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CHAPTER 150: BUILDING REGULATIONS

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BUILDING CODE

§ 150.01 TITLE.

This subchapter, and all ordinances supplemental or amendatory hereto, shall be known as the Building Code Subchapter of the Town of Cedar Lake, Indiana, may be cited as such, and will be referred to herein as this subchapter.

(Ord. 462, passed 10-4-88)

§ 150.02 PURPOSE.

The purpose of this subchapter is to provide minimum standards for the protection of life, health, environment, public safety, and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

(Ord. 462, passed 10-4-88)

§ 150.03 AUTHORITY.

The Building Inspector is hereby authorized and directed to administer and enforce all of the provisions of this subchapter. Whenever in this subchapter it is provided that anything must be done to the approval of or subject to the direction of the Building Inspector or any other officer of the town, this shall be construed to give such officer only the discretion of determining whether this subchapter has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this subchapter shall be, or power to require conditions not prescribed by ordinances or to enforce this subchapter in an arbitrary or discriminatory manner. Any variance from adopted building rules are subject to approval under IC 22-13-2-7(b).

(Ord. 462, passed 10-4-88)

§ 150.04 SCOPE.

The provisions of this subchapter apply to the construction, alteration, repair, use, occupancy, and addition to all buildings and structures, other than industrialized building systems or mobile structures certified under IC 22-15-4 et seq. in the town.

(Ord. 462, passed 10-4-88)

§ 150.05 ADOPTION OF RULES BY REFERENCE.

(A) Building rules of the State Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this subchapter and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

(1) Article 13 - Building Codes.

(a) Fire and Building Safety Standards.

(b) Indiana Building Code.

(c) Indiana Building Code Standards.

(d) Indiana Handicapped Accessibility Code.

(2) Article 14 - One and Two Family Dwelling Codes.

(a) Council of American Building Officials One and Two Family Dwelling Code.

(b) CABO One and Two Family Dwelling Code; Amendments.

(c) Standard for Permanent Installation of Manufactured Homes.

(3) Article 16 - Plumbing Codes.

Indiana Plumbing Code.

(4) Article 17 - Electrical Codes.

(a) Indiana Electrical Code.

(b) Safety Code for Health Care Facilities.

(5) Article 18 - Mechanical Codes.

Indiana Mechanical Code.

(6) Article 19 - Energy Conservation Codes.

(a) Indiana Energy Conservation Code.

(b) Modifications to the Model Energy Code.

(7) Article 20 - Swimming Pool Codes.

Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes, and standards are on file in the office of the Building Inspector.
(Ord. 462, passed 10-4-88)

§ 150.06 PERMIT REQUIRED.

A permit shall be obtained before beginning construction, alteration, or repair of any building or structure, the cost of which exceeds \$500 using forms furnished by the Building Inspector, and all fees required by this subchapter shall be paid to the town.
(Ord. 462, passed 10-4-88) Penalty, see § 150.99

§ 150.07 APPLICATION FOR PERMITS.

No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done. In addition, a copy of a design release, issued by the State Building Commissioner and the State Fire Marshal pursuant to IC 22-15-3-1, shall be provided to the Building Inspector before issuance of a permit for construction covered by such design release.
(Ord. 462, passed 10-4-88)

Cross-reference:

Recycling plan requirements, see § 97.13

§ 150.08 WORK TO BE DONE IN COMPLIANCE WITH OTHER ORDINANCES.

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances.
(Ord. 462, passed 10-4-88)

§ 150.09 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Inspector shall review all building permit applications to determine full compliance with the provisions of this subchapter.
(Ord. 462, passed 10-4-88)

§ 150.10 PERMIT FEE SCHEDULE.

(A) All zoning fees required to be paid as specified in this section shall be calculated and collected according to the Zoning Fees Schedule, attached to Ord. 1078 passed 6-1-10, and identified as "Town of Cedar Lake Zoning Fees - Schedule A" (2009), which is hereby adopted by reference.

(B) All building fees required to be paid as specified in this section shall be calculated and collected according to the Building Fees Schedule, attached to Ord. 1078, passed 6-1-20, and identified as "Town of Cedar Lake Building Fees - Schedule B" (2009), which is hereby adopted by reference.

('82 Code, § 6-600) (Am. Ord. 319, passed 9-9-81; Am. Ord. 462, passed 10-4-88; Am. Ord. 892, passed 4-6-04; Am. Ord. 977, passed 10-17-06; Am. Ord. 1078, passed 6-1-10)

§ 150.11 EARLY START; ADDITIONAL FEE.

(A) Any person, firm, partnership, or corporation starting construction prior to applying for, and receiving, a building permit shall be charged a fee equal to three times the original fee.

(B) There shall be a fee of \$10 for each additional inspection required, in addition to all other fees provided for in this chapter. ('82 Code, § 6-601) (Am. Ord. 462, passed 10-4-88)

§ 150.12 WAIVER OF FEE.

(A) The Board of Trustees of the town shall have the authority to waive all or any part of the fees required herein for building permits and inspections on behalf of any public school applying for a building permit or inspections. The determination of the waiver of all or part of the fees required by this chapter for a building permit or inspections shall lay within the sole discretion of the Board of Trustees.

(B) Fee waiver schedule. A permit application for construction, alteration, repair, use, occupancy and addition to any public governmental real property taxing unit buildings or structures in the town, as described under division (A) on behalf of any governmental real property taxing unit located within the town applying for a building permit, and complying with the fee waiver requirements listed under Chapter 150, shall have the total amount of building/improvement location permit fees owed under this chapter reduced/waived as follows subject to the further terms and provisions set forth in this section, namely:

(1) Permit cost(s) totaling less than \$9,999: 90% discount;

(2) Permits cost(s) totaling between \$10,000 and \$99,999: 50% discount; and

(3) Permits cost(s) totaling \$100,000 or greater: 33% discount.

(C) Fee requirements. The waiver/reduction of building/improvement location permit fees for governmental real

property taxing unit located within the town shall be contingent upon

town staff review of proposed projects and consideration of inspection costs at all levels and phases of construction. An applicant governmental real property taxing unit shall pay and be responsible for the costs associated with town review of any and all proposed projects, including, but not limited to the costs of reviewing proposed projects, and any applicable costs for equipment used during inspection of proposed projects. The applicant governmental real property taxing unit that will be eligible for waiver/reduction of building/inspection location permit fees will only be those applicant governmental units funded by and through the then current property tax levy of the state.
('82 Code, § 6-602) (Am. Ord. 462, passed 10-4-88; Am. Ord. 1182, passed 11-19-13)

§ 150.13 INSPECTIONS.

After the issuance of any building permit, the Building Inspector shall make, or shall cause to be made, inspections of the work being done as are necessary to insure full compliance with the provisions of this subchapter and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this subchapter.
(Ord. 462, passed 10-4-88)

§ 150.14 INSPECTION ASSISTANCE.

The Chief of the Fire Department, or his designated representative, shall assist the Building Inspector in the inspection of fire suppression, detection, and alarm systems, and shall provide reports of such inspection to the Building Inspector.
(Ord. 462, passed 10-4-88)

§ 150.15 RIGHT OF ENTRY.

Upon presentation of proper credentials, the Building Inspector or his duly authorized representatives may enter at reasonable times any building, structure, or premises in the town to perform any duty imposed upon him by this subchapter.
(Ord. 462, passed 10-4-88)

§ 150.16 STOP WORK ORDER.

Whenever any work is being done contrary to the provisions of this subchapter, the Building Inspector may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Inspector to proceed with the work.
(Ord. 462, passed 10-4-88)

§ 150.17 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure constructed after the adoption of this subchapter shall be issued

unless such building or structure was constructed in compliance with the provisions of this subchapter. 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 Inspector. (Ord. 462, passed 10-4-88) Penalty, see § 150.99

§ 150.18 WORKMANSHIP.

All work on the construction, alteration, and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Ord. 462, passed 10-4-88) Penalty, see § 150.99

§ 150.19 BUILDINGS IN VIOLATION PROHIBITED.

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure, other than fences, in the town or cause or permit the same to be done, contrary to or in violation of the provisions of this subchapter.

(Ord. 462, passed 10-4-88) Penalty, see § 150.99

§ 150.20 RIGHT OF APPEAL.

All persons shall have the right to appeal any order of the Building Inspector, first through the Board of Zoning Appeals, and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of IC 22-13-2-7 and IC 4-21.5-3-7.

(Ord. 462, passed 10-4-88)

§ 150.21 REMEDIES.

