

**TITLE 16**

**CITY OF LOOGOOTEE**

**ZONING**

## TITLE 16

### ZONING

#### Section:

**16.00.005 Purpose.**  
**16.00.010 Adoption.**

#### **16.00.005 Purpose.**

- (1) Indiana Code 36-7-4, Series 600, as amended, empowers the city to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and
- (2) The Loogootee Plan Commission, the City Council of Loogootee, Indiana, deem it necessary for the purpose of promoting the health, safety, convenience, and general welfare of the community to enact such an ordinance, and
- (3) Pursuant to the provisions of IC 36-7-4, Series 900, as amended, a Board of Zoning Appeals has been created to recommend and to carry out its powers and duties as described under IC 36-7-4-918, as amended, and
- (4) The Loogootee Plan Commission has divided all areas of the city into districts and has prepared zone maps and regulations pertaining to such districts in accordance with an adopted comprehensive plan designed to lessen congestion in public streets; to secure safety from fire, flood, and other dangers; to promote health and general welfare; to provide adequate light and air; to provide convenience of access; to prevent the overcrowding of land; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, and
- (5) The Loogootee Plan Commission has given reasonable consideration, among other things, to the present character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and lands and encouraging the most appropriate use of land throughout the city, and
- (6) The Loogootee Plan Commission has made studies and held public hearings thereon, pursuant to law, and submitted its final report to the city, and
- (7) The Loogootee Plan Commission has given due public notices of hearings (pursuant to IC 36-7-4) relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

- (8) All requirements of Indiana Code 36-7-4, as amended, with regard to the preparation of the report of the Loogootee Plan Commission and the subsequent action necessary to enact this ordinance by the city have been met.

**16.00.010 Adoption.** BE IT ORDAINED by the City Council of the City of Loogootee, Indiana, that the Zoning Ordinance of Loogootee be adopted by the City Council of the City of Loogootee, Indiana on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

This Ordinance shall be in full force and effect from and after its passage by the City Council.

Chapter 16.04  
ZONING ORDINANCE

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## **16.04.100 GENERAL PROVISIONS**

**16.04.101 Intent, Purpose, and Methods.** Urbanization within the city has created many new problems involving transportation, drainage, sewage, land use, water schools, and recreation. Accordingly, the objective of this Ordinance is to encourage, promote and cooperatively improve the health, safety, convenience and welfare of the citizens, and to plan for the future development of the city, so that the city will grow with adequate streets and utilities, and adequate health, educational and recreational facilities. This Ordinance divides all the land within the jurisdiction of the city of Loogootee into Zoning Districts so that there may be adequate light, air, convenience of access and safety from fire, flood and other danger. For this purpose, the Ordinance establishes regulations and limits on the height, area and floor space of structures and the area surrounding structures; provides for a more uniform land use pattern and tax assessment base; facilitates adequate facility provisions that lessen congestion and disorder that are inherent in unregulated development; prevents overcrowding of land; and provides more reasonable and serviceable means and methods of protecting and safeguarding the economic base and community environment upon which the good of all depends.

**16.04.102 Short Title.** This Ordinance may be cited as the “Zoning Ordinance of Loogootee.”

**16.04.103 Definitions.** For the purpose of this Ordinance the following definitions shall apply, unless the context clearly indicates or requires a different meaning. Words in the present tense include the future and vice-versa; words in the singular number include the plural number and vice-versa.

- (1) “ABUTTING PROPERTY OWNER.” Official owner of record, whose property is contiguous to the subject property; and property which would touch at any point the subject property, ignoring all rights-of-way, easements, alleys, and the like.
- (2) “ACCESS.” Shall mean a way of entering or exiting a property by way of public way, street or thoroughfare; however, in no case is entry or exit for business access through a residentially zoned area or permitted except for entry and exit to uses permitted in a residential zone.
- (3) “ACCESSORY BUILDING.” A subordinate structure, the use of which is incidental to that of the dominant use of the primary building or land.
- (4) “ACCESSORY USE.” A structure or use which is clearly incidental to a principal structure or use, and is located on the same lot with the principal structure of use.
- (5) “ADMINISTRATOR.” The officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission. The Loogootee Building Inspector is hereby designated as the Administrator for the purposes of implementing this ordinance and is the city officer referred to herein wherever the term Administrator appears.

- (6) “ADULT ENTERTAINMENT.” An establishment having as one of its principal uses:
- (a) Customer-operated motion picture devices, peep shows, viewing areas, and/or similar devices either coin, token or slug operated or which, in consideration of an entrance fee, display material distinguished or characterized by an emphasis on depictions of sexual activities, as hereinafter defined, or which offer male or female persons who expose to view of the customer the bare female breast below a point immediately above the top of the areola, human genitals, pubic regions or buttocks, even if partially or completely covered by translucent material, or human or simulated male genitals in a discernible turgid state, even if completely or opaquely covered.
  - (b) A hotel or motel, which in addition to providing as the major part of its business, services unrelated to depictions of sexual activities as herein defined, makes entertainment (either live or on film or video tape) available to its customers, which entertainment has as a dominant theme or is characterized or distinguished by an emphasis on matter depicting, describing or relating to sexual activities, if such establishment advertises the availability of such adult entertainment of its establishment.
  - (c) Having or advertising as having one of its principal uses the presentation of motion pictures, slide projections, and other similar material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing, or relating to sexual activities, as hereinafter defined for observation by persons therein.
  - (d) Having as one of its principal uses the presentation of live performances of humans or animals having as a dominant theme or characterized or distinguished by an emphasis on matter depicting or relating to sexual activities, as hereinafter defined, for observation by persons therein.
- (7) “ALLEY.” A public right-of-way which is a narrow way less in width than a street, and other than a street, road, crosswalk, or easement, not designed for general travel but is designed to provide only a secondary means of access for the special accommodation of the property abutting along its length.
- (8) “APARTMENT BUILDING.” A building or combination apartment and commercial building which is used as a residence for three (3) or more families; an individual, or a group of individuals, living in separate dwelling units with separate kitchens and baths for each dwelling unit.
- (9) “APARTMENT COMPLEX.” A single apartment building or group of interrelated apartment building with common courts and recreational facilities.
- (10) “AUTOMOBILE SERVICE STATION.” (Gasoline, Filling Stations) A place where gasoline (stored only in underground tanks) kerosene, lubricating oil or grease for operation of automobiles, trucks, or boats, are offered for sale directly

to the public on the premises, and including minor accessories and service, but not including such major repairs as, among others, any of the following. (A) spray painting; (B) body, fender, clutch, transmission, differential, axle, and frame repairs; (C) major overhauling of engine requiring removal therefrom of cylinder-head of crankcase pan; (D) repair of radiator requiring the removal of radiator therefrom; and (E) complete process of tire recapping (installation of recaps allowable; however, recapping of tires is not permitted.) All work to be entirely done within the confines of the garage areas and not on the drive area exposed to public view.

- (11) “AUTOMOBILE WRECKING YARD.” Any place where two or more motor vehicles not in running condition or inoperable or not having a current license are stored or any parts therefrom are stored in the open and are not being restored to operate; or any land, building or structure used for wrecking or storing of such motor vehicles, or farm machinery, or parts therefrom and not being restored to operating condition; and including the commercial salvage of any other goods, articles or merchandise.
- (12) “BASEMENT.” (Cellar) Any story below the first story of a building in which the surface floor is more than four feet below the adjacent ground elevation at all points and shall not be included to a story for the purpose of height measurements.
- (13) “BED & BREAKFAST UNIT.” A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, which are rented on a nightly basis for periods of less than a week. Meals may or may not be provided by the owner or manager. No room or group of rooms may be used by renters for cooking or eating. There shall be no more than five guest rooms providing overnight accommodations to transient guests for compensation. Also known as a tourist home.
- (14) “BLOCK.” Property having frontage on one side of a street or other transportation route such as railroad right-of-way, waterway, or public open space, and not traversed by a through street.
- (15) “BOARD.” The Board of Zoning Appeals of the City of Loogootee, Indiana.
- (16) “BUILDING.” Any roofed structure built for the support, shelter, enclosure, or protection of person, animals, chattels or moveable property of any kind (each part of such a structure that is separated from the rest by unbroken party walls is considered to be a separate building for the purposes of this ordinance).
- (17) “BUILDING AREA.” The portion of lot remaining after required yards, set back lines, or visibility requirements or corner lots, have been provided. Buildings may be placed in any part of the building area, but if there are limitations on the amount within the building area.
- (18) “BUILDING, FRONT LINE OF.” The line of the face of the building nearest the front lot line.
- (19) “BUILDING, HEIGHT OF.” The vertical distance measured from the established curb level if such a curb exists; otherwise the building height is measured from the lot ground level; in all cases the measurement is to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the highest peak ridges for gable, hip and gambrel roofs.

- (20) "BUILDING LINE." The line nearest the front of and across a lot establishing, he minimum open space to be provided between the front line of a building or structure and the public way.
- (21) "BUILDING PERMIT." See Improvement Location Permit.
- (22) "BUSINESS OR COMMERCIAL." An occupation, employment, or enterprise which occupies time, attention, and materials; or wherein merchandise is exhibited, purchased, bartered, exchanged or sold.
- (23) "CAMP, PUBLIC." Any area or tract of land used or designed to accommodate two or more automobile recreational vehicles, either towed vehicles or motorized, house trailers, mobile homes, or two or more camping parties, including cabins, tents, or other camping outfits.
- (24) "CAR WASH." A building, or portion thereof, where automobiles are washed with the use of a chain conveyor and blower or steam-cleaning, production line methods or other mechanical devices.
- (25) "CELLAR." See "BASEMENT."
- (26) "CEMETERY." Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- (27) "CITY." The City of Loogootee, Indiana.
- (28) "CLINIC." A facility for the treatment of human ailments operated by a group of physicians, dentists, chiropractors, or other licensed medical practitioners, or any combination of the above mentioned, for the treatment and examination of outpatients.
- (29) "CLUB OR LODGE, PRIVATE." A non-profit association of persons who are bona fide members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. The operation and management of such "private club or lodge" are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. It shall be permissible to serve food and meals on such premises providing facilities approved by the appropriate governmental agency are procured prior to food functions. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective by the club or lodge, and further that sale of alcoholic beverages is in compliance with all applicable State, Federal, and Local laws.
- (30) "COMMISSION" The Advisory Plan Commission of Loogootee.
- (31) "CONDITIONAL USE." The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets the specified requirements, and upon application and after a public hearing, is specifically authorized by the Board of Zoning Appeals.
- (32) "CONDOMINIUM." A form of tenure for real estate authorized by the 1963 Horizontal Property Act, Chapter 349 of the Acts of the State of Indiana, and amendments thereto.
- (33) "CORNER LOT." A lot at the junction of and abutting two or more intersecting public ways having a designated space (on a case by case review of the visibility,

- performed by visiting the lot) in which nothing is permitted to be built, placed, or grown in a way that would impede visibility at the intersecting public ways.
- (34) “COUNTY,” Martin County, Indiana
  - (35) “CULTURAL FACILITIES.” Those facilities, either public or semipublic (i.e., nonprofit), which may serve to enhance the appreciation of community residents of their cultural heritage. Such uses may include but are not restricted to, museums, art galleries, and arboretums.
  - (36) “DAY CARE CENTER.” Any place operated by a person, society, agency, corporation, or institution, or any other group wherein are received for pay six (6) or more children under 14 years of age for group care, without transfer of custody, for less than 24 hours per day.
  - (37) “DAY CARE HOME.” Same as Day Care Center but up to five (5) children.
  - (38) “DETACHED BUILDING.” A building having no structural connection with another building on the same zoned lot or any other lot. A detached building may be an accessory building to the principal building and, as such, shall conform to the definition on accessory buildings.
  - (39) “DISTRICT.” A section of the city for which uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces about buildings are herein established.
  - (40) “DRIVE-IN ESTABLISHMENTS.” An establishment which is designed to provide service, either wholly or in major part, to customers, while in their automotive vehicles, upon the zoned premises, excluding drive-in theaters.
  - (41) “DWELLING.” A building substantially affixed to the land or portion thereof used primarily as a place of abode for one or more human beings and meeting the definition of building, but among other things not including hotels, motels, lodging or boarding homes, tents, buses, vans, tourist “bed and breakfast” homes, or recreational vehicles.
  - (42) “DWELLING UNIT.” A dwelling unit consists of one or more rooms which are arranged, designed, and used as living quarters for one family only. Individual bathrooms are not necessarily provided, but complete single kitchen facilities, permanently installed shall always be included in a dwelling unit.
  - (43) “EASEMENT.” An authorization grant made by a property owner for use by another of any designed part of his property for a clearly specified purpose and officially recorded.
  - (44) “FAMILY.” Two (2) or more persons related by blood or marriage and/or a group of not more than five (5) persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.
  - (45) “FARM.” An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry.

- (46) "FENCE." Any construction of wood, metal, masonry, or other material, erected for the purpose of assuring privacy or protection. In no case shall the fence or its material resemble junk (as described in this section) or be assembled from junk.
- (47) "FLOOD HAZARD AREA." Those flood plains which have not been adequately protected from flooding cause by the regulatory flood, and are shown on the zoning map and/or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.
- (48) "FLOOD PLAIN." The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.
- (49) "FLOOR AREA." For the purpose of determining the floor area ratio, the floor area of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The floor area of a building shall include the basement area, elevator shafts, stairwells at each floor, penthouse, attic space having headroom of seven feet four inches or more interior balconies, interior accessory uses (such as but not limited to closets), and floor space used for mechanical equipment except equipment, open or enclosed space, and located on the roof. Any space devoted to off street parking or loading shall not be included in floor area.

The floor area of structures devoted to bulk storage or materials shall be determined on the basis of height in feet, i.e., ten feet in height shall equal one floor. Floor area when prescribed as the basis of measurement for off street parking spaces and loading berths, for any use, shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within working or selling space such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

However, floor area for the purpose of measurement of off street parking shall not include: floor area devoted primarily to storage purposes (except as otherwise noted); floor area devoted to off street parking or loading facilities, including aisle, ramps, and maneuvering space; or basement floor area other than area devoted to retailing, processing of goods, or to business or professional offices.

- (50) "GARAGE, PRIVATE," An accessory building, including a car port, with capacity for not more than three motor vehicles per family, which may be the family's boat, or trailer for transportation of the boat, no more than one vehicle of which may be a commercial vehicle of not more than one and one half (1 1/2) ton

capacity. A garage designed to house two motor vehicles for each family housed in an apartment shall be classed as a private garage.

- (51) “GARAGE, PUBLIC.” Any building, or premises, except those defined herein as a “private garage,” used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.
- (52) “GROUND FLOOR AREA.” The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, detached garages, and exterior stairways.
- (53) “GROUP HOME.” A dwelling or boarding house used as living quarters established as a home for housekeeping by a group of people having reduced ability to cope with and function in the everyday world.
- (54) “HOME OCCUPATION.” Any use conducted entirely within a dwelling and participated in solely by members of the family occupying the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced thereon. Offices, barber shops, beauty shops, tailors, accountants and other occupations may be included at the determination of the Plan Commission. However, in all cases the occupants shall be the only employees of the home occupation.
- (55) “HOSPITAL.” A building or institution for the reception of the sick or injured in which they are given medical or surgical care.
- (56) “HOTEL” OR “MOTEL.” A building or group of buildings on the same zoned parcel in which lodging is provided and offered on a more-or-less temporary basis. The building shall contain sleeping rooms usually occupied singly to the public for compensation and which is open to transient guests, as in contradistinction to a boarding house. No provisions shall be made for cooking within any individual room; however, maid service, the furnishing and laundering of linens, bell boy, desk service, and the upkeep of the furnishings are provided for.
- (57) “IMPROVEMENT LOCATION PERMIT.” A permit provided by city ordinance stating that the proposed development, either land development or alteration, building construction of any sort, either alteration, enlargement are within the provisions of the master plan.
- (58) “INDUSTRIAL PARK.” A special or exclusive type of planned industrial area designed and equipped for a community of industries.
- (59) “INTERIOR LOT.” A lot other than a “corner lot” or “through lot.”
- (60) “JUNK.” Waste, discarded or salvaged materials that are used, bought, sold, baled, packed, disassembled or handled, including automobile parts and



inoperable or currently unlicensed vehicles, used furniture, household equipment, used or salvaged materials from manufacturing equipment, operations, or motor vehicles, and such other materials as may from time to time be designated by the Plan Commission.

- (61) “JUNK YARD.” A place, usually outdoors but which may be indoors, where waste or discarded used property other than organic matter is accumulated and/or stored and is or may be salvaged for reuse or resale, including but not limited to one or more unlicensed or inoperable motor vehicles or parts therefrom or other discarded or waste material or property and materials and items defined in JUNK above.
- (62) “KENNEL.” Any lot or premises on which four or more dogs, or small animals, or combination thereof, at least four months of age, are boarded, bred, cared for or kept.
- (63) “LAND AREA.” The total area within the lot or project boundaries.
- (64) “LEGISLATIVE BODY.” The City Council of Petersburg, Indiana.
- (65) “LIGHT INDUSTRIAL USE.” Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.
- (66) “LOADING AND UNLOADING BERTHS.” The off street area required for the receipt or distribution by vehicles of material or merchandise, which is held to be at least a 12-foot by 40-foot loading space with a 14-foot high clearance.
- (67) “LOT.” A parcel, tract, or area of land accessible by means of a public way or place and of sufficient size to meet minimum zoning requirements.
- (68) “LOT LINE.”
  - a. “FRONT LOT LINE.” In the case of an “interior lot,” a line separating the lot from the street or place; and in the case of a “corner lot” a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the “FRONT LOT LINE.”
  - b. “REAR LOT LINE.” A lot line which is opposite and most distant from the front lot line” and, in the case of an irregular or triangularly shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the “front lot Line.”
  - c. “SIDE LOT LINE.” Any lot boundary line not a “front lot line” or a “rear lot line.”
  - d. “LOT OF RECORD.” A lot which is part of a recorded subdivision, planned unit development and recorded in the Pike County Recorder’s Office, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

- (69) "LOT WIDTH." The dimension of a lot, measured between side lot lines on the building line.
- (70) "MANUFACTURING." The processing, fabrication or repairing of any goods, products, or materials where no continuous process involved will produce fire hazard, electrical disturbances, noise, vibration, odor, air pollution, heat, glare, water pollution, drainage in any greater amount than prior to manufacturing process, or waste matter which will disturb or endanger any neighboring property and where such operations and storage are enclosed.
- (71) "MANUFACTURED/MODULAR HOME." A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the federal manufactured Housing Construction and Safety Standards Law of 1974 [42 USC 5401 et seq.] or IC 22-11-1-1 et seq., as promulgated by the Indiana Administrative Building Council. A modular housing unit is constructed in part or in whole at a place other than the foundation site, transported to the foundation site, and assembled on site to create one whole structure. The manufactured home or modular housing unit should include, but not be limited to, these characteristics: asphalt roof, a roof pitch of at least 2.5:12, house type windows, exceed nine hundred fifty (950) square feet of occupied space, doors and siding, and must be placed on a permanent foundation. Modular homes, prefabricated homes, and other such implied terms shall be deemed to be the same as MANUFACTURED HOMES.
- (72) "MASTER PLAN." The complete plan, or any of its parts, for the development of the city, prepared by the Plan Commission and adopted in accordance with applicable statutes, as amended, as is now or may hereafter be in effect.
- (73) "MINERAL EXTRACTION." (1) mining or quarrying; and (2) removal of earth materials.
- (74) "MOBILE HOME." A detached residential dwelling designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities, with plumbing and electrical connections provided for attachment to other systems and designed for transportation after fabrication on public ways on its own wheels or on flat bed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, and connections to utilities. A travel trailer or recreational vehicle shall not be construed as a mobile home, nor are new and different types of housing which are defined elsewhere in this Ordinance. Truck bodies, bus bodies, railroad cars, shacks, and improvised shelters which may be moved by truck, tractor, automobile, or horses or can be carried, transported, or towed from one place to another without the use of regular house moving equipment, unless such living quarters shall include the

requirements previously noted in this definition, shall not be construed as a mobile home.

- (75) “MOBILE HOME PARK.” An area of land on which two (2) or more mobile homes are regularly accommodated with or without charge, including any building or other structure, fixture, or equipment that is used or intended to be used in providing that accommodation.
- (76) “NONCONFORMING LOT.” A single lot of record prior to the effective date of this ordinance that fails to meet the area or dimensional requirements for lots within the zoning district in which it lies.
- (77) “NONCONFORMING STRUCTURE.” Existing improvements which do not meet required lot size, setback lines, height, intensity, off street parking and loading, signs and other regulations for the district in which they are situated.
- (78) “NONCONFORMING USE.” Is any building or land lawfully occupied by a use at the time of the passage of this Ordinance or amendment thereto which does not conform after the adoption of this Ordinance or amendment thereto with the use regulations of the district in which it is situated. Existing improvements which do not meet required lot size, setback lines, height, intensity, off street parking and loading, signs and other regulations for the district in which they are situated, are not nonconforming uses as defined herein.
- (79) “OCCUPIED SPACE.” Means the total area of earth horizontally covered by a structure, excluding accessory structures such as, but not limited to, garages, patios, and porches.
- (80) “OPEN USE.” The use of a lot without a building, or a use for which a building with a floor area no larger than five percent of the lot area is only incidental.
- (81) “PARKING AREA, PUBLIC.” Any open area, other than a street or alley, designed for use or used for the temporary parking of more than four motor vehicles, when available for public use, whether free or for compensation, as an accommodation for clients or customers.
- (82) “PARKING SPACE, (OFF STREET, ONE).” A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 18 feet long, exclusive of passageways. (Refer to Particular Zoning Use)
- (83) “PERSON.” A corporation, firm, partnership, association, organization, or any other group acting as a unit, as well as a natural person.
- (84) “PLACE.” Any open, unoccupied space other than a street, or alley, or public way, that is permanently reserved for use as the principle means of access to abutting property.
- (85) “PLAN COMMISSION.” Refers to the City of Petersburg Advisory Plan Commission. The term does not include a regional planning commission

established under IC 36-7-7 [36-7-7-1---36-7-7-13]. [IC 36-7-7-14, as added by Acts 1981, P.L. 309, section 14.]

- (86) “PLANNED UNIT DEVELOPMENT.” A subdivision of land within any zone district designed as a combination of uses or single use planned for a tract of land to be developed as an integrated unit under single ownership or control, which is developed for the purpose of selling or leasing sites, lots or estates, whether fronting on private or dedicated streets, which may include two or more principal buildings.
- (87) “PLAT.” A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.
- (88) “PRINCIPAL BUILDING.” A building in which is conducted the main or principal use of the zoned lot on which the building is affixed. Where an accessory building is attached to the main building in a substantial manner, as with a wall or roof, such accessory building shall be considered part of the main building and shall be counted as a part of the principal building.
- (89) “PRIVATE SCHOOL.” Private pre-primary, primary, grade, high, or preparatory school or academy.
- (90) “PROFESSIONAL OFFICE.” Office of a member or members of recognized professions, such as an architect, accountant, attorney, artist, dentist, engineer, musician, physician, surgeon, or other professional person.
- (91) PUBLIC IMPROVEMENT.” Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. (All such improvements shall be properly bonded.)
- (92) “PUBLIC PLACE.” Includes any tract owned by the state or political subdivision.
- (93) “PUBLIC WAY.” Includes any highway, street, avenue, boulevard, road, lane, or alley.
- (94) “REFUSE DISPOSAL FACILITY.” A refuse disposal facility is deemed to include sanitary landfill, incineration, grinding or any other process oriented to disintegration or recycling of solid waste material, provided, however, that salvaging of scrap or junk shall not be permitted in any refuse disposal facility.
- (95) “REGULATORY FLOOD.” That flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.
- (96) “RESIDENTIAL BUILDING.” Any structure which shall be: (a) permanently and securely affixed to the land; (b) has one or more floors (stories) and a roof,

the roof being supported by columns or walls, for the shelter, support, enclosure, or protection of persons, chattel, or property; (c) is bounded by either open space or the lot lines of a zoning lot; and (d) when separated by party walls, without opening through such walls, each portion of such a building shall be considered a separate structure. Includes the word “structure.” A residential building shall not include, among others: tents, tanks of any type, lunch wagons, buses, vans, dining cars, trailers manufactured for recreation, or other roofed structures on wheels, or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. A building shall not include such structures as billboards, fences, television towers, or radio towers, or structures with interiors not normally accessible for human use.

