, see § 150.99

§ 150.58 STRUCTURES REQUIRING PERMIT.

(A) A local building permit shall be required for the following specific instances:

(1) All new one- and two-family dwellings;

(2) All manufactured homes, including modular homes, single wide manufactured homes or double wide manufactured homes and all other preconstructed or manufactured trailers or units, recreation vehicles or otherwise, in which a permanent place of residence is being established and being transported into the county for installation in the county;

(3) Residential parts of mixed occupancy buildings; and

(4) Conversions of buildings from nonresidential to residential or partly residential.

(B) The permitting process authorized hereunder is not intended to include the following activities:

(1) The remodeling of existing structures;

or

(2) The replacement of portions or items of existing structures (for example, but not limited to, replacement of windows, walkways, roofs, and the like).

(BCC Ord. 2005-02, passed 9-6-2005)

§ 150.59 RIGHT OF APPEAL.

All persons shall have the right to appeal the Building Commissioner's decision through the Board of Commissioners of the county.

(BCC Ord. 2005-02, passed 9-6-2005)

§ 150.60 SPECIFIC MINIMUM HOUSING STANDARDS ADOPTED.

As used in this subchapter and in this section thereof, the phrase *IRC* shall mean International Residential Code. The following minimum housing standards are specifically adopted herein and the inspections noted below must either meet the specific standards provided or the IRC:

(A) Inspection #1 - Foundations:

(1) Setback lines - The structure must be 60 feet from the center of the county highway or the private road which services the residence; and

(2) Trench and Foundation (IRC).

(B) Inspection #2 - Framing:

(1) Assure that the framing is properly secure to the foundation (IRC); and

(2) In the event of manufactured, pre-manufactured or modular homes, any and all must be properly secured to the foundation thereof and must be by approved tie-downs (IRC).

© Inspection #3 - Rough-In:

(1) Electrical Service to the Residence (IRC); and

(2) Plumbing and sewer hook-ups must be pursuant to the rules and regulations of the County Health Department and IRC; however, the proper installation and location of the septic systems must be pursuant to the rules and regulations of the County Health Department and inspected by their officers.

(D) Inspection #4 - Final:

- (1) Culvert (if required) - Application must be submitted to the County Highway Department;
- (2) Backfill (IRC);
- (3) Decks or Stairs (IRC); and
- (4) Gutters to divert water from the roof area of the residence and swales to divert water from the foundation of the residence (IRC).
(BCC Ord. 2005-02, passed 9-6-2005)

© Any person violating any provision of §§ 150.25 through 150.43 may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this subchapter.

(D) For the violation of §§ 150.55 through 150.61, the county may seek a fine of \$250 per day with each day being a separate and individual violation.

(1985 Code, § 7-4-11) (BCC Ord. 1985-C5-A, passed 12-2-1985; BCC Ord. 2005-02, passed 9-6-2005; BCC Ord. 2007-01, passed 12-4-2006)

§ 150.61 REMEDIES.

The Building Commissioner shall in the name of the county bring actions in the Circuit or Superior Courts of the county, for any mandatory and injunctive relief in the enforcement of and to insure compliance with any order or orders, made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with any action to recover the penalties as provided for in this subchapter.

(BCC Ord. 2005-02, passed 9-6-2005)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Whoever violates any provision of §§ 150.01 through 150.13 commits a penal county ordinance violation and may be cited therefor, and upon conviction shall be liable to a fine of not less than \$100 nor more than \$2,500, and each day a violation continues shall be a separate offense. The fine shall be in addition to any civil forfeiture imposed by a court under I.C. 36-7-9-19, or any other costs of enforcement or abatement assessed by or awarded to the county incident to any action for enforcement.

**APPENDIX: SCHEDULE OF STATEWIDE BUILDING CONSTRUCTION
AND SAFETY STANDARDS**

SCHEDULE OF STATEWIDE BUILDING CONSTRUCTION AND
SAFETY STANDARDS IN EFFECT AS OF NOVEMBER 5, 1985

- (1) *Indiana Construction Rules and Regulations*, Volume I, 1980 Edition, 675 IAC 2, originally published as 3 IR 2148, which identifies, amends and incorporates therein the *Uniform Building Code*, 1979 Edition, and the *Uniform Building Code Standards*, 1979 Edition.
- (2) *Indiana Electrical Code*, 1984 Edition, 675 IAC 17-1, originally published as 9 IR 50, which identifies, amends and incorporates therein the *National Electrical Code*, 1984 Edition.
- (3) *Indiana Safety Code for Health Care Facilities*, 1985 Edition, 675 IAC 17-2, originally published as 9 IR 52, which identifies, amends, and incorporates therein National Fire Protection Association (NFPA) Standard, NFPA 99, 1985 Edition.
- (4) *Indiana Plumbing Rules*, 1981 Edition, 675 IAC 5, originally published as 4 IR 2398, which identifies, amends, and incorporates therein the *Uniform Plumbing Code*, 1979 Edition.
- (5) *Indiana Mechanical Rules*, 1981 Edition, 675 IAC 7, originally published as 4 IR 1828, which identifies, amends, and incorporates therein the *Uniform Mechanical Code*, 1979 Edition.
- (6) *Indiana Flammable and Combustible Liquids and Gases Code*, 1985 Edition, 675 IAC 22-1, originally published as 9 IR 53, which identifies, amends, and incorporates therein eight National Fire Protection Association Standards.
- (7) *Indiana One and Two Family Dwelling Code*, 1984 Edition, which identifies, amends and incorporates therein the Council of American Building Officials *One and Two Family Dwelling Code*, 1983 Edition (including also Indiana standards for permanent installation of manufactured homes), all as published and promulgated under 675 IAC 14.
- (8) *Indiana Energy Conservation Code*, 1984 Edition, 675 IAC 19, originally published as 7 IR 2525, which identifies, amends and incorporates therein the *Model Energy Code*, 1983 Edition.
- (9) *Indiana Swimming Pool Rules*, 1982 Edition, 675 IAC 9, originally published as 5 IR 1829, under this title.
- (10) *Indiana Fire and Building Safety Standards*, 675 IAC 13-1, originally published as 8 IR 1301 under that title, which incorporates by reference the following National Fire Protection Association (NFPA) Standards: NFPA 11-1983, except App. C; NFPA 12-1980, except App. C; NFPA 12A-1980, except App. B; NFPA, 12B-1980, except App. B; NFPA 13-1983, except App. D; NFPA 14-1983, except App. B; NFPA 20-1983, except App. C; NFPA 71-1982, except App. B; NFPA 72A-1979, except App. B; NFPA 72B-1979, except App. B; NFPA 72C-1982, except App. B; NFPA 72D-1979, except App. B; NFPA 72E-1984, except Chapter 10;

NFPA 96-1984, except Chapter 10; NFPA 33-1982, except App. C; NFPA 56F-1983, except App. D; NFPA 61B-1980, except App. E; and NFPA 82-1983, except App. A.
(1985 Code, Art. 7, Ch. 4, Appendix A) (BCC Ord. 1985-C5-A, passed 12-2-1985)

CHAPTER 151: FLOOD PREVENTION AND PROTECTION

Section

- 151.01 Statutory authorization; findings of fact; purpose; objectives
- 151.02 Definitions
- 151.03 General provisions
- 151.04 Administration
- 151.05 Provisions for flood hazard reduction
- 151.06 Variance procedures

- 151.99 Penalty

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.

© *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:

§ 151.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; OBJECTIVES.

(A) *Statutory authorization.* The Indiana 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 Board of Commissioners of Washington County does hereby adopt the following floodplain management regulations.

(B) *Findings of fact.*

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

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains

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

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

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

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

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

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

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

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (7) To ensure that potential homebuyers are notified that property is in a flood area. (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.02 DEFINITIONS.

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

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves

are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM 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 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 AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. 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 purchase requirements apply.

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

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

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

BUILDING. See "Structure."

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

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

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

DEVELOPMENT. Any man-made change to improved or unimproved real estate including but not limited to:

- (1) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
- (3) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;

(7) Storage of materials; or

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

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

ELEVATED STRUCTURE. A 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. A certified statement that verifies a structure's elevation information.

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

ENCROACHMENT. The 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. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete

pads) is completed before the effective date of the community's first floodplain ordinance.

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

FEMA. The Federal Emergency Management Agency.

FIVE-HUNDRED YEAR FLOOD (500-YEAR FLOOD). The flood that has a 0.2% chance of being equaled or exceeded in any year.

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

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

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

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

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

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

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

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

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

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

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

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

FUNCTIONALLY DEPENDENT FACILITY. A 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 Commissioners requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

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

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

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

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

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

LOWEST FLOOR. The lowest of the following:

- (1) The top of the lowest level of the structure;
- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;

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

(5) The top of the 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) of this definition; or

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

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total net area of one (1) square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above grade; and

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

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

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

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

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

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

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

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and

either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

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

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

ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD). The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See “Regulatory Flood”.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 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). An official republication of a community’s FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works

or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

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. A 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. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

REGULATORY FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.03(B). 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 value of the structure at the time of each such flood event.

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

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdictions of the County subject to inundation by the regulatory flood. The **SFHAs** of Washington County generally identified as such on the Flood Hazard Boundary Map of the County prepared by the Federal Emergency Management Agency and dated April 21, 1978. The **SFHAs** of the Town of Fredericksburg generally identified as such on the Flood insurance Rate Map of the Town prepared by the Federal Emergency Management Agency and dated September 4, 1985. (These areas are shown on a FHBM or 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 building.

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

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

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

violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure”, provided that the alteration will not preclude the structures continued designation as a “historic structure”.

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

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

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

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

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

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

ZONE A. See definition for A zone.

ZONE B, C, AND X. 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.) (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.03 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all SFHAs within the jurisdiction of the Washington County Building Commissioner including Washington County and the Town of Fredericksburg.

(B) *Basis for establishing regulatory flood data.* This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. 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 Indiana Department of Natural Resources for review and approval.

(1) The regulatory flood elevation, floodway, and fringe limits for the SFHAs delineated as an "A Zone" on the FHBM of Washington County prepared by the Federal Emergency Management Agency and dated April 21, 1978 shall be according to the best data available as provided by the Indiana Department of Natural Resources.

(2) The regulatory flood elevation, floodway, and fringe limits for the SFHAs delineated

as an "A Zone" on the FIRM of the Town of Fredericksburg prepared by the Federal Emergency Management Agency and dated September 4, 1985 shall be according to the best data available as provided by the Indiana Department of Natural Resources.