The Building Inspector shall in the name of the town bring actions in the county courts for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Inspector, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(Ord. 462, passed 10-4-88)

UNSAFE BUILDINGS

§ 150.35 ADOPTION OF UNSAFE BUILDING LAW.

(A) Adoption of Unsafe Building Law. The town hereby adopts IC 36-7-9, which establishes the Indiana Unsafe Building Law, and explicitly incorporates by reference the definition of SUBSTANTIAL

PROPERTY INTEREST found in IC 36-7-9-2.

(B) Appointment of department to administer.

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(1) The Building and Zoning Department shall be the executive department authorized to administer this section.

(2) The Hearing Authority shall consist of one citizen, one elected official meaning a Town Council member, one member of the Plan Commission, but not a Town Council member.

(C) Construction. Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

(D) Penalty or violation. Violations of this section shall be addressed as established in IC 36-7-9 as it may be amended from time to time.

(Ord. 1000, passed 5-1-07)

Cross-reference:

Unsafe Building Department, see §§ 34.55 through 34.57

DEMOLITION OF BUILDINGS

§ 150.60 DEMOLITION PERMIT FEES.

(A) Prior to the demolition of any building or structure in the town, a permit shall be required to be issued by the duly designated town official. For purposes of definition, the following shall apply:

(1) Building. A structure having a roof supported by columns or walls designed or intended for shelter, support or enclosure of persons, animals, chattels or property of any kind, and is permanently affixed to the land. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.

(2) Structure. Anything constructed or erected which requires a footing or foundation to be set below grade and/or which extends at least six inches above grade. Individual posts or poles (except for those used for signs or advertising devices) shall not constitute a structure; however, if two or more such posts or poles are connected, they shall be considered a structure (i.e., a fence). Also, anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

(B) The following non-refundable fee is required to be paid by any and all applicants for demolition permits in the town, namely:

\$20. The payment of this non-refundable fee shall be a condition of issuance of a demolition permit, and no such demolition permit shall be issued without payment.

(C) Any demolition permits issued by the duly designated town official shall be for a period of time deemed appropriate by the town official, but in no event shall a demolition permit be issued for a period of time exceeding one year.

(Ord. 511, passed 6-13-90)

Cross-reference:

Recycling plan requirements, see § 97.13

[Text continues on page 30A]

REGISTRATION OF CONTRACTORS

§ 150.71 DEFINITIONS.

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

"CONTRACTOR." Any business entity, or an officer, employee, agent, or representatives of such who, for compensation, undertakes to, or submits bid to, or does himself, or has done by others, construction repair, alteration, remodeling, addition to, subtraction from, and improvement of any structure and building, and/or manages all or any other of the aforementioned types of work, and who is responsible for all contracting within an entire project.

"REGISTRATION." The act by which the town confers upon a business entity the privilege to act and perform as a contractor within the town, which registration shall be evidenced by a Certificate of Registration.

"SPECIALTY CONTRACTOR." One who specializes in a particular branch of the building construction industry and who shall be limited to the specific field of work practiced.
(Ord. 566, passed 12-1-92)

§ 150.72 REGISTRATION.

Business entities seeking to conduct business in the town shall be required to be registered in order to engage in the business of building construction in the town. Business entities which satisfy all the requirements of this subchapter shall be issued a Certificate of Registration.
(Ord. 566, passed 12-1-92)

§ 150.73 APPLICATION; CERTIFICATE OF REGISTRATION; FEES.

(A) Any business entity seeking to be registered to conduct business in the town as a contractor or specialty contractor shall file a written application on a form to be provided by the town which shall contain such information as the town deems necessary to determine the qualifications and competency of the applicant.

(B) The application shall be filed on behalf of the business entity, and shall also contain the name of the individual who will manage the business. Where a Certificate of Registration shall be issued, authority to transact business thereunder as a contractor or specialty contractor shall be limited to one individual, officer or representative of such business entity to be designated in the application and named in the Certificate of Registration. In the

event the designated individual, officer or representative leaves the entity, the Certificate of Registration becomes null and void. Each other individual or employee of such business entity seeking to act as a contractor or specialty contractor in connection with the business of

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the entity, shall be required to apply for and receive a separate Certificate of Registration.

(C) All applications shall be signed by the applicant, or its duly authorized representative or officer, and shall be accompanied by a recommendation as to the character and honesty of the applicant from two residents of the town who are not related to the applicant, or in the case of a corporation, its duly designated officer.

(D) Every application shall be accompanied by two recent photographs of the applicant (size: 1-1/2 inches x 2 inches).

(E) Every applicant for a Certificate of Registration as a contractor or specialty contractor in the town shall present and accompany with the application a valid and current license issued by the County Board of Licensing and Registration, and shall provide compliance with all requirements of the County Board of Licensing and Registration.

(F) Upon the filing of an application, the town may investigate the statements contained therein and, if any statements are found to be untrue, may refuse to register the applicant.

(G) Before a Certificate of Registration is issued by the town to any applicant, the town shall require the applicant to provide proof of the filing of the bond required to be provided by the Lake County Board of Licensing and Registration, as well as proof of compliance with the County Board of Licensing and Registration insurance requirements. For construction that includes siding, roofing, doors, windows, decks and sidewalks, contractors are required to provide, in addition to the aforementioned insurance, a minimum of \$1,000,000 of liability coverage, proof of same, together with valid proof of workers' compensation coverage, as well as the required bond. For any new residential, commercial or industrial construction, a contractor is required to provide, in addition to the minimum requirements set forth herein, proof of liability insurance coverage of at least \$1,000,000, together with workers' compensation insurance coverage and the required bond.

(H) Whenever any Certificate of Registration issued under the provisions of this subchapter is revoked by the town, the town shall be entitled to institute proceedings to forfeit the bond or recover from the bond posted with the county.

(I) A Certificate of Registration issued by the town is valid until the contractor or specialty contractor to whom the Certificate of Registration was issued fails to perform any work under that Certificate of Registration for a period of two years; or the applicant has not violated, during the preceding registration period, any of the provisions of this subchapter or rules and regulations

promulgated pursuant thereto.
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(J) In the event a contractor or special contractor who is issued a Certificate of Registration by the town allows the registration to expire, that business entity shall be required by the town to reapply for a new Certificate of Registration.

(K) Upon receipt of an application for renewal by an applicant who, during the preceding period of registration, has violated any of the provisions of this subchapter, or any rules and regulations promulgated herein, the town shall make such investigation as it deems necessary to determine the fitness of the applicant for renewal of the Certificate of Registration. In the event the town determines after said investigation that issues exist as to whether the application for renewal under consideration should be renewed, it shall advise the applicant and that applicant shall thereafter within 30 days show cause to the town why the Certificate of Registration should be renewed. If, after hearing, the town determines that the Certificate of Registration should not be renewed, the applicant shall be notified, and the applicant thereafter may seek remedies under state law.

(L) No Certificate of Registration shall be renewed during any period a registrant is under citation by the town for violation of any the provisions of this subchapter, or any rules promulgated by the town; however, the town, at its discretion, may temporarily extend the applicant's current registration for a period of time, not to exceed 30 days, or until the act complained of shall be heard by the town, and during any period of appeal provided for by this subchapter.

(M) The fees to be charged by and paid to the town by registrants for all Certificates of Registrations, and renewals thereof, shall be as follows:

(1) A fee of \$50 shall accompany an application for a Certificate of Registration;

(2) An additional fee of \$100 shall be required for the initial issuance of the Certificate of Registration, upon approval of the application;

(3) A fee of \$50 shall be paid to the town for every annual renewal of the Certificate of Registration.

(N) All fees assessed by the town and collected shall be paid into the treasury of the town, and shall be credited to the General Fund.

(O) All construction work in progress on the effective date of passage of this subchapter shall be allowed to be completed without the issuance of a Certificate of Registration.

(P) In the event a Certificate of Registration holder shall have been convicted in this state, or any other state, of obtaining money under false pretenses, extortion, forgery, embezzlement, or criminal conspiracy to defraud, or other like offenses, and a duly certified or exemplified copy of the record in the proceeding is filed with the

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town, the town shall revoke the Certificate of Registration issued to the holder. In the event of the revocation or suspension of the Certificate of Registration issued to any member of a co-partnership, association, or corporation or an employee thereof, the certificate issued to the other co-partner, member, or members of the firm, association, or corporation shall be revoked unless, within the time fixed by the town, where a co-partnership or association, the connection of the member or employee whose license has been suspended or revoked shall be severed and his or her interest in the co-partnership or association, or his or her employment thereby in the case of an employee, be terminated, and his or her share in its activities brought to an end; or where a corporation, the offending

officer or employee shall be discharged and shall have no further participation in the corporate activities.

