TOWN OF BROWNSTOWN ORDINANCE 2015-2
AN ORDINANCE AMENDING
BROWNSTOWN CODE, TITLE 15-LAND USE

WHEREAS, the Town Council has determined that it would be advisable to revise and amend the Brownstown Code concerning Land Use and including therein the adoption of a Zoning Ordinance,

NOW, THEREFORE BE IT ORDAINED AND ENACTED that:

SECTION 1. Chapters 150, 151, 152 and 153 of the Brownstown Code is repealed as of the effective date of this Ordinance.

SECTION 2 Chapter 154 entitled "STREET CONSTRUCTION" and all of its sections shall be renumbered §160.01 through §160.38.

SECTION 3. New Chapters 150 through Chapter 159 of the Brownstown Code in the words and figures as set out in the attached Exhibit A are hereby adopted.

SECTION 4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. Should any section, paragraph, clause or phrase of this ordinance be declared unconstitutional or invalid, the remainder of said ordinance shall continue in full force and effect.

SECTION 6. The Clerk-Treasurer shall have copy of this Ordinance published one time each week for two (2) consecutive weeks in the Banner. This Ordinance shall be effective immediately upon final publication.

Adopted by the Town Council this_____day of _____, 2015.

_____
John Nolting, President

_____
C. J. Foster, Member

_____
William Sweeney, Member

_____
Benjamin Lewis, Member

_____
Dustin Steward, Member

ATTEST:_____
David Willey, Clerk-Treasurer

PASSED FIRST READING: _____, 2015 by vote of_____

PASSED SECOND READING: _____, 2015 by vote of_____

PASSED THIRD READING: _____, 2015 by vote of_____

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Title 15. Land Use

Chapter §150. INTRODUCTORY PROVISIONS

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§150.01. SHORT TITLE

This Chapter may be referred to as "the Brownstown Zoning Ordinance," or, in appropriate context, as "this ordinance."

§150.02. AUTHORITY

This Chapter is adopted under the authority of Title 36, Article 7, Chapter 4 of the Indiana Code and the home-rule provisions of the Indiana Code and Constitution.

§150.03. PURPOSE

The provisions and requirements of this ordinance are adopted for the following purposes:

(1) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;

(2) Lessening or avoiding congestion in public ways;

(3) Promoting the public health, safety, comfort, morals, convenience, and general welfare; and

(4) Otherwise accomplishing the purposes of Title 36, Article 7, Chapter 4 of the Indiana Code.

§150.04. MINIMUM REQUIREMENTS

In the interpretation and application, the provisions of this Chapter shall be held to the minimum requirements, shall be liberally constructed in favor of the Town and shall not be deemed to be a limitation or repeal of any other power granted by the Indiana Code.

§150.05. JURISDICTION

The provisions of this ordinance shall apply to all real property located within the corporate limits of Brownstown, Indiana, and within the contiguous unincorporated area over which the Board of County Commissioners of Jackson County, as the legislative body of Jackson County, has ceded jurisdiction in accordance with Indiana Code §36-7-4-205.

§150.06. APPLICATION OF REGULATIONS

The regulations set forth in this Title XV shall affect all land, every structure, and every use of land or structure within the jurisdiction, and shall apply as follows:

§150.07. COMPLIANCE REQUIRED

No land shall be altered, cleared, graded, or otherwise improved and no structure or part thereof shall be erected, moved onto, structurally altered, or used or occupied except in compliance with the regulations of this Title ,15 for the district in which it is located unless a development permit has been issued.

§150.08. INTERPRETATION OF REGULATIONS

The regulations in this Title XV shall be enforced and interpreted according to the following rules:

(A) Minimum Requirements

Regulations set forth by this Title XV shall be minimum regulations. If the requirements set forth in this Title XV are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.

(B) Liberally Construed

This Title XV shall be liberally construed to effectively carry out its purposes in the interest of public health, safety, welfare and convenience.