- (97) “RESIDENCE or RESIDENTIAL.” Applies to a lot, a structure, or a portion of a structure which is used for any of the uses permitted in the residential districts.
- (98) “RESIDENTIAL DISTRICT.” Those districts, as described under Section 16.04.200, Districts.
- (99) “REST HOME, NURSING HOME, CONVALESCENT HOME.” A health facility where persons are housed and furnished with meals and continuing care for compensation.
- (100) “ROOMING HOUSE.” A building, or portion thereof, where lodging or meals or both are provided for three or more persons who are not members of the operator's family, but not over 30 persons normally by prearrangement for definite periods of time and for compensation, whether direct or indirect; such as boarding houses, temporary shelter care, congregate living, group homes; and having one kitchen.
- (101) “SET BACK.” The minimum distance between the street right-of-way line and the building or structure, excluding projections specifically permitted.
- (102) “SHALL” This term is mandatory.
- (103) “SHOPPING CENTER.” Is a group of commercial establishments planned, developed and managed as a unit, with off street parking provided on the property, and related in its location, size, and type of commercial establishments to the trade area which the shopping center serves.
- (104) “SIGN.” Any display to public view of letters, words, numerals, figures, statues, devices, emblems, pictures, or any parts or combinations thereof designed to inform or advertise or draw attention to or promote merchandise, services, or activities.
- (105) “SIGN, OUTDOOR ADVERTISING.” A structural poster panel or painted sign, either freestanding or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the

activities on the premises upon which it is located. Also known as a “billboard” or “off-premises” sign.

- (106) “SIGN PORTABLE.” A free-standing, on premise advertising device which is designed to be moved from one location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes.
- (107) “SPECIAL USE.” The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, and upon application and after a public hearing, is specifically authorized by the Advisory Board of Zoning Appeals.
- (108) “STREET.” A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.
- (109) “STRUCTURE.” Anything constructed or erected which requires being affixed to the ground or an attachment to something being affixed to the ground. A structure includes “buildings”, signs, parking lots, etc.
- (110) “STRUCTURAL ALTERATION.” Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.
- (111) “SUBDIVISION.” Means the division of a parcel of land into lots, parcels, units, or interests in the manner defined prescribed by a subdivision control ordinance adopted by the legislative body under IC 36- 7-4-100 (36-7-4-100 through 36-7-4-1213). [IC 36-7-1-19], as added by Acts 1981, P.L. 309, section 19; 1981, P.L. 310, section 3; 1982, P.L. 211, section I.] or a Planned Unit Development Plan approved under the provisions of this Ordinance.
- (112) “THOROUGHFARE.” Means a public way or public place that is included in the thoroughfare plan of a unit. The term includes the entire right-of-way for public use of the thoroughfare and all surface and subsurface improvements on it such as sidewalks, curbs, shoulders, and utility lines and mains.
- (113) “THROUGH LOT.” A lot having frontage on two parallel or approximately parallel streets.
- (114) “TOURIST HOME.” Refer to “BED AND BREAKFAST UNIT.”
- (115) “TRADE OR BUSINESS SCHOOL.” Vocational or business school, or college when not publicly owned or not owned or under the sponsorship of a religion, charitable, or non-profit organization: or a school conducted as a commercial enterprise for leaching trade or business technology, including, but not limited to: instrumental music, dancing, barbering or hairdressing, drafting, or for teaching industrial or technical arts, including but not limited to automotive, heating, air-conditioning, and computer technology.
- (116) “UNDERFLOOR SPACES.” Means those spaces between the bottom of the floor joints and the earth.

- (117) “USE.” The use of property is the purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.
- a. “OPEN USE.” The use of a lot without a building or including a building incidental to the open use.
  - b. “NON-CONFORMING USE.” See “Non-Conforming Use” definition.
- (118) “USE VARIANCE.” The approval of a use other than that prescribed by this zoning ordinance. Changes of allowed uses are not permitted by this ordinance except by zoning map amendment.
- (119) “VARIANCE.” A specific approval granted by the Advisory Board of Zoning Appeals in the manner prescribed by this ordinance, to deviate from the development standards (such as height, bulk, yards) that the Ordinance otherwise prescribes. Changes in area requirements (e.g., minimum lot area, minimum floor area, dwelling unit densities, maximum lot coverage, requirements for off-street parking and off-street loading spaces in number and area, maximum sign numbers and area) are not permitted by this ordinance except by zoning map amendment.
- (120) “VISION CLEARANCE ON CORNER LOTS.” A triangular space at the corner of any public way or public or private corner lot shall be free from any kind of obstruction to vision between the heights of 3 and 6 feet above established grade, determined by a diagonal line connecting two points measured 25 feet equidistant from the street corner along each property line.
- (121) “YARD.” A space on the same lot with a main building, open, unoccupied, and unobstructed by structure, except as otherwise provided in this chapter.
- a. “FRONT YARD.” A yard extending across the full width of the lot, unoccupied other than by steps walks, terraces, driveways, lamp posts, and similar structures, the depth of which is the least distance between the street right-of-way line and the building line.
  - b. “REAR YARD.” A yard extending across the full width of the lot between the rear of the main building and the rear lot line (refer to appropriate zone district requirements).
  - c. “SIDE YARD.” A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest part of the main building.
  - d. “TRANSITIONAL YARD.” A yard in effect when a non-residential zone district abuts or is adjacent across a street to a residential zone district.
- (122) “ZONING MAP.” A map entitled “LOGOOTEZ ZONING DISTRICTS.”
- (123) “Zoning ordinance.” Refers to an ordinance adopted under the 600 series of IC 36-7-4 or under prior law. The term includes all zone maps incorporated by reference into the ordinance.

**16.04.104 Determination and Interpretation of District Boundaries.** In determining the boundaries of Districts, and establishing the regulations applicable to each District, due and careful consideration has been given to existing conditions, the character of buildings erected in each District, the most desirable use for which the land in each District may be adapted, and the conservation of property values throughout the City.

Where uncertainty exists as to the exact boundaries of any district as shown on the Zoning Map, the following rules shall apply.

- (1) In un-subdivided areas, or where a District boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the Zoning Map.
- (2) In the case where the Zoning Map has been amended by ordinance, the legal description recited in such amending ordinance shall interpret the intent of the Zoning Map.
- (3) In the case of further uncertainty, the Board shall interpret the intent of the Zoning Map as to the location of the boundary in question.

**16.04.105 Nonconforming Structures.**

- (1) Maintenance Permitted: A nonconforming structure lawfully existing prior to the effective date of this Ordinance may be maintained except as otherwise provided in this section.
- (2) Repairs: A nonconforming structure may be repaired in the interior or exterior or altered in the interior, provided no structural change shall be made.
- (3) Additions, Enlargements, or Moving:
  - (a) A structure nonconforming as to height, yard, area, off-street parking or loading, and landscape requirements, or other dimensional requirements shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement is made to conform to the uses, height and yard of the district in which it is located.
  - (b) No nonconforming structure shall be moved in whole or in part to any other location on the lot on which it is located unless every portion of such structure is made to conform to all requirements of the district in which it is located.

**16.04.106 Nonconforming Uses.**

- (1) Continuation and Change of Use - Except as otherwise provided in this Ordinance.



- (a) A nonconforming use lawfully existing prior to the effective date of this Ordinance may be continued.
  - (b) A nonconforming use may be changed only to a use within the same or a more restrictive zoning district classification, provided the nature of any structural nonconformance (area or dimensional) is not expanded.
- (2) Expansion Prohibited
- (a) A nonconforming use in a structure designed for a conforming use shall not be expanded or extended in to any other portion of such conforming structure nor changed except to a conforming use.
  - (b) A nonconforming use on a part of a lot shall not be expanded or extended in to any other portion of such lot.

**16.04.107 Discontinued Nonconforming Use.** Whenever a nonconforming use has been discontinued for a period of one (1) year, such shall not be reestablished and use thereafter shall conform to the requirements of the District in which it is located.

**16.04.108 Destruction of Nonconforming Structure.** No building or structure which has been damaged by fire, explosion, or act of God, to the extent of fifty percent (50%) or more of its assessed valuation, shall be restored, repaired or rebuilt except to conform to the requirements of the District in which it is located.

**16.04.109 Nonconforming Mobile Home Court.** Any mobile home court which existed upon the effective date of this Ordinance, and which is located in a district which permitted a mobile home court either as a permitted use or special use, shall be regarded as a conforming use and may be continued, except that any change in layout, expansion, or extension shall be subject to all provisions of Section 16.04.240 of this Title.

**16.04.110 Scope of Regulations.** No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered, except in conformity with regulations of this Ordinance.

**16.04.111 Height.** No building shall be erected; reconstructed; or structurally altered except in conformity with regulation of this Ordinance.

**16.04.112 Exception from Height Requirements.** Penthouse or roof structure for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain a building, fire or parapet walls, skylights, televisions aials, electrical transmissions, and communications poles and towers, theater screens, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, industrial installation requiring vertical production procedures such as flour mills, steel mills and refineries, or similar structures may be erected above the height limits herein prescribed, but no such structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business, or industrial use.

**16.04.113 Yard, Lot Area and Size of Building.** No building shall be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of residential buildings, established and specified for the use in the District in which such building is located.

**16.04.114 Exceptions from Yard Requirements** No required yard or other open space around existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space or lot be considered as providing a yard or open space for another lot whereon a building is to be erected.

(1) Projections into yards:

- (a) Cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay window or other vertical projection which shall be part of the main building) may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty (30) inches. Chimneys or fireplaces may project into a required front, side or rear yard is not reduced to less than three (3) feet.
- (b) A fire escape may extend or project into any required front, side or rear yard not more than four (4) feet.
- (c) An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required rear yard not more than four (4) feet and such balcony may not extend into a required front yard not more than thirty (30) inches.

- (d) Open Porch: An open platform or landing which does not extend above the level of the first floor of the building may extend or project into any required side yard provided that the width of a side yard is not reduced to less than three (3) feet or any rear yard provided it does not encroach within ten (10) feet of the rear property line.
- (e) Other Specified Structures: Walks, driveways, curbs, retaining walls, mailboxes, nameplates, lamp posts, bird baths, fences, and structures of a like nature shall be permitted in any required yard.
- (f) Front Yard:
  - 1. If there are buildings on both abutting lots and they are within one hundred (100) feet of the intervening lot and the buildings, have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
  - 2. If there is a building on one abutting lot which is within one hundred (100) feet of the lot, and the building has a front yard of less than the required depth for the zone the front yard for the lot need not exceed a depth halfway between the depth of the front yard of the abutting lot and the required front yard.

**16.04.115 Fences, Walls and Hedges.**

- (1) Fences, walls, and hedges which block visibility not to exceed six (6) feet in height, may be permitted in any required yard, or along any property line, provided that no fence, wall or hedge shall be permitted in a required front yard to exceed three (3) feet in height.

- (2) Trees, shrubs, flowers or plants shall be permitted in any required yard, provided it does not violate the corner setback as required in this Section.

Corner Visibility:

No fence, wall, hedge or other plan ting or other obstruction to vision extending in excess of three (3) feel above the established street center-line grade shall be erected or maintained on that part of the corner lot that is included between the lines of intersecting streets and a line intersecting them at points of twenty-five (25) feet distance from the intersection of the street line.

**16.04.116 Replatted Land.** No lot improved with a building or buildings shall be divided into two (2) or more lots, and no portion of any lot which is improved with a building or buildings shall be sold, unless all lots resulting from such division conforms to all regulations of the zoning district in which the property is located.

**16.04.117 Street Frontage Required.** No lot shall contain any building or structure unless such lot abuts on a street or dedicated right-of-way.

**16.04.118 Accessory Uses and Structures.**

- (1) All accessory uses must meet the following requirements:
  - (a) Be operated and maintained under the same ownership and use as the principal use or structure and must be permitted use in the zoning classification in which they are located.
  - (b) Be subordinate in height, area, and purpose to the main structure or use.
  - (c) All residential accessory structures and uses in a rear or side yard, not attached to or part of the main structure or use, shall be located at least ten feet from any lot line, at least, fifteen feet from any street line, at least ten feet from the main structure.
  - (d) May not be erected prior to the principal use or structure.
  - (e) May not be located in a required front yard.

- (f) Private swimming pool wall shall not be located closer than six (6) feet from a side or ten (10) feet from a rear property line.
- (2) Satellite and antenna receiving systems are permitted as an accessory use, but may not be located less than ten feet from the main structure.

**16.04.119 Minimum Floor Area.** Standards for minimum floor area are as follows:

Single family dwelling	950 sq. ft.*
Duplex, row house, town house	950 sq. ft.* (per 1 dwelling unit)*
Efficiency unit	500 sq. ft.*
One-bedroom unit	600 sq. ft.*
Two-bedroom unit	700 sq. ft.*
Three + bedroom unit	800 sq. ft.*

\*Floor area per unit measured by outside measurements.

**16.04.120 Lots.** Every building hereafter erected shall be located on a lot.

**16.04.121 Parking space: Loading and Unloading Berths.** Every building hereafter erected shall provide parking space and loading and unloading berths as specified hereinafter for the use to which such building is to be devoted.

**(1) Existing Off-Street Parking and Loading**

- (a) When the intensity of use of any building, structure or premises shall be increased through additional dwelling units, gross floor area, seating capacity or other units of measurement specified within this section, required parking or loading facilities as herein required shall be provided for such an increase and intensity of use.
- (b) Any parking or loading space established prior to the effective date of this Ordinance which is used or intended to be used in conjunction with any main building, structure or use of any space delineated and intended to comply with the requirements of this section for any such building, structure, or use erected after such effective date shall hereafter be maintained so long as said building, structure, or use remains unless the owner provides and

maintains in another location an equivalent number of car spaces which conforms to all provisions of this Ordinance.

**(2) Parking Prohibited**

Parking areas may be located in any yard except the required front yard. However, landscaping requirements must be fulfilled, and parking is not permitted in the side yard when industrial and business districts abut agricultural and residential districts.

**(3) Location of Accessory Off-Street Parking**

- (a) All parking spaces provided pursuant to this section shall be on the same lot with the building, structure or use that they have intentions to serve except that the Planning Commission, after public hearing, may permit the required number of parking spaces to be on any lot within three hundred (300) of the premises they are to serve provided however, the Planning Commission has reviewed the plans and made findings that: 1) the common ownership of the lot or 20 year lease, 2) the site of the parking facility is reasonably certain to continue and, 3) the off-street parking facility will be maintained at all times during the life of the proposed use or building.
- (b) Access to all parking facilities provided pursuant to this section shall be directly accessible from a street or an alley. Access alleys and drive-ways shall be sufficient width for convenient maneuvering of cars for each space and shall be accessible without driving over or through any other parking space.

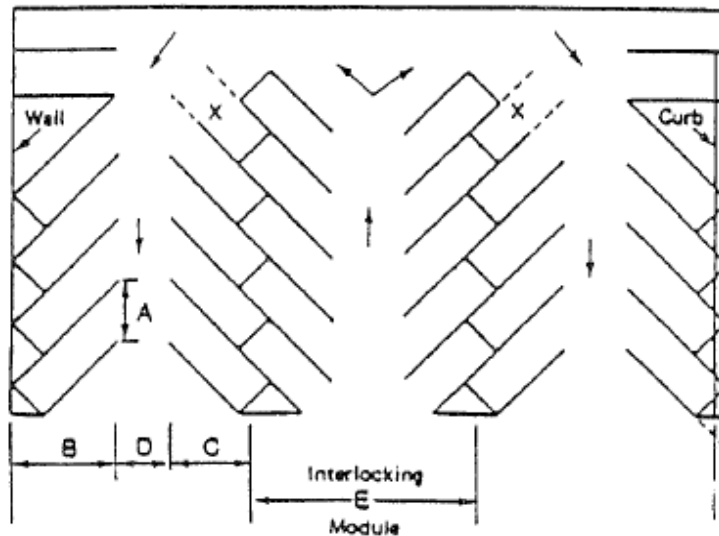
**(4) Improvements**

- (a) Each parking space (except parking spaces for the physically handicapped) required by this section shall be a minimum of nine (9) feet wide and eighteen (18) feet long, exclusive of walkways and aisles. The minimum aisle width shall be twenty-

four (24) feet for ninety (90) degree angle parking.  
Minimum parking space requirements for less than  
perpendicular parking are as follows:

#### MINIMUM PARKING SPACE REQUIREMENTS

		A	B	C	D	E Modules	
Parking Angle	Space	Space Width Parallel To Aisle	Space Depth to Wall	Space Depth to Interlock	Aisle Width	Wall to Wall	Interlock to Interlock
45°							
9.0 feet	Space	12.7	17.5	15.3	12	47	33
60°							
9.0 feet	Space	10.4	19.0	17.5	16	54	51
75°							
9.0 feet	Space	9.3	19.5	18.8	23	62	61
90°							
9.0 feet	Space	9.0	18.5	18.0	24	60	60



X = Space not accessible in certain layouts

- (b) All owners of off-street parking facilities intended for public use shall have a number of level parking spaces as set forth in the following table, with each space identified by an above grade sign as reserved for physically handicapped persons. Each reserved parking space shall be so designated by striping and shall be either twelve (12) feet wide or eight (8) feet wide with a five (5) foot attached designated walkway. The five (5) foot adjacent walkway may be contiguous to, and shared by, two (2) eight (8) feet wide parking spaces.

ACCESSIBLE PARKING SPACES		
Total Parking in Lot	Required Number of Accessible Spaces	Required Van-Accessible Spaces
1 to 25	1	1 per 6 required Accessible Spaces shall be Van-Accessible
26 to 50	2	
51 to 75	3	
75 to 100	4	
101 to 150	5	
151 to 200	6	
201 to 300	7	
301 to 400	8	
401 to 500	9	
501 to 1000	2% of total	
Over 1000	20 plus 1 for each 100 over 1000	

Parking spaces for the physically handicapped shall be located as close as possible to elevators, ramps, walkways, and entrances. Parking spaces shall be located so that the physically handicapped persons are not compelled to wheel or walk behind parked cars to reach entrances, walkways and elevators.

- (c) All parking areas, except accessory parking to a single-family detached dwelling, shall be improved with a compact aggregate base with surface



treatment (seal-coat) or asphalt, so as to achieve an all-weather, dustless surface.

- (d) For parking areas located within or that adjoin and “R” District, a solid wall or compact evergreen screen or uniformly painted board fence with no openings or a combination thereof having a height of not less than forty-two (42) inches or more than six (6) feet shall be erected and maintained between the parking area and “R” District.
- (e) Any light used to illuminate the parking area or driveway shall be installed so as to reflect the light away from any adjoining “R” District or public roads.

##### **(5) Parking Requirements**

- (a) The following are the minimum number of off-street parking spaces that shall be provided and satisfactorily maintained for each building, structure or use which exists or is hereinafter erected, enlarged or altered for any of the following purposes:

#### **PARKING REQUIREMENTS**

<b>Use</b>	<b>Number of Parking Spaces Required</b>
<b>1-Family Dwelling, detached</b>	<b>Two (2) per dwelling unit</b>
<b>1-Family Dwelling, attached (townhouse or rowhouse)</b>	
<b>2-Family Dwelling</b>	
<b>Multi-Family Dwelling</b>	<b>One &amp; one-half (1 ½) per dwelling unit</b>
<b>Housing for the Elderly (Public Owned)</b>	<b>One (1) per three (3) dwelling units</b>
<b>Motel, Hotel, Lodging House</b>	<b>One (1) per unit</b>
<b>Banks, offices, Public Administration, library, museum or any other similar use</b>	<b>One (1) per six hundred (600) sq. ft. of gross floor area.</b>
<b>Medical office, clinic, or any other similar use</b>	<b>Five (5) per doctor or dentist using the facility plus one (1) for each two (2) employees</b>
<b>Hospital, sanitarium, convalescent, or nursing home or similar use</b>	<b>One (1) per three (3) beds or any portion thereof, plus one (1) for three(3) employees</b>
<b>Eating or drinking establishments where customers are seated and served within a building</b>	<b>One (1) for every two hundred (200) sq. ft. of gross floor area</b>
<b>Use</b>	<b>Number of Parking Spaces Required</b>

<b>Eating and drinking establishments where customers are served outside the building</b>	<b>One (1) for every fifty (50) sq. ft. of gross floor area, and there shall not be less than six (6) per establishment</b>
<b>Stores and shops: furniture, household appliances, hardware, flower, drugstore, stationery, news dealer, record, photo, dry-cleaners and pressing, bakery, dressmaking, millinery, tailor, individual storage locker service, or any other similar use.</b>	<b>One (1) for each five-hundred (500) square feet of gross floor area.</b>
<b>Barber, beauty shop</b>	<b>Two (2) per barber or beautician</b>
<b>Food market, delicatessen, supermarket, department store, discount store, or similar use.</b>	<b>One (1) per each two-hundred (200) square feet of gross floor area, plus one (1) for each additional one-hundred (100) in excess of twenty-five hundred (2500) square feet of gross floor area.</b>
<b>Bowling alleys</b>	<b>Two (2) per each lane plus one (1) per six (6) spectator seats</b>
<b>Launderette, laundromat, self-service dry-cleaner, and laundry</b>	<b>One (1) per two (2) washing and drying machines or any portion thereof</b>
<b>Churches, theaters, auditoriums, stadiums or other places of assembly</b>	<b>One (1) per each five (5) fixed seats plus one (1) per each six (6) removable seats</b>
<b>Manufacturing, industrial uses, warehouse grain elevator</b>	<b>One (1) per each three (3) employees</b>
<b>College, university, trade, or business school</b>	<b>One (1) per each three (3) students based on the maximum number of students who can be enrolled.</b>
<b>Junior high, elementary school, public, private, parochial</b>	<b>One (1) per seven (7) students, based on the maximum number of students who can be enrolled</b>
<b>Country club, golf course, Private clubs, large or similar use</b>	<b>Golf course, three (3) per golf hole; clubs, etc. one (1) per each two-hundred (200) square feet of gross square floor area</b>
<b>Uses not otherwise listed</b>	<b>As determined by the Plan Commission to be reasonable and compare with other uses.</b>

- (b) In the case of mixed use in the same building or structure, the total requirements of off-street parking facilities shall not be considered as providing required parking facilities for any other uses.
- (c) Collective off-street parking facilities for two (2) or more buildings, structures or uses shall not be less than the sum of the requirements for the various individual uses computed separately as provided for in this section.
- (d) In the Central Business District (B-2 District), the Planning Commission may waive up to thirty percent (30%) of the required off-street parking requirement,

provided not less than three parking spaces shall be provided per business, after a public hearing and a finding by the Planning Commission that the amount of parking waived is available on street and/or is unnecessary because of walk-in customers.

(6) **Off-Street Loading and Unloading Requirements.** On the same premises with every building, structure or part thereof, hereafter erected, established, enlarged or occupied for manufacturing, storage, warehouse, goods display, retail stores, wholesales stores, market, hotel, laundry, dry cleaning, other uses involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained space for vehicles standing, loading and unloading as follows:

- (a) One (1) off-street loading space twelve (12) feet by forty-five (45) feet and fourteen (14) feet in height for every twenty-thousand (20,000) square feet or fraction thereof in excess of three thousand (3000) square feet of floor area for any of the above purposes provided, however, that in no case, such the required off-street loading space be part of the area used to satisfy off-street parking requirements of this section. In the B-2 District, the Plan Commission may waive the off-street loading requirements on site if the property owner demonstrates that there is a dedicated on-street loading area, or such loading requirements shall be met on an abutting property of common ownership, or that an agreement has been made with an abutting property owner to share loading space sufficient, to meet the needs of that building.
- (b) For any off-street loading area within three hundred (300) feet of an “R” District, and is not obstructed from view from the “R” District by a physical barrier, the area shall be screened by a solid wall, compact evergreen screen or uniformly painted board fence (with no openings) or combination thereof having a height not less than six (6) feet which shall be erected and maintained between the off-street loading area and “R” Districts.