(Ord. 566, passed 12-1-92; Am. Ord. 931, passed 7-19-05)

§ 150.74 VIOLATIONS AND ENFORCEMENT PROCEDURES.

The town may, upon its own motion, upon the verified complaint in writing of any individual setting forth specifically the wrongful action or acts complained of, investigate any action or business transaction of a Certificate of Registration holder and shall have the power to suspend or revoke a Certificate of Registration issued by the town under the provisions of this subchapter if, after due proceedings, as herein provided, it shall find the holder to have been guilty of the performance or attempt to perform any of the following prohibited acts or conduct:

(A) Willful and deliberate disregard of the applicable construction codes and ordinances of the town, county, or state, or any rules or Administrative Building/Construction Codes;

(B) Aiding or abetting any unlicensed entity, or its designated agent or representative, to evade the provisions of this subchapter, or rules and regulations promulgated pursuant thereto, including any and all applicable Administrative Building/Construction Codes;

(C) Knowingly combining or conspiring with a nonregistered business entity, or its duly authorized agent or representative, with the intent to evade the provisions of this subchapter, or rules and regulations thereto, including any and all applicable Administrative Building/Construction Codes;

(D) Acting in the capacity of a contractor under any Certificate of Registration issued hereunder except in the name of the holder as set forth on the issued certificate;

(E) Diversion of funds or property received from prosecution or completion of a specified construction project, or operation, where

as a result of the diversion, the contractor is or will be unable to complete or fulfill the terms of his or her obligation or contract;
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(F) In the case of a contractor being adjudicated a bankrupt, or the making by a contractor of a composition with creditors or the appointment of a receiver for the registrant's business;

(G) Paying compensation in money or other valuable consideration to any business entity, or its duly authorized agent or representative, other than a registered contractor, for rendering services or doing any act required by this subchapter, to be performed by a registered contractor holding a valid Certificate of Registration;

(H) Violation of any provisions of this subchapter by an agent or employee of any registered contractor shall be grounds for the suspension or revocation of the license of the employer. For the purpose of this division, a course of dealing shown to have been

consistently followed by an employee shall constitute prima facie evidence of knowledge on the part of the employer;

(I) Any business entity, or its designated agent or representative, aggrieved by any action by the town in suspending, revoking, or failing to renew a Certificate of Registration may seek judicial review thereof;

(J) The record of the town, or a duly certified copy thereof, shall be admissible in any proceedings at law or in equity in any court of competent jurisdiction in the county or any other jurisdiction in which the applicant or Certificate of Registration holder charged or under investigation is a party, and where the issues involved in the proceedings are pertinent to the inquiry being made, and the verdict or judgment of the court in any proceeding in equity shall be prima facie evidence of the facts at issue in the proceedings and necessarily adjudicated therein;

(K) The verdict in any prosecution in any court of record of this or any state in which the applicant or Certificate of Registration holder charged shall have been the defendant, shall be conclusive as to the facts charged and at issue in such prosecution;

(l) After the revocation of any Certificate of Registration, no new Certificate of Registration shall be issued to the same Certificate of Registration holder within a period of at least one year subsequent to the date of revocation;

(M) Whenever a new Certificate of Registration is issued by the town to any business entity whose Certificate of Registration has been previously revoked, the issuance shall be treated as an initial issuance and the applicant shall be required to pay the fee, and in the case of contractors, shall be required to submit all information and documentation required of all other applicants;

(N) When any business entity, or a duly authorized agent or representative, acts as a contractor without first obtaining a Certificate of Registration from the town as provided herein, or any individual who continues to act as a contractor after his or her Certificate of Registration has been suspended or revoked, the duly appointed representative of the town shall, in the name of the town, bring actions in the circuit or superior courts of the county for mandatory and injunctive relief in the enforcement of, and to secure compliance with, any order or orders made by the town, and any such action for mandatory injunctive relief may be joined with an action to recover the penalties provided for in § 150.99.

(O) Any business entity, or duly designated agent or representative, which fails to renew its Certificate of Registration and continues to act as a contractor after the same has expired,

shall be fined in accordance with the provisions set forth in §
150.99
(Ord. 566, passed 12-1-92)
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§ 150.75 EXCEPTIONS.

This subchapter does not apply to the following:

(A) An authorized employee of the United States, the state, the county, the town, or any political subdivisions thereof, so long as the employee does not hold himself out for hire and is acting within the scope of his employment;

(B) Public utilities, where construction, maintenance, and development work performed by their own forces and incidental to their business;

(C) The owner-occupant of a dwelling of two or less residential units when said owner-occupant is installing, altering, or repairing said residential unit;

(D) Any construction, alteration, improvement or repair of improvements located on any site and project where state and federal law supersedes this section;

(E) Any individual who is employed or acts as a maintenance person at his place of employment.
(Ord. 566, passed 12-1-92)

§ 150.76 ENFORCEMENT.

(A) Nothing in this subchapter shall limit the power of any political subdivision to regulate the quality and the character of work performed by contractors through the enforcement of building codes and inspections.

(B) State-licensed plumbers and well diggers shall be required by the town to pay a fee, as prescribed in § 150.73(M), for a Certificate of Registration empowering the aforementioned contractors to perform work in the town.
(Ord. 566, passed 12-1-92)

§ 150.77 RENEWAL.

Any person or business entity actively engaged in the contracting business for a period of one year prior to the effective date of this subchapter shall be issued a Certificate of Registration if prior to _____, 199_, such person or business entity makes application to the town and furnishes adequate proof of entitlement to be registered in the category in which application is made and said person or business entity pays the fees required by this subchapter.
(Ord. 566, passed 12-1-92)

§ 150.78 IDENTIFICATION.

Every contractor's Certificate of Registration shall be displayed at the principal business office of the contractor, or place of employment.

(Ord. 566, passed 12-1-92)

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§ 150.79 LEGAL PROCEEDINGS.

Where in any proceeding before the town, any contractor or witness shall fail or refuse to attend a request issued by the town or any representative; or appearing, shall refuse to provide any information or data, the production of which is called for by the town, the town shall constitute legal action which shall be enforced by the circuit or superior courts of the county.

(Ord. 566, passed 12-1-92)

§ 150.80 AUTHORIZATION.

The Town Council is hereby authorized and empowered to adopt, fix, and establish all rules and regulations necessary for the proper administration of the provisions of this subchapter.

(Ord. 566, passed 12-1-92)

§ 150.99 PENALTY.

(A) If any person, firm, or corporation shall violate any of the provisions of §§ 150.01 through 150.21, or shall do any act prohibited therein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Inspector, or shall fail, neglect, or refuse to obey any lawful order given by the Building Inspector in connection with the provisions of §§ 150.01 through 150.21 for each such violation, failure, or refusal, such person, firm, or corporation shall be fined in any sum not less than \$105, nor more than \$500. Each day of such unlawful activity as is prohibited by the first sentence of this division shall constitute a separate offense. (Ord. 462, passed 10-4-88)

(B) Whoever violates §§ 150.35 through 150.54 by remaining in, using, or entering any building in violation of an order; or knowingly interfering with or delaying the carrying out of an order, or knowingly obstructing, damaging, or interfering with any persons engaged or property used in performing any work or duty under §§ 150.35 through 150.54; or by failing to comply with § 150.47 shall be fined not less than \$10 nor more than \$100. Each day that the violation continues constitutes a separate offense. ('82 Code, § 31-900)

(C) Any person or entity violating any of the provisions of §§ 150.71 through 150.79 or refusing a lawful order issued by the town, or a duly designated representative of the town, shall be fined in a sum not less than \$10, nor more than \$300, and, additionally, shall be required to pay any and all costs incurred by the town in enforcing §§ 150.71 through 150.79, including but not limited to, reasonable attorney's fees, inspection fees, administrative costs,

court costs and the like. Each day of such unlawful activity shall constitute a separate offense. The town shall further be permitted to institute proceedings seeking injunction, abatement, or any other appropriate
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legal action to prevent, enjoin, abate or remove such violation. The remedies provided for herein shall be cumulative, and not exclusive, and shall be in addition to any other remedies provided by applicable law. (Ord. 566, passed 12-1-92)

CHAPTER 152: MOBILE HOMES AND PARKS

Section

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GENERAL PROVISIONS

§ 152.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Except as defined in this section, all terms in this chapter shall be interpreted as defined in the town zoning ordinance

and the town subdivision regulations.