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

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

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

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

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

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

(3) If the elevation (natural grade) of the site in question is above the base flood elevation, 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.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted understate statutes.

(H) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of Washington County, the Town of Fredericksburg, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder. (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.04 ADMINISTRATION.

(A) *Designation of Administrator.* The Board Commissioners of Washington County hereby appoints the Washington County Building Commissioner to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

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

(1) *Application stage.*

- (a) A description of the proposed development;
- (b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
- © 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;
- (g) Description of the extent to which any watercourse will be altered or related as a result of proposed development; and

(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 said 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 permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to

make said corrections required hereby, shall be cause to issue a stop-work order for the project.

© *Duties and responsibilities of the Floodplain Administrator.* The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose. Duties and responsibilities of the Floodplain Administrator shall include, but 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 Indiana Department of Natural Resources for all development projects subject to § 151.055(E) and G(1), and maintain a record of such 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 such 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 such 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 § 151.04(B);

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

(11) Review certified plans and specifications for compliance.

(12) *Stop work orders.*

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

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

(13) *Revocation of permits.*

(a) 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.

(b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter. (BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all SFHAs the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

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

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

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

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment 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 infiltration of flood waters into the system;

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

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

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

(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 said non-conformity is not further, extended, or replaced.

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

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

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

(b) Addition or improvement made to any existing structure:

1.

where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);

2. With a previous addition or improvement constructed since the community’s first floodplain ordinance.

© Reconstruction or repairs made to a damaged structure where the costs of restoring the

structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

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

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

(f) 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 of division (B)(4) of this section.

(3) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured) 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) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures,

and impacts from debris or ice. Such certification shall be provided to the official as set forth in § 151.04(C)(10).

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

(4) *Elevated structures.*

(a) New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(b) 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 one square foot of enclosed area; and

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); and

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); and

5. The interior portion of such 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 nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than nine inches 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.

© 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 nonresidential 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; and

(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. The bottom of the openings shall be no more than one foot above grade; and

© The interior grade of the crawlspace must be at or above the base flood elevation; and

(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; and

(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; and

(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) 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. This requirement applies to all manufactured homes to be placed on a site;

1. Outside a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

(b) 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. 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.

© Recreational vehicles placed on a site shall either:

1. Be on site for less than 180 days; and

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

3. Meet the requirements for "manufactured homes" as stated earlier in this section.

© *Standards for subdivision proposals.*

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

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

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

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

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

(E) *Standards for identified floodways.*

(1) Located within SFHAs, established in § 151.03(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1, a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving 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 Indiana 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 Indiana Department of Natural Resources.)

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

(3) 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; and

(4) For all projects involving channel modifications or fill (including levees) the Floodplain Administrator shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

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

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

(1) *Drainage area upstream of the site is greater than one square mile.*

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

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in the floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.

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

(2) *Drainage area upstream of the site is less than one square mile.*

(a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100 year flood elevation for the site.

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

(3) The total cumulative effect of the proposed development, when combined with all other

existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.06 VARIANCE PROCEDURES.

(A) *Designation of Variance and Appeals Board.*

The Board of Commissioners as established by Board of Commissioners of Washington County shall hear and decide appeals and requests for variances from requirements of this chapter.

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

© *Variance procedures.* In passing upon such applications, the Board of Commissioners shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

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

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

(4) The necessity 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.

(D) *Conditions for variances.*

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

(a) A showing of good and sufficient cause;

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

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

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

(3) Any variance granted in a floodway subject to § 151.05(E) (G)(1) of this chapter will

require a permit from the Indiana Department of Natural Resources.

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

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

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

(7) Any 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 division (E) of this section).

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

(E) *Variance notification.*

(1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(a) 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

(b) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(2) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community’s biennial report submission to the Federal Emergency Management Agency.

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

(G) *Special conditions.* Upon the consideration of the factors listed in this section, and the purposes of this chapter, the Board of Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

§ 151.99 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.

(B) All violations shall be considered a common nuisance. All violations shall be punishable by a fine not exceeding \$100.

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

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

(3) Nothing herein shall prevent the County and the Town of Fredericksburg from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(BCC Ord. 2009-01, passed 2-4-2009; BCC Ord. 2013-09, passed 8-6-2013)

CHAPTER 152: MANUFACTURED HOMES

Section

Skirting and Permanent Perimeter Enclosures

- 152.01 Title
- 152.02 Purpose
- 152.03 Authority
- 152.04 Scope
- 152.05 Installation
- 152.06 Inspection

SKIRTING AND PERMANENT PERIMETER ENCLOSURES

§ 152.01 TITLE.

This subchapter and all ordinances supplemental or amendatory hereon shall be known as the “Skirting and Perimeter Enclosure Ordinance for Manufactured Homes”.

(BCC Ord. 96-12, passed 10-7-1996)

§ 152.02 PURPOSE.

The purpose of this subchapter is to provide for a requirement that all manufactured homes have installed with them skirting and permanent perimeter enclosure upon their installation on real estate in the county.

(BCC Ord. 96-12, passed 10-7-1996)

§ 152.03 AUTHORITY.

(A) While the Indiana Code on Installation of One- and Two-Family Dwellings does not make it an Indiana law which requires skirting and permanent

perimeter enclosures, Section C-503 of such One and Two-Family Dwelling Code provides as follows:

C-503.1 Skirting and permanent perimeter enclosures need be installed only where specifically required by other laws or ordinances. Skirting, when installed, shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by this code for regular foundation construction.

Skirting shall be installed in accordance with the skirting manufacturer’s installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave.

(B) This section and other provisions of the Indiana law authorize the county to require skirting and permanent perimeter enclosures as noted above. (BCC Ord. 96-12, passed 10-7-1996)

§ 152.04 SCOPE.

The scope of this subchapter shall apply to the installation and placement of all manufactured homes in the county which require the skirting and permanent perimeter enclosures as outlined herein.

(BCC Ord. 96-12, passed 10-7-1996)

§ 152.05 INSTALLATION.

It is specifically provided that all manufactured homes shall have skirting and permanent perimeter

enclosures installed which skirting shall be adequately secure to assure stability, to minimize vibration and susceptibility to wind damage and to compensate for possible frost heave. The skirting shall be installed in accordance with the skirting manufacturer's installation instruction. Skirting, when installed, shall be of material suitable for exterior exposure and contact with the ground, and permanent perimeter enclosures shall be constructed of materials as required by the One- and Two-Family Dwelling Code for regular foundation construction.

(BCC Ord. 96-12, passed 10-7-1996)

§ 152.06 INSPECTION.

The County Building Commissioner is hereby authorized and directed to provide for inspection for the enforcement of the provisions of this chapter.

(BCC Ord. 96-12, passed 10-7-1996)

CHAPTER 153: PLANNING AND DEVELOPMENT

Section

Procedures for Subdivision Plat Approvals

- 153.01 Administrative requirements
- 153.02 Permits required
- 153.03 Filing fees
- 153.04 Definitions
- 153.05 Variance
- 153.06 Separability
- 153.07 Technical review checklist for non-exempt subdivisions

Regional Development

- 153.25 County participation in the River Hills Economic Development District and Regional Plan Commission

Miscellaneous Provisions

- 153.35 Minimum setback distances for confined feeding operations and confined animal feeding operations

PROCEDURES FOR SUBDIVISION PLAT APPROVALS

§ 153.01 ADMINISTRATIVE REQUIREMENTS.

(A) The minimum average lot size shall be two acres to allow for undevelopable areas, such as flood plains, utility easements, driveway and/or internal roads, poor soil areas, and the like, and to have adequate space for future needs. The developer shall state on the subdivision plat the total acreage, total number of lots and the average lot size. The developer shall consecutively number the lots in the subdivision.

There shall be no more than one single family residential structure per lot.

(B) Upon the filing of a plat with the Plan Director of the county, there shall be six complete copies, including restrictive covenants filed for use by the County Plan Commission for review.

© The developer shall register with the Plan Director prior to the submittal of any subdivision, information providing the company name, address, phone number, fax number, contact person(s) and the history of the subdivision development for the past three years.

(D) A copy of the subdivision plat shall be submitted on Mylar sheet(s) or equivalent for reproduction as required. It is recommended that the County Recorder's Office be contacted to determine compliance. All required permits and other information shall be on file with the Plan Director before submittal to the County Recorder.

(E) All subdivisions shall have unique names for identification. The subdivision name shall be sufficiently unique as not to be confused with existing approved subdivisions.

(F) The submitted plat for subdivision approval shall show public rights-of-way, utility easements, metes and bounds descriptions of the entire platted real estate and note any restrictive covenants. Public way widths must have a minimum right-of-way width of 40 feet and any cul-de-sac must have a minimum 90 feet right-of-way diameter. Public way curves must have a minimum radius of 75 feet at the center line of the curve. It is recommended that no road grade exceed 15%, and that right-angle intersections are used wherever practicable. Intersections must be approached on all sides by near level areas, and these

level areas must have a minimum length of 50 feet (measured from the intersection of the centerlines) within which no grade may exceed a maximum of 3%.

(G) Each subdivision shall include appropriate easements for water, sewer, and other public utilities. When located along public roads, the easements shall have a minimum width of ten feet. When located along side or rear property lines or interior to any lot, the easements shall have a minimum width of 15 feet or seven and one-half feet on each side of the lot line. Utility easements shall have multiple functions wherever possible, and shall provide reasonable continuity from block to block. The Commission shall require larger easements when necessary for carrying out the purposes of this subchapter.

(H) The formation of a Property Owners Association shall be required if common grounds or maintenance repairs to roads exist and are inclusive of the development. If internal roads are not proposed to be brought up to current county road standards, a comment shall be made on the subdivision plat stating this fact.

(I) If the developer elects to construct an internal road(s), the County 911 Coordinator shall be contacted to coordinate a unique road name and order the required signage.

(1) All material and installation cost for signage shall be paid for by the developer.

(2) If a proposed road is to be accepted by the county, it shall be brought up to current county stone and asphalt standards for roads and must be approved by the County Highway Superintendent.

(3) The developer shall provide proof of conformance to this requirement concerning internal roads and shall further notify the County Highway Superintendent at least five days prior to the actual starting on these roads for each of the following activities:

- (a) Stripping of sod;
- (b) Laying of stone; and

© Laying of asphalt.

(4) In the event the developer fails to comply with any provision of this paragraph by failing to notify the 911 Coordinator or failing to notify the County Highway Superintendent, then the developer, at his or her own expense, shall assist in all inspections and be required to place the roads in a status which can be inspected.