(C) Restrictive Covenants

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this Title XV, nothing contained within this Title XV shall be construed to render such covenants inoperative. The Town and its officials do not have the right or responsibility for administering or enforcing covenants.

§150.09. CONFLICTING PROVISIONS

(A) Whenever the requirements of these zoning regulations are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards as determined by the director shall govern.

(B) Whenever the requirements of these zoning regulations are pre-empted by federal or State mandate, the federal or state rule will control.

(C) These regulations are independent of private deed restrictions and other covenants and shall apply whether or not they are more restrictive than such restrictions.

(D) The issuance of any permit, certificate or approval in accordance with the standards and requirements of these zoning regulations shall not relieve the recipient of such permit, certificate or approval from the responsibility of complying with all other applicable requirements of any other city, county, state or federal agency having jurisdiction over the structures or land uses for which the permit, certificate or approval was issued.

§150.10. RULES OF INTERPRETATION

See Chapter §159 for rules of construction and interpretation.

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§151.01. DISTRICTS ESTABLISHED

The districts appearing on the official zoning map referred to in §151.02 shall be considered districts for the purposes of this ordinance.

§151.02. ZONING MAP

(A) General

(1) The Town, and all land subject to the jurisdiction of this ordinance, is hereby divided into zones, or districts, as shown on the official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Section.

(2) The official Zoning Map as adopted or as hereafter amended, shall be located in the office of the Town Clerk. It is the final authority as to the current zoning status of land and water areas, buildings, and other structures within the jurisdiction of this ordinance. The Map shall be identified by the signature of the President of the Town Council, attested by the Town Clerk, and shall bear the Seal of the Town under the following words:

> This is to certify that this is the official Zoning Map, referred to in the Brownstown Code of Ordinances adopted on the _____ day of _____, 2015.

§151.03. AMENDMENT OR REPLACEMENT OF OFFICIAL ZONING MAP

(A) Amendments to the official Zoning Map shall be made by ordinance adopted by the Town Council after due notice and public hearing pursuant to the procedures of §156.05. The amendments thereto shall be listed in the order adopted in a separate register maintained in the office of the Planning Services Division, and each amendment shall be identified as follows:

> By official action of the Town Council, the following amendments have been made to the official Zoning Map on the date indicated.

(B) The foregoing entries shall be signed by the President of the Town Council, attested by the Town Clerk, and bear the Seal of the Town. Amendments to the official Zoning Map shall

be recorded thereon by the Planning Services Division and so noted on the amending ordinance prior to final recording of said ordinance by the Town Clerk.

(C) In the event that the official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes or additions, the Town Council may adopt a new official Zoning Map which shall supersede any prior zoning map. The new Map may correct errors or omissions in prior maps, but no such correction shall have the effect of amending the original Zoning Map or any subsequent amendments thereof. The new official Zoning Map shall be identified by the signature of the President of the Town Council, attested by the Town Clerk, and bearing the Seal under the following words:

> This is to certify that this official Zoning Map supersedes and replaces the official Zoning Map adopted on the _____day of _____ , 2015 , as part of the Code of Ordinances of the Town of Brownstown, Indiana.

(D) It shall be unlawful for any person to amend or change the official Zoning Map except in conformity with the procedures set forth in this ordinance.

§151.04. DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

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

(3) Boundaries indicated as approximately following town limits shall be construed as following such town limits.

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

(5) Boundaries indicated as following shorelines of bodies of water shall be construed to follow shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

(6) Boundaries indicated as parallel to or extension of features indicated in subsections A through E of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(7) Except as provided in subsection (9), below, where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the Board of Zoning Appeals shall interpret the district boundaries.

(8) Except where flood fringe boundary lines are involved, or where floodway district boundary lines are involved, where a district boundary line divides a lot which was in single ownership on the effective date hereof, the Board of Zoning Appeals may permit the extension of the regulations for either portion of the lot not to exceed 100 feet beyond the district line into the remaining portion of the lot.