"DENSITY." The number of dwelling units per gross acre computed by dividing the acreage of the park site into the total number of dwelling units.

"INSPECTION OFFICIALS." Designated representatives of the appropriate surveyor, highway, health, and planning commission office on any level of local, county, or state.

"LICENSE." A written license issued by the State Health Department to a person or corporation to operate and maintain a mobile home park under the provisions of the Mobile Home Parks Act of 1955, as amended, and the State Board of Health Regulations, as amended.

"MOBILE HOME." A portable structure eight feet or more wide, 30 feet or more long, designed primarily for year-round single-family residence and generally transported on its own frame and running gear.

This includes double units and expandables.

(1) "BACK." The longest side intended by design to be the back of the home.

(2) "END." The two sides having the narrowest dimension.

(3) "FRONT." The longest side intended by design to be the front of the home.

"MOBILE HOME SITE." The area of land designed and approved for the construction of one mobile home stand.

"MOBILE HOME STAND." A foundation in conformance with this chapter for the support of one mobile home.

"PARK." A mobile home park.
('82 Code, § 19-100)

§ 152.02 PURPOSE AND INTERPRETATION.

(A) Purpose. To promote the public health, safety, convenience, and general welfare; to set forth regulations and standard procedures for the control and regulation of mobile home parks, to govern the design, arrangement, location, grading, and construction of mobile home parks; to provide for the construction and installation of curbing, streets, sanitary, and storm sewers, water facilities, sidewalks, and all other required improvements or to provide for the guarantee of such installation; to complement and supplement all state laws applicable to mobile home parks.

(B) Application and authority. These regulations shall apply

to all mobile homes and mobile home parks within the town. The mobile homes and mobile home parks shall, in all respects, be in full compliance with the applicable regulations hereinafter set forth in this chapter.

(C) Interpretation. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion and effectuation of the purposes set forth in division (A) above. Nothing herein shall repeal, abrogate, annul, or in any way interfere with, any provision of law, or any rules or regulations other than mobile home park regulations. Where this chapter imposes greater restrictions or requirements than one imposed or required by other provisions of law, rules, ordinances, regulations, covenants, or agreements, the provisions of this chapter shall control, but nothing herein shall interfere with, abrogate, and annul any easements, covenants, or deed restrictions greater than those imposed by this chapter.

(D) Establishment.

(1) It shall be unlawful for any person to place or use any mobile home within the corporate boundaries of the town except when located within an approved licensed mobile home park.

(2) It shall be unlawful to construct, alter, or enlarge a mobile home park, unless:

(a) The use complies with the terms of this chapter;

(b) A letter of approval from the State Board of Health has been received; and

(c) Final approval has been received from the Town Board in accordance with the zoning ordinance, as amended, and these regulations.

(3) It shall be unlawful to:

(a) Consistently rent or occupy any mobile home stand for a period of less than one calendar month;

(b) Deed off or transfer ownership of individual mobile home sites;

(c) Occupy, or allow to be occupied, any mobile home stand prior to having received a certificate of occupancy for the stand;

(d) Occupy, or allow to be occupied, any mobile home stand if the dimensions of the mobile home exceed the maximum dimensions approved on the certificate of occupancy for that stand.

(4) No occupancy permit for any mobile home stand shall be issued until:

(a) All basic elements (utilities, parking, access,

streets, curbs, walkways, storm drainage system, and other required improvements) indicated on the approved plan have been inspected and approved by the appropriate inspecting officials.

(b) All community improvement (landscaping, recreation areas, streets, swimming pools, community buildings) indicated in the approved plan have been inspected and approved by the appropriate inspecting officials or a performance bond equal to the estimated cost of these items has been posted with and accepted by the Town Board.

(c) Division (D) (4) (a) and (b) above shall not be construed to mean a mobile home park must be completed in its entirety prior to obtaining occupancy permits, but rather a total approved plan may be constructed, inspected, and approved in phases of not less than ten units per phase, as authorized by the Plan Commission staff.

(5) Every park operator shall keep an up-to-date register of all park tenants including names, ages of children under 21 years, date the vehicle was moved into the park, and date of removal. The information shall be made available to the Plan Commission at its request.

('82 Code, § 19-200) Penalty, see § 152.99

§ 152.03 PREAPPLICATION CONFERENCE.

Any developer proposing a mobile home park in the incorporated area of the town shall submit to the Plan Commission, at an informal conference, a legal description of the property and a sketch plan of the proposed park. The preapplication conference is to permit the applicant the opportunity of consultation with the Commission prior to formal submission of the preliminary plan.

('82 Code, § 19-300)

§ 152.04 PRELIMINARY PLAN.

Submission of the preliminary plan is to provide the petitioner, Plan Commission, and the Town Board grounds on which to reach general agreement on the basic planning and engineering proposals and to provide basis for a public hearing, prior to the preparation of more detailed final plans as required by this chapter.

(A) Application for approval of the preliminary plan shall include the following items:

(1) An application for a special exception, in accordance with the zoning ordinance.

(2) Preliminary plans of the proposed project including:

(a) Legal description and, if land is unplatted, a plat of survey, certified by a registered land surveyor or engineer, showing all dimensions of the property in question. The plat of

survey shall show exact length and bearing of all exterior boundaries of the project with reference to a U.S. Land Survey corner.

(b) General location map at scale of not less than 200 feet to the inch, showing:

1. The section or government subdivision of the section in which the project lies with the location of the project located thereon.

2. Location and name of adjacent subdivisions including all existing or platted streets, alleys, public easements, railroad and utility easements, water courses, drainage ditches, and their pertinent data on the land to be developed and within 300 feet of the proposed project.

3. Certified list of the names and addresses (as determined from the most current property tax rolls) of all owners of land immediately adjacent to, or across any street or alley from, the property in question. The certified list shall be certified by a title company, township tax assessor, or auditor.

(c) Physical characteristics map.

1. Elevation of water table, percolation data, and description of soil type to a depth of five feet as obtainable from the Cooperative Extension Agent's office (Soil Survey of Lake County, Indiana); contour information at vertical intervals of not more than two feet with reference to U.S.G.S. datum.

2. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low elevations of such lakes or streams, and 100-year flood data. All elevations shall be referred to U.S.G.S. datum.

3. If the mobile home park borders a lake or stream, the distances and bearings of a meander-line established not less than 20 feet back from the ordinary high-water mark of the lake or stream.

(d) Proposed development plan, including:

1. Identification block:

a. Proposed name;

b. Date, scale, north arrow;

c. Name and address of owner, developer, planner, engineer, or surveyor preparing the plan.

2. Identification of gross land area of the project and the proposed density.

3. Proposed layout and width of all streets, sites for placement of mobile homes, buffers, utility buildings, and other required improvements and appurtenances.

4. Approximate location and area of property proposed to be dedicated for public use, or to be reserved for the common use of all tenants within the proposed park, including recreational area, laundry and sanitary facilities, and storage areas.

(e) Preliminary engineering plans showing:

1. Proposed layout of the sanitary sewer system;
2. Proposed layout of water supply and distribution;
3. Proposed layout of storm drainage system.

(f) Such other information as may be required by the Plan Commission staff as deemed necessary toward proper preliminary plan review.

(B) The Plan Commission, upon receipt of eight copies of the preliminary plan, shall identify, with the Commission stamp seal, and date all copies of the submitted plan, and shall authorize the developer or his agent to deliver two copies each of the plan to the appropriate surveyor's office, health officer, and highway department.

Upon official notification that all agencies have received the plans, the Commission may authorize the developer to advertise for a public hearing.

(C) It shall be the responsibility of the developer or his agent to ascertain that all agency reports, and recommendations have been filed with the Plan Commission not less than ten days prior to the Plan Commission meeting. Failure to have all reports submitted by the stipulated deadlines may delay Plan Commission consideration. ('82 Code, § 19-301)

§ 152.05 ZONING APPROVAL.

(A) Following approval of or simultaneous to submission of the preliminary plan, the petitioner must apply for a special exception in conformance with the provisions of the zoning ordinance.

(B) Following approval of the special exception by the Board of Zoning Appeals, the developer/petitioner may proceed to submit a final development plan to the Plan Commission and Town Board. ('82 Code, § 19-302)

§ 152.06 FINAL PLAN.