**16.04.122 Zoning Districts.** The city is hereby classified and divided in to ten (10) districts and one overlay district (i.e. FHA) designated as follows:

<b>SYMBOL</b>	<b>DISTRICT NAME</b>
<b>I. Residential Districts</b>	
<b>R-1</b>	<b>Single-Family Residences</b>
<b>R-2</b>	<b>Two and Multi-Family Residences</b>
<b>MHP</b>	<b>Mobile Home Park</b>
<b>II. Commercial Districts</b>	
<b>B-1</b>	<b>Neighborhood Business</b>
<b>B-2</b>	<b>Central Business</b>
<b>B-3</b>	<b>General Business</b>
<b>III. Industrial Districts</b>	
<b>I-1</b>	<b>Light Industry</b>
<b>I-2</b>	<b>General Industry</b>
<b>IV. Special Districts</b>	
<b>A-1</b>	<b>Agricultural</b>
<b>OP</b>	<b>Open Spaces</b>
<b>V. Overlay Districts</b>	
<b>FHA</b>	<b>Flood Hazard Areas</b>

The Districts identified above are described in the District Requirements and Uses Chapter. The Land Use Chart for Loogootee, Indiana, below summarizes the permitted uses in each zoning district. The letter “O” indicates a use permitted by right, the letter “C” denotes a use permitted only by a “conditional use permit” approved by the Board of Zoning Appeals (refer to Section 16.04.350), and the letter “S” specifies special uses permitted only by a “special use permit” approved by the Board of Zoning Appeals (refer to Section 16.04.360). The dimensional requirements of the zoning districts are summarized in the table following the Land Use Chart.

**16.04.123 Zoning Map.** The zoning map, which follows and is hereby declared to be a part of this chapter, shows the boundaries of and the area covered by the districts.

Notations, reference, indications, and other matters shown on the zoning map are as much a part of this chapter as if they were fully described herein.

**16.04.124 Annexed or Vacated Area.** If it is determined by the Plan Commission that the County or territory annexed to the City of Loogootee meets the objectives of the Master Plan and reasonably meets the purposes of this Ordinance, taking into consideration the condition, character of current structures, uses in the district(s), as well as the most desirable use for which the land is adaptable, conservation of property values, throughout the city, and creates responsible development and growth, the annexed area will be zoned by the Plan Commission as provided for the amendment of the Zoning Map in accordance to IC 35-7-4-601, 603, 604, 605, 608, and 610.

**16.04.125 Separability.** If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court or competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

## LAND USE CHART FOR LOOGOOTEE, INDIANA

Uses Permitted	CLASS OF USE	A-1	R-1	R-2	B-1	B-2	B-3	I-1	I-2	MHP	OP	
<b>A. AGRICULTURAL</b>												
1. Crops		O										
2. Livestock		O										
3. Nurseries/Greenhouses		O					C		O			
4. Truck Garden		O										
<b>B. RESIDENTIAL</b>												
1. Day Care Homes		O	O	O								
2. Dwellings, Single-Family detached w/sewer		O	O	O								
3. Dwellings, Single –Family detached w/o sewer		O	O									
4. Dwellings, Two-Family (Duplex)				O								
5. Dwellings, Single-family attached (townhouse)				O		O						
6. Dwellings, multi-family				O		O						
7. Fraternities and Sororities				O		O						
8. Manufactured Homes		O	O	O		O						
9. Mobile Homes										O		
10. Room/Lodging Houses				O		O						
<b>BUSINESS</b>												
<b>C. COMMERCIAL RETAIL</b>											O	
1. Amusements, indoor						O	O					
2. Amusements, outdoor							O					
3. Antiques						O	O					
4. Apparel					O	O	O					
5. Appliance Stores, small appliances					O	O	O					
6. Arts and Crafts					O	O	O					
7. Auto Parts/Supplies, News							O	O				
8. Auto/Truck/Marine Sales							O	O				
9. Bakery						O	O	O				
10. Bicycle Shops					O	O	O					
11. Books Shops					O	O	O					
12. Camps and Resorts		O					O				O	
13. Dairy Products		S			O	O	O					
14. Department /Discount Stores						O	O					
15. Drugstores, Sundry					O	O	O					
16. Farm Equipment							O	O				
17. Farm Products		O			O	O	O					
18. Florist Shops					O	O	O					
19. Furniture and Appliances						O	O					
20. Gift Shop					O	O	O					

O – Use Permitted by Right

C – Use Permitted by Conditional Use Permit

S – Use Permitted by Special Use Permit

# **LAND USE CHART FOR LOOGOOTEE, INDIANA**

Uses Permitted	CLASS OF USE	A-1	R-1	R-2	B-1	B-2	B-3	I-1	I-2	MHP	OP	
21. Grocery & Meats					O	O	O					
22. Hardware					O	O	O					
23. Home Improvement							O					
24. Jewelry					O	O	O					
25. Liquor Store						O	O					
26. Mobile Home Sales							O	O				
27. Motorcycle Sales							O	O				
28. Pet Shops (Domestic)					O	O	O					
29. Sporting Goods					O	O	O					
30. Used Merchandise						O	O					
31. Variety Store					O	O	O					
<b>B. COMMERCIAL TRADE</b>												
1. Appliance Repair (Small)					O	O	O					
2. Auto Parking				S	O	C	O	O	O			
3. Auto Repairs					O		O	O				
4. Auto Storage Yard							O	O	O			
5. Banks (Branch) w/Drive-In					O	O	O	O				
6. Banks (Main)						O	O					
7. Bars or Taverns w/Adult Entertainment									S			
8. Bars or Taverns w/Live Entertainment						S	O	O	O			
9. Bars or Taverns w/o Live Entertainment						O	O	O				
10. Bus Terminal (Passengers)							O	O				
11. Business Services					O	O	O	O	O			
12. Candy, Confectionary					O	O	O					
13. Car Wash							O					
14. Eating, Drinking (Rest.)					O	O	O					
15. Funeral Services				S	O	O	O	O				
16. Furniture Repair							O	O				
17. Gasoline Service Stations					O	O	O	O				
18. Gun Club/Skeet Range		S									O	
19. Home Improvement							O	O				
20. Hotel/Motel						O	O					
21. Laundry and Dry Cleaning					O	O	O					
22. Office, general						O	O					
23. Office, professional				S	O	O	O					
24. Personal Services					O	O	O					
25. Printing (Job Services)							O	O	O			
26. Radio and TV Stations						O	O					
27. Recreation (bowling alley, skating rink, pool hall)						O	O					
28. Schools (Trade & Business)							O	O				
29. Telephone Exchanges						O	O	O				
30. Theaters, Drive-in							O	O				
31. Theaters (Not Drive-in)						O	O					
32. Tire Recapping							O	O				
33. Veterinary Service/Dog Kennel		S		S			O					
34. Warehouses								O	O			
35. Warehouses (Mini)							O	O	O			
<b>C. COMMERCIAL WHOLESALE</b>												
1. Building material							O	O	O			
2. Farm Products							O	O	O			
3. Farm Supplies							O	O	O			
4. Food Products							O	O	O			
5. Household Goods							O	O	O			

O – Use Permitted by Right

C – Use Permitted by Conditional Use Permit

S – Use Permitted by Special Use Permit

**LAND USE CHART  
FOR  
LOOGOOTEE, INDIANA**

Uses Permitted	CLASS OF USE	A-1	R-1	R-2	B-1	B-2	B-3	I-1	I-2	MHP	OP	
<b>INDUSTRIAL</b>												
<b>A. Manufacturing/Processing</b>												
1. Apparel								O	O			
2. Bakery, Dairy Products, Confectionary								O	O			
3. Beverage, Bottling								O	O			
4. Chemicals and Chemical Products									O			
5. Clock, Scientific Instruments								O	O			
6. Drugs and Pharmaceuticals								O	O			
7. Electronic Equipment								O	O			
8. Furniture									O			
9. Grain Mills									O			
10. Machinery, Tool and Die								O	O			
11. Meat, Poultry, Seafood, Processing/ Freezing								O	O			
12. Meat, Poultry, Seafood Slaughtering/Dressing									S			
13. Medical equipment								O	O			
14. Metal Fabrication								O	O			
15. Millwork, Veneer, Sawmill									O			
16. Miscellaneous Small Products							O	O	O			
17. Musical Instruments								O	O			
18. Paper Products								O	O			
19. Paving and Concrete Block								O	O			
20. Printing/Newspapers						C		O	O			
21. Research Laboratories						C	O	O	O			
22. Service and Distribution Uses							O	O	O			
23. Sporting Goods, Toys, Novelties							O	O	O			
<b>B. INDUSTRIAL NON-PROCESSING</b>												
1. Bus Terminals, Truck & Repair								O	O			
2. Junk Yards									S			
3. Mining and Mineral Extraction									S			
4. Railroad Yards									O			
5. Warehouse, Storage								O	O			
<b>INSTITUTIONAL</b>												
<b>A. PUBLIC, QUASI-PUBLIC</b>												
1. Airports, Heliport		C							O			
2. Cemeteries (Mausoleums)		S	S	S			S					
3. Civic, Community Clubs		C	C	C	C	O	O				O	
4. Correctional Facilities									S			
5. Cultural Facilities				S	O	O	O				O	
6. Day-care Centers		S	S	S	S	O	O	O	O		O	
7. Lodge Halls				S	S	O	O					
8. Public Assembly Halls				S	O						O	
9. Religious Organizations (church or temple)		C	C	C	O	O	O					
10. Schools, Parks, Playgrounds		C	C	C	C	O	O				O	
<b>B. UTILITIES</b>												
1. Communication, Transmission		O				O	O	O				
2. Storage							O	O				
<b>C. MEDICAL FACILITIES</b>												
1. Clinics and Services				S	O	O	O					
2. Doctor & Dentist Offices				S	O	O	O					
3. Hospital & Sanitariums (excluding mental health)				S	S	O	O					
4. Mental Health Facilities		S		S	S	S	S					
5. Nursing Homes				S	S	O	O					
6. Rehabilitative Facilities		S		S	S	O	O					

O – Use Permitted by Right

C – Use Permitted by Conditional Use Permit

S – Use Permitted by Special Use Permit

Insert Summary of Dimensional Requirements Chart Page



**16.04.126 Exclusion.** Nothing in this Ordinance or in any rules, regulations or orders issued pursuant to this Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission or board of zoning appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana, the County of Martin, the City of Loogootee or by any of their agencies, or the use of property owned or occupied by the State of Indiana, the County of Martin, the City of Loogootee, or any of their agencies. As used in this section, the term “agency” shall mean and include all slate, county, and city agencies, boards, commissions, departments, and institutions. Property leased to a political subdivision or agency of a political subdivision pursuant to Indiana Code 36-1-10 et seq. is also exempt from this ordinance.

**16.04.127 Veto Power.** Zoning Ordinances adopted by the city under Sections 606, 607, and 608 of IC 36-7-4 shall be subject to veto by the Mayor of Loogootee, Indiana.

- (1) The mayor must exercise the veto:
  - (a) within ten (10) days after the City Council acts in a case in which the City Council adopts (as certified) the proposal;
  - (b) within fifty-five (55) days after the proposal is returned to the Plan Commission for its consideration in a case in which the City Council amends the proposal and the Plan Commission approves the amendment or fails to act;
  - (c) within ten (10) days after the City Council confirms its original amendment in a case in which the City Council amends the proposal and confirms its original amendment by another vote;
  - (d) within ten (10) days after the expiration of that period in a case in which the proposal is to take effect because of the City Council's failure to act within a period of days.
- (2) If a city zoning ordinance is not vetoed under subsection (1), it takes effect without any action being taken by the Mayor.
- (3) If a city zoning ordinance is vetoed under subsection (1), it is defeated unless the city council , at its first regular or special meeting after receiving the veto message, passes the ordinance over the veto by a two-thirds (2/3) vote.

## **16.04.200 DISTRICT REQUIREMENTS AND USES**

### **16.04.210 Agriculture (A-1 District)**

- (1) **Purpose and Intent.** This District has been established and shown on the zoning map to minimize conversion of farmland to non-farm use, and to protect agricultural areas from urban encroachment and reduce conflict over competing land uses. To regulate urban growth where it can be safely located and economically served by public facilities, such as roads, water, schools, police and fire protection, etc., through the rezoning process. Subdivisions (except for bona fide agricultural purposes are prohibited in the “A- 1” District.

The Plan Commission, in its review of a rezoning application from the “A-1” District to another use shall evaluate the following before any recommendation is given to the elected officials:

- (a) Degrees of urbanization of present land use.
- (b) Water - availability of supply relative to need: quantity and quality.
- (c) Waste disposal - availability to expand municipal services or suitability for septic tanks.
- (d) Roads, existing; increasing design capacity, feasibility of physical expansion. Additional roads; functional roads needs, feasibility of construction.
- (e) Adequate police and fire protection.
- (f) Soil; substratum support, drainage, slopes, stability, erosion and sedimentation.
- (g) Alternative land use. Best use for land relative to existing resources prior to on use of land.

#### **(2) Use Regulations**

- (a) **Uses Permitted by Right.** No building or structure or part thereof shall be erected, altered, or used, or land used, in whole or in part for other than one or more of the following uses:
- 1. Agricultural buildings.
  - 2. Agricultural uses, including but not limited to horticulture, forestry, crops and tree farming, dairy stock and poultry farming, feed lot operation, and the operation of any

machinery or vehicles or other uses customary and incidental.

3. Camps and Resorts

4. Day Care Homes

5. Residential

A. One-family detached dwelling, occupied by a person or persons who are engaged in agricultural activities on the premises.

B. Living quarters for persons employed on the premises and not rented or otherwise used as a separate dwelling.

C. Manufactured/Modular Homes: Shall include but not limited to these characteristics: asphalt shingle roof, a roof pitch of at least 4'12", house-type windows, 950 square feet of occupied space, or siding, and must be placed on a permanent foundation of a minimum exposed three block high on a spread footer.

6. Retail: Farm products, sales of produce grown on premises provided sales area does not exceed 100 sq. ft. Structures may not be permitted.

7. Roadside stands, offering for sale horticultural or other products, grown or produced on the premises upon which the stand is located, provided said stand is located at least fifty (50) feet from the front property line and off-street parking is provided.

8. Utility Transmission Equipment

(b) **Uses Permitted by Condition.** The following uses are permitted by subject to conditions set forth in Section 16.04.350 and the granting of a "conditional use" permit by the Board of Zoning Appeals after a public hearing:

1. Airport and Heliports

2. Civic and Community Clubs

3. Religious Organizations

4. Schools, Parks, and Playgrounds

(c) **Special Uses.** The following uses are permitted subject to conditions enumerated in Section 16.04.360 and the granting of a “special use” permit by the Board of Zoning Appeals after a public hearing:

1. Cemeteries and mausoleums

2. Day-care centers

3. Gun club and skeet range

4. Mental health facilities

5. Rehabilitative facilities

6. Retail: Dairy products, sales of products produced on premises provided sales area does not exceed 100 sq. ft. Structures may not be possible.

7. Veterinary Service/Dog Kennel.

**(3) Minimum Lot Area.**

(a) Every lot (whether for an agricultural, residential, or nonresidential use) on which a structure is hereinafter erected, shall front on a dedicated road, street, or public right-of-way, and shall have a minimum area of three (3) acres per dwelling unit (or per structure or per farm or business), a minimum lot width of one hundred fifty (150) feet, and a minimum street frontage of sixty (60) feet. The maximum lot coverage for nonresidential uses shall not exceed twenty-five (25) percent and the maximum floor area ratio (i.e., ratio of gross floor area in structure to lot area) shall not exceed 0.5.

(b) Where a lot has less width or area than herein required and was a lot of record (or contract sale), prior to the effective date of this Ordinance, such lot may be occupied by any use permitted in the “A” District.

**(4) Yards**

(a) **Front Yard**

1. Every lot used for a one-family dwelling shall have a front yard not less than twenty-five feet (25) in depth.
2. Every lot used for non-residential use shall have a front yard not less than fifty (50) feet in depth.

(b) Side Yards

1. Every lot used for a one-family dwelling shall have a side yard not less than fifteen (15) feet in width.
2. Every lot used for a non-residential use shall have a side yard not less than fifty (50) feet in width.

(c) Rear Yard

1. Every lot used for a one-family dwelling shall have a rear yard not less than twenty-five (25) feet in depth.
2. Every lot used for a non-residential use shall have a rear yard not less than fifty (50) feet in depth.

**(5) Height**

- (a) No residential building shall be erected or altered to a height exceeding two and one-half (2-1/2) stories, or thirty-five (35) feet.
- (b) No height restriction on non-residential structures.

**(6) Minimum Floor Area.** The minimum floor area of a one-family dwelling shall be nine hundred and fifty (950) feet.

**(7) Exceptions of Agricultural Uses.** Nothing contained in these regulations shall impose restrictions with respect to land to be used for agricultural purposes, or with the erection maintenance, repair, alteration, remodeling, or extension of buildings or structures which are to be used for agricultural purposes.

**16.04.220 Single Family (R-1 District)**

- (1) Purpose and Intent.** This district is intended for single-family dwellings and limited public or quasi-public uses by “conditional use” or “special use” permit.

(2) **Use Regulations**

- (a) **Uses Permitted by Right.** No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than one or more of the following uses:

1. Day Care Homes.
2. Manufactured/Modular Homes: Shall include but not limited to these characteristics: asphalt shingle roof, a roof pitch of at least 4'12", house-type windows, 950 square feet of occupied space, or siding, and must be placed on a permanent foundation of a minimum exposed three block high on a spread footer.
3. Single-family detached dwelling units.

- (b) **Uses Permitted by Condition.** The following uses are permitted subject to the conditions set forth in Section 16.04.350 and the granting of a “conditional use” permit by the Board of Zoning Appeals after a public hearing:

1. Church or temple.
2. Civic and community clubs.
3. Educational, recreational, and social centers not operated for profit.
4. Municipal or governmental buildings, excluding penal or correctional institutions, public library, or museum.
5. Parks and playgrounds
6. Public, private, or parochial schools: Private or parochial schools shall be approved by the State Department of Education.

- (c) **Special Uses.** The following uses are permitted subject to conditions set forth in Section 16.04.360 and the granting of a “special use” permit by the Board of Zoning Appeals after a public hearing:

1. Cemeteries and Mausoleums.

2. Day care center.

- (3) **Area.** Every lot upon which a structure is hereafter erected shall front onto a dedicated street or public right-of-way and shall conform to the following minimum lot area and width requirements.

(a) Residential Use:

1. The lot area shall be a minimum of seven thousand (7,000) square feet per dwelling unit with a minimum width of sixty (60) feet (where sanitary sewers are available).
2. Where no sanitary sewers are available and disposal is by soil absorption the minimum lot area shall be three (3) acres, with a minimum lot width of one hundred fifty (150) feet, subject to the minimum requirements of the Martin County Health Department.

(b) Non-Residential use:

1. The lot area shall be a minimum of ten thousand (10,000) square feet per dwelling unit with a minimum width of one hundred (100) feet (where sanitary sewers are available). The maximum lot area coverage shall not exceed twenty-five (25) percent and the maximum floor area ratio (i.e., the ratio of the gross floor area to the lot area) shall not exceed 0.5.

- (c) Where a lot has less width or area than herein required and was a lot of record (or contract sales) prior to the effective date of this Ordinance, such lot may be occupied by any residential use permitted in the R-1 District. The aggregate width of side yards may be reduced to twenty percent (20% of the width of the lot, but not less than five (5) feet on each side.

(4) **Yards.**

(a) Front Yard or Street Side Yard:

1. Every lot shall have a front yard facing a public access roadway not less than twenty (20) feet in depth from property line or right-of-way, whichever is greater. If the lot faces two or more public access roadways (i.e., excludes freeways and alleys), the front yard set back shall be observed for each yard facing a street.

(b) Side Yard:

1. Every lot used for a one-family dwelling shall have a side yard on each side, the width of both side yards of any lot shall be at least ten percent (10%) of the width of the lot. Minimum width of one (1) side yard shall be at least five feet. In the case of a corner lot, the front yard set back shall be observed for any side yard facing a street.
2. Every lot used for a non-residential use shall have a side yard on each side, each of which shall be at least twenty (20) feet in width.

(c) Rear Yard:

1. Every lot shall have a rear yard of not less than twenty (20) feet in depth.

(5) **Height.** No building or structure or part thereof shall be erected or altered to a height exceeding two and one-half (2-1/2) stories, or thirty-five (35) feet.

(6) **Minimum Floor Area.** A one-family dwelling shall have a minimum floor area of nine hundred and fifty (950) square feet.

**16.04.230 Single, Two-Family, Multi-Family Dwelling (R-2 District)**

(1) **Purpose and Intent.** This district is for single-family and multi-family uses, for limited public and quasi-public uses by “conditional” use or special use permit, and for medical facilities by special use permit.

(2) **Use Regulations.**

(a) **Uses Permitted by Right.** No building or structure, or part thereof, shall be erected, altered, or used, or land used, in the whole or in part, for other than one or more of the following specified uses:

1. Any “use of right” permitted in an R-1 District, except single-family dwellings without sewers, subject to the use regulations specified in said District.
2. Apartment complex.
3. Rooming Houses, Group Homes, Bed and Breakfast Units.



4. Single family attached dwelling units such as two-family dwelling (duplex) and townhouses

(b) **Uses Permitted by Condition.** The following uses are permitted subject to conditions set forth in Section 16.04.350 and the granting of a “conditional use” permit by the Board of Zoning Appeals after a public hearing

- (1) Any “conditional use” permitted in an R-1 District, subject to the use regulations specified in said District.

(c) **Special Uses.** The following uses are permitted subject to conditions enumerated in Section 16.04.360 and the granting of a “special use” permit by the Board of Zoning Appeals after a public hearing:

1. Any “special use” permitted in R-1 District, subject to the use regulations specified in said District.
2. Community parking garage.
3. Cultural facilities such as museums, art galleries, and arboretums.
4. Funeral home.
5. Hospitals, sanitariums (mental institutions), rehabilitation facilities, nursing homes, medical or dental clinics and offices.
6. Lodges and public assembly halls.
7. Professional offices.
8. Veterinary Service and Boarding Kennel.

(3) **Area.** Every lot upon which a structure is hereafter erected shall front onto a dedicated street or public right-of-way and shall conform to the following minimum lot area width requirements.

(a) Residential Use:

1. The lot area for a single-family detached dwelling unit shall be a minimum of six thousand five hundred (6,500) square feet per dwelling unit with a minimum width of fifty (50) feet (where sanitary sewers are available).

2. The lot area for a single-family attached dwelling unit (i.e. duplex, rowhouse, townhouse) shall be a minimum of six thousand (6,000) square feet, with a minimum width of fifty (50) feet (where sanitary sewers are available); and these shall not be less than 3,630 square feet of lot area per dwelling unit (i.e., a maximum density of twelve (12) dwelling units per acre of lot area).
3. The lot area for a multi-family attached dwelling unit (i.e. apartment building or complex) shall be a minimum of (6,000) square feet, with a minimum width of fifty (50) feet where sanitary sewers are available; and there shall be not less than 3,630 square feet of lot area per dwelling unit (i.e., a maximum density of twelve (12) dwelling units per acre of lot area).
4. Where no sanitary sewers are available and disposal is soil absorption, the minimum lot area shall be three (3) acres per dwelling unit with a minimum lot width of one hundred fifty (150) feet, and shall be subject to the Martin County Health Department.