(9) Where a flood fringe district boundary line or where a floodway district boundary line divides a property, the provisions of the respective district(s) shall apply only to

that portion or portions of the property in the respective flood fringe or floodway districts.

(10) Flood fringe and floodway district boundary lines on the official zoning map are necessarily generalized because of the official zoning map scale and limited topographical information available. Exact boundary lines shall be determined as provided in §154.03. When the floodway district boundaries shown on the flood insurance rate map (FIRM) along with the flood insurance study, Brownstown, Indiana, dated May 2, 2008; and adopted by the Town Board; the FIRM boundaries shall prevail. Whenever a floodway district boundary conflict is discovered, the Planning Services Division shall correct the official zoning maps to correspond with the floodway boundary shown on the FIRM map.

(B) Exceptions to Height Regulations

The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, silos, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(C) Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an all-weather private street, which in turn intersects with a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking. An all-weather private street shall be constructed to the same standards as a public street.

(D) Permitted Projections into Minimum Yards

(1) Projections from a building or structure which are not designed for occupancy either above, below or within the projection may extend up to two feet six inches into minimum yards with the following exceptions:

(a) Said projections may extend up to four feet into minimum front and rear yards on the south side of a building or structure.

(b) In zoning districts where side yards are required, said projections may extend up to four feet into minimum side yards on the south side of a building or structure only when a minimum of five feet six inches) remains between the furthest extremity of side projection(s) and the property line.

(2) No structural supports of said projections may originate in any required minimum yards. Provided, however, that no part of an active solar collector device shall project into any minimum yard.

§151.05. APPLICATION OF DISTRICT REGULATIONS

(A) General

Regulations applicable within each district shall be applied uniformly to each class or kind of structure or land. In particular:

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations

herein specified for the district in which it is located. All uses not expressly permitted as a permitted use, an accessory use, or a special use are prohibited.

(2) No building or other structure shall hereafter be erected or altered:

(a) To exceed the height or bulk;

(b) To accommodate or house a greater number of families;

(c) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein permitted; or in any other manner contrary to the provisions of this ordinance.

(3) No part of a yard, other open space, off-street parking, or loading space required in connection with any building for the purpose of complying with this ordinance shall voluntarily be included as part of a yard, open space, off-street parking, or loading space similarly required for any other building or any other lot.

(4) No yard or lot existing on the effective date hereof shall be voluntarily reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date hereof shall meet at least the minimum requirements established by this ordinance.

(5) All territory which may hereafter be annexed to the city shall retain its prior zoning classification until otherwise classified.

§151.06. AG GENERAL AGRICULTURE DISTRICT

(A) Statement of Intent

This district is created to provide land for purposes devoted primarily to the production of agricultural products such as field crops, livestock, fowl and other conventional agricultural pursuits. Other limited compatible uses are also permitted. This district is also created to assist in the conservation of the natural resources within the jurisdiction of this ordinance by encouraging practices which will conserve soil, soil resources, water, water resources, and prevent soil erosion and floodwater damages. Utilities other than electricity and telephone should be provided by the land user thereby discouraging the uneconomical extension of public water supply and sewage disposal facilities. Uses not related to agriculture are discouraged. When the public interest will be served and only when a contribution will be made to orderly growth, portions of this district may be rezoned for alternative uses.

(B) Permitted Principal Uses and Structures

Principal uses and structures shown with a “P” (for “Permitted”) in the “AG” column on the use table in Section §151.13 shall be allowed in the Agricultural District.

(C) Permitted Accessory Uses and Structures

Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel, including, but not limited to:

(1) Home occupation.

(2) Living quarters for a person employed on the premises and his/her family on parcels 10 acres or more.

(3) Market facilities for sale of products grown on the premises.

(4) Open storage incidental to the principal use is allowed in this district, subject to the standards of §153.05.

(5) See 0 for standards for accessory structures.

(D) Special Uses

(1) After a public hearing before the Plan Commission, the Board of Zoning Appeals may permit as special uses any of the uses shown with an "S" (for "Special Use") in the AG column on the use table in §151.13.