(A) Submission of the final plan is to provide the Plan

Commission, Town Board, Health Department, and surveyor's office, the opportunity to review the final detailed drawings and utility plans for the proposed project, prior to approval of the final development plan.

(B) Submission of the final plan shall be in reasonable conformance with the approved preliminary plan and in accordance with any changes requested on the preliminary plan or for the special exception by any of the reviewing agencies.

(C) The final plan shall contain the following information:

(1) General requirements. All final plans shall bear signature and seal of a state registered land surveyor or engineer and shall be legibly prepared in the following manner:

(a) With waterproof, nonfading, black ink on tracing cloth or equal material, 24 inches by 36 inches in size. When more than one sheet is used for any plan, each sheet shall be numbered consecutively and shall contain a notation giving the total number of sheets in the plan, and showing the relation of that sheet to the other sheets.

(b) At a scale of not smaller than 100 feet to the inch. Where more than one sheet is necessary, a small scale key drawing of the entire project, showing the portions of the project appearing on respective sheets, shall appear on the first sheet.

(2) Final plan and engineering information. The final plat shall clearly show:

(a) Identification block:

1. Proposed name;
2. Date, scale, north arrow;
3. Name and address of owner, developer, planner, engineer or surveyor preparing the plan.

(b) Engineering data:

1. Streets and drives:
 - a. The exact location by length and bearing of the centerline of all proposed streets and drives;
 - b. Pavement width, estimated percent of gradient, typical street cross-sections, and profiles of all streets and drives.
2. Sanitary sewers, water supply, and storm drainage: Final engineering plans and specifications for all sanitary sewers, water distribution system, and storm drainage, including typical details of all storm drainage and sanitary sewage appurtenances.

3. Sidewalks: The location and width of all common sidewalks.

4. Monuments:

a. All monuments erected, corners and other points established in the field in their proper places. The material of which monuments, corners, or other points is made shall be noted at the representation thereof, or by legend.

b. The exact location of the project indicated by distances and bearings with reference to a corner or corners of a section or half-section. In case any project crosses any section, quarter section, or quarter-quarter section lines, or is adjacent to any of the lines, all section, quarter section, or quarter-quarter section corners in or adjacent to the project shall be marked and referenced with monuments.

c. General location of all mobile home stands. The approximate location of all mobile home sites shall be identified and numbered in consecutive order.

(D) Submission of final plan shall also include written comments from the appropriate:

- (1) Highway Department.
- (2) Health Department.
- (3) Surveyors office.

(E) If the Town Board approved the final plan, the petitioner may request a building permit from the Building Department/Plan Commission staff.

(1) No construction or grading shall be permitted prior to approval of the preliminary plan by the Town Board.

(2) After review of the final plan, the Plan Commission shall recommend either approval or denial to the Town Board.

(F) If a letter of approval of mobile home park has not been obtained within 12 months of the Town Board's final approval, or has been denied by the state, the special exception and all plan approvals shall become null and void, and the zoning shall revert to its former classification.

('82 Code, § 19-303) Penalty, see § 152.99

§ 152.07 DURATION OF VALIDITY OF PERMIT.

(A) The Town Board's approval of a final development plan is valid regardless of change of ownership, provided that all terms and

conditions are complied with by the new owner. The final plan shall be placed on file with the Plan Commission.

(B) In cases where construction of the mobile home park has not been commenced within one year of the final plan, the approval shall automatically become null and void and all rights thereunder shall terminate. Upon written application filed prior to the expiration of the one-year period, the Plan Commission may authorize a single extension of the time limit for a further period of not more than one year without holding another public hearing thereon.
('82 Code, § 19-500)

§ 152.08 ADMINISTRATION AND ENFORCEMENT.

(A) All departments, officials, and public employees of the town or county which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this chapter and shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this chapter. Any permit or license, issued in conflict with the provisions of this chapter shall be null and void.

(B) The health officer or Plan Commission president, or their assigned agents, may make an inspection of all construction at any reasonable time to determine whether the work is being done in conformance with the approved plans and specifications. The park owner shall make available any records, test data, or other information essential to this determination.

(C) (1) The erection, construction, enlargement, conversion, or alteration of any building, mobile home, or structure and use of any land, building, or mobile home, which is continued, operated, or maintained, contrary to any of the provisions of this chapter, shall be a violation of this chapter and unlawful.

(2) The Plan Commission president or his assigned agent shall notify the violator immediately upon becoming aware of the violation. If the violation is not removed within a reasonable period of time, as determined by the Plan Commission or his assigned agent, the violation shall be submitted to the Town Attorney's staff for proper legal action.

(3) The Town Attorney's staff shall, immediately upon any such violation having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate, or remove such violation. Any violation of this chapter shall be the joint responsibility of the park owner or his agent and the violator. It is the responsibility of the park owner or his agent to maintain compliance with the regulations of this chapter within his park.

(4) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided

by law.

('82 Code, § 19-800)

GENERAL STANDARDS

§ 152.20 CONFORMANCE TO GENERAL STANDARDS.

In designing a mobile home park, the petitioner shall conform to:

(A) All applicable ordinances of the town;

(B) Applicable laws, rules, and regulations of the state and duly constituted agencies thereof;

(C) All requirements contained within this chapter.
('82 Code, § 19-400)

§ 152.21 LOCATION AND SIZE.

Any parcel of land proposed for use as mobile home park shall meet the following minimum location factors:

(A) All parks shall be provided with at least two points of direct vehicular access to a major thoroughfare, as delineated in the Town Master Plan.

(1) No entrance or exit for a park shall open upon a residential subdivision street.

(2) No entrance or exit for a park shall be located closer than 125 feet from the intersection of the proposed or existing right-of-way lines of any two streets.

(3) The minimum distance between the centerline of any two park entrances or exits shall be 125 feet.

(B) No mobile home shall have direct vehicular access to any public street or drive. All access shall be from an improved street or drive within the park.

('82 Code, § 19-401) Penalty, see § 152.99

§ 152.22 SCREENING AND BUFFER STRIPS.

(A) In order to minimize the potential impact of mobile home development on adjacent undeveloped or residential property, the developer of the park shall provide a buffer strip in accordance with the following schedule:

(1) All park boundaries not contiguous to a public right-of-way shall provide a buffer strip not less than 20 feet in width.

(2) All park boundaries contiguous to adjoining property

fronting on the same public right-of-way shall provide a buffer strip not less than 20 feet in width plus an open space, equal in width and depth to the minimum lot design requirements of the zoning district of the adjoining parcel at the time of application. With

the exception of the required 20-foot buffer, the additional open space required may be developed, deeded off, or transferred for development in accordance with the regulations of the zoning district in which it lies, but not for mobile homes.

(B) The buffer strip shall include a chain link, split rail, wood, or other decorative fence approved by the Plan Commission. The fence shall not be less than four feet in height or greater than six feet in height, and shall be effectively landscaped.

(C) When all or part of the proposed mobile home park is adjacent to land zoned for business or industry or when the mobile home park is adjacent to a major thoroughfare as shown on the Master Plan, or a railroad, or natural condition which creates a physical barrier, a dense screen planting of shrubs and trees which will provide an effective visual barrier when viewed at right angles shall be required. Such barrier shall achieve, at maturity, a height of not less than six feet.

(D) The Plan Commission may require that plans for proposed buffer strips be submitted to the County Cooperative Extension Service Landscape Architect or other qualified experts for review and recommendation to the Plan Commission.
('82 Code, § 19-402) Penalty, see § 152.99

§ 152.23 MINIMUM SIZE OF PARK.

The minimum area of any new mobile home park shall be 15 acres, with the first phase of development being not less than five acres in size.
('82 Code, § 19-403) Penalty, see § 152.99

§ 152.24 OPEN SPACE AND RECREATIONAL SPACE.

All open and recreational space standards shall apply to any new park, or, in the case of an existing park being enlarged, or improved, to the area being enlarged, extended, or improved. Every park shall provide a recreational area or areas equal in size to at least one acre for every 40 mobile homes or fraction thereof.

(A) Streets, drives, parking areas, service facility areas, and open space on individual mobile home sites shall not be included as part of the required recreational areas.

(B) Common open space for the use of all tenants in cluster design parks may be counted.
('82 Code, § 19-404) Penalty, see § 152.99

§ 152.25 UTILITIES AND FACILITIES.

(A) All parks shall be served by a common water supply system.

For purposes of this chapter, individual water wells are not acceptable. Water supply systems shall be submitted to, and approved by, the State Board of Health.