(b) Non-Residential Use:

1. The lot area shall be a minimum of ten thousand (10,000) square feet with a minimum width of one hundred (100) feet (where sanitary sewers are available). The maximum lot area coverage shall not exceed twenty-five (25) percent and the maximum floor area ratio (i.e., the ratio of the gross floor area to the lot area) shall not exceed 0.5.
2. Where no sanitary sewers are available and disposal is by soil absorption, the minimum lot area shall be three (3) acres with a minimum lot width of one hundred fifty (150) feet, subject to the minimum requirement of the Martin County Health Department. The maximum lot area coverage shall not exceed twenty-five (25) percent and the maximum floor area ratio (i.e., the ratio of the gross floor area to the lot area) shall not exceed 0.5.

- (c) Where a lot has less width or area than herein required, and was a lot of record (or contract sales) prior to the effective date of this ordinance, such lot may be occupied by any residential use permitted in this District. The aggregated width of said yards may be reduced to ten percent (10%) of the width of the lot, but not less than five (5) feet on each side.

(4) **Yards.**

(a) Front Yard and Street Side Yard:

1. Every lot shall have a front yard not less than twenty (20) feet in depth from property line or right-of-way, whichever is greater. If the lot faces two or more public access roadways (i.e., excludes freeways and alleys), the front yard setback shall be observed for each yard facing a street.

(b) Side Yard:

1. Every lot used for a one-family or two-family dwelling shall have a side yard on each side; the aggregated width of both side yards of any lot shall be at least ten percent (10%) of the width of the lot. Minimum width of one (1) side yard shall be at least five (5) feet. In the case of a corner lot, the front yard setback shall be observed for any side yard facing a street.
2. Every lot used for a non-residential use shall have a side yard on each side, each of which shall be at least twenty (20) feet in width.

(c) Rear Yard:

1. Every lot shall have a rear yard not less than twenty (20) feet in depth from property line or right-of-way, whichever is greater.

(5) **Height.** No building or structure or part thereof shall be erected or altered to a height exceeding thirty-five (35) feet.

(6) **Minimum Floor Area.** The minimum floor area for a single-family detached or single-family attached (duplex, row house or townhouse) dwelling unit shall be nine hundred and fifty (950) square feet. The minimum floor area for a multi-family dwelling unit shall be as follows:

- efficiency	500 sq. ft.
- one-bedroom	600 sq. ft.
- two-bedroom	700 sq. ft.
- three or more bedroom	800 sq. ft.

#### 16.04.240 Mobile Home Parks (MHP District)

- (1) **Intent of the District.** MHP District is intended for commercial development leasing and location of mobile home parks and the regulations and control of mobile homes within the park sites. It is further intended that mobile home parks be well designed and adhere to high standards of development to insure compatibility with surrounding areas and safety of occupants of mobile homes.
- (2) **Purpose of Standards.** The purpose of these standards is to regulate the establishment and operation of mobile home parks in order to provide occupants of mobile homes with a suitable living environment. These standards are based upon the premises that the use of mobile homes, buildings, and structures and improvements are necessary to occupants of a mobile home park. It is also the purpose of these standards to encourage the development and landscaping of mobile home parks so as to provide a park-like setting for the mobile home occupants and a harmonious relationship with adjacent land uses.
- (3) **Use Regulations.** No building or structure, or part thereof, shall be erected, altered, or used, or land used, in whole or in part, or other than one or more of the following specified permitted uses.
  - (a) One family mobile home unit for a residential purpose only.
  - (b) Indoor or outdoor recreation areas not less than eight percent (8%) of the gross site area.
  - (c) Commercial use supplying essential goods or services for the exclusive use of park occupants, subject to the following restrictions:
    1. Such establishment and the parking area primarily related to the operation shall not occupy more than ten percent (10%) of the total area of the park;
    2. Shall be subordinate to the residential use and character of the parks;
    3. Shall be located and designed and intended to serve frequent trade or service need for persons residing in the park; and

4. Shall present no visible evidence of their commercial nature to areas outside the park.
- (d) Uses accessory to, the above, which, in the judgement of the commission are similar to, and not more objectionable to, the general welfare than the uses listed.
- (4) **Limitation of Uses.** The area planned for a mobile home park shall be a minimum of five (5) gross acres. Such acres may be developed in two (2) or more stages, provided that said stages conform in all respects with the overall mobile home park design and are developed within the prescribed period of time. No mobile home site shall be leased in any mobile home park for a term of less than thirty (30) days.
- (5) **Approval of Mobile Home Park.** No mobile home shall be located, or site prepared, nor shall any permission for use be issued thereof, unless and until the necessary mobile borne park plans are officially approved by the commission. All mobile homes shall be located and maintained in full conformity with the mobile home site plan as approved for in each MHP District. In addition to compliance with the requirements set forth herein, and in conformity with all applicable ordinances and law of the state of Indiana, each mobile home park shall also meet the requirements provided by the Indiana Mobile Home Park Act of 1955 and all amendments thereto; and the Indiana State Board of Health regulations and all amendments thereto.
- (6) **Preliminary Site plan.** A person desiring the approval of a mobile home park shall submit to the commission a preliminary site plan. The preliminary site plan shall be drawn on a scale of not less than one hundred (100) feet to one (1) inch on a sheet twenty- four (24) by thirty-six (36) inches, except that when the drawings of the scale require more than two (2) sheets plans may be drawn on a scale of t wo hundred (200) feet to one (1) inch and should contain the following information.
  - (a) Description:
    - 1 . Proposed name of mobile home park.
    2. Legal description showing location of the park.
    3. Name and address of property owners.
    4. Graphic scale, north point and date.
  - (b) Existing Conditions:

1. Boundary lines of proposed park indicated by solid heavy line.
2. Location, width, and name of all existing streets or other public ways, railroads and utility right-of-ways, permanent buildings or structures, sections in municipal corporate lines within or adjacent to the track.
3. Location of existing sewers, waterlines, culverts, or other underground facilities, indicating pipe sizes and grades within and adjoining the proposed park.
4. Boundary lines of adjacent land showing adjoining streets, easement, and owner's name.
5. Existing and proposed topography, contour intervals not to exceed five (5) feet, except where such interval is impractical.
6. In the case of a revised site plan, all description of the original site lines being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plan, the new site plan being clearly shown in solid line so as to avoid ambiguity and confusion.

(c) Proposed Conditions:

1. Laying out of streets, their names and width and also the width of alleys, walkways and easements.
  - A. The name of the streets shall conform as far as practicable to names of corresponding streets existing in the vicinity of the mobile home park.
  - B. The name of the new streets, not an extension or correspondent of any existing street, shall not duplicate or be similar to that of any existing street in the city or county.
2. Lay out, dimensions and number of mobile home park sites.
3. Parcels of land to be dedicated or reserved for public use.
4. Buildings set back lines showing dimensions.

5. Location site of recreational areas, commercial, service facilities, parking areas, other structures, driveways, landscaping, street lights, fire hydrants, signs and sewers, water and storm drainage within the park.

(7) **Approval of Preliminary Site Plans**

- (a) Public hearings shall be held in accordance with the administrative rules of the Planning Commission.
- (b) Plan Commission Action: After public hearings, the Plan Commission shall give its approval to the preliminary site plan. Such approval shall be governed by the following qualifications:
  1. The approval of the preliminary site plan by the Plan Commission indicates the general acceptance of the layout as submitted.
  2. The Plan Commission may introduce such changes or revisions as deemed necessary in the interest and need of the community.
  3. Preliminary approval shall be in effect for a maximum period of three (3) months. The Plan Commission may, provide good cause is shown and upon application, grant one (1) extension for a period of thirty (30) days; such application for extension shall be filed with the Plan Commission ten (10) days prior to expiration of the aforesaid three (3) month period. If the final site plans have been approved within this time, the preliminary plans must again be submitted to the Plan Commission for approval.
  4. Any person feeling himself aggrieved at any action of the Plan Commission upon any proposed site plan, may apply in writing to the Plan Commission prior to its next meeting for modification of such action.
  5. If the Plan Commission disapproves of the site plan, it shall set forth its reasons in its own record and provide the applicant with a copy.

(8) **Approval of Final Site Plans.** After the approval of the preliminary site plan by the Plan Commission and the fulfillment of the requirements of these regulations:

- (a) The final site plan must be submitted in the form of an original tracing with waterproof ink on standard tracing cloth or approved equivalent and three (3) prints thereof, resubmitted to the Commission. The final site plan so submitted may include the entire area of the preliminary site plan as approved or such portion of it which shall provide consecutive development units. The final site plans shall be prepared at the same scale as preliminary site plan as approved or such portions of it which will provide consecutive development units and shall contain that information provided in the preliminary site plan. All final site plans shall be prepared by a registered engineer or land surveyor duly registered to practice in the state of Indiana with his seal affixed hereto and must have certification endorsed thereof, by the City Street Commission or County Highway Superintendent, and the County Surveyor that all streets, sidewalks, curbs, gutters, sanitation and storm drainage facilities meet current City or County standards as to such facilities.
  - (b) The final site plans shall be acted upon at the first meeting of the Planning Commission following its submittal, provided such plans have previously received preliminary approval, provided the final site plan is submitted to the director of the Planning Commission not less than seventy-two (72) hours prior to such meetings. If the commission approves the final site plans, it will fix the commission's seal upon the site plan together with the certification signature of its President and Secretary.
  - (c) If the commission disapproves of the site plan, it shall set forth its reason in its own records and provide the applicant with a copy.
  - (d) Upon approval of a final site plan by the commission, the applicant shall pay by check or money order payable to the commission, or cash the sum of \$100.00 (One Hundred Dollars) plus \$3.00 (Three Dollars) per site thereafter in the mobile borne park to the cost checking and verifying the final site plan. The director shall surrender the checks, money order or cash to the Clerk Treasurer for deposit in the general fund of the city.
  - (e) All final site plans shall be recorded in the office of the Recorder of Martin County, Indiana.
- (9) **Area.** A mobile borne park shall have a minimum lot size of five (5) acres. Each site upon which a mobile home is located shall conform with the following minimum requirements:



- (a) Each mobile home site shall be a minimum of four thousand (4,000) square feet in area per mobile home and shall have a minimum width of forty (40) feet at the building line.
- (b) The combination area occupied by mobile borne and appurtenances shall not exceed thirty percent (30%) of the total area of this site and shall have a minimum floor area of four-hundred and eighty (480) square feet.

No mobile home site, building, structure, decorative or parking area shall be closer than:

- 1. Fifty (50) feet to the right-of-way line of any expressway or arterial, as defined by the Indiana Highway Department Official Road and Street Classification.
- 2. Twenty-five (25) feet to the exterior property line of a mobile home park.

- (c) Each mobile home site shall front on to a street of right-of-way.

(10) **Yards.** Each mobile home site shall be subject to the following yard requirements:

- (a) Front yard shall be not less than fifteen (15) in depth. If the mobile home site faces two or more public access roadways (i.e., excludes freeways and alleys), the front yard setback shall be observed for each yard facing the street.
- (b) Side yards on each side of the mobile home shall be not less than five (5) feet and no mobile home shall be located closer than ten (10) feet to the adjoining mobile home unit. If the mobile home site is a corner lot, the front yard setback shall be observed for any side yard facing a street.
- (c) Each mobile home site shall have a rear yard of not less than fifteen (15) feet in depth.

(11) **Pad and Skirting.** Each mobile home shall be provided with a standard consisting of either a solid concrete slab or other adequate concrete support of a thickness and size adequate to support the maximum anticipated load during off season. Each concrete ribbon are used the area between the ribbons shall be filled with a layer of crushed stone or asphalt. Each concrete stand shall be provided with a minimum of six (6) anchor rings for each mobile home. Each mobile home shall have the undercarriage completely enclosed by skirting.

(12) **Landscaping.**

- (a) Lawns and ground cover provided where needed to prevent erosion of swales and slope in other areas to obtain unusable yard.
- (b) Lawn or ground cover shall be appropriate for the use and location.

(13) **Lot Markers.** The boundary of each mobile home site shall be permanently and visibly marked on the ground by flush stakes, markers, or other suitable means approved by the Planning Commission. Each mobile home shall be numbered.

(14) **Off-Street Parking.** Two (2) off-street parking spaces shall be provided for each mobile home site plus one additional off-street parking for each four (4) sites for guest parking. Each parking facility shall be no less than twenty (20) feet in width and twenty (20) feet in length.

(15) **Storage.** Suitable storage of goods and the useful effects of the park's residents will be contained in the central waterproof structure available to all mobile home sites or in single waterproof structures at each mobile home site. Each individual storage structure shall contain a minimum of ninety-six (96) cubic feet. Central waterproof structures shall provide ninety-six (96) cubic feet for each mobile home site that it serves.

(16) **Water and Sewage.** Each mobile home site shall be connected with the municipal water and sewer system if such systems are adjacent to the park or within one-hundred and fifty (150) feet thereof. In the event such systems are not adjacent to or within the required distance, then it shall be connected to a water system and sewage treatment and disposal system approved by the Martin County Health Department and the Indiana State Board of Health.

(17) **Utilities.** All interior utility lines, including, but not limited to electric, communications, street lighting, and cablevision shall be placed underground. Individual antennas for television may be installed on each mobile home site, but centralized antenna shall be encouraged.

(18) **Common Walks.** Common walks at least three (3) feet in width shall be provided in locations where pedestrian traffic is concentrated; for example, to the entrance, and to the office and other important facilities. No walks required herein shall be used as a drainage way.

(19) **Streets.** Access to the mobile borne park shall be from a public street. The number and location of the access street shall be controlled by traffic safety and protection of surrounding properties. No mobile home site,

recreation area or service area shall be designed for direct access to a street outside the boundaries of the mobile home park. All streets with the mobile home parks shall have a minimum right-of-way of forty (40) feet in width and shall be surfaced according to the standards adopted by the City of Loogootee or Martin County, Indiana. In the event streets are not dedicated, the mobile home park owner shall, provide the final approval, provide written certification that lease and rental agreements contain regulations to prohibit street parking in such a manner that impedes the movement of an emergency vehicle.

- (20) **Grading and Drainage.** Prior to construction, drainage plans shall be submitted to the Zoning Enforcement Officer for approval. Mobile home parks shall be graded and drained given due consideration to the protection of the proposed development from inundating of flood hazard from water course or to provide for the conveyance of storm waters, both those originating outside or inside the proposed mobile home park, through the development of the facilities of sufficient capacity to permit ultimate of the upstream tributary areas, and to discharge storm water accordingly within the mobile home or to convey through the mobile home park on downstream adjacent land to return flows to as near predevelopment conditions as possible. This does not imply that the developer make extensive or unreasonable improvements of existing inadequate drainage facilities on adjoining properties other than necessary for satisfactory operation of the drainage facility and proposed development.
- (21) **Illumination of Park.** The mobile home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting height and at such locations within the park so as to provide safe movement of pedestrians and vehicles. Such lights shall be located at all entrances and exits shall be located in shield as to prevent direct illumination of any area outside the mobile home park.
- (22) **Fire Protection.** The mobile borne park shall meet the standards of adequate fire protection established by the National Fire Protection Association NFPA #501a, and all amendments thereof. No open fires shall be permitted at any time or place within the mobile home park.
- (23) **Trash and Refuse Storage.** Storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazard, rodent harborage, insect breeding areas, accident or fire hazards or air pollution. All refuse shall be stored in fly tight, water tight, rodent proof containers, then shall be located not more than one-hundred and fifty (150) feet from any mobile home site. Containers shall be provided in sufficient number to combat these hazards properly store all refuse. Refuse collection stands shall be so designed as to prevent containers from being

tipped to minimize spillage and container deterioration and to facilitate cleaning around them. Garbage and trash, when not collected by municipal sponsored collection service shall be collected at least twice a week during the months of June, July, August, and September and at least once a week during the months of the year. Where suitable collection service is not available from municipal or private agencies the mobile home park operator shall dispose of the refuse by incineration or transferring to disposal sights outside the park area. Refuse incinerators, if provided, shall be constructed in accordance with specification of the Indiana State Health Department. Incinerators shall be operated only when attended by some person specifically authorized by the owner or operator of the mobile home park, when not conflicting with other statutes, ordinances, or regulations.

- (24) **Location of Building or Structures Within a Mobile Home Park.** The location of buildings and structure within a mobile home park shall be subject to the following regulations:
- (a) No building or structures not located upon a mobile home sight shall be closer than ten (10) feet to any side lines.
  - (b) Swimming pools and related facilities and all recreational areas shall be located not less than one-hundred (100) feet from the boundary of the mobile home park.
- (25) **Abandonment and Expiration.** In the event a mobile home park is abandoned for a period of one (1) year, or if upon expiration of three (3) years from the zoning change so enacted, the mobile home park has not been substantially completed, as determined by the Plan Commission, the land so rezoned shall be again rezoned by the Plan Commission, after proper zoning application has been filed by the commission to its former zoning classification. The commission may, provided good cause has shown upon application and public notice has been published as required by law, grant one (1) extension for the period of one (1) year. Such application for extension shall be filed with the commission six (6) months prior to the expiration of the aforesaid three (3) years.

#### **16.04.250 Neighborhood Business (B-1 District)**

- (1) **Purpose and Intent.** This district is intended to provide “neighborhood” retail goods and services for the convenience of residents near residential areas. Uses that provide nondurable goods and personal services are considered “neighborhood” commercial uses appropriated in the district.

**(2) Use Regulations**

- (a) Uses Permitted by Right. No business or structure, or part thereof, shall be erected, altered or used, or land use in whole or in part, for other than one or more of the following specified uses in accordance with the limitations thereafter specified
1. Auto service and repair, provided:
    - A. Any major repair service is conducted within closed building.
    - B. Not more than 85% of the developed area of the premises is used for outdoor display, storage and/or sales.
    - C. Outdoor storage shall be screened by a solid decorative fence or wall not less than six (6) feet in height, and to a distance from the front line not less than the front building line of the primary structure.
  2. Banks (branch) with drive-in window.
  3. Commercial garages (auto parking), or parking facilities or areas.
  4. Cultural facilities such as museums art galleries, arboretums.
  5. Doctor and Dentist Offices, and Clinics.
  6. Drug Store
  7. Funeral services.
  8. Gasoline service stations, tire and auto service stations. Provided, however, that the service station and center functions, services, operations, and sales shall not include the following:
    - A. Outdoor operation other than the dispensing of gasoline, oil, antifreeze, other similar products and the performing of minor repair and/or services for customers.

- B. Major exterior displays which restrict traffic visibility, impede vision clearance or cover lots, in any way or impede the movement of vehicles on the service or center driveway or public right-of-way, or located in or in any way conflicting or interfering with pedestrian walks, off-street parking area, or required landscaped yard. Any exterior display shall be maintained in an orderly manner.
- C. Dismantling or wrecking of automobiles or other vehicles or the storage of inoperable, damaged or wrecked vehicles.
- D. Junk yards;

but shall have:

- (i) A driveway so located and constructed that it permits traffic movement completely around and behind the service station or service center structure (except where necessary to provide adequate access to the off street parking area, building, storage tank, trash containers, etc., or to adjacent commercial properties, or in the case of a service or service center structure designed to provide service on all sides).
- 9. Laundry and dry-cleaning services.
  - 10. Newspaper distributions, charitable institutions, donation pick-up stations or boxes, primary or accessory in function.
  - 11. Professional offices.
  - 12. Public assembly halls.
  - 13. Religious organizations (churches and temples)
  - 14. Shopping or nondurable goods establishments, including but not limited to shoe repair; fabric shops; stationery; gift shops; florists; photographic supplies; office supplies; hobby shops; pet stores, including grooming shops and obedience schools; music, recording, video, musical instrument stores; sporting goods; bicycle shops; small appliances; paint and wallpaper, floor covering, variety stores, hardware, newspaper dealers, storerooms for articles

to be sold at retail, commercial greenhouse (not exceeding 1,000 sq. feet).

15. Temporary, seasonal use such as Christmas tree sales, nursery plants, fruit stands completely under shelter, provided however that such uses and accessory off-street parking spaces shall not reduce or encroach upon the minimum off-street parking area of any other commercial use or vision clearance on corner lots.
16. Temporary structures incidental to development of land, during construction.
17. Other uses: other uses or enterprises similar to the above, which in the judgment of Commission or similar to and not more objectionable to the general welfare, than the uses listed. "Other uses" so determined shall be regarded as listed uses. In no instance, however, shall the Commission determine nor the regulations be so interpreted, that a use shall be permitted in a district when such use is specifically listed as first permissible in a lesser restricted district.

(b) Uses Permitted by Condition. The following uses are permitted subject to conditions set forth in Section 16.04.350 and the granting of a "conditional use" permit by the Board of Zoning Appeals after a public hearing:

1. Civic, community clubs.
2. Educational institutions, campus or complex, including but not limited to colleges or universities, professional, technical business, or clerical schools or other public or private educational institution, schools or kindergartens, and libraries.
3. Parks and playground areas.

(c) Special Uses. The following uses are permitted subject to conditions enumerated in Section 16.04.360 and the granting of a "special use" permit by the Board of Zoning Appeals after a public hearing:

1. Day-care centers.
2. Hospitals and sanitariums, Nursing Homes, Rehabilitative Facilities, and Mental Health Facilities.

3. Lodge Halls.

**(3) Area.**

(a) Lot.

1. The lot area shall be a minimum of ten thousand (10,000) square feet per structure with a minimum width of one hundred (100) feet (where sanitary sewers are available). The maximum lot area coverage shall not exceed twenty-five percent, and the floor area ratio (i.e., the ratio of gross floor area to lot area) shall not exceed 0.5.
2. Where a lot is not served by a municipal sewer system and a private sewage disposal system is to be installed, the minimum lot area shall be three (3) acres with a minimum lot width of one hundred fifty (150) feet, and is subject to approval of the Martin County Health Department. The maximum lot area coverage shall not exceed 0.25.

(b) Use.

1. No single establishment shall exceed twenty-one thousand (21,000) square feet in total gross area.
2. All uses in operation except off-street loading and off-street parking shall be conducted within completely enclosed buildings except otherwise specifically permitted.
3. No outdoor storage shall be permitted other than trash containers, provided that the trash containers exceeding six (6) cubic feet shall be behind or beside the primary structure and be screened from public view and providing access to equipment to service such containers.
4. No vending machines shall be permitted on or near the exterior of any building on the premises except where containing in a shelter stall or other area so located as not to interfere materially with adjacent property.
5. Minor displays of merchandise shall be placed outdoors provided such displays are:
  - a. Accessory to primary use.



- b. Located immediately adjacent to the primary structure, but not within a required minimum front yard.
- c. Not more than two hundred (200) square feet in total area.
- d. Maintained in an orderly manner.

**(4) Yards.**

**(a) Front yard.**

- 1. Every lot shall have a front yard of not less than ten (10) feet in depth.
- 2. Where a lot in a B-1 District abuts upon a lot in an “A” (agricultural) or “R” (residential) District in the same block frontage, the front yard requirements of the “A” or “R” District shall extend into the B-1 District for the first two-hundred (200) feet (or first intersection) for building setbacks and for the first one hundred (100) feet (or first intersection) for parking areas and signs setbacks.

**(b) Side yard.**

- 1. Every lot shall have a side yard not less than ten (10) feet in width.
- 2. Where a lot in a B-1 District abuts upon a lot in an “A” (agricultural) or “R” (residential) District, a side yard of at least twenty (20) in width and a minimum width of ten (10) feet of landscape buffer shall be required on the side adjacent to any said “R” District. The side yard requirement may be reduced by one half (1/2) the width of any alley right-of-way adjacent thereto, but shall not be less than ten (10) feet in width.

**(c) Street Side yard.**

- 1. A street side yard shall observe the front yard requirements.

**(d) Rear yard.**

- 1. Every lot shall have a rear yard not less than twenty (20) feet in depth.

- (5) **Height.** Maximum height of buildings and structures shall be thirty-five (35) feet.

**16.04.255 Central Business (B-2 District)**

- (1) **Purpose and Intent.** This district is intended for downtown Loogootee where storefronts are located on the front property line and parking is located on the street or behind the structure. Retail, office and institutional uses of importance to the entire community are encouraged to locate in this district. Apartments above commercial uses are encouraged; however, multi-family uses such as apartments and townhouses are permitted on separate lots. However, auto-oriented uses that require significant off-street parking or that result in the setback of the building from the front property line are excluded because of their inconsistency with the urban design character of downtown Loogootee.