(J) All proposed subdivisions of real estate located within the territory within Washington Township, Washington County, Indiana described in Exhibit "A" attached to the ordinance codified herein must be reviewed and approved by the Salem Plan Commission pursuant to the provisions of I.C. 36-7-4-205.

(BCC Ord. 2011-03, passed 8-15-2011; BCC Ord. 2013-11, passed 10-1-2013)

§ 153.02 PERMITS REQUIRED.

(A) The County Environmentalist shall review all subdivisions for compliance with current Washington County septic system requirements. Soil tests shall be performed, as directed by the County Environmentalist and the approximate location and results of all the tests shall be shown on the subdivision plat. The County Environmentalist shall provide the Plan Director with proof that the required review for subdivision septic systems have been performed.

(B) The Highway Superintendent shall review all subdivisions for ingress and egress route, grades, curves, and public way widths for safety and compatibility and coordinate the subdivision public ways with planned and current public ways. A minimum of 325 feet distance each direction and 325 feet sight distance each direction between driveway entrances is recommended. The maximum number of driveway entrances, per mile, shall be ten on each side of the county highway. These requirements shall include existing and proposed new county roads. All driveways located on the existing county highways, on each side, within 1/4-mile of the subdivision plat shall be shown in their approximate locations. The

Highway Superintendent shall review plans for all driveway entrances, as required for the proposed subdivision. The Highway Superintendent shall provide the Plan Director with proof that the required review for driveway entrances, ingress and egress, grades, curves, and public way widths have been performed.

© There is established herewith a 60-foot setback requirement from the centerline of any public road or highway, to the nearest edge of any residential structure, garage or related structure. There is also established a minimum lot width of 150 feet as measured at the front setback line, a minimum lot depth of 150 feet, and a minimum lot area of 3/4-acre in size (if connected to city water) or one acre in size (if served by a well). Any variance of this provision must be made only by application to the Washington County Plan Commission and only for their consideration.

(D) All ingress and egress, by way of a driveway, from a county road to individual property may only be installed with the installation of a culvert which is to be at a minimum of 12 inches in diameter and 24 feet long and installed with only 16 gauge material. Any variance of this provision must be made only by application to the County Plan Commission and only for its consideration.

(E) A water supply shall be provided for all lots in each subdivision. If the water supply is from a private well field, the actual well log shall be provided for the areas in the subdivision served by the well. The safe yield for any well shall be provided. If the water supply is from an extension to an existing public water system, the IDEM permit or notice of intent number shall be provided with the subdivision plat submittal. The minimum water main line size is three inches. If the water supply is from a service tap, or from an existing water main, then a letter from the water district stating the size and location of all existing and future water mains shall be submitted along with the subdivision plat submittal.

(F) (1) The County Soil Conservation District shall be contacted regarding IDEM Rule 5, Erosion Control. The County Soil Conservation District shall provide the Plan Director with proof that the proposed subdivision has been reviewed for compliance.

(2) If an IDEM permit is required, it shall be provided with the subdivision plat submittal.

(G) The proposed subdivision shall have all drainage ditches, streams, creeks, rivers, sinkholes, caves, springs, closed depressions and related features shown on the subdivision plat. Elevations in ten-foot contour intervals shall also be shown on the subdivision plat, with spot elevations as required. It is required that the 100-year floodplain shall be shown on the plat. In the event the flood plain designation is not available on the flood plain maps available and if the drainage area is more than 640 acres, then the flood plain designation must be determined by application to the State Department of Natural Resources before the plat can be approved. Any bridge or culverts required for internal roads or other reasons with a drainage area equal to or greater than 640 acres shall have an IDNR floodway construction permit. Any bridge or culvert required for internal roads or other reasons with a drainage area less than 640 acres shall be sized and designed by a professional engineer registered in the state. The County Building Commissioner may be contacted to answer questions related to drainage and floodway areas.

(H) The drainage plan for the proposed subdivision shall comply with the following standards.

(1) The plan shall maintain the amount of drainage through the tract that existed when the tract was created. If any tiles are cut, broken down, or rendered useless during the construction activity on the tract, the developer shall be responsible for the repair, replacement or relocation of the tile.

(2) The plan shall not change the locations where surface water enters the tract and exits the tract from the locations that existed when the tract was created.

(3) Water which sheds off of a new structure, especially when the new structure is elevated or near a property line, or both, shall exit the tract in the same location where it did when the tract was created.

(4) The County Plan Commission may approve an alternate plan that does not comply with the standard set forth in division (H) above. (BCC Ord. 2011-03, passed 8-15-2011)

§ 153.03 FILING FEES.

At the time the developer shall file his, her or their proposed subdivision plat and the appropriate number of copies with the Office of the Plan Director, he, she or they shall pay to the Office of the Plan Director a non-refundable filing fee as follows:

(A) Seventy-five dollars per lot in the proposed subdivision plat; and

(B) Twenty-five dollars for the costs associated with the notice of public hearing for the proposed subdivision. (BCC Ord. 2011-03, passed 8-15-2011)

§ 153.04 DEFINITIONS.

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

SUBDIVISION. The 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 on any and all other plans, terms and conditions, including re-subdivision. **SUBDIVISION** includes the division of development of land zoned for residential and non-residential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

DIVISION, EXEMPT.

(1) The Plan Commission and County Commissioners have determined that certain types of divisions of land do not require a thorough review and platting required under the standard provisions of this subchapter.

(2) In order to more appropriately address these types of divisions and ensure that the interests of the County are served certain exemptions are enumerated within this subchapter.

(3) Exempt subdivisions are not subject to the requirements of this subchapter beyond the determination by the Plan Director or staff that they meet requirements for exempt subdivisions set forth herein.

(4) The following subdivisions of land are ***EXEMPT*** from the provisions of this subchapter:

(a) A division of land for the sale or exchange of tracts between adjoining land owners where the transferred property abuts the recipient's adjoining property in the exchange;

(b) A division of land by a person for any purpose for a child, grandchild, sibling, parents, or grandparents, and which meet all other requirements of the ordinances of the county. In order to prevent evasion of the subdivision control ordinance a property owner will be allowed to create only one lot for transfer to each child, each grandchild, each sibling, the owner's parents, the owner's spouse's parents, and each set of grandparents for the owner or the owner's spouse; and

© A division of land for the purpose of single family or agricultural use, which does not involve any new public road, public drainage easement or other new public improvement, and which creates a new lot and a remaining tract which are a minimum of one-half acre each in size (if connected to city water) or one acre each in size (if

served by a well) and which meet all other requirements of the ordinances of the county. Only two exempt divisions of this type shall be permitted on any tract or contiguous tracts of land under the same ownership and existing on May 1, 2011.

(5) All exempt subdivisions shall be submitted to the Plan Director or Staff for review. If the Plan Director or Staff determines that the proposed subdivision meets the standards to be exempt from the subdivision plat process, he or she shall stamp the exempt subdivision as approved.

(6) The County Auditor shall not accept an exempt subdivision for transfer unless it has been stamped as approved by the Plan Director or Staff.

(7) The County Auditor shall not accept a subdivision for transfer or an exempt subdivision for transfer for real estate described in Exhibit "A" attached to the ordinance codified herein unless it has been stamped as approved by the city of Salem, Indiana Building Inspector.
(BCC Ord. 2011-03, passed 8-15-2011; BCC Ord. 2013-11, passed 10-1-2013)

§ 153.05 VARIANCE.

Application may be made to the County Plan Commission for variance from any one or more of the

restrictions or requirements contained herein. In consideration of application for variance, the Commission shall take into consideration the community health, safety, welfare, goals, and rationale for the restrictions and requirements. (BCC Ord. 2011-03, passed 8-15-2011)

adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in any controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The county hereby declares that it would have enacted the remainder of these regulations even without any part, provision, or application. (BCC Ord. 2011-03, passed 8-15-2011)

§ 153.06 SEPARABILITY.

If any part or provision of these regulations or application thereof to any person or circumstances is

§ 153.07 TECHNICAL REVIEW CHECKLIST FOR NON-EXEMPT SUBDIVISIONS.

COUNTY TECHNICAL REVIEW CHECKLIST FOR NON-EXEMPT SUBDIVISIONS

- All lot dimensions are shown and in mathematical agreement.
- Lots are consecutively numbered.
- Driveways are shown and conform by having 325' distance and sight distance.
- Developer has registered with Plan Director, and paid filing fees.
- Average lot size conforms.
- Minimum lot size conforms.
- Elevations are shown at ten-foot contour interval with spot elevations provided. Also, any drainage ditches, streams, creeks, rivers, sinkholes, caves, springs, and related features shown on submitted subdivision plat. The 100-year flood plain must be shown on all plats.
- New road names conform by non-duplications or similarity with existing roads.
- Restrictive covenants needed (see recommendations).
- Subdivision name conforms by non-duplication or similarity with existing subdivisions.
- All curve data, setbacks, easements, and right-of-way information are shown.
- Signatures by all owners of lot(s) in submitted subdivision plat.
- Field check of driveway sight distance by Washington County Highway Department.
- Proof of review by County Environmentalist along with location shown of all soil borings on the submitted subdivision plat.

- ___ IDEM permit for water supply or approval from water supplier of all lots on service lines from existing water mains.
- ___ Proof of review by Washington County Soil Conservation District for compliance with IDEM Rule 5.
- ___ Any other permit furnished, as required, such as an IDNR permit for floodway construction.

(BCC Ord. 2011-03, passed 8-15-2011)

REGIONAL DEVELOPMENT

§ 153.25 COUNTY PARTICIPATION IN THE RIVER HILLS ECONOMIC DEVELOPMENT DISTRICT AND REGIONAL PLAN COMMISSION.

(A) The legislative bodies of the counties of Clark, Floyd, Harrison, Scott, and Washington have discussed the desirability of organizing a regional commission so as to increase short-term advantages and long-term best interests of the counties, therefore, pursuant to the authority vested in the County Commissioners by virtue of I.C. 36-7-7-1 et seq., the Board of County Commissioners have requested and received membership in the River Hills Regional Planning Commission. Furthermore, the River Hills Regional Planning Commission has been designated by the federal Economic Development Administration as an Economic Development District, with each county therein designated as a redevelopment area. The Indiana General Assembly has determined that a regional planning commission shall act only in an advisory capacity, and as a review and coordinating agency and clearinghouse so as to facilitate various activities associated with public and private grants-in-aid, the identification of prioritized needs for the region, and other activities of a planning nature. River Hills is not authorized to directly provide administrative or management services to local units of government, or to enter into fee-gathering contracts to provide those services.