(B) All parks shall be served by a central or public sewerage system connected to a sewage treatment plant approved by the State Board of Health. For purposes of this chapter, individual septic tanks shall not be acceptable.

(C) Each park shall contain an underground electrical system, which shall be installed and maintained in accordance with applicable codes and regulations governing such systems. The electrical distribution system shall be installed underground in a manner approved by the Power Company.

(D) Individual television antennas on mobile homes shall be prohibited. If necessary, each mobile home park shall contain a central television antenna with underground service to each mobile home stand.

(E) Each mobile home park shall be served by an approved central fuel system. Individual fuel storage tanks shall not be permitted.

(F) All parks shall be provided with storm water sewers or a surface drainage system in accordance with the requirements of the appropriate highway department and surveyor's office.

(G) (1) Garbage and rubbish shall be disposed of in a manner approved by the Health Department and in a manner designed not to create a nuisance or a menace to health.

(2) All refuse and garbage shall be collected at least twice weekly. Where suitable collection service is not available from municipal or private agencies, the park operator shall provide this service. Refuse incinerators, if permitted, shall be constructed in accordance with engineering plans and specifications which shall be reviewed and approved by the Health Department.

(3) Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitos, and other pests.

('82 Code, § 19-405) Penalty, see § 152.99

§ 152.26 INTERIOR STREETS OR DRIVES.

(A) All streets or drives, whether public or private, shall be designed in substantial relation to:

- (1) Topographic conditions and drainage;
- (2) Public convenience and safety;
- (3) The proposed uses of land to be served by such street

or drive. A street or drive shall be provided for convenient access to each individual mobile home site within the park.

(B) All streets intended to be dedicated into the public highway system shall be:

(1) Designed and constructed in accordance with the rules and specifications of the appropriate highway department and the town subdivision regulations, as amended.

(2) Laid out in conformity to street or highway plans officially adopted by the town. Wherever a planned street or highway runs through a proposed mobile home park, it shall be provided for in the place and with the width indicated on the plan.

(C) All streets or drives intended to be private and for the exclusive use of tenants and guests of the park shall be constructed to meet the following minimum standards:

(1) All streets or drives within any mobile home park shall have an approved cross-section with a paved surface of 26 feet measured from back to back of the curbs. If parking is to be allowed on both sides of the street, it shall be at least 35 feet wide.

(2) All cul-de-sacs shall have a minimum radius of 60 feet to the outer edge of the pavement. The developer shall provide a landscaped island with a diameter not to exceed six feet.

(3) All private streets or drives shall be constructed in the manner prescribed in the edition of Standard Specifications of the State Highway Department in effect at the time of application, and any subsequent and applicable town ordinance. In any instance where conflicting requirements may appear between Standard Specifications and an applicable town ordinance, the town ordinance regulation shall rule.

(4) All streets or drives shall be provided with a smooth, graded, drained, sealed, and paved durable surface commencing from the public street to and throughout the park. All street or drive surfaces shall be maintained free of holes and other hazards.

(5) Concrete curb and gutter shall be provided along the outside edge of all street, drive, and parking area pavements. Concrete curb, gutter, and sidewalk may be one and the same.

(D) Street names and addresses shall be assigned to all streets and mobile home stands appearing on the final plan according to and in compliance with the street naming procedure used by the Plan Commission.

('82 Code, § 19-450) Penalty, see § 152.99

(A) All mobile homes, occupied or vacant, shall be set back at least 50 feet from any public right-of-way, or the distance required by the setback requirements of the zoning ordinance for the type of

street on which it fronts or sides, whichever is the greater distance.

(B) No mobile home shall be located closer than 15 feet to any park vehicular drive or street, as measured to the nearest part of the mobile home or its hitch, unless otherwise specified in § 152.29. ('82 Code, § 19-451) Penalty, see § 152.99

§ 152.28 MINIMUM MOBILE HOME SITE REQUIREMENTS.

(A) In order to provide maximum flexibility in the planning and design of mobile home parks, performance standards rather than rigid lot specifications shall provide the basic framework of this section.

(B) Any mobile home park designed with performance standards must have the approval of the executive secretary of the Plan Commission prior to submission for final approval, provided however that in no case shall any mobile home park exceed a density of 7.5 units gross acre.

(C) In designing a mobile home park, the following minimum performance standards shall apply: Each mobile home site shall be provided with a clear, unobstructed access to drive, street, or other easement to permit the placement of a home on the site. The access shall be provided from within the park and shall not be from any exterior street or alleyway.

(D) Mobile home stands:

(1) All mobile home stands shall be constructed as a grade-beam floating slab as shown in Figure 1, on file with the Building Department; as a series of double-row concrete piers as shown in Figure 2, on file with the Building Department; or as a solid concrete slab as shown in Figure 3, on file with the Building Department. Type of construction to be approved by the Building Department.

(2) The area of the mobile home stand shall be improved in accordance with the building code to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, and overturning. ('82 Code, § 19-452) Penalty, see § 152.99

§ 152.29 MINIMUM PARKING.

(A) Paved off-street parking shall be provided in all mobile home parks for the use of occupants and guests. Parking spaces shall be at the ratio of at least two car spaces, not less than ten feet by 20 feet in size, for each mobile home site.

(B) No parking space, garage, or carport, shall be located closer than 25 feet to the front of any mobile home, unless otherwise approved by the Plan Commission.

(C) No motor vehicle shall be permitted to be parked or stored within any required open space between mobile homes, except when an approved parking area is provided between two mobile homes oriented back to back with each other.

(D) Overnight parking on any drive or street within the park shall be prohibited.

(E) The park operator shall provide a separate area either fenced, screened, or otherwise enclosed, for the storage of tenant camping trailers, boats, snowmobiles, and other similar recreational equipment. Such items shall not be stored in other areas of the park.

('82 Code, § 19-453) Penalty, see § 152.99

§ 152.30 PROJECTIONS INTO REQUIRED YARDS AND HEIGHT REGULATIONS.

(A) Any projection from a mobile home shall not extend more than eight feet into any required yard or open space. No covered or enclosed structure shall exceed one-third the length of the mobile home.

(B) No building or mobile home in the mobile home park shall exceed one story in height unless otherwise approved by the Plan Commission.

('82 Code, § 19-454) Penalty, see § 152.99

§ 152.31 PEDESTRIAN WAYS.

(A) All parks shall be provided with safe, convenient all-season pedestrian access of adequate width for intended use. The access shall be durable and convenient to maintain.

(B) A common concrete or paved walk system shall be provided and maintained between locations where pedestrian traffic is concentrated.

Such common walks shall have a minimum width of four feet. If constructed in conjunction with a curb, the common walk will be six feet.

(C) All mobile homes shall be connected by concrete or paved individual walks, not less than two feet in width, to common walks and parking areas.

('82 Code, § 19-455) Penalty, see § 152.99

§ 152.32 REQUIRED ILLUMINATION OF PARK STREET SYSTEM.

All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for

the safe movement of pedestrians and vehicles at night:

(A) All parts of the park street systems: Maximum 0.6 footcandle, with a minimum of 0.1 footcandle.

(B) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: Individually illuminated, with a minimum of 0.3 footcandle.

(C) All park lights shall be so located and shielded as to prevent direct illumination of any property outside of the park. ('82 Code, § 19-456) Penalty, see § 152.99

§ 152.33 GENERAL SIZE, BOUNDARIES, STORAGE, AND APPEARANCE STANDARDS.

(A) No mobile home shall be permitted to occupy any mobile home stand if the home is either longer or wider than would permit compliance with the regulations of this chapter.

(B) The boundaries of every mobile home site shall be clearly and permanently designated according to the dimensions and locations shown on the approved plot plan.

(C) No trailers, recreational vehicles, or boats shall be parked or stored within the open space required between mobile homes.

(D) Use of park areas for nonresidential purposes:

(1) No part of any mobile home park shall be used for nonresidential purposes, except such areas that are required for the direct servicing and well-being of the park residents and for the management and maintenance of the park; provided however, that retail sales of new or used mobile homes may be made from the park by the owners of the park, or the sole licensee or agent of the owners, but all the mobile homes held for sale shall be displayed on regular mobile home stands of the park and the mobile homes on display shall be limited to 15% of the total stands in the park.

(2) Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand by the individual owner or his agent.

(E) Construction material storage areas for the park shall be so maintained as to prevent rodent harborage. Lumber, pipe, and other building material shall be stored within a structure or fenced-in storage area.

(F) The growth of brush, weeds, and grass shall be controlled by the owner or operator of the park.