(2) **Use Regulations.**

- (a) Uses Permitted by Right. No building or structure, or part thereof shall be erected, altered, or used or land use in whole or in part for other than one or more of the following specific permitted uses in accordance with the limitation thereafter specified.
1. Any commercial uses permitted by right in a B-1 District, except auto parking.
  2. Accessory living quarters may be provided with any structure used for a permitted use.
  3. Antique shops.
  4. Apparel shops.
  5. Bakery.
  6. Banks, credit agencies, security, commodity broker and service, insurance carrier, insurance agents, broker, and services, real estate, holding and other investment companies.
  7. Bars or taverns without live entertainment.

8. Bicycle sales and service.
9. Civic and community clubs, lodges, fraternal or religious associations.
10. Custom dressing, tailor, millinery shop.
11. Day care centers.
12. Department/Discount store.
13. Drive-in restaurants, or any place or premises used for the sale, the dispensing, or service of goods or beverages outdoors, or where customers are carry-out and consumes the goods, refreshments or beverages on the premises including taverns, nightclubs, private clubs, only conforming with the requirements of law or ordinance governing such use. Provided, however, such establishments shall:
  - A. Provide adequate outdoor convenient trash containers.
  - B. Construct and maintain a protective fence, a wall of not less than 42 inches in height along the rear lot line and side lines to require fence set back line. If the rear lot abuts a residential district, such fence or wall shall be not less than six (6) feet in height.
  - C. Not to be located within two hundred (200) feet of a residential district on the same side of the street unless such an establishment is separated from said residential district by an intervening street.
  - D. Not Provide Live Entertainment.
14. Funeral home.
15. Furniture, and major or small appliance stores.

16. Hotels and motels.
17. Indoor commercial amusement, recreation and establishments, including but not limited to theater, bowling allies, billiard parlor, gymnasium, tennis facilities, fitness center, health club, roller or ice skating rink, private clubs or lodges.
18. Liquor store.
19. Medical facilities such as hospitals and sanitariums (excluding mental health), rehabilitative facilities and nursing homes (excluding mental health facilities).
20. Office uses or complexes, including but not limited to professional business and government office, banks, savings and loan offices.
21. Paint glass and wallpaper store.
22. Personal services shop, beauty shop, beauty salon, shoe repair shops, tax return preparation, formal wear rental, dress makers, health and reducing clubs, clothing and rental costume, wedding chapels.
23. Physician offices, dentist offices, osteopathic physician office, chiropractor offices, optometrist office, legal services social services, engineering and architect services, accounting, auditing and bookkeeping, public finance.
24. Photographic studio.
25. Post office includes storage or delivery vehicles, provided such storage is screened by solid decorative fence or wall not less than six (6) feet in height.
26. Public and semi-public uses such as libraries, museums, churches, civic or community centers, exhibition halls, galleries, civic clubs, philanthropic institutions, auditoriums, assembly halls, fire stations, police stations.

27. Radio and television stations.
28. Residential – attached or detached multi-family dwellings (subject to all standard requirements and regulations of the dwelling district codes of this Ordinance) including single-family attached (townhouses), and multi-family dwelling units; rooming/lodging houses; fraternities and sororities; group homes; and bed and breakfast (tourist) homes. Single-family detached dwellings and two-family dwellings (duplexes) are prohibited.
29. Retail stores of the following kind: art supply, book and stationery, confectionery or ice cream, drugs, newsstand or sundries, florist, fruit or vegetables, bakery, gifts, home appliance, jewelry, package liquor, meat market, or delicatessen, music, photographic supplies, shoe, clothing, variety, furniture, paint.
30. Schools, parks and playgrounds.
31. Telephone exchange, minor electrical substations, provided telephone exchange and/or minor electrical substations are adequately screened with a combination of fencing and landscaping and is of size and character appropriate and compatible in appearance to the district.
32. Theaters without “adult entertainment”.
33. Used merchandise store.
34. Video, television, and phonograph sales and service.
35. Miscellaneous business services; advertising agencies, outdoor advertising services, radio and T.V. advertising, miscellaneous advertising, credit reporting and collection, direct mail advertising, blueprint and photocopying, commercial photographic/art, steno duplicating, news syndicates, computer software services, data processing service, computer related services, research and

development labs, management and public relations, detective/protection service, photo finishing, trading stamp services, appraisers, auctioneers, interior decorating, interior design.

36. Other uses: other uses or enterprises similar to the above, which in the judgment of Commission or similar to and not more objectionable to the general welfare, than the uses listed. "Other uses" so determined shall be regarded as listed uses. In no instance, however, shall the Commission determine nor the regulations be so interpreted that a use shall be permitted in a district when such use is specifically listed as first permissible in a lesser restricted district.

(b) Uses Permitted by Condition. The following uses are permitted subject to conditions set forth in Section 16.04.350 and the granting of a "conditional use" permit by the Board of Zoning Appeals after a public hearing:

1. Auto parking garages and lots.
2. Newspaper Printing Facilities.
3. Research Laboratories.

(c) Special uses. The following uses are permitted subject to conditions enumerated in Section 16.04.360 and the granting of a "special use" permit by the Board of Zoning Appeals after a public hearing:

1. Liquor establishments providing live entertainment.
2. Mental Health Facilities.

**(3) Limitation of Uses.**

- (a) All activities including sales, displays, preparation and storage shall be conducted entirely within the completely enclosed building (except those that may be permitted by the Board).
- (b) All products shall be sold at retail on the premises.

**(4) Area.**

- (a) For nonresidential uses, the lot area shall be a minimum of two thousand five hundred (2500) square feet per structure with a minimum width of twenty-five (25) feet. The maximum lot area coverage shall not exceed ninety-five (95) percent, and the floor area ratio (i.e., the ratio of gross floor area to lot area) shall not exceed 4.0 [Note: A floor area of any basement or attic is included in the total gross floor area.]
- (b) For residential uses, the lot area shall be a minimum of six thousand (6000) square feet, with a minimum width of sixty (60) feet; and there shall be not less than 3630 square feet of lot area per dwelling unit (i.e., a maximum density of twelve (12) dwelling units per acre of lot area).
- (c) All lots shall be served by sanitary sewers.

**(5) Yards.**

- (a) Front Yard: 0 lot line.
- (b) Side Yard: 0 lot line.
- (c) Rear Yard: 5 feet minimum.

- (6) Height.** No building or structure or part thereof shall be erected or altered to a height exceeding thirty-five (35) feet.

**16.04.260 General Business (B-3 District)**

**(1) Purpose and Intent.** The district is intended for business along arterial roadways in Loogootee outside of downtown where storefronts abut the front property line. The district permits auto-oriented uses which may be inappropriate for downtown Loogootee, and the full range of commercial retail, trade, office and wholesale uses provided all materials and goods storage (except automobiles, trucks, boats, and farm equipment) is enclosed by a structure (i.e., building or fence with no visual openings). The temporary display (not storage) of items (except automobiles, trucks, boats and farm equipment) for sale shall be within twenty feet of the front of the building; and the temporary display of all items for sale shall not intrude into any front yard setback or required landscaped buffer area.

**(2) Use Regulations.**

- (a) Uses Permitted by Right. No business or structure, or part thereof shall be erected, altered or used, or land use in whole or in part, for other than one or more of the following specified uses in accordance with the limitations thereof specified.
1. All commercial uses permitted in a B-1, B-2 District, but excluding all other buildings, or structures used for dwelling purposes, subject to the uses regulations specified in said district.
  2. Amusements, indoor.
  3. Auto sales, new or used, service, repair and parts, provided:
    - A. Any major repair service is conducted within closed building.
    - B. Auto storage is incidental to the primary function.
    - C. Not more than 85% of the developed area of the premises is used for outdoor display, storage, and/or sales.
    - D. Outdoor storage shall be screened by a solid decorative fence or wall not less than six (6) feet in height, and to a distance from the front line not less than the front building line of the primary structure.
    - E. Outdoor display of automobile shall be located not less than three (3) feet from the front lot line. Provided, a three (3) foot wide strip of the required front yard, paralleling and measured from the front lot line extending the full length thereof (except for walks, access, cuts, and driveways) shall be landscaped in grass and shrubbery, trees, and/or hedges.
  4. Auto set cover installation.
  5. Auto storage yard.
  6. Bars and taverns with live entertainment.
  7. Bus terminals.
  8. Camps and Resorts.
  9. Car wash.
  10. Drive-in business, including theaters, refreshment stands and restaurants.



11. Farm equipment sales, rental, and repair.
12. Furniture repair.
13. Home improvement – building materials, hardware, tools and supplies provided all storage areas are enclosed.
14. Laundry and dry-cleaning establishments.
15. Mini-warehouses.
16. Pest control agencies.
17. Printing (job services).
18. Professional service establishments, including but not limited to mortuaries, veterinary hospitals for small animals, and/or kennels.
19. Repair and shop uses: home appliances, awning and canvas, cabinet, carpenter, building contractors, electrical contractors, furniture repair, glass, heating contractors, roofing contractors, upholstery and welding.
20. Research testing laboratories.
21. Sale and display of the following: large agricultural equipment, building supplies, industrial and construction equipment, restaurant and hotel supplies and equipment, swimming pool supplies and equipment, welding supplies and equipment.
22. Service establishments; battery and radiator sales and repairs; fruit packaging and shipping, rug cleaning plants; furniture upholstery; research, medical and dental laboratories; photo processing, wholesale supply and mail-order distribution.
23. Theaters, drive-in.
24. Tire recapping.
25. Trade and business schools.
26. Trucks, trailers, mobile homes, motorcycle sales, rentals, repair and service garages.

27. Uses to be conducted wholly within a completely enclosed building or within an area enclosed by all sides with a solid or opaque fence with necessary openings not less than six (6) feet in height: freight, truck yards or terminal, lumber yards, building material and yard sales, including the sale of rock, sand, gravel and the like, as incidental part of the main business, but excluding concrete batch plants.
  28. Veterinary clinics and boarding kennels.
  29. Wholesale and retail uses: farmers co-op, feed and seed, packaged fertilizer, cold storage plant, ice storage, wholesale establishments, greenhouses and wholesale growers, home furnishings, lumber, plywood, millwork wholesale, refrigerator equipment and supply wholesale, commercial machines and equipment wholesale, industrial machinery and equipment wholesale, transportation equipment and supply wholesale.
  30. Other Uses: Other uses or enterprises similar to the above, which in the judgment of the commission are similar to or not more objectionable to the general welfare, than the uses listed. "Other uses" so determined shall be regarded as listed uses. In no instance, however, shall the Commission determine, nor the regulation be so interpreted, that a use shall be permitted in a district when such use is specifically listed as first permissible in a less restricted district.
- (b) Uses Permitted by Condition. The following uses are permitted subject to conditions set forth in Section 16.04.350 and the granting of a "conditional use" permit by the Board of Zoning Appeals after a public hearing:
    - (1) Nurseries and Greenhouses.
  - (c) Special uses. The following uses are permitted subject to conditions enumerated in Section 15.04.360 and the granting of a "special use" permit by the Board of Zoning Appeals after a public hearing.
    - (1) Cemeteries and Mausoleums.
    - (2) Mental Health Facilities.
- (3) **Area.**
    - (a) Lot

1. The lot area shall be a minimum of ten thousand (10000) square feet per structure with a minimum width of one hundred (100) feet (where sanitary sewers are available). The maximum lot area coverage shall not exceed fifty (50) percent, and the floor area ratio (i.e., the ratio of gross floor area to lot area) shall not exceed 1.0.
2. Where a lot is not served by a municipal sewer system, the minimum lot area shall be three (3) acres with a minimum lot width of one hundred fifty (150) feet, and is subject to approval of the Martin County Health Department. The maximum lot area coverage shall not exceed twenty-five (25) percent, and the floor area ratio shall not exceed 0.5.

(b) Use

1. No single establishment shall exceed twenty-one thousand (21000) square feet in total gross area.
2. All uses shall be conducted within completely enclosed buildings except otherwise specifically permitted.
3. No outdoor storage shall be permitted other than trash containers, provided that the trash containers exceeding six (6) cubic feet shall be behind or beside the primary structure and be screened from public view and providing access to equipment to service such containers.
4. No vending machines shall be permitted on or near the exterior of any building on the premises except where containing in a shelter stall or other area so located as not to interfere materially with adjacent property.
5. Minor displays of merchandise shall be placed outdoors provided such displays are:
  - i. Accessory to primary use.
  - ii. Located immediately adjacent to the primary structure, but not within a required minimum front yard.
  - iii. Not more than two hundred (200) square feet in total area.
  - iv. Maintained in an orderly manner.

**16.04.265 Light Industrial (I-1 District)**

(1) **Purpose and Intent.** This district includes manufacturing, wholesaling, and warehousing uses with minimum nuisances, that can be screened or buffered from nonindustrial uses, and that can be enclosed within a building.

(2) **Use Regulations**

(a) Uses Permitted by Right. No building or structure, or part thereof, shall be erected, altered or used or land used in whole or in part for other than one or more of the following uses:

1. The following retail establishments: auto, truck, motorcycle, mobile home, and marine sales, auto parts and supplies, bakery, farm equipment.
2. The following commercial establishments: auto repairs, auto storage yard, drive-in banks, bars and taverns, bus terminal, furniture repair, funeral home, gasoline service stations, printing shops, trade and business schools, telephone exchanges, tire capping, parking garages, drive-in theaters, warehouses.
3. The construction of the following:
  - a. Operative builders, industrial building and warehouses, and non-residential buildings.
  - b. Road contractors, bridge/tunnel contractors, utility pipeline construction, and heavy construction other.
  - c. Special trade contractors, excavators, wrecking and demolition, insulation and erecting a building equipment, erection and structural steel, water well drilling, concrete work, and uses similar and comparable in character to the above permitted uses.
4. The manufacturing of the following:
  - a. Food and kindred products including but limited to meat packaging plants (except slaughtering the meat of preparation of fish), sausage, prepared products, creamery buttery, cheese, processed dairy products,

ice cream and frozen desserts, liquid milk, canned specialties, canned preserves, jams, jellies, dried fruit, vegetables, soup mixes, fruits, vegetable seasoning, sauces, frozen fruits, juices, vegetables, frozen specialties, four and grain meal products, cereal breakfast foods, rice milling, prepared flour mixes, dough, bread products except cookies, crackers, cookies and crackers, frozen bakery products except for bread, cane sugar except refining, cane sugar refining, beet sugars, candy and other products, chocolates and cocoa products, chewing gum, salt, roasted nuts, seeds, soft drinks, water (canned/bottled), flavoring extracts, syrups, fresh roasted coffee, potato, corn chip and snacks, manufactured ice and macaroni and noodles.

- b. Apparel and other textile products, including but not limited to shirt, coat, overcoats, male; shirts except workshirts, male; underwear, nightwear, male; neckwear, male; separate trousers, slacks, male; working clothes, male; male clothing, blouses, shirts, female; dresses, female; suits, shirts, coat, male; outerwear, female; underwear, nightwear, female, child; bras, girdles, garments, hats, caps and millinery, dresses, blouses, shirts, child's; child outer wear, fur goods gloves, no-knit, leather, robes and dressing gowns, waterproof outer wear, leather sheep lined clothing, apparel belts, apparel and accessories, curtains and draperies, house furnishings, textile bags, canvas and related products, decorative stitching (trade), autotrim/apparel findings, schiffli machine embroideries, fabric textile products.
- c. Paper and allied products, including but not limited to dye-cut paper, cardboard, sanitary paper products, envelopes, stationery, related products, converted paper box products.
- d. Printing and publishing including but not limited to published, print newspaper, publish, print periodicals, publish, print books, print books, miscellaneous publication, lithographic commercial printing, commercial printing, gravure, manifold business forms, greeting cards, blank books, loose

leaf binders, book binding and related work, typesetting, platemaking and related services.

- e. Leather and leather products, including but not limited to boot, shoe, cut stock, findings, house slippers, men's footwear excluding athletic, women's footwear excluding athletics, footwear excluding rubber, leather gloves and mittens, luggage, women's handbags, purses, personal leather goods, leather goods.
- f. Industrial machinery and equipment, including but not limited to electronic computers, computer storage devices, computer terminals, computer peripherals, calculating machines excluding computers, office machines.
- g. Jewelry and precious metals.
- h. Silver, plated, or stainless steel-ware.
- i. Jeweler findings, materials.
- j. Musical instruments.
- k. Dolls and stuffed toys.
- l. Games and toys.
- m. Sporting and athletic goods.
- n. Pens, mechanical pencils and parts.
- o. Lead pencils and artist's materials.
- p. Marking devices.
- q. Carbon paper and ink ribbon.
- r. Costume jewelry and novelties.
- s. Fasteners, buttons, needles, pins.
- t. Brooms and brushes.
- u. Signs and advertising.

- v. Burial caskets.
- w. Hard Surface floor flooring.
- x. Accessory use in structures.
- y. Other uses: Other industrial uses or enterprises similar to the above which is in the judgment of the Commission are similar to and not objectionable to the general welfare than the uses listed. "Other uses" so determined shall be regarded as listed uses. In no incident, however, should the Commission determine nor the regulation to be interpreted, that a use shall be permitted in a district when such use is specifically listed as first permissible in a less restrictive district.

#### **16.04.270 Heavy Industrial (I-2 District)**

**(1) Purpose and Intent.** This district includes the full range of manufacturing, wholesaling, and warehousing uses in an urban area. It includes uses that are difficult to screen and buffer from nonindustrial uses and that have operations which cannot normally be enclosed within a building.

#### **(2) Use Regulations.**

- (a) Uses Permitted by Right. No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than one or more of the following specified manufacturing uses:
  - 1. Any manufacturing use permitted in the I-1 District.
  - 2. Alcohol.
  - 3. Auto, aircraft, truck, trailer.
  - 4. Boiler works.
  - 5. Brick, tar, clay or similar products.
  - 6. Chemicals and chemical products.
  - 7. Concrete and concrete batch plants.

8. Furniture manufacturing.
9. Glass and glass products.
10. Graphic and graphite products.
11. Linoleum and other hard surface floor coverings.
12. Machinery, heavy manufacturing and repair, including electrical, construction, mining and horticulture.
13. Metal foundries.
14. Metal stamping and extrusion of metal products.
15. Nurseries and Greenhouses.
16. Paper and Paper Mills.
17. Plastic products, including the processing of raw materials.
18. Pottery or porcelain products, including bathroom or kitchen fixtures or similar products.
19. Railroad repair and overhaul shop and railroad car and locomotive manufacturers.
20. Refrigerators, air conditioners, furnace manufacturers.
21. Roofing and roofing materials.
22. Rubber products, including tires, tubes, etc.
23. Other uses now prohibited by law, and not specifically permitted by this Ordinance, and approved by the Plan Commission after a public hearing, shall be considered as a listed use.

(b) Special Uses: The following “hazardous, objectionable and obnoxious” uses are permitted subject to condition enumerated in Section 16.04.360 and the granting of a “special use” permit by the Board of Zoning Appeals:

1. Acetylene gas manufacturing.
2. Acid manufacturing.



3. Ammonia bleach powder.
4. Arsenal.
5. Asphalt manufacturing or refining.
6. Bars and taverns with Adult Entertainment.
7. Coke ovens.
8. Correctional Facilities.
9. Creosote treatment or manufacturer.
10. Distillation of bones, coal or wood.
11. Fat and/or animal renderings.
12. Fireworks or explosives manufacturing or storage.
13. Glue manufacturing.
14. Gunpowder manufacturing or storage.
15. Incinerators, municipal or private, and solid waste land fill.
16. Junk, salvage, auto, wrecking yard.
17. Meat, fish slaughtering and processing.
18. Mining – shaft or strip.
19. Paint, oil, shellac, turpentine, lacquer or varnish manufacturing.
20. Petroleum or petrol products, refining, and storage.
21. Rock crushing.
22. Smelters.
23. Stockyards or feeding lots.
24. Stone quarries.

25. Sulfuric, nitrate, hydrochloric, or picric acid manufacturing.
26. Tar distillation or manufacturing.
27. Vinegar manufacturing.
28. Yeast Plant.
29. And, in general, those uses which have been declared a nuisance in any court records or which are or may be unreasonable, obnoxious, or offensive in the opinion of the Planning Commission, by reason of emission of odor, vapor, smoke, gas or noise.

(3) **Smoke.** No heavy industrial use may emit more than sixty smoke units per hour per stack or smoke in excess of Ringelmann No. 2. However, once during any 6-hour period, for soot blowing, process purging and fire cleaning, each stack shall be permitted an additional ten smoke units and during that time it may emit smoke up to and including Ringelmann No. 3.

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

(4) **Particulate Matter.**

(a) **Emission Rate.** The rate of emission of particulate matter from all sources within the boundaries of any lot may not exceed a net figure of three boundaries of any lot may not exceed a net figure of three pounds per hour per acre for a general industrial use, of which no more than ten percent of weight may be particles larger than 44 microns (325 mesh).

- (b) **Emission Height.** The allowance for height of emission found in the table below (interpolate for intermediate values):

**Emission Height Allowances**

Height of Emission above Grade (ft.)	Correction for Light Industrial Use (pounds per hour per acre)	Correction for General Industrial Use (pounds per hour per acre)
50'	0.01	0.02
100'	0.06	0.12
150'	0.10	0.20
200'	0.16	0.32
300'	0.30	0.60
400'	0.50	1.00
500' and above	0.50	1.50

- (c) **Emission Velocity.** The allowance for velocity of emission is as follows (interpolate for intermediate values):

**Emission Velocity Allowances**

Exit Velocity Up (feet per second)	Correction for Light Industrial Use (pounds per hour per acre)	Correction for General Industrial Use (pounds per hour per acre)
0'	0.00	0.00
20'	0.03	0.06
40'	0.09	0.18
60'	0.16	0.32
80'	0.24	0.48
100' and above	0.50	1.00

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

- (e) **Definitions.** As used in this subsection, the term "Particulate matter" means divided liquid or solid material that is discharged and carried along in the air.

- (5) **Odor.** No general industrial use may release an unreasonably objectionable odor that is detectable in the neighborhood.

- (6) **Toxic Materials.** The emission of toxic and nontoxic materials may not produce any concentration at a residence or business district boundary line exceeding 30 percent of the threshold limit values for toxic materials in industry as set forth in “Threshold Limit Values” for the current year, as adopted at the annual meeting of the American Conference of Governmental Industrial Hygienists.
- (7) **Glare and Heat.** No heavy industrial use may cause heat at the lot line so intense as to be a public nuisance or hazard. No such use may cause illumination at or beyond any residence district boundary in excess of 0.1 foot candle.
- (a) Definitions. As used in this subsection, of the term “foot candle” means a unit of illumination equal to the illumination at all points that are one foot from a uniform point source of one candle-power.
- (8) **Vibration.** No heavy industrial use may cause at any B or I District boundary continuous earthborn vibrations higher than the limits set forth in column I of the following table. Nor may it cause at any agricultural or residential district boundary continuous earthborn vibrations higher than the limits set forth in column II.

Maximum Permitted Vibrations			
Frequency (cycles per second)		I	II
More Than	But Not More Than	Displacement (Inches)	Displacement (Inches)
0	10	.0020”	.0004”
10	20	.0010”	.0002”
20	30	.0006”	.0001”
30	40	.0004”	.0001”
40	50	.0003”	.0001”
50		.0002”	.0001”

Discrete pulses that do not exceed one hundred impulses per minute may not produce higher than twice the displacement specified in the table.

- (a) Definitions. “Resultant displacement” means the maximum amount of motion in any direction as determined by any three-component measuring system (a simultaneous measuring system approved by the commission).  
 “Three-component measuring system” means instrumentation that can measure earthborn vibrations in a horizontal as well as a vertical plane.