(B) The following members of River Hills shall be appointed from Washington County:

(1) A County Commissioner or other person appointed by the Board of Commissioners;

(2) A Councilperson appointed by the County Council; and

(3) One person appointed by the executive of each of the five largest municipalities in the county.

© Members shall be appointed or reappointed for one year terms, which expire on December 31 of each year. Commission members shall serve without salary, but may be reimbursed for Commission-related expenses.

(D) At least two-thirds of the Commission members must be elected officials. All appointees shall be knowledgeable about development issues, and must be residents of the municipality, county, or region that they represent.

(E) Commission officers shall be elected annually. The Commission shall meet at least quarterly in regular meetings, with special meetings callable by the Chairperson or by any five other members.

(F) The record of the Commission's resolutions, transactions, findings, and determinations is a public record.

(G) The Commission shall elect from among its members an Executive Board which shall conduct most of the business of the Commission. The Executive Board shall meet at least monthly and shall report all of its actions to the Commission, which shall review and may amend any action.

(H) The majority of the Commission members from a particular county have the statutory right to veto by petition the implementation of any program within its respective county to which the county officially objects.

(I) The Commission shall prepare and adopt an annual budget, which shall be apportioned on a pro rata per capita basis to each participating county. The county shall therefore pay \$0.30 per resident annually to River Hills, for as long as the county continues its membership. Any assessed amount greater than \$0.30 per the county resident is subject to the review and approval of the County Council.

review by the County Board of Commissioners, or their agent, the applicant shall be furnished a letter confirming compliance with this section within 21 days of submittal of the facility plans. Upon receipt of notice of application from IDEM, the County Board of Commissioners shall furnish to IDEM within 21 days documentation of compliance with this section. (BCC Ord. 2007-07, passed 11-7-2007)

MISCELLANEOUS PROVISIONS

§ 153.35 MINIMUM SETBACK DISTANCES FOR CONFINED FEEDING OPERATIONS AND CONFINED ANIMAL FEEDING OPERATIONS.

(A) This section applies to all confined animal feeding operations (CAFO) and confined feeding operations (CFO) requiring approval by the Indiana Department of Environmental Management for new units and/or expansion to existing units.

(B) The County Board of Commissioners establishes the minimum setback distances for confined animal feeding operations and confined feeding operations as follows:

- Distance from existing dwelling. 750 feet
- Distance from public/non public schools. 1,000 feet
- Distance from office or factory. 500 feet

© The minimum distance to an existing dwelling may be reduced with written approval from the owner of the existing dwelling. Dwellings located on property owned by the applicant shall be exempt from the above setback distance.

(D) The applicant for a proposed CAFO or CFO shall submit to the County Board of Commissioners plans of the proposed facility that document compliance with the above minimum distances. Upon

CHAPTER 154: ZONING REGULATIONS

Section

	<i>General</i>	154.42 Airport overlay district Appendix A: Zoning Map Appendix B: Site Score Worksheet
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154.03	Amendments	
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154.09	Special exceptions	This chapter may be cited as the Zoning Regulations of Washington County. (BCC Ord. 2014-04, passed 3-18-2014)
154.10	Enforcement	
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154.15	Washington County Board of Zoning Appeals	§ 154.02 PURPOSE.
154.16	Rules of procedures	This chapter is intended to encourage the growth and development of the county in accordance with the Washington County Comprehensive Plan for the following purposes:
154.17	Findings and decisions	
154.18	Appeals	
154.19	Legislative body	(A) Secure adequate light, air, convenience of access and safety from fire, flood and other danger;
154.20	Plan Commission	
154.21	Plan Director	(B) Lessening or avoiding congestion in public ways; and
154.22	Official zoning map	(C) Promoting the public health, safety, comfort, morals, convenience, and general welfare. (BCC Ord. 2014-04, passed 3-18-2014)
	<i>Non-Conforming Uses</i>	§ 154.03 AMENDMENTS.
154.30	Non-conforming	(A) Proposals to amend the text of this chapter may be initiated by either the Plan Commission or the Washington County Commissioners, and follow the procedures according to I.C. § 36-7-4-602(b) and I.C. § 36-7-4-607.
154.31	Restoration of legally established nonconforming uses	
154.32	Substitution of non-conforming use	
154.33	Non-conforming use change	
154.34	Non-conforming use repair and alteration	
	<i>Establishment of Districts</i>	
154.40	Residential district	
154.41	Agricultural district	

(B) Proposals to amend the zoning maps, as incorporated by reference into this chapter, may be initiated by the Plan Commission, the Washington County Commissioners, or by a petition signed by property owners who own at least 50% of the land involved, and follow the procedures according to I.C. § 36-7-4-602(c) and I.C. § 36-7-4-608.

(C) Petitions for an amendment shall be filed with the Plan Commission, and the petitioner, upon such filing, shall, whether or not the proposed amendment is enacted, pay a filing fee and the cost of public notice that is required. Petitions initiated by the Plan Commission or the Washington County Commissioners are exempt from the filing fee. (BCC Ord. 2014-04, passed 3-18-2014)

§ 154.04 SEVERABILITY CLAUSE.

If for any reason any article, division, section, subsection, sentence, clause, phrase, or word of this chapter should be declared unconstitutional or invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall remain in full force and effect; therefore, the provisions of this chapter are hereby declared severable.

(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.05 COMPLIANCE.

No structure, permanent or temporary, shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this chapter which shall include the subdivision control ordinance.

(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.06 JURISDICTION.

This chapter shall apply to all land within Washington County not covered by the ordinances of Salem, or Livonia.

(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.07 INTERPRETATION.

(A) *Conflicting requirements.* Whenever regulations or restrictions imposed by this chapter are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulations, the regulations, rules or restrictions which are more restrictive or which impose higher standards or requirements shall govern.

(B) *Overlapping regulations.* When this section, along with private covenants, private contracts, commitments, permits, agreements, state or federal laws or other regulations applies to a structure or parcel of land, the greater restriction shall control. In no instance shall this chapter be interpreted as altering or negating any other applicable regulations.

(C) *Meanings.* The following rules of construction shall apply to the text of this section:

(1) The particular and specific provisions of this section shall supersede any general requirements that are established by it;

(2) The words "shall" "must" and "will" are always mandatory and not discretionary. The words "may" and "should" are permissive;

(3) Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary;

(4) The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for";

(5) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity;

(6) Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or" the use of the conjunction is defined as follows:

(a) "And" means that all the connected items, conditions, provisions, and events apply together and not separately;

(b) "Or" means that the connected items, conditions, provisions, or events apply separately or in any combination; and

(c) "Either/or" means that the connected items, conditions, provisions, or events shall apply separately but not in combination.

(7) The word "includes" does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character. (BCC Ord. 2016-02, passed 3-1-2016)

§ 154.08 DEFINITIONS.

Certain words used in this chapter are defined below. Any words not defined as follows shall be construed in their general accepted meanings as defined by *Webster's Dictionary*.

ALTERATION. Any change in size, shape, character, occupancy, or use of a building or structure.

ANIMAL FEEDING OPERATION (AFO). The raising of 250 mature dairy cows, whether milked or dry; 350 veal calves; 350 cattle other than mature dairy cows or veal calves (cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs); 600 swine; 170 horses; 3,300 sheep or lambs; t 18,000 turkeys; 10,000 laying hens or broilers, if the operation uses a liquid manure handling system; 30,000 chickens (not laying hens), if the operation uses a dry manure handling system; 27,000 laying hens, if the operation uses a dry manure handling

system; 10,000 ducks, if the operation uses a dry manure handling system); or 1,700 ducks, if the operation uses a wet manure handling system) or more animals for food, fur or recreation in lots, pens, ponds, sheds or buildings, where they are confined, fed and maintained for at least 45 days during any 365 days, and where there is no ground cover or vegetation present over at least half of the animals' confinement area.

APPLICANT. The owner or owners of real estate or the lessee, developer or other person with the consent of the owner.

BOARD OF ZONING APPEALS. The Board of Zoning Appeals of any jurisdiction within Washington County.

CHURCH. A building with an active congregation devoted to worship.

CONFINED FEEDING OPERATION (CFO). A feeding operation regulated and permitted by state regulation and permit.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). A feeding operation regulated and permitted by state and federal regulation and permit.

CONTIGUOUS. Having a common border, including being separated from such a common border by a right-of-way, street, alley, easement, body of water, or other feature.

COUNTY. Washington County, Indiana.

DEVELOPMENT. Any improvement or change to property brought about by human activity, including but not limited to: buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

ON-SITE RESIDENCY. The subject property serves as the primary residence of owner operator of operation. See **RESIDENCE**.

LOCATION IMPROVEMENT PERMIT. The written authorization to locate new construction, repair, alter, move or add to a structure, or change the condition of land or use thereof. The permit is issued by the Area Planning Department.

LOT. A piece of land, the location, shape and size of which have been established by a recorded plat, subdivision or planned development; and a tract of land occupied or capable of being occupied by one or more structures.

NON-COMPLYING USE. A use which does not comply with the terms of this chapter or conditions of its approval.

NON-CONFORMING BUILDING OR STRUCTURE. A building, structure, fence, or other improvement or portion thereof lawfully existing at the time this chapter became effective.

NONCONFORMING USE. A use that exists at the time of this chapter is passed but does not comply with it.

ODOR ABATEMENT. Odor reduction structures, equipment or practices implemented under terms this chapter or approval.

OPERATOR. An individual that is responsible for the daily care and operation of the feeding operation (AFO, CFO, or CAFQ).

PARCEL. A piece of land, the location, shape and size of which is determined by the official record of the last transfer of its ownership transacted before the subdivision control ordinance of Washington County, Indiana.

PASTURE. Open land used primarily for the grazing of livestock, the growing of hay or grasses, or as fallow, or any combination thereof, for three of the preceding five years.

PERMITTED USE. A building or structure in use for three of the past five years which is allowed by this chapter in specific zoning districts and which is

one of the following: (1) expressly permitted; (2) use permitted as a conditional use; (3) use permitted as a special exception; (4) accessory use; or (5) a legally established nonconforming use.

PERSON. Includes any individual person, corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a single unit.

PUBLIC USE FACILITY. Any facility located upon land owned by any federal, state, or local governmental or political entity which is operated to attract the public and allow them to congregate for significant periods of time. **PUBLIC USE FACILITY** shall include but not be limited to a park, picnic area, campground, lodge, shelter house, playground, lake, and swimming beach. A highway, road right-of way, parking area, recreational trail and any other area used by the ' public for a passageway or temporary parking are specifically excluded from the definition of public use facility herein.

RESIDENCE DENSITY. Refers to the number of residences within 1/2 a mile of the proposed operation or facility.