(G) All mobile homes shall have removable skirting around the entire perimeter of the home.

(1) Skirting shall be a durable material such as

decorative block, concrete block, fiberglass, metal, or other material approved by the Plan Commission staff. Junk doors, or other scrap material, shall be prohibited.

(2) Skirting shall be maintained at all times by the tenant.

(H) Storage facilities.

(1) Individual or group fireproof storage structures may be provided for the use of mobile home inhabitants, if approved by the Plan Commission or its designated agent, and located on a concrete slab or suitable permanent foundation. Type of structure to be approved by the Building Inspector.

(2) Storage shall not be permitted unless within a completely enclosed structure approved by the mobile home park manager and the Plan Commission or its designated agent.

(I) Additions or alterations. No mobile home may be extended, enlarged, or otherwise added to unless approval in writing from the park owner or its designated agent is presented to the Plan Commission and a permit has been issued by the Plan Commission or its designated agent. A concrete pad or foundation shall be placed under any structure or addition thereto within the mobile home park. ('82 Code, § 19-460; Am. Ord. 354, passed 12-29-82) Penalty, see § 152.99

NONCONFORMING AND ILLEGAL MOBILE HOME PARKS

§ 152.40 NONCONFORMING MOBILE HOME PARKS.

(A) All mobile home parks existing prior to February 13, 1980, and which were subject to or enlarged under the Title II, General Provision, Section 4, 5, 6, and 7 of the town's zoning ordinance, are declared a nonconforming use of the land and will be regulated as such.

(B) Any mobile home park constructed or enlarged with Plan Commission approval after February 13, 1980, and which does not comply with this chapter is declared a nonconforming use. ('82 Code, § 19-600)

§ 152.41 CONTINUANCE OF NONCONFORMING MOBILE HOME PARKS.

(A) All mobile home parks classified as nonconforming shall be subject to the provisions of Title II, General Provision, Section 4, 5, 6, and 7 of the town's zoning ordinance.

(B) Prior to expansion of a nonconforming mobile home park, beyond the limits allowed for a nonconforming use, all applicable permits, procedures, and restrictions must be complied with. Furthermore, the application process outlined in §§ 152.03 through

152.06, must be followed and the final plan must be approved in accordance with those provisions.
('82 Code, § 19-601)

§ 152.42 ILLEGAL MOBILE HOME PARKS.

(A) Any lot, plot, or tract of land containing two or more mobile homes within the incorporated area of the town, and which does not hold a valid state license for a mobile home park, is declared an illegal use of the land and is a violation of this chapter.

(B) Any mobile home park constructed after February 13, 1980, which was not approved in accordance with the provisions of this chapter, or which violated any of the provisions of the final plan approved by the Town Board, shall be considered an illegal use. ('82 Code, § 19-602) Penalty, see § 152.99

§ 152.43 PROCEDURE FOR APPROVAL OF CONTINUANCE OF ILLEGAL PARK.

(A) All mobile home parks which are declared illegal shall, within 90 days of notification, request a preapplication conference with the Plan Commission.

(B) All mobile home parks declared illegal shall, within 90 days of the preapplication conference, file a complete application to the Plan Commission for a preliminary plan and special exception in accordance with §§ 152.03 through 152.06 of this chapter, and in accordance with the zoning ordinance.

(C) Within 90 days of the date the Town Board approves the special exception, the petitioner shall submit a complete application for final plan approval.

(D) Within 60 days of the Town Board approval of the final plan, the petitioner shall apply for the improvement location permit.

(E) Final plan approval must be obtained within one year of notification unless granted an extension by the Plan Commission. The extensions shall only be granted when approvals have been delayed due to administrative procedures of the Plan Commission, Board of Zoning Appeals, or Town Board.

('82 Code, § 19-603)

§ 152.44 PERMITTED VARIANCES.

(A) Where, in the opinion of the Plan Commission, an existing mobile home park can be improved only to a degree of conformity with this chapter, they may recommend to the Town Board that certain and specific minor deviations from the chapter be granted without impairing the intent and purpose of this chapter. The Plan Commission recommendation for variance shall be based upon the nature, extent, and significance of the proposed deviation. All requests for variances to the Board of Zoning Appeals shall be acted upon prior to submission of the final plan.

(B) Compulsory termination of nonconforming uses in the event of destruction or cessation of activities:

(1) In the event an illegal or nonconforming mobile home park is destroyed by natural or accidental means (fire, flood, tornado, and the like,) prior to rezoning by the Town Board, that land use shall be terminated and reconstruction shall be prohibited.

(2) In the event an existing, nonconforming mobile home park ceases activities for six months, that land use shall be terminated and resumption of activities is prohibited.

('82 Code, § 19-604) Penalty, see § 152.99

§ 152.99 PENALTY.

Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be fined not less than \$10 nor more than \$100 for each offense. Each day of the existence of any violation shall be deemed a separate offense.

('82 Code, § 19-900)

CHAPTER 153: SUBDIVISION CONTROL

Section

153.01 Incorporated by reference

§ 153.01 INCORPORATED BY REFERENCE.

The town subdivision control ordinance, passed as Ordinance 280, on February 13, 1980, as amended, is incorporated into this code by reference as though fully set forth herein and has all of the force and effect as if it had been set forth herein.

('82 Code, Ch. 27) (Am. Ord. 331, passed 2-24-82; Am. Ord. 720, passed 5-26-98; Am. Ord. 876, passed 11-25-03; Am. Ord. 992, passed 3-6-07; Am. Ord. 998, passed 4-10-07; Am. Ord. 1015, passed 7-7-07; Am. Ord. 1018, passed 8-21-07; Am. Ord. 1019, passed 10-3-07; Am. Ord. 1048, passed 3-3-09; Am. Ord. 1049, passed 3-3-09; Am. Ord. 1052, passed 3-24-09; Am. Ord. 1069, passed 10-20-09; Am. Ord. 1103, passed 9-21-10; Am. Ord. 1113, passed 12-7-10)

Section

154.01 Incorporated by reference

§ 154.01 INCORPORATED BY REFERENCE.

The town zoning ordinance passed as Ordinance 278, on February 13, 1980, as amended, is incorporated into this code by reference as though fully set forth herein and has all of the force and effect as if it had been set forth herein.

('82 Code, Ch. 33) (Am. Ord. 323, passed 12-9-81; Am. Ord. 330, passed 2-24-82; Am. Ord. 332, passed 2-24-82; Am. Ord. 340A, passed 6-23-82; Am. Ord. 383, passed 12-28-83; Am. Ord. 403, passed 3-27-85; Am. Ord. 496, passed 12-13-89; Am. Ord. 520, passed 12-12-90; Am. Ord. 523, passed 1-23-91; Am. Ord. 524, passed 3-21-91; Am. Ord. 527, passed 4-24-91; Am. Ord. 563, passed 10-6-92; Am. Ord. 680, passed 5-29-96; Am. Ord. 699, passed 5-25-97; Am. Ord. 719, passed 5-26-98; Am. Ord. 787, passed 1-23-01; Am. Ord. 821, passed 2-26-02; Am. Ord. 875, passed 11-11-03; Am. Ord. 891, passed 3-16-04; Am. Ord. 994, passed 3-6-07; Am. Ord. 999, passed 4-10-07; Am. Ord. 1051, passed 3-24-09; Am. Ord. 1068, passed 10-20-09; Am. Ord. 1070, passed 10-20-09; Am. Ord. 1113, passed 12-7-10; Am. Ord. 1140, passed 9-6-11; Am. Ord. 1166, passed 11-13-12; Am. Ord. 1173, passed 5-21-13; Am. Ord. 1176, passed 9-17-13; Am. Ord. 1183, passed 11-5-13)

CHAPTER 155: FLOODPLAIN MANAGEMENT REGULATIONS

Section

- 155.01 Statutory authorization
- 155.02 Findings of fact
- 155.03 Statement of purpose
- 155.04 Objectives
- 155.05 Definitions
- 155.06 General provisions
- 155.07 Administration
- 155.08 Provisions for flood hazard reduction
- 155.09 Variance procedures

§ 155.01 STATUTORY AUTHORIZATION.

The Indiana Legislature has in IC 36-7-4 and IC 14-28-4, both as amended from time to time, granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the town does hereby adopt the following floodplain management regulations for the town.

(Ord. 1235A, passed 3-15-16)

§ 155.02 FINDINGS OF FACT.