(9) **Noise.** At no boundary of a residence or business district may the sound pressure of any heavy industrial use (except for background noises produced by sources not under control of this ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the following decibel limits:

MAXIMUM NOISE LIMITATIONS			
Octave Band Frequency (Cycles per second)		I Maximum Permitted Sound Levels (In decibels) Along Residence District Boundaries	II Maximum Permitted Sound Levels (In decibels) Along Businesses District Boundaries
More Than	But Not More Than		
20	75	72	79
75	150	67	74
150	300	59	66
300	600	52	59
600	1200	46	53
1200	2400	40	47
2400	4800	34	41
4800	-----	32	39

The prescribed limits of column I apply between 8:00 a.m. and 6:00 p.m. At other times, the allowable levels in each octave band are each reduced by six (6) decibels.

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

(a) **Flammable Materials.** The storage, utilization or manufacture of flammable liquids or materials which produce flammable vapors or gases shall be permitted in accordance with the rules and regulations of the State Fire Marshall. A certificate of compliance, issued by the State Fire Marshall's Office, stating that the plans and specifications for a heavy or general industrial use comply with the rules and regulation for an Improvement Location Permit.

(b) **Definitions.** "Free burning" means a rate of combustion described by a substance that burns actively and easily supports combustion.

"Intense burning" means a rate of combustion described by a substance that burns with a high degree of activity and is consumed rapidly.

- (11) **Detonation Materials.** No activity involving the storage, use or manufacture of materials that decompose by detonation may be carried on except in accordance with the rules issued by the State department of Fire Prevention and Building Safety.

These materials include primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and their components, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles, and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than thirty-five percent; and nuclear fuels, fissionable materials and products, and reactor elements such as uranium 235 and plutonium 239.

- (12) **Exceptions.** Subsections 16.04.270(6) through 16.04.270(13) do not apply to:

- i. site preparation or construction, maintenance, repair, alteration, or improvement of buildings, structures, equipment, other improvements on or within the lot line;
- ii. the operation of motor vehicles or other facilities for the transportation of personnel, materials or products;
- iii. conditions beyond the control of the user such as fire, explosion, accident, failure, or breakdown;
- iv. safety or emergency warning signals or alarms necessary for the protection of life, limb or property; or
- v. processes for which there is no known means of control.

Research shall be promptly conducted to discover methods of control leading to the installation of protective equipment.

- (13) **Elimination of Uses.** There shall be no elimination of uses, except that no use shall be permitted that may, in the opinion of the Planning Commission, endanger the health, safety or welfare of the community.

#### **16.04.275 Open Spaces (OP District)**

(1) **Purpose and Intent.** This District is intended solely for publicly owned property used for recreational purposes open to the general public. A full range of recreation and associated entertainment uses are appropriate as well as supportive retail uses solely for the enjoyment of those using the recreational facilities. Although the property must remain publicly owned, the public may lease land or franchise supportive uses; however, under no circumstances shall the lease of land be made to private individuals or entities to circumvent the requirement of proper zoning for private uses required for other zoning districts.

(2) **Use Regulations.**

(a) **Uses Permitted by Right.** No building or structure or part thereof shall be erected, altered, or used, or land used, in whole or in part for other than one or more of the following uses:

1. Active outdoor recreation uses and facilities such as playgrounds, tennis, basketball, and volleyball courts; football, rugby, soccer, baseball, softball, tee-ball fields; trails or tracks for running, biking, walking, horseback riding, skiing, and off-road vehicles; target and field archery ranges; golf courses; swimming pools; arenas and stadiums; model boat ponds and model plane airfields.
2. Passive outdoor recreation uses such as camping, picnicking, fishing, and nature watching/investigation.
3. Indoor recreation facilities for skating, bowling, swimming, and court sports including recreation centers and gymnasiums.
4. Institutional and cultural facilities such as libraries, museums, art galleries, nature centers, arboretum, zoos, public assembly halls, public schools, day-care centers, aquariums, planetariums, etc.
5. Religious organizations, civic and community clubs, provided such activities meet in publicly owned structures.
6. Entertainment facilities such as bandstands, outdoor theaters, waterslides, waterparks, and amusement parks.
7. Limited supportive retail uses for the primary benefit of the open space users including concessions; gift shops, athletic equipment and athletic clothes in association with public

golf courses, restaurant in association with institutional and cultural facilities, golf course or resort.

8. Overnight camping trailer facilities including a resort hotel or motel.

(b) **Uses Permitted by Condition.** None.

(c) **Special Uses.** None.

A copy of the Loogootee Flood Plain Map is included in your packet. Please check for conflict and any reference to existing codes or ordinances.

#### 16.04.282 Flood Plain Management Regulation (FHA District)

##### **Statutory Authorization, Findings of Fact, Purpose, and Objectives**

- (1) **Statutory Authorization.** The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Common Council of the City of Loogootee does hereby adopt the following floodplain management regulations, which shall amend and replace said regulations as they currently exist in the City of Loogootee Zoning Ordinance, Section 16.04.282.
- (2) **Findings of Fact.**
  - (a) The flood hazard areas of the City of Loogootee 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.
- (3) **Statement of Purpose.**
  - (a) It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:



1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
6. Make federally subsidized flood insurance available for structures and their contents in the City by fulfilling the requirements of the National Flood Insurance Program.

**(4) Objectives.**

(a) The objectives of this ordinance are:

1. To protect human life and health.
2. To minimize expenditure of public money for costly flood control projects.
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4. To minimize prolonged business interruptions.
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

(5) **Definitions.**

- (1) Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- (a) **A zone** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:
1. Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depth are shown.
  2. Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
  3. Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analysis are shown within this zone.
  4. Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analysis are shown within this zone.
  5. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

6. Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.
- (b) **Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.
- (c) **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.
- (d) **Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.
- (e) **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (f) **Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year.

- (g) **Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.
- (h) **Basement** means that portion of a structure having its floor subgrade (below ground level) on all sides.
- (i) **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.
- (j) **Boundary River Floodway** means the floodway of a boundary river.
- (k) **Building** – “See Structure.”
- (l) **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
- (m) **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.
- (n) **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- (o) **Development** means any man-made change to improved or unimproved real estate including but not limited to:
  - 1. construction, reconstruction, or placement of a structure or any addition to a structure;
  - 2. installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days.
  - 3. installing utilities, erection of walls and fences, construction of roads, or similar projects;

4. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
  5. mining, dredging, filling grading, excavation, or drilling operations;
  6. construction and/or reconstruction of bridges or culverts;
  7. storage of materials; or
  8. any other activity that might change the direction, height, or velocity of flood or surface waters.  
 “Development” does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.
- (p) **Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).
- (q) **Elevation Certificate** is a certified statement that verifies a structure’s elevation information.
- (r) **Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
- (s) **Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community’s first floodplain ordinance.

- (t) **Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (u) **FEMA** means the Federal Emergency Management Agency.
- (v) **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- (w) **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.
- (x) **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (y) **Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.
- (z) **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood”)
- (aa) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see “Freeboard”)
- (bb) **Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

- (cc) **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (dd) **Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.
- (ee) **Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.
- (ff) **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
- (gg) **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- (hh) **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the

many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

- (ii) **Fringe** is those portions of the floodplain lying outside the floodway.
- (jj) **Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- (kk) **Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.
- (ll) **Historic structure** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (mm) **Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.
- (nn) **Letter of Final Determination (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this



six-month period unless the community has previously incorporated an automatic adoption clause.

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

1. **Letter of Map Amendment (LOMA)** means an amendment by letter 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)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changed flood zones, delineations, and elevations.
3. **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

(pp) **Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

(qq) **Lowest floor** means the lowest elevation described among the following:

1. The top of the lowest level of the structure.
2. The top of the basement floor.
3. The top of the garage floor, if the garage is the lowest level of the structure.
4. The top of the first floor of a structure elevated on pilings or pillars.

5. The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - i. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
  - ii. the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher, and,
  - iii. such enclosed space shall be usable for the parking of vehicles and building access.
- (rr) **Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”
- (ss) **Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (tt) **Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

- (uu) **Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.
- (vv) **National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.
- (ww) **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.
- (xx) **New construction** means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.
- (yy) **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.
- (zz) **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.
- (aaa) **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.
- (bbb) **Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by

the flow of water, or its likelihood of being carried downstream.

- (ccc) **One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.
- (ddd) **Physical Map Revision (PMR)** is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.
- (eee) **Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- (fff) **Recreational vehicle** means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
- (ggg) **Regular program** means the phase of the community’s participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.
- (hhh) **Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is defined in Article 3(B) of this ordinance. The

“Regulatory Flood” is also known by the term “Base Flood”, “One-Percent Annual Chance Flood” and “100-Year Flood.”

- (iii) **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeds 25% of the market value of the structure before the damage occurred.
- (jjj) **Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared 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,
- (kkk) **Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the City subject to inundation by the regulatory flood. The SFHAs of the City of Loogootee are generally identified as such on the Martin County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 17, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1 – A30, AH, AR, A99, or AO).
- (III) **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(mmm) **Structure** means a structure that is primarily 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 a recreational vehicles to be installed on a site for more than 180 days.

(nnn) **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(ooo) **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

(ppp) **Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

(qqq) **Variance** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

- (rrr) **Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- (sss) **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- (ttt) **X zone** means the area where the flood hazard is less than in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.
- (uuu) **Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.
- (vvv) **Zone A** (see definition for A zone)
- (www) **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones (Zone X is used on new and revised maps in place of Zone B and C.)

## **General Provisions**

### **(6) Lands to Which this Ordinance Applies**

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the City of Loogootee.

**(7) Basis for Establishing Regulatory Flood Data**

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- (a) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Loogootee shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Martin County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated September 17, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- (b) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Loogootee, delineated as an "A Zone" on the Martin County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 17, 2014 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.
- (c) 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.
- (d) 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.



**(8) Establishment of Floodplain Development Permit**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

**(9) Compliance**

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

**(10) Abrogation and Greater Restrictions**

This ordinance is not intended to repeal abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**(11) Discrepancy between Mapped Floodplain and Actual Ground Elevations**

- (a) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (b) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (c) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

**(12) Interpretation**

In the interpretation and application of this ordinance all provisions shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.

- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

**(13) Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the City of Loogootee, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**(14) Penalties for Violation**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Loogootee. All violations shall be punishable by a fine not exceeding \$100.00.

- (a) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (b) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (c) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the persons responsible.

**Administration**

**(15) Designation of Administrator**

The Common Council of the City of Loogootee hereby appoints the Code Enforcement Officer to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

**(16) Permit Procedure.**

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 I 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:

**(a) Application Stage**

1. A description of the proposed development
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
3. A legal description of the property site.
4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
5. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)

**(b) Construction Stage**

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of

a registered land surveyor or professional engineer and certified by the same. (The Floodplain Administrator shall review the lowest floor elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

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.

(c) Finished Construction

Upon completion of construction, an elevation certification 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 is required to be submitted by the applicant to the Floodplain Administrator.

**(17) Duties and Responsibilities of the Floodplain Administrator**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (a) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.

- (b) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- (c) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to this Ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis / regulatory assessment).
- (d) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits / authorizations are to be maintained on file with the floodplain development permit.
- (e) Maintain and track permit records involving additions and improvement to residences located in the floodway.
- (f) 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.
- (g) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (h) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (i) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (j) Review certified plans and specifications for compliance.
- (k) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.

- (l) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- (m) Stop Work Orders
  - 1. Upon notice from the floodplain administrator, work in any building structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
  - 2. Such notice shall be in writing and shall be given to the owner of the property, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (n) Revocation of Permits
  - 1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - 2. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

## **Provisions for Flood Hazard Reduction**

### **(18) General Standards**

In all SFHAs and known flood prone areas the following provisions are required:

- (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) 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.

- (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (e) 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.
- (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (i) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.

**(19) Specific Standards**

In all SFHAs, the following provisions are required:

- (a) In addition to the requirements of this Ordinance, all structures to be located in the SFHA shall be protected from:
  - 1. Construction or placement of any structure having a floor area greater than 400 square feet.
  - 2. 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).

3. 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.
  4. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
  6. Reconstruction or repairs made to a repetitive loss structure.
  7. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- (b) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of this Ordinance.
- (c) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of this Ordinance. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
1. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are



watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in this Ordinance.

2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

- (d) **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:

1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every square foot of enclosed area).
2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

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

1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
2. The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
5. The top of the lowest floor including basements shall be at or above the FPG.

(f) **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:

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

- C. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
2. 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:
- A. 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.
  - B. 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 this Ordinance.
  - C. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
3. Recreational vehicles placed on a site shall either:
- A. be on site for less than 180 days;
  - B. 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
  - C. meet the requirements for “manufactured homes” as stated earlier in this section.

- (g) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
1. Shall not be used for human habitation.
  2. Shall be constructed of flood resistant materials.
  3. Shall not be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
  4. Shall be firmly anchored to prevent flotation.
  5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
  6. 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 this Ordinance.
- (h) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

**(20) Standards for Subdivision Proposals**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

**(21) Critical Facility.**

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

**(22) Standards for Identified Floodways**

Located within SFHAs, established in this Ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes and 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 addition / improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

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 ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the City shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44CFR § 65.12.

**(23) 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 ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

**(24) Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.**

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

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.

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 one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper 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 ordinance have been met.

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

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.

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 one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit maybe 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 ordinance have been met.

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

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this ordinance have been met.

3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

**(25) 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 Ordinance.

**Variance Procedures**

**(26) Designation of Variance and Appeals Board**

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

**(27) 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 ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Martin County Circuit Court.

**(28) Variance Procedures**

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (a) The danger of life and property due to flooding or erosion damage.
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (c) The importance of the services provided by the proposal facility to the community.



- (d) The necessity to the facility of a waterfront location, where applicable.
- (e) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (f) The compatibility of the proposed use with existing and anticipated development.
- (g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (h) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (i) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (j) 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.

**(29) Conditions of Variances**

- (a) Variances shall only be issued when there is:
  - 1. A showing of good and sufficient cause.
  - 2. A determination that failure to grant the variance would result in exceptional hardship.
  - 3. 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.
- (b) No variance for a residential use within a floodway subject to this ordinance may be granted.
- (c) Any variance granted in a floodway subject to this ordinance will require a permit from the Indiana Department of Natural Resources.

- (d) Variances to the Provisions for Flood Hazard Reduction of this Ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (f) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic places or the Indiana State Register or Historic Sites and Structures.
- (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**(30) 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:

- (a) 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,
- (b) Such construction below the flood protection grade increases risks to life and property.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

**(31) 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.

**(32) Special Conditions.** Upon the consideration of the factors listed in this Ordinance, and the purposes of this ordinance, the Board of Zoning

Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- (33) **Severability.** If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

#### **16.04.285 Signs**

- (1) **Purpose and Intent.** The purpose of the sign regulations is to permit signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health, and morals; and to permit and regulate signs in such a way as to support and complement objectives and guidelines of the Comprehensive Plan.
- (2) **Exempt Signs.** The following types of signs shall be exempted from the requirements of this subsection:
- (a) Non-illuminated names of buildings, dates of erection, monument citations, commemorative tablets and the like when carved into stone, concrete, metal, or any other permanent type of construction and made an integral part of an allowed structure or made flush to the ground.
  - (b) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises or home service which are not part of an otherwise existing attached or freestanding sign.
  - (c) Signs required by law or flags and insignia of any duly constituted governmental body.
  - (d) Signs placed by a public utility for the safety, welfare, or convenience of the public, including, but not limited to signs identifying high voltage, public telephone, or underground cables.
  - (e) Signs upon a vehicle, provided that any such vehicle with a sign face of over two square feet is not conspicuously parked so as to constitute a sign; nothing herein prevents such a vehicle from being used for bona fide delivery and other vehicular purposes.
  - (f) Temporary holiday decorations.

- (g) Signs placed within the interior of a building which area attached to and/or visible through windows or doors provided the sign occupies no more than one-fourth the total square footage of the window door.
- (h) Legal notices, identification information, or directional signs erected by or by order of governmental bodies.
- (i) Integral decorative or architectural features of buildings, except letters, trademarks, logos, moving parts or moving lights.
- (j) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter, including logos.

**(3) General Sign Provisions.**

- (a) In any district, except as noted, the provisions of this subsection shall be applied to effect the safety of motorists and facilitate traffic movement.
  - 1. No sign shall be erected or maintained at any location where, by reason of its position, wording, illumination, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device.
  - 2. No sign shall contain or make use of any phrase, symbol, shape, form or character in such a manner as to interfere with, mislead, or confuse moving traffic.
  - 3. No exterior sign shall be permitted to display flashing, intermittent, revolving, rotating or animated lighting or illumination, nor any illumination which simulates or displays motion.
  - 4. All signs not expressly exempted or permitted by this ordinance are prohibited.
  - 5. No sign shall be placed in a manner visible from any public street, alley, right-of-way, sidewalk or other public easement except as provided herein nor shall any sign be placed in or extended over any required yard in any district or be placed in or extend over any street, right-of-way, roadway, sidewalk, public or private utility or access or other easement, or alley except as provided herein.

6. All signs allowed hereunder shall be constructed and placed so as not to interfere with vehicular traffic by obstructing sight lines for streets, pedestrian rights-of-way and driveways.
7. No sign shall be allowed to be illuminated except as expressly provided herein. Signs which are otherwise allowed to be illuminated are not allowed if the Plan Commission shall find that the lighting causes glare or otherwise interferes with the vision of persons operating motor vehicles. All illuminated signs shall be non-flashing and shall be constant in intensity and color, except that signs which display time and temperature are allowed in the B-1, B-2, B-3, I-1, and I-2 zones.
8. The maximum allowed area for all signs other than freestanding business signs shall be determined by drawing four or fewer straight lines encompassing the extremities of the sign within the smallest possible areas, except that outdoor advertising signs are allowed extensions and embellishments beyond the rectangular sign.
9. The maximum allowed area for freestanding business signs shall be measured by drawing eight (8) or fewer straight lines encompassing the extremities of the sign within the smallest possible area, provided, however, that the area of a freestanding sign shall not include poles, supports, or other structures which are solely for support and which do not contain any advertising and, the area of a freestanding sign shall not include the space between the business identification portion of a freestanding business sign and the reader board portion, provided that these portions are separated by a distance of more than two (2) feet and no small freestanding sign is located on the lot.
10. No sign shall have more than four faces.
11. One freestanding rent/sale sign per sale site not exceeding twelve (12) square feet in area shall be allowed in any district. On lots abutting more than one street, one such rent/sale sign shall be allowed for each abutting street. Such signs shall be removed not later than ten (10) days after closing of sale or consummation of lease.
12. One sign identifying persons or business firms engaged in the construction of a building on site, is allowed, provided

that the sign shall not exceed twelve (12) square feet in area or fifteen (15) feet above ground in height. All such signs must be removed within twenty (20) days following issuance of a certificate of occupancy for the building.

13. A back-to-back or V-shaped sign constitutes one sign if it has a common set of supports. A composite group of signs integrated into one framed unit or compact structure constitutes one sign.

**(4) On Premise Signs – Residential/Office.**

- (a) In the A-1, R-1, and R-2 Districts, the provisions of this subsection shall apply:
  1. One freestanding subdivision identification sign not exceeding sixty (60) square feet in area or fifteen (15) feet in height shall be allowed at each dedicated street entrance within the building lines of the subdivision during construction, for not more than sixty (60) days prior to the commencement of construction, and after construction until such time as eighty percent (80%) of the lots are sold. Thereafter, one subdivision identification sign not exceeding fifteen (15) feet in height shall be allowed at each dedicated street entrance within the building lines.
  2. One freestanding or attached community facility identification sign not to exceed thirty (30) square feet in area and not exceeding ten (10) feet in height facing each bordering street is allowed on the premises of any community center, church, school, library, museum or similar institution. A church sign may be illuminated if it is less than eighteen (18) square feet in area and less than eight (8) feet in height, provided that, if the church is located in a district for which a larger business sign would be allowed, then the size of the sign shall conform to the size allowed in that district.
  3. For institutional and residential uses not otherwise defined herein one sign facing each bordering street not to exceed six (6) square feet in area is allowed on each site. Any such sign if freestanding must not exceed six (6) feet in height.
  4. One illuminated or non-illuminated multi-family residential identification sign attached flat on the face of the building and extending no more than twelve (12) inches from the surface of such building is allowed to face each street

bordering on the site on which a multi-family dwelling is located. Said signs may not exceed twelve (12) square feet in area. In no event shall an attached sign be located more than three (3) feet above the ceiling of the first floor of the building. In the alternative one freestanding sign which shall not extend into any required yard is allowed to face each street bordering the site provided that such freestanding signs shall not exceed a height of six (6) feet above ground nor exceed an area of six (6) square feet.

5. One illuminated or non-illuminated office building identification sign attached flat on the face of the building and extending not more than twelve (12) inches from the surface of such building is allowed to face each street bordering the site on which an office building is located. Said signs may not exceed twelve (12) square feet in area. In no event shall an attached sign be located more than three (3) feet above the ceiling of the first floor of the building. In the alternative one freestanding sign, which shall not extend into any required yard is allowed to face each street bordering the site, provided that such freestanding signs shall not exceed a height of six (6) feet above ground nor exceed an area of six (6) square feet.

- (b) In the B-1, B-2, B-3 and I-1 and I-2 Districts, the provisions of this subsection shall apply.

1. Wall-Mounted signage.

- A. In single use buildings, each building is permitted one attached “tenant identification” sign in letters and one attached “business logo” sign on each building façade facing a public access roadway, provided that the total area of signage on a façade shall not exceed that stated below and that no more than two facades shall have wall-mounted signs. Fully controlled access roadways (i.e., expressways and freeways) are not considered “public access roadways”. If the “tenant identification” and “business logo” are combined into a single sign, there shall be only one attached sign on the façade; and no more than two street-facing facades shall have signs.

- B. In multiple use buildings with separate entrances for each tenant, each building may have on attached

“tenant identification” sign in letters and one attached “business logo” sign for the primary tenant on each building façade facing a public access roadway, and one additional attached sign (either a letters sign or a combination letters and logo sign) for each secondary tenant with a separate entrance that shall be installed in a pre-designated space adjacent to the secondary tenant’s entrance, provided that the total area of signage on a façade shall not exceed that stated below and that no more than two facades shall have wall-mounted signs for the primary tenant. Fully controlled access roadways (i.e., expressways and freeways) are not considered “public access roadways”. If the “tenant identification” and “business logo” are combined into a single sign for the primary tenant, there shall be only one attached sign on the façade, and no more than two street-facing facades shall have signs.

- C. In the case multiple use buildings with only one primary exterior entrance, exterior signs for secondary tenants shall be incorporated into the free standing sign.
- D. In single use buildings, any “tenant identification” attached sign (i.e., letters sign) shall not exceed 80 square feet, any separate “business logo” sign shall not exceed 25 square feet and 5 feet in height, and any combination “tenant identification” (letters) and business log sign shall not exceed 120 square feet subject to the following total sign area limitations per façade:
  - 20% of building façade area if façade area is less than 500 square feet.
  - 100 square feet plus 10% of the amount by which the building façade exceeds 500 square feet if the façade area is greater than or equal to 500 square feet but less than 700 square feet.
  - 120 square feet if the façade area is equal to or greater than 700 square feet.



- E. In multiple use buildings with separate entrances for each tenant, any primary “tenant identification” attached sign (i.e., letters sign) shall not exceed 80 square feet, any separate “business logo” sign for the primary tenant shall not exceed 25 square feet and 5 feet in height, and any combination “tenant identification” (letters) and “business logo” sign for the primary tenant shall not exceed 120 square feet; and each secondary tenant may have an attached “tenant identification” (letters) sign or attached combination “Tenant identification and business logo” sign that shall not exceed 10 square feet, subject to the following sign area limitations per façade for signage:
- 20% of building façade area if façade area is less than 500 square feet.
  - 100 square feet plus 15% of the amount by which the building façade exceeds 500 square feet if the façade area is greater than or equal to 500 square feet but less than 1,000 square feet.
  - 175 square feet plus 5% of the amount by which the building façade exceeds 1,000 square feet if the façade area is greater than or equal to 1,000 square feet but less than 3,500 square feet.
  - 300 square feet if the façade area is equal to or greater than 3,500 square feet.
- F. No sign shall be mounted on any roof.
- G. No sign shall extend above a line eighteen inches (18”) below the top of the building parapet and no attached sign shall extend to a height greater than twenty-five feet (25’) above ground.
- H. Attached signs shall not project beyond eighteen inches (18”) from the face of the wall.
- I. Letters shall be individual, and shall not exceed two feet (2’) in height for the primary tenant

identification sign and one foot (1') in height for the secondary tenant identification sign.