RESIDENCE. Any one- or two-family dwelling or portion thereof, including any townhouse, that is used for human habitation, six months out of the year for living, sleeping, cooking, or eating purposes, or any combination thereof, and shall include accessory structures thereto.

ROAD. A street of any type as defined herein.

SCHOOL. A building or set of buildings where students K-12 are enrolled and served by local school districts, and are funded with tax dollars. Accredited area educational agencies, community colleges, land grant institutions of higher education and accredited independent colleges and universities. Home schools are specifically excluded from the definition of school herein.

SCORE SHEET. A standardized site score worksheet for developmental standards. (See Appendix B).

SPECIAL EXCEPTION. A specific use which is allowed under "Special Exceptions" in certain zoning districts and has been deemed by the Board of Zoning Appeals to meet the specific conditions.

TILLED. Land used for row crop production in three of the preceding five years, including no-till cropland.

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

VARIANCE. (DEVELOPMENTAL STANDARDS). A specific approval granted by the Board of Zoning Appeals in the manner prescribed by this chapter to deviate from the development standards that the chapter otherwise prescribes; however, no use variance shall be granted.

WOODED. Woodland not used for pasture, and in active timber production—regardless of harvesting—for three of the preceding five years. (BCC Ord. 2014-04, passed 3-18-2014; BCC Ord. 2016-02, passed 3-1-2016)

§ 154.09 SPECIAL EXCEPTIONS.

The Board of Zoning Appeals shall have the power to authorize special exceptions if the following requirements are met:

(A) The special exception shall be listed as such in this chapter for the district requested.

(B) Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

(C) The establishment, maintenance or operation of the special exception use will not be detrimental to or endanger the public health, safety, morals or general welfare of the community.

(D) Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.

(E) The special exception use will not impede the normal and orderly development and improvement of surrounding property for uses permitted by right in the zoning district(s) of surrounding property.

(F) The special exception shall preserve the purposes of this chapter. (BCC Ord. 2014-04, passed 3-18-2014)

§ 154.10 ENFORCEMENT.

In the event a new construction AFO, CFO or CAFO is found to be in violation of this chapter:

(A) Fines of \$250 per day will be levied from the date of citation until construction is halted; and

(B) The Sheriff of Washington County Indiana will be responsible for enforcement of this chapter. (BCC Ord. 2014-04, passed 3-18-2014)

ADMINISTRATION

§ 154.15 WASHINGTON COUNTY BOARD OF ZONING APPEALS.

There shall hereby be established the Washington County Advisory Board of Zoning Appeals consisting of five members who shall be appointed and serve in accordance with I.C. §§ 36-7-4-900 et seq.

(A) All members shall serve four-year terms and shall be appointed in accordance with the provisions of the Indiana Code. Any vacancy of membership shall be replaced by an appointment to fill the unexpired term of the departing member and the appointment does not establish a new term of four years. A member is eligible for reappointment to a new term. In order to achieve the staggered terms as required by the Indiana Code, the initial terms of the Board of Zoning Appeals shall be as follows: (a) the member appointed by the Plan Commission shall serve a term of only one year; (b) the citizen member appointed by the county fiscal body shall serve a term

of only two years; (c) the Plan Commission member appointed by the county executive shall serve a term of only three years; and (d) the two citizen members not serving on the Plan Commission appointed by the county executive shall serve terms of four years. All replacements for positions with expired terms shall be for a term of four years.

(B) *Powers and duties.* For the purpose of this chapter the Washington County Advisory Board of Zoning Appeals shall have the following duties:

(1) To hear and to determine appeals from and review any decision or determination made by the Planning Director or staff designated by the Director;

(2) To hear and to determine ordinance permitted exceptions; special uses; contingent uses; conditional uses; interpretation of any zoning map or district; interpretation of the chapter, the definition of any term under the chapter, the application of the chapter to any use existing prior to the adoption of this or any previous chapter; and whether any use is a nonconforming or preexisting use;

(3) To authorize variances from developmental and dimensional standards established in this chapter; and

(4) The Board may impose reasonable conditions as part of its approval.
(BCC Ord. 2014-04, passed 3-18-2014; BCC Ord. 2016-02, passed 3-1-2016)

§ 154.16 RULES OF PROCEDURES.

The Board of Zoning Appeals shall adopt rules for the administration of the affairs of the Board and for the conducting of public hearings, recording of minutes, and the retaining and administration of public records. The following include minimum procedures:

(A) At the first meeting of each year the Board shall elect a president and a vice-president from its members.

(B) At the first meeting of each year, the Board shall appoint a secretary, who is not required to be a member of the board, and establish the secretary's duties.

(C) All meetings shall be open to the public.

(D) The Board shall keep minutes of its proceedings showing the vote of each member for each question, or if absent, or if failing to vote.

(E) The Board shall keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed in the office of the Plan Director.
(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.17 FINDINGS AND DECISIONS.

All decisions of the Board on all matters within its jurisdiction and authority shall be in writing and be supported by specific findings of fact on each material element pertaining to the matter under consideration.
(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.18 APPEALS.

Any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the (Plan Director or designated staff, may make an appeal to the Board of Zoning Appeals. The person or entity filing the appeal should do so within 30 days of the director/staff decision by filing a notice of appeal that specifies the grounds upon which the appeal is being sought. Public notice of such appeal shall be given to any and all parties of record at least ten days prior to the public hearing. The Plan Director shall transmit to the Board of Zoning Appeals all the papers constituting the record of the action from which the appeal was taken.
(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.19 LEGISLATIVE BODY.

The Washington County Board of County Commissioners shall have the following jurisdiction and authority subject to the provisions of this chapter and the applicable provisions of the Indiana Code:

(A) *Washington County Comprehensive Plan.* To initiate, approve, amend, or reject proposed amendments to the county's Comprehensive Plan and its components;

(B) *Zoning ordinance.* To initiate, adopt, or reject any amendment to the text of this UDO in accordance with I.C. § 36-7-4-600 Series: Zoning Ordinance;

(C) *Zoning map.* To initiate, adopt, or reject any amendment to the zoning map in accordance with I.C. § 36-7-4-600 Series: Zoning Ordinance;

(D) *Conditions and commitments.* To impose reasonable conditions, condition the issuance of an improvement location permit on the providing of certain assurances, and allow or require the property owner to make written commitments as part of a rezoning in accordance with I.C. § 36-7-4-1015 Series; and

(E) *Other powers and duties.* To exercise such other powers and perform such other duties as are allowed by Indiana law in connection with this chapter.

(BCC Ord. 2016-02, passed 3-1-2016)

§ 154.20 PLAN COMMISSION.

(A) *Jurisdiction and authority.* The Advisory Plan Commission (PC) is hereby authorized to perform those duties and functions specified in I.C. §§ 36-7-4-400 et seq. and other applicable sections of Indiana law. The PC shall have the following jurisdiction and authority:

(1) *Comprehensive Plan.* To initiate, hear, review, and approve to the County Commissioners on replacement of or proposed amendments to the

Washington County Comprehensive Plan in accordance with I.C. § 36-7-4-500 Series: Comprehensive Plan, and its components;

(2) *Unified development ordinance.* To initiate, hear, review, and certify recommendations to the County Commissioners on replacement or any proposed amendment to the text of this chapter in accordance with I.C. § 36-7-4-600 Series: Zoning Ordinance;

(3) *Zoning map.* To initiate, hear, review, and certify recommendations to the County Commissioners on replacement or any amendment to the zoning map in accordance with I.C. § 36-7-4-600 Series: Zoning Ordinance;

(4) *Subdivisions.* To review and approve or disapprove plats and replats of subdivisions, as required pursuant to the Washington County subdivision control ordinance, in accordance with I.C. § 36-7-4-700 Series: subdivision control ordinance, which shall include the power to approve with conditions, to permit or require commitments, and to require bonding or other financial assurances for public improvements;

(5) *Planning assistance.* To aid and assist others, including the County Commissioners, other county elected officials, county departments, county Boards, or other County Commissions. This planning assistance may include:

(a) Implementation of the Comprehensive Plan;

(b) Planning, developing, and completing specific projects;

(c) Reviewing and reporting on any matters referred to it by the County Commissioners; and

(d) Upon reasonable written request, to make its special knowledge and expertise available to any to aid them in the performance of their respective duties relating to the planning and development of the county.

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(6) *Delegation of responsibilities.* To delegate responsibilities relating to ordinance administration and enforcement to the Plan Director and to other appropriate executive departments and personnel;

(7) *Rules and procedures.* To adopt rules for the administration and conduct of the PC and its business, including uniform rules pertaining to investigations and hearings-Adopting and maintaining a schedule of uniform fees for permits, processes and official actions of the County Commissioners and the Planning Department may be included in the Plan Commission's rules;

(8) *Records.* To keep a complete record of all proceedings, and to record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;

(9) *Materials.* To prepare, publish and distribute reports, ordinances and other materials relating to the activities authorized under this chapter;

(10) *Seal.* To adopt a Plan Commission seal;

(11) *Certification.* To certify to all official acts:

(12) *Addressing.* To approve or delegate the assignment of street numbers to lots and structures and the naming of streets, including renumbering or renaming pursuant to per I.C. § 36-7-4-405;

(13) *Plat Committee.* To authorize a Plat Committee pursuant to IC § 36-7-4-701(e);

(14) *Written commitments.* -- To permit, require, modify and terminate commitments, in accordance with I.C. § 36-7-4-1015: Commitments; enforcement; and

(15) *Other powers and duties.* To exercise such other powers and perform such other duties as are allowed by Indiana law in connection with this chapter.

(B) *Membership; terms and organization.* The Plan Commission shall be composed in accordance with Indiana statute I.C. § 36-7-4-200.

(C) *Quorum and official action.* No official action shall be taken by the Plan Commission without a quorum being present. A quorum is defined by I.C. § 36-7-4-301 as a majority of the entire membership of the Plan Commission, who are qualified by I.C. § 36-7-4-300 Series: Plan Commission Organization to vote. Official action of the Plan Commission requires authorization by a majority of the entire membership of the Plan Commission at a regular or special meeting.

(D) *Alternate members.* In accordance with I.C. § 36-7-4-220. the appointing authority may also appoint an alternate member to participate with the Plan Commission in a hearing or decision if the regular member appointed by the appointing authority has a disqualification due to conflict of interest. An alternate member has all the powers and duties of a regular member while participating in the hearing or decision.

(E) *Meetings. Hearings and procedures.*

(1) Regular meetings of the Plan Commission shall be held as provided by the Plan Commission rules of procedure.