(A) The flood hazard areas of the town 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.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

(Ord. 1235A, passed 3-15-16)

§ 155.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

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

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

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

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

(F) Make federal flood insurance available for structures and their contents in the town by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 1235A, passed 3-15-16)

§ 155.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;

(G) To ensure that potential homebuyers are notified that property is in a flood area.

(Ord. 1235A, passed 3-15-16)

§ 155.05 DEFINITIONS.

For the purposes 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:

(1) "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.

(2) "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. ("ZONE AE" is on new and revised maps in place of "ZONES A1-A30".)

(3) "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.

(4) "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.

(5) "ZONE AR." Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

(6) "ZONE A99." Areas subject to inundation by the 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.

"ACCESSORY STRUCTURE (appurtenant structure)." A structure with a floor area 400 square feet or less that is located on the same

parcel

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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." The flood having a 1% chance of being equaled or exceeded in any given year.

"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.

"BOUNDARY RIVER." The part of the Ohio River that forms the boundary between Kentucky and Indiana.

"BOUNDARY RIVER FLOODWAY." The floodway of a boundary river.

"BUILDING." See definition for "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.

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"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.

"D ZONE." Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

"DEVELOPMENT."

(1) Any man-made change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction, or placement of a structure or any addition to a structure;

(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(e) Mining, dredging, filling, grading, excavation, or drilling operations;

(f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials; or

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

(2) "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, filled stem wall foundations (also called

chain walls), pilings, or columns (posts and piers).

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"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.

"FLOOD PRONE AREA." Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "FLOOD.")

"FLOOD PROTECTION GRADE (FPG)." The elevation of the regulatory flood plus two feet at any given location in the SFHA. (See "FREEBOARD.")

"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."

"FLOODPROOFING (DRY FLOODPROOFING)." 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.

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

"HIGHEST ADJACENT GRADE." 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

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compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include "ICC" coverage.

"LETTER OF FINAL DETERMINATION (LFD)." A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The "LFD" initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

"LETTER OF MAP CHANGE (LOMC)." A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

(1) "LETTER OF MAP AMENDMENT (LOMA)." An amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A "LOMA" is only issued by FEMA.

(2) "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.

(3) "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;

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

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

(b) The total net area of all openings shall be at least one square inch for every one square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

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

"MANUFACTURED HOME." 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.

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"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 twofold: 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 (NGVD) OF 1929." 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.

"NON-BOUNDARY RIVER FLOODWAY." The floodway of any river or stream other than a boundary river.

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

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

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

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"ONE-PERCENT (1%) ANNUAL CHANCE FLOOD." The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the "1% ANNUAL CHANCE FLOOD." (See "Regulatory Flood.")

"PARTICIPATING COMMUNITY." Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

"PHYSICAL MAP REVISION (PMR)." 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 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.

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"REGULAR PROGRAM." 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 § 155.06(B). The "REGULATORY FLOOD" is also known by the term "BASE FLOOD," "1% 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 for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

"RIVERINE." Relating to, formed by, or resembling a stream (including creeks and rivers).

"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 jurisdiction of the town subject to inundation by the regulatory flood. The "SFHAs" of the town are generally identified as such on the Lake County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 18, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a 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; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it

include the

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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 DAMAGE" includes buildings that have suffered repetitive loss.

"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.

"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.

"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.

"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 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.)
(Ord. 1235A, passed 3-15-16)

§ 155.06 GENERAL PROVISIONS.

(A) Lands to which this chapter applies. This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Cedar Lake.

(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.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the town shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Lake County, Indiana and Incorporated Areas dated January 18, 2012 and the corresponding Flood Insurance Rate Map(s) dated January 18, 2012, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency

Management Agency with the most recent date.

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(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the town, delineated as an "A Zone" on the Lake County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 18, 2012 as well as any future updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(C) Establishment of floodplain development permit. A floodplain development permit shall be required in conformance with the provisions of this 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 SFFJA 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.

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

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not in the floodway, 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 under state 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 the town, 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.

(I) Penalties for violation. Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Cedar Lake. All violations shall be punishable by a fine not less than \$200 and not more than \$2,500 for each day the violation exists.

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

(2) The Town of Cedar Lake Town Council 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 town from taking such

other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

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(J) Increased Cost of Compliance (ICC). In order for buildings to qualify for a claim payment under ICC coverage as a "repetitive loss structure," the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two 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 building at the time of each such flood event.

(Ord. 1235A, passed 3-15-16)

§ 155.07 ADMINISTRATION.

(A) Designation of Administrator. The Town Council hereby appoints the Town Administrator to administer and implement the provisions of this chapter, and who is hereinafter 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;

(c) A legal description of the property site;

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades;

(e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed

development. A hydrologic and hydraulic engineering study is required and any

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watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See division (C) (6) below for additional information.)

(2) Construction stage.

(a) Upon placement of the lowest floor of an elevated structure or structure on fill, 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, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

(b) Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished construction. Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

(C) Duties and responsibilities of the Floodplain Administrator. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this 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;

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(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 155.08(E) and (G)(1) below, 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) Maintain and track permit records involving additions and improvement to residences located in the floodway;

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits 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;

(8) 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;

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(10) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with division (B) above;

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

(12) Review certified plans and specifications for compliance;

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the flood protection grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized town officials shall have the right to enter and inspect properties located in the SFHA;

(14) 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;

(15) Revocation of permits.

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this 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.

(Ord. 1235A, passed 3-15-16)

§ 155.08 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) General standards. In all SFHAs and known flood prone areas the following provisions are required:

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

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to

ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

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

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

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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

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

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

(10) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by compensatory storage excavation below the BFE. The excavation volume shall be at least one and one-half times the floodplain storage lost due to the fill or structure. The Floodplain Administrator may alter the compensation ration (however, not less than 1:3), based on extenuating circumstances, for a specific project, for specific written reasons.

(a) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;

(b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled;

(c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater;

(d) The fill or structure shall not obstruct a drainage way leading to the floodplain;

(e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater;

(f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and

(g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this division (A) (10).

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

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

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

(b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);

(c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before

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

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

(e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This 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;

(f) Reconstruction or repairs made to a repetitive loss structure;

(g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) Residential 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) below.

(3) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Subsection division (B) (4) below. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in § 155.07(C) (11) above.

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

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(4) Elevated structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area); and

(b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

(d) Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device; and

(e) 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

(f) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and

(g) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade; and

(h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of this division (B)(4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Lake County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) shall not be improved, finished or

otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Lake County Recorder.

(5) Structures constructed on fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

(b) The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements shall be at or above the FPG.

(f) Fill shall be composed of clean granular or earthen material.

(6) Standards for manufactured homes and recreational vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

(a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

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2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (B) (4) above.

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (B) (4) above.

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(c) Recreational vehicles placed on a site shall either:

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

(7) Accessory structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(a) Shall not be used for human habitation.

(b) Shall be constructed of flood resistant materials. The total cost of the accessory structure shall not exceed \$10,000.

(c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(d) Shall be firmly anchored to prevent flotation.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

(f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (B) (4) above.

(8) Above ground gas or liquid storage tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement. All new tanks shall be elevated to or above the FPG.

(C) Standards for subdivision proposals.

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

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

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

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions).

(5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(D) Critical facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the

SFHA. Construction of new critical facilities shall be permissible

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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) (a) Located within SFHAs, established in § 155.06(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 IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway.

(b) (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

(2) (a) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this section 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.

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(b) No development shall be allowed which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(c) 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 per mapping standard regulations found at 44 CFR § 65.12.

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

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

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

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

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the

Indiana Department of Natural Resources and the provisions contained in this section have been met.

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

(a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

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

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than fourteen-hundredths of one foot and shall not increase flood damages or potential flood damages.

(H) Standards for flood prone areas. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per this section.

(Ord. 1235A, passed 3-15-16)

§ 155.09 VARIANCE PROCEDURES.

(A) Designation of Variance and Appeals Board. The Board of Zoning Appeals as established by Town Council of the Town of Cedar Lake, Lake County, Indiana 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 Superior and/or Circuit Courts of Lake County.

(C) Variance procedures. In passing upon such applications, the Cedar Lake Board of Zoning Appeals 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;

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(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

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

(2) No variance for a residential use within a floodway subject to § 155.08(E) or (G)(1) may be granted.

(3) Any variance granted in a floodway subject to § 155.08(E) or (G)(1) will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the provisions for flood hazard reduction of § 155.08(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) below).

(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) below).

(E) Variance notification. Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the 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.

(3) 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 Cedar Lake Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 1235A, passed 3-15-16)