- J. All signage attached to buildings shall consist of individual letters and shall be attached parallel to the façade.
- K. Signage shall be devoid of advertising.
- L. Painted signs shall not be used, and no sign shall be painted on a building surface.

## 2. Freestanding Building Signage

- A. Only freestanding on premises signs are permitted. Off premises signs (commonly known as billboards) and small freestanding signs (other than those freestanding signs and freestanding directional) are prohibited.
- B. Each lot is permitted one freestanding sign of the maximum height and area specified below fronting on a public access roadway. Fully controlled access roadways (i.e., expressways and freeways) are not considered "public access roadways".
- C. No freestanding sign shall be higher than twenty feet (20') at the property line in the B-1 District, but may be increased in height one foot for every five feet set back from the property line in the B-2, B-3, I-1 and I-2 Districts provided the maximum sign height shall not exceed twenty-five (25) feet.
- D. No freestanding sign shall encroach into a required yard.
- E. The maximum area of one face of any freestanding sign shall not exceed 80 square feet in the B-1 District, and shall not exceed the 20% of the square of height of the sign in the B-2, B-3, I-1 and I-2 Districts provided that remaining sign area shall not exceed 125 square feet.
- F. No sign shall have more than two faces.
- G. Portable or temporary signs are not acceptable.

- H. Signage shall be devoid of advertising.
  - I. Painted signs shall not be used.
  - J. A lot fronting on two public streets shall be allowed to have two freestanding signs. If two signs are to be used, the total maximum combined area of one of the two signs shall not exceed the maximum sign area of the one freestanding sign allowed on lots fronting on only one public street.
  - K. The maximum area of each face of a freestanding sign as calculated above may be increased by twenty percent (20%) if the sign is located on a lot with more than three hundred (300) feet of frontage on a public street, by thirty five percent (35%) the sign is located on a lot with more than four hundred fifty (450) feet of frontage on a public street and by fifty percent (50%) if the sign is located on a lot with more than six hundred (600) feet of frontage on a public street. IN the alternative, a lot with more than four hundred fifty (450) feet of public street frontage shall be allowed to have one additional freestanding sign, but if such additional sign is placed on the lot the maximum area of the combination of both freestanding signs shall be calculated above for a single freestanding sign and the maximum area of each such sign shall not be embellished by the foregoing sentence.
  - L. An outdoor advertising sign shall not be counted in determining compliance with the above.
  - M. No lot shall have a freestanding sign unless the building situated on that lot is set back at least ten (10) feet from the front and street side property line.
3. Freestanding Directional Signs. Freestanding directional signs, i.e., signs used primarily to direct on premise vehicular or pedestrian circulation or traffic, are allowed to a maximum height of three (3) feet, with a maximum area of five (5) square feet. Such signs shall not be counted toward the number of freestanding signs allowed on a lot. One single faced "Menu Board" type sign is allowed for a "drive through" facility and shall not be counted toward the

number of freestanding signs allowed, provided such sign is no larger than sixteen (16) square feet.

4. Projecting signs. Buildings on lots which contain no freestanding sign (other than a freestanding directional sign) may not have more than one sign which projects perpendicularly from the façade (but not the roof) of the building providing that the sign does not exceed thirty-two (32) square feet in area, does not extend below nine (9) feet above the ground or sidewalk, or more than seven (7) feet from the façade of the building, or closer than two (2) feet to the abutting roadway.

**(5) Outdoor Advertising Signs**

- (a) Outdoor advertising signs shall be allowed in B-3, I-1 and I-2 Districts.
- (b) Outdoor advertising signs shall be separated by one thousand (1,000) feet in all directions, and pertaining to the Interstate and limited access highways, no outdoor advertising sing may be located adjacent to or within five hundred (500) feet of an interchange, at-grade intersection, or rest area; said five hundred (500) feet shall be measured from the right-of-way line.
- (c) No outdoor advertising sign shall be permitted if it is located within three hundred (300) feet of land that has been platted for residential use or is zoned A-1, R-1, R-2, B-1, or B-2.
- (d) No outdoor advertising sign structure shall contain more than two facings and no facings shall display more than two (2) signs.
- (e) The maximum area for any one sign shall be 1,000 square feet and the maximum width 25 feet and maximum length of 60 feet, exclusive of any border, trim, ornamental base, apron, supports, embellishments, and other structural members, if the exclusions do not exceed 20 percent of the sign area. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the area affected.

**16.04.290 Landscape Requirements**

**(1) Application.**

- (a) Property perimeter landscaping requirements apply to all property lines. Fully controlled access roadways (i.e., expressways and freeways) are not considered “public access roadways”.
- (b) All uses except agricultural and detached single-family dwelling units shall comply with the provisions of this section except:
  - 1. where a detached single-family dwelling use is built after a different abutting use, the single-family use must comply, or
  - 2. where the abutting use is the same use (i.e., industrial, business, office, multi-family, two-family or attached single-family), only the portion of the property boundary with street frontage must comply, or
  - 3. when the existing structure (building or parking area) is expanded less than twenty (20) percent in square footage.
- (c) When an existing structure (building or parking area) is expanded and represents more than a twenty (20) percent but less than a fifty (50) percent increase in square footage, only the portion of the structure being expanded shall comply with the landscaping requirements.
- (d) When an existing structure (building or parking area) is expanded and represents a fifty (50) percent or more increase in square footage, the entire lot shall comply with the landscaping requirements.
- (e) The Planning Commission may waive any landscaping requirement after a public hearing and finding of fact supporting the waiver or after all abutting property owners have agreed in writing to the waiver of any landscaping requirements.

**(2) Landscape Buffer Areas**

- (a) Landscape buffer areas will be a minimum of ten (10) feet in width along the side and rear property lines and a minimum of five (5) feet in width along the front property facing a public access roadway provided, however, the width of the landscape buffer shall not be greater than the yard requirements for the applicable zoning district. A landscape buffer area is an area free from development to accommodate the required landscaping and buffering materials. No structures (including buildings, motor vehicle parking lots, and loading/unloading areas of storage areas)

are allowed within the landscape buffer area except fences, walls, signs, lighting standards, walkways or structures attendant to public utility service.

- (b) In as much as there is no front yard setback in the B-2 (central business district), the property owner is required to provide and maintain street trees in the public right-of-way in a manner prescribed by the Plan Commission.

**(3) Spacing and Size of Large Trees**

- (a) Large shade trees shall be planted a minimum of fifty feet (50') on center along all property lines. If an abutting property has large shade trees meeting this requirement along the common property line, this requirement may be waived by the Planning Commission.
- (b) Large shade trees shall be defined by Group A of the Plant List attached. Other species of trees may be approved by the Plan commission provided such trees are winter-hardy, high quality, low maintenance or improved select indigenous variety.
- (c) Shade trees shall be a minimum of eight feet (8') in height with a 2-1/2 inch caliper trunk at the time of planting.

**(4) Evergreen Spacing**

- (a) Evergreen shrubs shall be planted along all property lines.
- (b) Evergreen shrubs shall be a minimum of 24 inches tall and when planted a three feet (3') center to center shall have an opacity of 85%.
- (c) Evergreen shrubs shall be defined by Group B of the Plant List attached. Other evergreens and deciduous shrubs may be approved by the Plan Commission provided such shrubs meet opacity requirements, are winter-hardy, high quality, low maintenance or improved select indigenous variety.

**(5) Continuous Hedge, Wall, Solid Fence or Earthen Berm**

- (a) In addition to the large trees required above, a six-foot high continuous hedge, wall, solid wooden fence or earthen berm shall be required along the side or rear property line when the use adjoins when a multi-family or single-family attached dwelling abuts a single-family detached dwelling, a multi-family use abuts a

single-family attached dwelling, a nonresidential use adjoins a residential use, when an industrial use adjoins a non-industrial use, a business or office use adjoins a residential use, or institutional use adjoins a residential use.

- (b) In addition to the large trees required above, a six-foot high continuous hedge, wall, solid wooden fence or earthen berm shall be required along any street frontage of an industrial use or a use in the I-1 or I-2 zoning districts.

## **PLANT LIST GROUP A**

### **PREFERRED LARGE TREES (deciduous):**

<b><u>Botanical Name</u></b>	<b><u>Common Name</u></b>
Ace rubrum	Red Maple
Acer saccharum	Sugar Maple
Alnus glutinosa	Black Alder
Betula nigra	River Birch
Capinus betulus	European Hornbeam
Gleditsia triacanthos inermis (a)	Thornless Honey locust
Quercus palustris	Pin Oak
Quercus phellos	Willow Oak
Quercus rubra	Red Oak
Tilia chordata	Littleleaf linden

- (a) Appropriate for parking lot islands, but not along roadways where trimming is necessary for vehicle clearance.

### **PREFERRED LARGE TREES (evergreens)**

<b><u>Botanical Name</u></b>	<b><u>Common Name</u></b>
Ilex opaca	American Holly

<i>Picea abies</i>	Norway Spruce
<i>Picea glauca</i>	White Spruce
<i>Pinus nigra</i>	Austrian Pine
<i>Pinus strobes</i>	White Pine
<i>Pinus thuhbergii</i>	Japanese Black Pine

## PLANT LIST GROUP B

### **SHRUBS:**

<b><u>Botanical Name</u></b>	<b><u>Common Name</u></b>
<b>10 – 25’ in height:</b>	
<i>Bex x attenata</i> “Fosteri”	Foster Holly
<i>Juniperus Chinensis</i>	Chinese Juniper
<i>Taxus cuspidata</i>	Japanese Yew
<i>Virburnum rhytidolphyllum</i>	Leatherleaf Viburnum
<b>6 – 10’ in height:</b>	
<i>Ilex glabra</i>	Inkberry
<i>Ilex x meseveae</i>	Blue Holly
<i>Taxus x media</i>	Anglogap Yew
<b>6’ &amp; under in height:</b>	
<i>Juniperus horizontalis</i>	Creeping Juniper
<i>Taxus baccata</i>	English Yew
<b>Ground Cover:</b>	
<i>Juniperus conferta</i>	Shore Juniper



**16.04.300 ADMINISTRATIVE AND ENFORCEMENT****16.04.310 Improvement Location Permit**

- (1) An Improvement Location Permit shall be required for the construction, reconstruction, enlargement or moving of any building or structure, and shall be applied for in writing and issued by an authorized employee of the Commission. An Improvement Location Permit shall also be required for the demolition of any structure that is larger than 500 square feet and/or any structure that has received Sewer service from the City of Loogootee Sewer Utility.
- (2) No permit shall be issued by an authorized employee of the Commission unless the proposed construction, reconstruction, enlargement or moving the building or structure conforms with all the provisions of this Ordinance.
- (3) Application for said Permit shall be made upon forms prescribed by the Plan Commission and shall be attached to plans and specification of significant detail to ensure the staff to determine whether the proposed improvements are in compliance with this Ordinance.
- (4) The applicant shall post said Permit in a prominent place and protect it from destruction on the site prior to and during the period of construction.
- (5) The permit may be revoked if active work is not commenced within sixty (60) days after the date of its issue, or if work has started and then stopped for a period of six (6) months.
- (6) The authorized employee of the Commission may revoke said permit if work is not proceeding according to the detailed statement, plans and specifications filed with the permit application, or is perceived in violation of this Ordinance. It shall be his duty to give notice thereof to the owner or his agent requiring that the same shall be immediately rectified.
- (7) In the event that a dwelling within a Commission approved and recorded plat is occupied prior to the compilation of the improvement serving the dwelling (as shown in the subdivision improvement plans), or if such improvements are completed, but not operational, the authorized employee of the Plan Commission shall not issue any additional Improvement Location Permits within said subdivision until all improvements are approved by the Commission, certifying them as complete and operational.

**16.04.320 Buildings Under Construction.** This Ordinance shall require no change in the plans, construction or intended use of any building or structure, which was legally started before

the effective date of this Ordinance. Said building or structure may be completed and used in accordance with plans and specification, provided however, the construction of such buildings or structures shall be completed within one (1) year after the effective date of this Ordinance.

**16.04.330 Fees.** It is hereby Ordained that the fee for Various Permits and Services related to Zoning Permits and Location Improvement permits and related services shall be as are shown on the attached Schedule of Fee types and charges, which was presented to this body after approval and recommendation of the Loogootee Plan Commission.

## **Fee schedule – Page 1**

**Fee Schedule – Page 2**

**Fee Schedule – Page 3**

**Fee Schedule – Page 4**

**Fee Schedule – Page 5**

**16.04.340      Petition**

**(1)      Conditional Uses,**

- (a)      Application for a conditional use shall be filed with the Board of Zoning Appeals no later than the first Tuesday of each month, for the following month. Applications shall be submitted on a form available at the Plan Commission Office (City Hall) shall be completed by the applicant or his agent, and shall include a site plan in accordance with Section 16.04.370.

**(2)      Special Uses.**

- (a)      Application for a variance or special use shall be filed with the Board of Zoning Appeals no later than the first Tuesday of each month, for the following month. Applications shall be submitted on a form available at the Plan Commission Office (City Hall), shall be completed by the applicant or his agent, and shall include a site plan in accordance with Section 16.04.370.
- (b)      Copies shall be submitted to the Plan Commission Office.

**(3)      Publication.** Notice of public hearing or any application shall be advertised at least ten (10) days prior to the public hearing in a newspaper of general circulation published within the city. The cost of the advertising, the notice of the public hearing shall be borne by the applicant.

**(4)      Rezoning.**

- (a)      All petitions for rezoning shall be filed in seven (7) copies. Each petition shall consist of an application, location map and site plan (refer to Section 16.04.390) and proposed ordinance and shall be filed with the Plan Commission (City Hall) no later than the first Tuesday of each month for the following month.
- (b)      The petitioner shall mail a copy of this petition to all owners of record of real estate which are contiguous to subject real estate, whether separated by any street, alley, easement, or any other public way. Owner of record shall be those shown on the record of the Auditor of Martin County. Said mailing shall not be less than ten (10) days before said petition is set for a public hearing before the Plan Commission.



- (c) The petitioner or his attorney shall file with the Plan Commission at least seven (7) days prior to the public hearing of said petitioner, an affidavit showing the names and addresses of the contiguous properties, of the owners and the date that a copy of the petition was mailed to them. The affidavit shall become part of the record pertaining to petition.
- (d) Notice of public hearing or any petition shall be advertised at least ten (10) days prior to the public hearing in a daily newspaper of general circulation published within the city.
- (e) In preparing and considering proposals under IC 36-7-4-603, the Plan Commission and the legislative body shall pay reasonable regard to:
  - 1. The comprehensive plan;
  - 2. Current conditions and the character of current structures and uses in each district;
  - 3. The most desirable use for which the land in each district is adapted;
  - 4. The conservation of property values throughout the jurisdiction; and
  - 5. Reasonable development and growth.

**16.04.350 Conditional Uses.**

- (1) Purpose. The following regulations are provided to govern conditional uses which may be approved by the Board of Zoning appeals after a public hearing.
- (2) Airports.
  - (a) The Board of Zoning appeals shall issue a conditional permit for an airport or heliport in any “A” (agricultural) districts after first holding a public hearing to determine compatibility with the surrounding development.
  - (b) Each site must be proposed in accordance with the comprehensive plan of Loogootee.

- (c) Direct access shall be provided to an arterial street without passing through any residential area.
- (d) There shall be no noise sensitive uses (e.g., residential, institutional and medical uses) within the 65 Ldn noise contours of the airport.
- (e) All structures shall be at least one hundred (100) feet from all property boundaries.
- (f) All property boundaries abutting the “R” (residential) districts or “B” (business) districts shall be landscaped in accordance with Section 16.04.290(5).

(3) Auto Parking.

- (a) The Board of Zoning Appeals shall issue a conditional permit for auto parking in the B-2 Districts after first holding a public hearing to determine compatibility with the surrounding development.
- (b) All off-street vehicle use areas (i.e., parking or loading areas) shall be set back twenty (20) feet from the front property line and shall be landscaped in accordance with Section 16.04.290(5) so as to block public view of the vehicle use area from the street. The twenty-foot landscape buffer shall likewise be landscaped.
- (c) Direct access from vehicle use areas to arterial streets is prohibited.

(4) Civic and community clubs.

- (a) The Board of Zoning Appeals shall hold a public hearing before issuing a conditional permit for civic or community clubs. Such hearing shall determine that:
  1. the design of the structure is compatible with the surrounding neighborhood;
  2. off-street parking meets requirements of Section 16.04.121(5);
  3. adequate access is provided to a major thoroughfare and traffic is not required to travel through a residential neighborhood; and
  4. the civic or community club is organized as a not-for-profit, service-oriented association.

(5) Nurseries and Greenhouses.

- (a) The Board of Zoning Appeals shall issue a conditional permit for commercial nursery or greenhouse in the B-3 Districts after first holding a public hearing to determine compatibility with the surrounding development.
- (b) Commercial greenhouses for on-site retail sale of plants, seed and other accessories related to horticultural activities, shall have at least 75% of the floor area for the display of plant materials.
- (c) The site size shall be a minimum of one acre.
- (d) The temporary display of items shall not intrude into the front yard set back or landscape buffer areas. All material storage shall be screened from public view from the street or abutting properties, or shall be inside a building.

(6) Printing/Newspapers.

- (a) The Board of Zoning Appeals shall issue a conditional permit for the printing of newspapers in the B-2 Districts after first holding a public hearing to determine compatibility with the surrounding development. Such a hearing shall determine that:
  - 1. the printing function is a component of the newspaper publication office which contains the news, advertising and editing staff of the newspaper company; and
  - 2. appropriate measures have been taken in the design of the building and the location of printing presses so as to minimize noise and vibrations at the property line.

(7) Religious Organizations.

- (a) The Board of Zoning Appeals shall hold a public hearing before issuing a conditional permit for a church, temple, synagogue, or other structure for religious activities. Such a hearing shall determine that:
  - 1. the design of the structure is compatible with the surrounding neighborhood;
  - 2. off-street parking meets requirements of Section 16.04.121(5);

3. adequate access is provided to an arterial or collector street and traffic is not required to travel through a residential neighborhood; and
4. building setbacks for the side and rear yards shall be increased an additional five feet for each story in excess of two stories except in the B-2 District.

(8) Research Labs.

- (a) The Board of Zoning Appeals shall issue a conditional permit for research labs in the B-2 Districts after first holding a public hearing to determine compatibility with the surrounding development. Such a hearing shall determine that:
  1. the research activity will not create any off-site nuisances, and
  2. all materials, processes and activities shall be enclosed within a single building.

(9) Schools, parks, playgrounds, and related facilities.

- (a) The Board of Zoning Appeals shall issue a conditional permit for schools, parks, playgrounds or other recreational facilities, outdoor in any zones after first holding a public hearing to determine compatibility with the surrounding development and conformities.
- (b) Each site must be proposed in accordance with the comprehensive plan of Loogootee.
- (c) Elementary schools, parks, and playgrounds providing active and passive participant recreation for a neighborhood can be located in any zone provided adequate access is provided to such facility.

**16.04.360 Special Uses.**

- Special uses of this Ordinance may be permitted, enlarged or altered upon authorization of the Board of Zoning Appeals in accordance with the standards and procedures as set forth in this section.
- The Board may authorize a special use as defined herein, provided the evidence presented at the public hearing is such as to establish beyond a reasonable doubt.

That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or communities.

That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of the person residing or working in the vicinity, or injurious to property value of improvements in the vicinity.

The proposed use will comply with regulations and conditions specified in this Ordinance for such use and with the stipulation and condition made a part of the authorization granted by the board.

- Time Limits. Authorization of a special use shall be voided after one (1) year from the date of authorization or such lesser time as authorization may specify unless said use or substantial construction has taken place. The Board of Zoning Appeals may, upon written request, extend authorization for a period not to exceed one (1) year, provided however, that the written request is received two (2) weeks prior to its expiration.
  - Granting of Use. The grant of a special use by the Board shall be by resolution and shall not be by ordinance (meaning the Zoning Ordinance) after a public hearing.
  - Notice Posting. A sign shall be placed on the subject property not less than ten (10) days prior to the public hearing by the Board and said sign shall remain posted until approval or denial by the Board.
  - Copies of the agenda or minutes shall be sent to the City Council of Loogootee, Indiana.
1. **Purpose.** The following regulations are provided to establish specific criteria and conditions which shall be met before the Board of Zoning Appeals may grant a special use permit after a public hearing for any uses listed in Section 16.04.360.
  2. **General Regulations and Conditions.**
    - (a) Investigation. The Board of Zoning Appeals shall request a recommendation from the plan commission or their agent which shall investigate each proposed use to determine it is properly related to adjacent land uses and with other uses permitted in the zone.
    - (b) Hearing. The Board of Zoning Appeals shall hold a public hearing on each requested use.

- (c) Special Conditions. The Board of Zoning Appeals may impose such conditions and restrictions deemed necessary to ensure compatibility with the surrounding area.
- (d) Landscaping. The Board of Zoning Appeals shall determine that adequate landscaping and buffering are provided where appropriate.
- (e) General Restrictions. Those uses which in the judgment of the Board of Zoning Appeals would constitute an objectionable use of property due to potential noise, increased pedestrian and vehicular traffic or any other conditions which might interfere with the general welfare of the surrounding area should not be granted special use permits.
- (f) Abatement. If, at any time, the person who has been issued a special use carries on an operation which is not in accord with the above standards or interferes with the general welfare of the surrounding area, the board of zoning appeals shall have cause to terminate this special permit.

### **3. Auto Parking.**

- (a) Location. Auto parking areas may be permitted in the R-2 provided the off-street parking area:
  - 1. will serve a building for which insufficient off-street parking space has been provided.
  - 2. will materially relieve traffic congestion on the street.
  - 3. will not introduce significant traffic passing through a residential area.
  - 4. will be located within two hundred (200) feet of the property on which the building to be served is located.
  - 5. will be under common ownership of the building being served.
  - 6. will be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of the building being served, and
  - 7. will be compatible with surrounding development.
- (b) Yard requirements. The edge of pavement for parking will observe the building set back requirements of the R-2 District (*i.e.*, the minimum yards required in the R-2 District shall be free of parking).

- (c) Landscaping. The auto parking area shall be screened by a dense evergreen shrub screen with a minimum height of six feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six feet.
- (d) Parking Area Surface. The parking area and all driveways will be surfaced with an all-weather, hard and durable material and properly drained.

#### **4. Bars and Taverns with Adult Entertainment.**

- (a) Location. Bars and Taverns with Adult Entertainment may be permitted only in the I-2 District and only upon licensure by the appropriate jurisdictions and agencies having regulatory authority. The adult entertainment shall be totally enclosed within a building, and no adult entertainment activity shall be visible (*e.g.*, through doors, windows, or other openings) from the public right-of-way or any abutting property.
- (b) Signing. All signing shall comply with the Section 16.04.285(2) and shall not contain wording or pictures that would be considered objectionable as defined by the “adult entertainment” definition.
- (c) Landscaping and Off-street Parking Requirements. All landscaping requirements of Section 16.04.290 and off-street parking requirements of Section 16.04.121(5) shall be met, and no waivers of these requirements shall be made by the Board of Zoning Appeals.

#### **5. Bars and Taverns with Live Entertainment.**

- (a) Location. Bars and Taverns with Live Entertainment may be permitted in the B-2 District and only upon licensure by the appropriate jurisdictions and agencies having regulatory authority. No live entertainment activity (inside or outside) shall be visible (*e.g.* through doors, windows, or other openings) from the public right-of-way or any abutting property. Any outdoor live entertainment may be subject to limitations regarding the hours of operation, and sound and light beyond the property line.
- (b) Parking, Signing, and Landscaping. The parking requirements of Section 16.04.121, signing requirements of Section 16.04.285(2) and landscaping requirements of Section 16.04.290 shall be met.