(2) All meetings and hearings of the Plan Commission shall be open to the public except when closed pursuant to the provisions of applicable state law.

(3) The Plan Commission shall adopt its own Rules of Procedure, subject to the limitations of the Indiana Code. The adoption, amendment, or revision of such rules shall be by a majority vote of all members of the Plan Commission.

(4) Special meetings of the Plan Commission may be called as provided by I.C. § 36-7-4-307.

(F) *Record.* The transcript of testimony, if any: minutes: all applications, exhibits, and papers filed in any proceeding before the Plan Commission: the staff report: and the decision of the Plan Commission shall constitute the record. The record shall be maintained for public inspection in the Planning Department.

(G) *Decisions.* Every recommendation or decision of the Plan Commission upon an application filed pursuant to this chapter shall be repeated in the summary minutes. Where required by law, such decisions shall include written findings of fact upon criteria used in making the decision. The minutes shall expressly set forth any limitations, commitments or conditions recommended or imposed by the Plan Commission.

(H) *Conflicts.*

(1) Pursuant to I.C. § 36-7-4-223, a member of either the Plan Commission or County Commissioners may not participate in a hearing or decision of the Plan Commission or County Commissioners concerning a zoning or subdivision matter in which he has a direct or indirect financial interest or determines that he may not act impartially. The Plan Commission or County Commissioners shall enter in its records the fact that its member has such a disqualification. As used in this section, "zoning matter" does not include the preparation or adoption of a Comprehensive Plan.

(2) A member of the Plan Commission or County Commissioners may not directly or personally represent another person in a hearing before the Plan Commission or County Commissioners concerning a zoning or subdivision matter.

(I) *Establish committees.* The Plan Commission may establish advisory and review committees as necessary, and shall determine the powers and duties, authority and membership of said committees. These committees may include, but are not limited to:

(1) *Plat Committee.* The Plan Commission may establish a Plat Committee to review and decide petitions for minor plats, secondary plats, and administrative subdivisions.

(2) *Technical Assistance Committee.* A Technical Assistance Committee (TAC) may be established to assist the Plan Commission in the technical review of planned unit developments, development plans, and subdivision plats, and to perform such duties as are outlined for the Committee. (BCC Ord. 2016-02, passed 3-1-2016)

§ 154.21 PLAN DIRECTOR.

(A) *Jurisdiction and authority.* The Director of Planning (here forth Plan Director shall be charged with the administration of this chapter and, in particular, shall have the jurisdiction, authority and duties described in this section:

(1) *Assistance to Plan Commission and BZA.* To provide such technical and clerical assistance as the Plan Commission (PC) and Board of Zoning Appeals (BZA) may require, including:

(a) Attend the meetings of each such body:

(b) Inform each such body of all facts and information at the Planning Department's disposal with respect to any matter brought before each such body;

(c) Assist each such body by performing research and making recommendations on matters brought before each such body; and

(d) Perform such other duties as may be assigned to the Plan Director by other local ordinances.

(2) *Final plat approvals.* If authorized by the Plan Commission, to approve final plats of subdivisions pursuant to the subdivision control ordinance;

(3) *Ordinance interpretation.* To make interpretations, as necessary, of permitted use and other specific provisions of this chapter or the subdivision control ordinance;

(4) *Public information.* To provide and maintain a public information service relative to all matters of the Plan Commission and arising out of the zoning and subdivision control ordinances, other questions of land use, and related county ordinances, plans and policies;

(5) *Applications.* To receive all applications for any petition, permit or process required to be filed pursuant to the zoning and subdivision control ordinances. Upon receipt of any such application, the Plan Director shall see to its processing, which may include its prompt referral to and retrieval from each official, department, board or commission of the county or any other governmental unit or agency with any interest or duty with respect to such application;

(6) *Compliance.* To conduct Zoning Compliance Reviews regarding any Plan Commission or Board of Zoning Appeals application, or any permit pertaining to the alteration, erection, construction, reconstruction, moving, division, enlargement, demolition, use or maintenance of lands, buildings or structures;

(7) *Enforcement.* To ensure enforcement of this chapter, the Plan Director may initiate investigations and inspections as warranted, and may take all actions necessary and appropriate to abate and redress such violations;

(8) *Permits.* To review, approve, or disapprove all improvement location permits and other permits and keep permanent records of applications made and actions taken;

(9) *Inspections.* Conducting inspections of structures and properties to determine compliance with the requirements of this chapter and all approvals granted by the Plan Commission, Board of Zoning Appeals, Plat Committee, or other body in the execution of its duties as established by this chapter and the Indiana State Code;

(10) *Analysis.* To conduct research and collect and analyze, on a continuing basis, all pertinent data on the growth and development of the county in order to provide a foundation for the planning program; and

(11) *Other duties.* To exercise such other powers and perform such other duties as are allowed by Indiana law.

(B) *Records.* The Plan Director shall maintain permanent and current records of the Plan Commission and Board of Zoning Appeals.

(1) *Ordinances.* The Plan Director shall prepare and have available for examination in the Planning Department the compiled text of the zoning and subdivision control ordinances, including all amendments thereto;

(2) *Zoning map.* The Plan Director shall prepare and have available for examination in the Planning Department the zoning map, including all amendments thereto.

(3) *Planning body records.* The Plan Director shall collect all maps, amendments, interpretations, and decisions rendered respectively by the Board of Zoning Appeals, the Plan Commission, the Plat Committee (if used), and the Plan Director, together with relevant background files and materials. The records shall be maintained for public inspection in the Planning Department.

(C) *Fees.* The Plan Director shall maintain a schedule of fees for all applications, permits, and other processes outlined in this chapter. Until all applicable fees have been paid in full, no action shall be taken on any application or petition.

(D) *Calendar.* The Plan Director shall prepare and maintain an annual calendar of meeting and filing dates for the Plan Commission to approve. (BCC Ord. 2016-02, passed 3-1-2016)

§ 154.22 OFFICIAL ZONING MAP.

(A) *Official zoning map.* The county is hereby divided into zones, or districts, as shown on the official zoning map (Appendix A) which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the Plan Director, shall be the final authority as to the current zoning status of land and water area, buildings, and other structures in the county.

(C) *Rules of interpretation of district boundaries.* Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be considered to follow such center line;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following city limits shall be construed as following such city limits;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center line;

(6) Boundaries indicated as approximately following flood plain lines shall be construed to follow such lines. In addition to the boundary shown on the zone maps, the boundary of minor ditches and streams shall be designated as being at least five vertical feet from any stream or shall be 100 feet horizontally from the edge of the water, whichever is the greater distance. A stream, river or creek shall be defined as one which flows at least 180 days of the year.

Further, it is advised that the banks and at least ten feet beyond the banks be left in as natural state as possible;

(7) Boundaries indicated as parallel to or extension of features indicated in divisions (C)(1) - (6) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;

(8) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by divisions (C)(1) - (6) above, the Board of Zoning Appeals shall interpret the district boundaries; and

(9) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter the Board of Zoning Appeals may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
(BCC Ord. 2014-04, passed 3-18-2014)

NONCONFORMING USES

§ 154.30 NONCONFORMING.

The lawful nonconforming use or occupancy of any lot, building or structure existing at the time of the effective date of this chapter may be continued as a nonconforming use as such use, building or structure existed before the effective date of this chapter.
(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.31 RESTORATION OF LEGALLY ESTABLISHED NONCONFORMING USES.

(A) Restoration of nonconforming use buildings or structures after fire or other natural disaster is allowed, provided the nonconforming structure is re-built to its original state.

(B) Changes to the original foot print of the nonconforming use building or structure after fire or other natural disaster requires prior BZA approval. (BCC Ord. 2014-04, passed 3-18-2014)

§ 154.32 SUBSTITUTION AND EXTENSION OF NONCONFORMING USES.

A legally established nonconforming use of any lot, building or structure may be substituted with another similar nonconforming use provided such substituted similar nonconforming use is not more objectionable, is operated within the same confines, and does not increase parking and traffic. An existing nonconforming use may be extended consistent with the provisions of this chapter and Indiana law. In all cases involving the substitution of a nonconforming use or the extension of a nonconforming use, the person seeking to substitute or extend the nonconforming use shall file a petition with the Board of Zoning Appeals which shall hold a hearing upon such petition after proper notice of such hearing has been given.

(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.33 NONCONFORMING USE CHANGED TO CONFORMING USE.

For any nonconforming use of a lot, building or structure which changes to a conforming use, the use of such lot, building or structure shall not thereafter be changed to a nonconforming use.

(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.34 NONCONFORMING USE REPAIR AND ALTERATION.

(A) The maintenance and repair of any nonconforming building or building occupied by a nonconforming use may be completed, provided no structural alterations or additions may be made except as required by law.

(B) Nonconforming use ownership may be transferred.

(BCC Ord. 2014-04, passed 3-18-2014)

ESTABLISHMENT OF DISTRICTS

§ 154.40 RESIDENTIAL DISTRICT (R1).

Intent. This district has been created to preserve and enhance a safe and pleasant environment for the people of Washington County.

(BCC Ord. 2014-04, passed 3-18-2014)

§ 154.41 AGRICULTURAL DISTRICT (A1).

(A) *Intent.* This district has been created to ensure that land use has a clear and concise method for future growth. It also concentrates similar types of development with maximum flexibility and best use of current infrastructure. Protection of agriculture, animal feeding facilities, residential and environmental resources are all achieved throughout this zone and promoted equally for all property owners.

(B) *Uses.*

(1) *Permitted uses.* The following are deemed permitted uses of land within an agricultural district:

- (a) Dwelling unit;
- (b) Home occupation;
- (c) Manufacturing - Meat, dairy, agricultural or furniture products;
- (d) Telephone communications (local);
- (e) Radio, television and other wireless communication structures;
- (f) Greenhouses;

- (g) Warehousing and storage services;
- (h) Retail business (any kind);
- (i) Banking and bank related functions;
- (j) Insurance carriers, agents, brokers and services;
- (k) Other finance, insurance and real estate, and similar professional services;
- (l) Beauty and barber services;
- (m) Commercial Grain Elevator;
- (n) Farms (fibers, grain, fruit, vegetables, livestock, poultry etc.);
- (o) Animal husbandry services
Confinement feeding operations;
- (p) Commercial forestry production, forestry service and other forestry activities;
- (q) Fisheries and marine products and related services; and
- (r) Mechanical services (automotive, heavy equipment, farm machinery etc.)