#### **6. Cemeteries and Mausoleums.**

- (a) Location. A cemetery or mausoleum may be granted a special use permit by the Board of Zoning Appeals to locate in any agricultural, residential, or B-3 zone.

- (b) Site Plan. Any proposal for a cemetery or mausoleum shall be accompanied by a site plan showing all ingress, egress, building sites, external road system and such other information as may be required by the Board of Zoning Appeals.
- (c) Accessory Uses. Accessory uses included on the site must be clearly defined and all such accessory uses must be compatible with the surrounding uses and be no more objectionable than the principal use.
- (d) Area. Any new cemetery shall be located on a site containing not less than twenty acres.
- (e) Setback. All structures including but not limited to mausoleum, permanent monument, or maintenance building shall be set back not less than thirty-five (35) feet from any property line or street right-of-way line, and all graves or burial lots shall be set back not less than twenty-five (25) feet from any property line or street right-of-way.
- (f) Landscaping. All required yards shall be landscaped and maintained, and shall comply with Section 16.04.290(5). For purposes of security, a six-foot high fence or wall shall be provided on all property lines.
- (g) Compatibility. The proposed use must be entirely compatible with adjacent land uses.
- (h) Access. Access to the proposed site must be adequate in order that traffic and funeral processions to the site will create a minimum of interference with normal traffic operations.

## **7. Clinics and Services/Doctor, Dentist or Chiropractor Offices.**

- (a) Location. One office (or clinic) for one medical doctor, dentist or chiropractor offices may be permitted in the R-2 District where the premises abut on an arterial or collector street designated by the Comprehensive Plan.
- (b) Signs. There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall comply with Section 16.04.285(4)(a)5.
- (c) Building Exterior. The building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character with the immediate neighborhood, so that there is no evidence from the street that the uses is other than residential (except for the sign).



- (d) Building Size. The building shall contain at least eight-hundred (800) square feet, but not more than two-thousand (2,000) square feet of floor area.
- (e) Parking/Landscaping Requirements. At least five (5) parking spaces for patients plus one parking space for each employee shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of six (6) feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six (6) feet.

## **8. Cultural Facilities.**

- (a) Location. Cultural facilities (including museums, arboretums and art galleries) may be permitted in the R-2 District.
- (b) Parking/Landscaping Requirements. At least ten (10) parking spaces for patrons plus one (1) additional parking space for each three hundred (300) square feet of floor area in excess of one thousand (1,000) square feet shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of six (6) feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six (6) feet.

## **9. Dairy Products.**

- (a) Location. The retail sale of dairy products may be permitted in the A-1 District only in association with a bona fide dairy where the product is produced on site.
- (b) Parking Requirements. The off-street parking requirements shall be same as a food market per Section 16.04.121(4), and must be paved by durable, hard, all-weather surface with proper drainage.

## **10. Day Care Centers, Nurseries, Kindergartens.**

- (a) Location. A day care center, nursery, or kindergarten may be granted a special use in any zone when located not less than twenty (20) feet from any other lot in an "A" District or "R" District, provided that there is established, maintained, and used for the children at play in connection therewith, one or more completely and securely fenced play lots.

- (b) Site Plan. Any proposed day care center, nursery, kindergarten, or day care home shall provide a site plan showing all ingress and egress, parking, structure site, and playing area.
- (c) Total Area. The total lot area of any day care center, nursery, or kindergarten shall not be less than fifteen thousand (15,000) square feet.
- (d) Play Area. All day-care centers, nurseries, and kindergartens shall provide a fenced play area of one thousand (1,000) square feet for the first ten (10) children with seventy-five (75) additional square feet for each additional child. No portion of the play area shall be closer than thirty-five (35) feet from any public street.
- (e) Parking Requirements. Parking facilities required by this title have been provided. (See Section 16.04.121(5)).
- (f) Other Regulations. Any state and local regulations for day care centers, nurseries, kindergartens, and day care home have been complied with.

## **11. Funeral Services**

- (a) Location. Funeral services and parlors may be permitted in the R-2 District where the premises are located on an arterial or collector street designated by the Comprehensive Plan. Principal access is prohibited to local neighborhood streets.
- (b) Minimum Site Size. The site shall be of fifty thousand (50,000) square feet of area or larger.
- (c) Parking Requirements. The off-street parking area shall include fifteen (15) parking spaces plus five (5) spaces for each room (in excess of three) which can be used as a parlor or chapel. No off-street parking shall be located between the street and the building. The parking area and all driveways will be surfaced with an all-weather, hard and durable material and properly drained.
- (d) Landscaping. The auto parking area shall be screened by a dense evergreen shrub screen with a minimum height of six (6) feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six (6) feet.
- (e) Architecture. The design and architecture of the building shall be compatible with surrounding residential uses.

**12. Hazardous, Objectionable, and Obnoxious Uses.**

(a) Location. The following “hazardous, objectionable, and obnoxious” uses may be permitted in the I-2 District upon approval of a “special use” permit by the Board of Zoning Appeals.

1. Acetylene gas manufacturing.
2. Acid manufacturing.
3. Ammonia bleach powder.
4. Arsenal.
5. Asphalt manufacturing or refining.
6. Bars and taverns with Adult Entertainment.
7. Coke ovens.
8. Correctional Facilities.
9. Creosote treatment or manufacturer.
10. Distillation of bones, coal or wood.
11. Fat and/or animal renderings.
12. Fireworks or explosives manufacturing or storage.
13. Glue manufacturing.
14. Gunpowder manufacturing or storage.
15. Incinerators, municipal or private, solid waste land fill.
16. Junk, salvage, auto, wrecking yard.
17. Meat, fish slaughtering and processing.
18. Mining – shaft or strip.
19. Paint, oil, shellac, turpentine, lacquer or varnish manufacturing.
20. Petroleum or petrol products, refining, and storage.

21. Rock crushing.
22. Smelters.
23. Stockyards or feeding lots.
24. Stone quarries.
25. Sulfuric, nitrate, hydrochloric, or picric acid manufacturing.
26. Tar distillation or manufacturing.
27. Vinegar manufacturing.
28. Yeast plant.
29. And, in general, those uses which have been declared a nuisance in any court records or which are or may be unreasonable, obnoxious, or offensive in the opinion of the Planning Commission, by reason of emission of odor, vapor, smoke, gas or noise.

(b) General Conditions for All Hazardous Uses.

1. The Board of Zoning Appeals shall review the comprehensive plan, the plans and statements of the applicant, and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, morals, and general welfare will be properly protected, and that necessary safeguards will be provided for the protection of surrounding property and persons.
2. All special uses must comply with the requirements of subsection 16.04.270(6) to 16.04.270(14).

(c) Special Conditions for Junk, Wrecking, and Automobile Storage Yards.

1. No processing or metal salvage may be permitted in the I-1 zones. All other waste processing shall be entirely within an enclosed building. No processing operation shall be permitted closer than three hundred (300) feet from any established residential district.
2. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence or wall, except driveway areas, designed to obscure the view of any wrecked cars from the road. Such fence or wall shall be constructed on or inside the front, side, and rear yard setback lines required within the district in which located and shall be constructed in such a manner

that no outdoor storage or salvage operations shall be visible from an adjacent property, street, or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly prohibited.

3. One access driveway shall be permitted on any single street frontage.

(d) Special Conditions for Mining, Mineral Extraction, Excavation, Filling and Disposal Operations.

1. The normal excavation or filling of earth not to exceed eight (8) acre feet per acre of disturbed area for the construction of buildings is exempted from this section and shall be subject only to the improvement location permit.
2. The extraction or filling in excess of eight (8) acre feet per acre of disturbed area; extraction and development of oil, gas, and other hydrocarbons; and the excavation and development of earth products, mineral and other natural resources (including coal, sand, gravel, quarries, borrow pits); filling with non-combustible or inorganic material; and refuse disposal operations (where by land filling or incineration) shall be subject to "special use" permit.
3. No mining, extraction or filling shall be within 300 feet of a state highway or country road or within 150 feet of any other public way or within fifty (50) feet of any property boundary. No building or structure, except fencing, shall be located closer than 30 feet from any site boundary line. No incinerators shall be located closer than two hundred (200) feet of any site boundary.
4. All roads and parking areas shall be surfaced with a hard and durable material and properly drained, except for temporary roads used for the extraction or filling of materials.
5. For excavation, filling and refuse disposal operations, a plan drawn at a scale of not less than one hundred feet to the inch shall be submitted showing the following:
  - A. The exact boundaries of the site and access to public ways.
  - B. Present and proposed use of land, the arrangement of all existing and proposed buildings, structures, roads, drives, parking areas, loading spaces, water, sewer, power and other utility lines, sanitary facilities, surface drainage, landscaping, signing, fencing, and other features and

facilities to be installed or used in connection with the proposed operation.

- C. Topography at two-foot intervals.
  - D. Cross sections at critical points to illustrate the methods to be employed in the process of excavation or fill.
  - E. Location where the excavation and filling operations will commence and the procedural sequence of operations.
  - F. Methods to be employed for surface drainage during and after completion of operations.
  - G. The volumes of materials to be excavated and filled for each location on the site where operations are to be carried out.
  - H. The names and addresses of all adjoining properties and the name of the engineer who prepared the plan.
- 6. Side slopes for excavations and fills in earth, sand or gravel shall not exceed a slope on one (1) foot vertical for two (2) feet horizontal and shall be blended into undisturbed existing surfaces.
  - 7. A chain link fence of six (6) feet in height with three (3) stands of barbed wire over the top shall be installed along the boundaries of excavated, filled or drilling areas; shall be provided with gates that shall remain locked at all times when active operations are not taking place; and shall be properly maintained until all operations are completed and all disturbed surfaces have been restored.
  - 8. Provision shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of operations so as not to disturb the normal flow of any public drain, or abrogate the riparian rights of any other party.
  - 9. The depth of excavation to be used for fill shall not have any adverse effect on the supply, quality or purity of ground water or wells.
  - 10. A layer of clean earth, at least two feet thick, shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface as shown on the topographic plan filed with the application. The finished surface of the site shall blend into the adjoining properties.

11. In no event will the premises be used for salvage operations of any kind without special approval within the permit.
12. No materials defined as hazardous by the Indiana Department of Natural Resources will be allowed as fill material.
13. No more than one well for the extraction of hydrocarbons shall be permitted for each five acres of land.
14. Within ninety days after the drilling of each well has been completed and production started, the derrick and all other drilling equipment shall be removed from the site.
15. Any derrick erected for servicing operations shall be of a portable type.
16. After a well has been brought into production, no earthen sumps shall be used for the storage of petroleum or its by-products.
17. Firefighting equipment, as required and approved by the fire department concerned, shall be maintained on the premises at all times during drilling and production operation.
18. Any scarring of hillsides resulting from construction operations shall be landscaped and replanted to native plant materials.
19. No plant for the refining of petroleum products from such operations shall be permitted on the site.
20. All drilling, excavation, filling and production operations shall be conducted in such a manner as to eliminate, as far as practicable, dust, noise, vibration, and obnoxious odors, in accordance with the best accepted practices incident to drilling for, and production of, oil, gas, and other hydrocarbon substances and the extraction of sand, gravel and materials.
21. In the event oil or gas is not produced in paying quantities, all material, equipment, and structures used in the drilling operation shall be completely moved from the site, and the well properly abandoned within one hundred twenty (120) days after drilling operations cease.
22. Upon completion of drilling, re-drilling, or conditioning operations, and on abandonment of the well, all earthen sumps shall be drained and backfilled to the natural grade. Subject to the

above conditions, anew sump may be constructed upon resumption of conditioning or re-drilling operations.

**13. Hospitals and Nursing Homes.**

- (a) Location. Hospitals and nursing homes may be permitted in the R-2 and B-1 Districts where the premises are on an arterial or collector street as designated by the Comprehensive Plan. All buildings and structures shall conform to the front, street side and rear yard requirements of the district in which they are located and shall be located at least thirty (30) feet from any side property line.
- (b) Signs. One sign not to exceed sixty (60) square feet in area, may be placed at each of the major entrances, superseding Section 16.04.285(4)(a)3.
- (c) Parking Requirements. All roads and parking areas shall be surfaced with a hard and durable material and properly drained. Minimum parking areas in the ratio of two spaces for each five beds plus one space for every two employees per peak shift shall be provided.

**14. Lodge Halls.**

- (a) Location. Lodge halls may be permitted in the R-2 and B-1 Districts. No live entertainment activity (inside or outside) shall be visible from the public right-of-way or any abutting property. Any outdoor live entertainment may be subject to limitations regarding the hours of operation, and sound and light beyond the property line.
- (b) Yard Requirements. The side and rear yard requirements shall be twenty (20) feet.
- (c) Parking/Landscaping Requirements. At least one parking space per two hundred (200) square feet of building shall be provided off of the street. In the R-2 District, the parking area shall be in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. In the R-2 and B-1 Districts, the parking area shall not be within ten (10) feet of the side and rear property lines. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of six feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six feet.
- (d) Signing Requirements. Signing requirements of Section 16.04.285(4)(a)2 for community facilities shall apply in the R-2 District and the signing requirements of Section 16.04.285(3)(b) shall apply in the B-1 District.



**15. Public Assembly Halls.**

- (a) Location. Public assembly halls may be permitted in the R-2 District. All activities shall be totally enclosed within the building, and no live entertainment activity shall be visible from the public right-of-way or any abutting property.
- (b) Yard Requirements. The side and rear yard requirements shall be twenty (20) feet.
- (c) Park/Landscaping Requirements. At least one (1) parking space per five (5) fixed seats plus one (1) parking space per six (6) removable seats shall be provided off of the street. The parking shall be in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Further, the parking areas shall not be within ten (10) feet of the side and rear property lines. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of six feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six (6) feet.
- (d) Signing Requirements. Signing requirements of Section 16.04.285(4)(a)2 for community facilities shall apply.

**16. Professional Offices.**

- (a) Location. Professional offices of not more than five persons may be permitted in the R-2 District where the premises abut on an arterial or collector street designated by the Comprehensive Plan.
- (b) Signs. There shall be allowed one (1) non-illuminated identification sign indicating the name and occupation, which sign shall comply with Section 16.04.285(4)(a)5.
- (c) Building Exterior. The building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- (d) Building Size. The building shall contain at least eight-hundred (800) square feet, but not more than two-thousand (2,000) square feet of floor area.
- (e) Parking/Landscaping Requirements. At least one (1) parking space per two hundred (200) square feet of building space or one (1) parking space per employee, whichever is greater, shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall

not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense shrub screen with a minimum height of six (6) feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six (6) feet.

**17. Rehabilitation, Correctional, and Mental Facilities.**

- (a) Location. Rehabilitation, correctional and mental facilities may be permitted by special use of the Board of Zoning Appeals in the following zones:
  - 1. Rehabilitative facilities in A-1, R-2, B-1;
  - 2. Correctional facilities in I-2 zones;
  - 3. Mental Health facilities in A-1, R-2, any B zones.
- (b) Access. Adequate access is provided and the use is located on a street designated at least as a collector.
- (c) Safety. The safety of the surrounding area will not be impaired and the use is compatible with adjacent and surrounding uses.
- (d) Parking. Parking facilities have been provided in accordance with Section 16.04.121(5) as required for hospitals.

**18. Rod and Gun Club – Skeet Range.**

- (a) Location. The Board of Zoning Appeals may issue a special use permit for rod, archery and/or gun club or skeet range in the A-1 zone.
- (b) Site Plan. A site plan shall show all property boundaries, building location, and shooting ranges.
- (c) Noise. Adequate data shall be provided relative to noise level produced by the activity.
- (d) Access. Access shall be at least to a collector road and adequate parking shall be provided.
- (e) Additional Restrictions. The Board of Zoning Appeals may impose such restrictions as are deemed necessary to protect surrounding uses from any offensive noise or traffic.

**19. Veterinary Service / Dog Kennels.**

- (a) Location. A veterinary service/dog kennel may be permitted in the A-1 and R-2 Districts. All facilities, except parking shall be located in a building. There shall be no exterior boarding of animals.
- (b) Yard Requirements. All buildings shall be at least thirty (30) feet from any property line.
- (c) Signs. There shall be allowed one (1) non-illuminated identification sign according to Section 16.04.285(4)(a)5.
- (d) Parking Requirements. All roads and parking areas shall be surfaced with a hard and durable material and properly drained.

Off-street parking spaces shall be provided in the ratio of one (1) space for every 1.5 employees plus six (6) spaces for visitors in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building.

- (e) Landscaping. A woven wire fence six (6) feet high shall be erected around the portion of the site used for the kennel operation. In the R-2 District, all parking areas shall be screened by a dense evergreen shrub screen with a minimum height of six (6) feet, or a wall constructed of brick, stone, or woven wood with a minimum height of six (6) feet.

**16.04.390 Site Plan Requirements**

- 1. Purpose.** The site plan is necessary to determine and demonstrate compliance with the zoning regulations.
- 2. Application.**
  - (a) Site plans are required for all uses in the “B”, “MHP”, and “I” Districts, conditional uses, special uses and variances.
  - (b) Section 16.04.240 defines the site plan requirements for the Mobile Home Park (MHP) District.
- 3. Requirements.**
  - (a) Elements of Site Plan. The Plan Commission may require the site plan to contain one (1) or more of the following elements in graphic or written form as are applicable to the property in question and appropriate for adequate public review.

1. Existing topography, with a contour interval not greater than five (5) feet unless specifically waived by the Plan Commission. Existing topography with a contour interval less than five (5) feet based on field survey may be required by the Commission for all or part of the subject property as existing topographic conditions warrant. Proposed contours with a contour interval corresponding to the existing contour interval may also be required;
2. Vicinity map with measurements to existing streets;
3. Boundary description, including area and bearings and dimensions of all property lines;
4. Lot size and location, height, floor area, and arrangement of proposed and existing buildings.
5. Proposed use of structures on the subject property, or, at the Plan Commission's discretion, the categories of uses proposed for the subject property;
6. Existing tree masses, significant rock out-croppings, streams, flood plains, and other natural features.
7. Provisions for screening and buffering, landscaping, recreational, and open space area;
8. The location, arrangement, and dimensions of existing and proposed streets and driveways, adjacent streets, sidewalks, parking areas (including number of off-street parking spaces), points of ingress and egress, off-street loading areas, and other vehicular, bicycle, or pedestrian right-of-ways;
9. Provisions for handling surface water drainage and utilities information, where appropriate, such as proposals for gas, water, electricity, telephone service, sewage lines, fire hydrants, and similar information, and the location and dimensions of other existing or proposed easements.
10. Demonstration of compliance with land use intensity requirements;
11. Proposed stages of development, if applicable, and the anticipated time required to develop each stage;
12. The location of any burial grounds or cemetery;

13. Other such information the Plan Commission deems appropriate;
  14. All site plans shall be drawn to a sufficient scale to clearly delineate the applicant's proposed use and development of the subject property. Such scale shall be indicated on the development plan.
- (b) Scope of Plan Commission Review. The Plan Commission shall consider, but not be limited to, the following factors in review of a site plan:
1. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;
  2. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;
  3. The provision of sufficient open space (scenic and recreation to meet the needs of the proposed development;
  4. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;
  5. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;
  6. Conformance of the development plan with the Comprehensive Plan and Zoning District Regulations.

#### **16.04.400 BOARD OF ZONING APPEALS**

##### **16.04.410 Establishment: Membership: Term**

1. The Board of Zoning Appeals is hereby established as part of the Loogootee Plan Commission, under the provisions of IC 18-7-4-65 as amended (36-7-4-902(a)).
2. The Board of Zoning Appeals consist of five (5) members, as follows:
  - (a) Three (3) citizen members appointed by the Mayor of Loogootee, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the Plan Commission.

- (b) One (1) appointed by the City Council of Loogootee, who must not be a member of the Plan Commission.
  - (c) One (1) citizen member appointed by the Advisory Plan Commission who must be a member of the Plan Commission other than the member appointed under the subsection (a).
- 3. The term of the office shall be as follows:
  - (a) Two (2) members appointed by the Mayor of the City of Loogootee not from the Plan Commission shall hold office for a first (1<sup>st</sup>) term of one (1) year, the other member appointed by the Mayor of the City of Loogootee shall hold office for a first (1<sup>st</sup>) term of two (2) years or until their term on the Plan Commission ceases, whichever is shorter. The first (1<sup>st</sup>) term shall expire on the first day of January of the second and third year respectively and following their appointments.
  - (b) One (1) member appointed by the City Council of Loogootee for a first (1<sup>st</sup>) term of three (3) years.
  - (c) One (1) citizen member appointed by the Plan Commission for a term of four (4) years.
  - (d) Thereafter as a term expires each new member shall be appointed for a term of four (4) years. Each member is eligible for reappointment.
- 4. If a vacancy occurs among the membership, the original appointing authority appoints a member for the unexpired term.
- 5. The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its membership at its first meeting of the year. The vice-chairman shall have the authority to act as chairman during the absence of or disability of the chairman.
- 6. The majority of members shall constitute a quorum. No action is official, however, unless concurred in by a majority of the members of the Board.

**16.04.420 Powers of the Board of Zoning Appeals.** The Board of Zoning Appeals shall have all the powers and duties as provided under the provision of IC 36-7-4-900 series as amended.

- (1) **Appeals.** The Board of Zoning Appeals shall hear and determine appeals from and review [I.C. 36-7-4-918.1].

- (a) any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance;
  - (b) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of the zoning ordinance; or
  - (c) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an improvement location or occupancy permit.
- (2) **Special Uses and Conditional Uses.** The Board of Zoning Appeals shall approve or deny all:
- (a) special uses; and
  - (b) conditional uses;
- from the terms of the zoning ordinance, but only in the classes of cases of in the particular situations specified in the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.
- (3) **Variances from Development Standards of Zoning Ordinance.** The Board of Zoning Appeals shall approve or deny variances from the required development standards of the zoning ordinance.
- (4) **Variance of Use of the Zoning Ordinance.** The Board of Zoning Appeals shall approve or deny any variance of use of the zoning ordinance.

#### **16.04.430 Grant of Variances**

- (1.A) **Written Findings.** A variance of development standards may be approved under subsection 16.04.420(3) only upon a determination in writing that:
- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
  - (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
  - (c) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

**(1.B) Written Findings.** A variance of use may be approved under subsection 16.04.420(4) only upon a determination in writing that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- (c) The need for the variance arises from some condition peculiar to the property involved;
- (d) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- (e) The approval does not interfere substantially with the comprehensive plan.

The Board of Zoning Appeals may add reasonable conditions to the granting of a variance so as to accomplish the ends stated in this subsection.

**(2) Status of Variance.** The granting of a variance shall not be an ordinance amending the Zoning Ordinance, and no action by the board shall be taken or decision made except after a public hearing.

**16.04.440 Time Limit.**

- (1) Any variance approved by the Board shall expire six (6) months from the date of such action, unless an Improvement Location Permit incorporating a variance has been obtained within said six (6) months or the provisions of the variance have been adhered to within said six (6) months.
- (2) Whenever the Board has taken action to approve or deny a variance application, the Board shall not consider any further variance application on any part of the same property for a period of one (1) year from the date of such action.

**16.04.450 Application for Variance.** Application for Variance shall be subject to Section 16.04.340(2) of this Ordinance.

**16.04.460 Notice Posting**

- (1) Upon the filing of an application for variance the applicant or his attorney shall post a sign upon the real estate affected by the variance in a conspicuous place which is visible at all times to all persons passing said premises. The applicant shall protect the sign from destruction on the site until the variance is approved or denied by the Board.



- (2) The sign shall be placed thereon not less than ten (10) days prior to the public hearing by the Board; and said sign shall remain posted until approved or denied by the Board.

**16.04.500 VIOLATION AND PENALTIES.** Any person, firm, or corporation, or anyone acting in behalf thereof who shall violate or fail to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100.00 (one hundred dollars). Each day a violation is permitted to exist shall constitute a separate offense. The Plan Commission's attorney shall, immediately upon any violation having been called to his/her attention, institute an injunction, to restrain a person from violating this ordinance and/or institute a mandatory injunction requiring that a structure erected in violation of this ordinance be removed. The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedy provided by law.