(2) *Special exceptions.* The following uses for land within an agricultural district will require the Board of Zoning Appeals to grant a special exception:

- (a) Water treatment plant and sewage disposal;
- (b) Major utilities, stations and plants
- (c) Parks: general recreation resorts;
- (d) Retirement homes and orphanages;
- (e) Room and boarding houses or Hotels, tourist courts, motels;

- (f) Residential hotels;
- (g) Nature exhibits or other cultural, entertainment and recreational activities;
- (h) Ethanol or bio-diesel production;
- (i) Manure digesters or other waste-to-energy converters; and
- (j) Any new technology using agriculture by-products.

(C) *Developmental standards for AFO's, CFO's and CAFO's.*

(1) All manure storage structures, animal confinement buildings, feed lots, dead animal compost areas and any lagoon or other area containing any activity or product of the operation associated with an AFO, CFO, or CAFO, must be located a minimum of:

- (a) Four hundred feet for AFO's;
- (b) Six hundred feet for CFO's; and
- (c) Seven hundred and fifty feet for CAFO's.
- (d) From an existing off-site residence, public use facility, or church. This shall be measured from the closest edge of the nearest AFO, CFO or CAFO structure (including lagoons) to the nearest wall of a house, public use facility or church;

(e) Must be located at least 3,960 feet from all schools. This shall be measured from the closest edge of the nearest AFO, CFO or CAFO structure (including lagoons) to the nearest edge of any improvement, including a playground that school children regularly occupy;

(f) Must be located at least 100 feet from the closest point along the center of any division (C)(1) are met; and

(g) Must be located at least 200 feet from the closest point along property lines.

(2) AFO's, CFO's and CAFO's must receive a minimum score on score sheet and all set-back and additional requirements must be met from a minimum score sheet.

(3) AFO's, CFO's or CAFO's once constructed and having met all requirements of division (C) of this section are exempt from setback distances, as defined in "a" and "b" above, with respect to all future residential and public use development of surrounding properties.

(D) *Additional standards.*

(1) A cul-de-sac or T-shaped turnaround shall be provided of adequate size and location such that vehicles need not back onto the street or roadway;

(2) An existing AFO, CFO or CAFO in this zone that is a nonconforming use may expand its operation providing all requirements of divisions (C)(1)(a) - (f) will be met with respect to any expansion; and

(3) Application requirements to obtain a location improvement permit for AFO, CFO or CAFO. Before a location improvement permit may be issued, the following requirements must be met:

(a) Documented score sheet for site location.

(b) Each applicant must complete and submit a score sheet (attached as Appendix B), to be approved by the Plan Director, documenting that a minimum score of 415 points for the issuance of a location improvement permit. The requirements, criteria, and terms of that score sheet are incorporated into this chapter by reference and made a part hereof.

(E) Documented proof of water adequate water supply.

(1) Each applicant must present to the Plan Director proof of adequate water supply to sustain the proposed operation. Such proof may include, but not necessarily be limited to, a permit or written statement of the water supply company, or proof of an immediately available alternate water source.

(2) The following items must be submitted to the Plan Director:

(a) A site plan/farmstead map. The farmstead plan must be clear and drawn to scale or show specific distances between the structures and features. The plan must be on paper that is no less than eight and one-half inches by 11 inches in size. It must clearly demonstrate that all items in division (C)(1) are met. (This may require more than one map to clearly depict all required items);

(b) An application that, at a minimum, clearly identifies:

1. The full legal names and addresses of the legal owners and operators; and
2. Location of facility.

(c) A fee of \$250.

(E) Upon receipt of all required information, documentation and fees, the Plan Director shall render a decision within 30 business days of submission. If the application is not approved, the Plan Director shall state, in writing, the reason(s) therefor.

(1) If the application is approved, the Plan Director shall provide the applicant with all appropriate permits.

(2) In the event the Plan Director is unable to review the application in a timely manner, the president of the Washington County Plan Commission shall act as the Director and will review the application and provide any appropriate permits or denials in order to meet the thirty day decision timeline.

(3) Once an application is approved, the AFO, CFO or CAFO is exempt from division (C)(1)(e) of this section for a period of 15 months, after which the AFO, CFO or CAFO must be occupied and in operation or the application is void.

(4) Application extensions in increments of 30 days may be granted by the plan commission provided an appropriate reason such as weather, or equipment delays are presented to the plan commission 30 days prior to the application expiration date.

(F) *Variance from development standard.* A variance from the development standards listed in division (C)(1) may be granted to allow an applicant relief from the requirements under the following conditions:

(1) The aggrieved party must document in writing his or her consent to the variance;

(2) The variance must be recorded on the deed of the aggrieved property owner's parcel; and

(3) The fee for recording the variance on the deed shall be the burden of the applicant. (BCC Ord. 2014-04, passed 3-18-2014; BCC Ord. 2014-08, passed 7-15-2014)

§ 154.42 AIRPORT OVERLAY DISTRICT.

(A) The following definitions are used herein and shall be added to the chapter; said new definitions to appear therein in alphabetical order with the existing definitions:

AIRCRAFT. Any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

AIRPORT. The Salem Municipal Airport, together with all of its structures, services, and improvements.

AIRPORT BOARD OF AVIATION COMMISSIONERS. The Salem, Indiana Board of Aviation Commissioners.

AIRPORT BOUNDARY. The property line of the airport existing in fee simple and depicted on the Airport Facilities Plan.

AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet from Mean Sea Level (MSL), and established to be 816 feet above Mean Sea Level.

AIRPORT HAZARD. Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport which obstructs the airspace required for the ascent, descent or glide path of aircraft in landing or takeoff at the airport or is otherwise hazardous to such landing or takeoff of aircraft.

APPROACH, HORIZONTAL, AND CONICAL ZONES. These zones are more fully described in divisions (B)(1) and (2) below.

HEIGHT (AIRPORT OVERLAY DISTRICT). The purpose of determining the height limits in the Airport Overlay District, the datum shall be mean sea level elevation unless otherwise specified.

HELIPORT. Any airport designed and designated for the exclusive use of rotary wing and vertical takeoff and landing (VTOL) aircraft.

LARGER THAN UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

NONCONFORMING USE (AIRPORT OVERLAY DISTRICT). Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Airport Overlay District standards.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

OBSTRUCTION (AIRPORT OVERLAY DISTRICT). Any structure, growth, or other object, including a mobile object, which exceeds a limiting height in the Airport Overlay District.

PERSON (AIRPORT OVERLAY DISTRICT). An individual, firm, partnership; corporation, company, association, joint stock association or government entity; includes any trustee, receiver, assignee, or a similar representative thereof.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a precision approach using the Global Positioning System (GPS) Wide Area Augmentation System (WAAS) with Localizer like with Precision Vertical guidance (LPV). It also means a runway for which a precision approach system is planned and is so indicated on approved airport layout plan or any other planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in division (C). The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE (AIRPORT OVERLAY DISTRICT). An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

TREE. Any object of natural growth,

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

ZONES. The zones established in the Airport Overlay District are imaginary horizontal or inclined surfaces in compliance with Federal Aviation Regulation, the Salem Comprehensive Plan and I.C. § 8-21-10 as amended by the State of Indiana.

(B) *Airport Overlay District.* The Salem Municipal Airport Overlay Zoning District (AO) shall include all zones as indicated in the Airport Layout Plan approved by the Federal Aviation Administration on August 4, 2009. The centerline of Runway 8-26 of this airport plan is described as set out in Exhibit A. All land so indicated is hereby zoned and classified as the Salem Municipal Airport Overlay Zoning District.

(1) *Purpose and intent.* It is hereby found that the airport hazard has the potential for endangering the lives and property of users of Salem Municipal Airport, and property or occupants of land in its vicinity; that an airport hazard may affect existing and future instrument approach minimums of Salem Municipal Airport; and that an airport hazard may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Salem Municipal Airport and the public investment therein. Accordingly, it is declared:

(a) That the creation or establishment of an airport hazard has the potential of being a public nuisance and may injure the region served by Salem Municipal Airport;

(b) That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented; and

(c) That the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

(2) *Airport zones.* In order to implement and enforce restrictions relating to the Salem Municipal Airport Overlay District, there are hereby created and established certain zones which include all of the land lying within the approach zones, conical zone, horizontal zone, transitional zones, a noise sensitive zone and wildlife attractant zones as they apply to Salem Municipal Airport. Such zones are shown on the two attached exhibits, the first showing the Airport Overlay District and Airport Noise Sensitivity Area (Exhibit A), dated June 2, 2014. And the second being the Federal Air Regulations (FAR) Part 77 Obstruction Plan, of January 19, 2009, which are attached to this chapter and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with more restrictive height limitation as defined in § 155.243. The various zones are hereby established in accordance with FAR part 77 and defined as follows:

RUNWAY APPROACH ZONES, WITH NON-PRECISION INSTRUMENT APPROACHES. The inner edge of this approach zone coincides with the width of the primary surface which is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface; its centerline being the continuation of the centerline of the runway.

CONICAL ZONE. The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zone and the transitional zones.

HORIZONTAL ZONE. The horizontal zone is hereby established and shall consist of that area within an arc of 10,000 feet radii from the center of each end of the primary surface of Runway 8-26, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

TRANSITIONAL ZONES. These zones are hereby established as the area beneath the transitional surfaces, which extend outward and upward perpendicular to the runway centerline and the runway extended centerline.

NOISE SENSITIVE ZONE. This zone is hereby established and shall consist of the areas lying 1,500 feet on either side of the centerline and extended centerline of the runways for a distance of one nautical mile from the point of which the extended runway centerline crosses the airport boundary.

(3) *Airport Overlay District height limitations.* Within the Airport Overlay District, the following height limitations apply.

(a) Nothing in this chapter shall be construed as prohibiting the planting, growth, construction or maintenance of any tree or structure to maximum height of 50 feet above the ground, Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limits herein established for such zone. The applicable height limitations are hereby established for each of the zones in question as follows:

1. *Runway 8-26 approach zones, with non-precision instrument approaches.* Slopes upward of 34 feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline;

2. *Conical zone.* Slopes upward and outward of 20 feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty (150) feet above the airport elevation and extending to a height of 350 feet above the airport elevation;

3. *Horizontal zone.* Elevated 150 feet above the airport elevation at a height of 1076.11 feet above mean sea level; and

4. *Transitional zones.* Slopes upward and outward seven feet horizontally for each foot vertically, beginning at the sides of and at the same elevation as the primary surface and the approach surfaces and extending to a height of 150 feet above the airport elevation which is 1076.11 feet above mean sea level.

(b) *Additional height limitations.* Except as otherwise provided in the Airport Overlay District, no structure or tree shall be erected, altered, or maintained, or be allowed to grow in any zone created by the Airport Overlay District to a height in excess of the additional height limits herein established by I.C. § 8-21-10-7 and defined as follows:

1. A height that is 500 feet above ground level or 1426.11 feet above mean sea level at the site of the object;

2. A height that is 200 feet above ground level or 1126.11 feet above mean sea level, within three nautical miles of the established reference point of the airport, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport up to a maximum of 500 feet.

(4) *Noise sensitive zone.* The attached Exhibit A notes certain lands shown in yellow, to be known as the "Noise Sensitive Area", around the airport. Except as provided below, the underlying district land usage specified in this section shall be met in the noise sensitive zone.

(a) Schools, libraries and hospitals are prohibited.

(b) New residential uses are subject to written acknowledgment which must be recorded for the subject property prior to the issuance for an improvement location permit.

(c) The owners of subject property shall be aware that they are in the vicinity of the Airport. It shall be made known by this notification that there are activities at this airport which produce noise, vibration, light, glare and odor at all hours of the day and night and which are used or intended to be used for the taking off and landing of aircraft and any appurtenance areas which are used or intended to be used for airport buildings or facilities, including runways, taxiways, hangars and tie-downs areas that go on during the operation of an airport. Each owner and his or her heirs, assigns, and successors in interest shall refrain from initiating or supporting any action in any court or before any governmental agency and such persons are precluded from protest, objection, interference with, restriction of or reduction of the operation of the airport, complaining, seeking damages and/or attempting to enjoin the use of property (land) for such purpose. This condition and agreement shall also run with the land as is irrevocable.

(5) *Relation to underlying zoning.* This district is created as a special overlay district to be superimposed on underlying primary zoning districts. Development standards provided herein are intended to supplement those permitted in the underlying primary zoning district and in some cases may be more restrictive than those of the underlying zoning district. When the requirements of the underlying zoning district and the overlay district appear to be in conflict, the more restrictive shall apply.

(a) Except as specified by division (B)(5) above, all uses which are permitted by right or are permitted by special exception in the underlying primary zoning districts are permitted by right or by special exception, as applicable, in the Airport Overlay District.

(b) Uses which are prohibited in the underlying primary zoning district are prohibited in the Airport Overlay District.

(6) *Communication and visibility interference prohibited.* Notwithstanding any other provisions of this chapter, no use may be made of land or water within the established Airport Overlay District in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way create a hazard, endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(7) *Miscellaneous provisions.* The following miscellaneous provisions apply to the Airport Overlay District.

(a) *Regulations not retroactive.* The regulations prescribed in the Airport Overlay District shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of adoption of the Airport Overlay District, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of adoption of the Airport Overlay District, and is diligently prosecuted.

(b) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation,

than it was on the effective date of adoption of the Airport Overlay District or any amendments thereto or than it is when the application for a permit is made.

(8) *Administration and enforcement.*

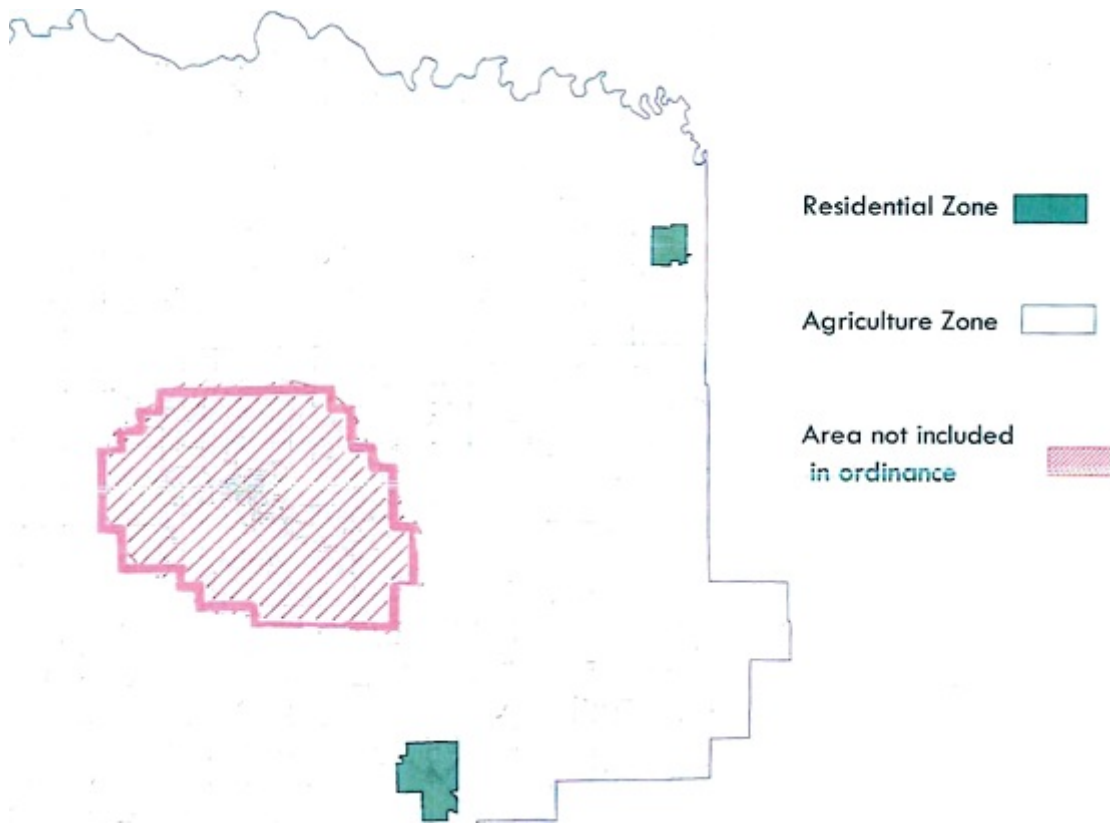
(a) It shall be the duty of the Washington County Building Inspector to administer and enforce this chapter as to those areas falling outside the jurisdiction of the City of Salem. No material change shall be made in the use of land, no structure shall be erected, altered or otherwise established in any zone hereby created unless a permit shall have been applied for and granted by the Building Inspector. Prior to issuance of the permit, the Board of Aviation Commissioners shall be notified on a form approved by the Plan Commission and Board of Aviation Commissioners.

(b) *Variances.* The Washington County Board of Zoning Appeals shall consider variance request from the provisions of this section according to I.C. § 36-7-4-918.5. In addition, the application for variance shall be accompanied by a determination from the Board of Aviation Commissioners as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

(9) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Aviation Commissioners, this condition may be modified to require the owner to permit the Airport Board of Aviation Commissioners, at its own expense, to install, operate, and maintain the necessary markings and lights.

(BCC Ord. 2014-09, passed 7-15-2014)

APPENDIX A: ZONING MAP



(BCC Ord. 2014-04, passed 3-18-2014)

APPENDIX B: SITE SCORE WORKSHEET

<i>Score Sheet Criteria</i>	<i>Available Points</i>	<i>Points Received</i>
Existing land use		
Tilled	10	
Wooded	20	
Pasture	35	
Residence density (residence within 1/2-mile radius)		
0 - 5	60	
6 - 10	40	
11 - 17	30	
18 - 23	25	
24 - 38	10	
39 - 49	5	
50+	0	
Separation from house/public use facility/church		
Meet required standard	0	
At least 250 feet more than required standard	50	
At least 500 feet more than required standard	70	
At least 750 feet more than required standard	80	
At least 1,000 feet more than required standard	100	

<i>Score Sheet Criteria</i>	<i>Available Points</i>	<i>Points Received</i>
Separation from house/public use facility/church		
At least 1,250 feet more than required standard	120	
IDEM/EPA violation	-150	
Operator on-site residence award	85	
Odor abatement strategies	115	
Total points		
To receive a permit with a special exception 220 points out of 415 points is required		

Criteria Section Explanations

Existing land use (tilled, wooded, and pasture) as defined by USDA. (Applies to perimeters covered by proposed operation. Where mixed "uses" were employed up to time of application, points will be awarded in proportion to time and scope of allocation to each prior use).

Residence density

- Information for this will be taken from Washington County GIS mapping data.
- "Density" will be measured within a 1/2-mile radius from center of site location and will be based on the number of residences with the measured area, not population.
- Addresses shall be verified as "residences" as defined in this chapter.

Separation from house/public use facility/church

- The stated standard refers to the minimum distance allowed, according classification of operation (AFO, CFO, CAFO) as defined herein.
- Distance will be measured from closest point of livestock, poultry, manure, or compost structure from the nearest point of a residence, public use facility or church.

IDEM/EPA Violations

- This refers only to a violation of water or air quality that resulted in enforcement action.
- Record or inspection violations that have no enforcement action are not classified as "violations" for purposes of this point system.

Operator on-site residence award

- The residence must located on the parcel of land used as the subject operation.
- The "Residence" must qualify as such in the definitions section.
- The occupant of the "residence" must be a legal owner/operator of land and buildings.

Odor abatement strategy(s)

- Odor abatements must be exercised and maintained for compliance.
- Post-approval non-compliance can report in an enforcement action.
- Multiple strategies are encouraged, a maximum of 115 points is allowed.
- Strategies recognized, with points allowed per strategy.
 - Dead animal compost 35 points
 - Manure compost (dry) 35 points
 - Green barrier (AIR filtration) 35 points
 - Anaerobic digester (liquid) 35 points*
 - Solid separation and composting (liquid) 35 points
 - Impermeable covers for manure 35 points
 - Exhaust fan filtration 35 points
 - Landscaping 20 points**
 - Exhaust fan minimum impact placement 20 points***
 - Diet formulation for odor and fly control 10 points
 - Other strategies not listed can be presented as viable odor abatements to the plan commission for approval.

* This generally refers to tall vegetation such as trees and conifers to deflect dust and air plumes from operations that create a barrier. Points are awarded for "green barrier" strategy upon the issuance of an approved plan by the local office of NRCS (Natural Resources Conservation Service, of the United States Department of Agriculture). Such plan and its approval will demonstrate conformity with that agency's publication, "Conservation Practice Standard Windbreak/Shelterbelt Establishment," dated November 2012 and must be presented to the Plan Director with the application.

** "Landscaping" is an award of points for mitigation of the aesthetic impact of operations and will consist of a combination of low vegetation or aggregate as ground cover, and storm water retention.

*** Placement of exhaust fans projecting objectionable exhaust in the opposite direction of offsite residences, public use facilities or churches.
(BCC Ord. 2014-04, passed 3-18-2014; BCC Ord. 2016-02, passed 3-1-2016)