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(E) Minimum Lot Area

15,000 square feet if any dwelling or other building is connected to a public sewer; otherwise 43.560 square feet.

(F) Density Limit on Animals

Animals in addition to (or other than) dogs, cats and other domestic pets shall be allowed in this district as follows:

(1) The minimum lot size for one or more animals shall be two (2) acres;

(2) The number of animals per acre shall not exceed one animal unit per acre, based on common formulations of waste production. That translates to the following maximum number of animals per acre:

Animal Type	Animal Unit	Maximum animals per Acre
Slaughter steer or heifer	1.0	1.0
Cow and calf pair	1.2	0.8
Dairy cow,		
Over 1000 lbs	1.4	0.7
Under 1000 lbs	1.0	1.0
Swine		
Over 300 lbs	0.4	2.5
Between 55 and 300 lbs	0.3	3.3
Under 55 lbs	0.05	20.0
Sheep or lamb	0.1	10
Duck	0.01	100.0
Turkey		
Over 5 lbs	.018	55.6
Up to 5 lbs	.005	200.0
Chickens (dry manure)		
Over 5 lbs	.005	200.0
Up to 5 lbs	.003	333.3
Chicken (liquid manure)	0.033	30.3
Horse	1.0	1.1

(G) **Minimum Lot Width**

150 feet.

(H) **Minimum Front Yard Depth**

50 feet.

(I) **Minimum Rear Yard Depth**

30 feet.

(J) **Minimum Side Yard Width**

10 feet.

(K) **Special Yard Requirements**

No structures or enclosed pens in which livestock, fowl, and animals are kept shall be closer than 200 feet from any residential or commercial structure on an adjacent property, except chicken coops containing 6 or fewer chickens.

(L) **Maximum Height:**

Not Applicable.

(M) **Minimum off-Street Parking and Loading Requirements**

As required in §153.01(C) and (D).

(N) **Maximum Occupancy**

For the principal residential structure, one family plus one person not related to the family.

(O) **Number of Principal Structures Permitted**

No more than one principal residential structure is permitted on any single lot. Additional principal structures for agricultural use are allowed.

§151.07. R-10 LOW DENSITY RESIDENTIAL DISTRICT

(A) **Statement of Intent**

This district is established to provide areas for single-family residential purposes, and to provide protection from the encroachment of other types of uses which are not appropriate to low density residential areas.

(B) **Number of Principal Structures Permitted**

No more than one principal structure shall be located on any single lot.

(C) **Principal Uses and Structures**

Principal uses and structures shown with a “P” (for “Permitted”) in the “R-10” column on the use table in Section §151.13 shall be allowed in the R-10 District.

(D) **Accessory Uses and Structures**

Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel. See 0 for standards for accessory structures.

(E) **Special Uses**

(1) After a public hearing before the Plan Commission, the Town Council may permit as special uses any of the uses shown with an “S” (for “Special Use”) in the R-10 column on the use table in §151.13.

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(F) Minimum Lot Size

The minimum lot size in this district shall be 10,000 square feet.

(G) Minimum Lot Width

The minimum lot width shall be 75 feet.

(H) Minimum Front Yard Depth

(1) Any dwelling unit lawfully constructed before January 1, 2015, shall be considered a lawful conforming use if it has a front yard depth of five feet or more. Such a dwelling unit may be: expanded away from the front lot-line; repaired if damaged; and replaced if destroyed without a variance;

(2) Any dwelling unit constructed on a lot lawfully existing on January 1, 2015, shall have a front-yard depth of 20 feet; upon written request of the property owner, the Building Official may approve a reduced front-yard depth equal to the average front-yard depth of the five dwelling units nearest the proposed dwelling unit along the same street but in no case less than five feet;

(3) Any dwelling unit constructed on a lot created after January 1, 2015, shall have a front-yard depth of at least 20 feet.

(I) Minimum Rear Yard Depth

The minimum rear yard depth from any building shall be five feet; any dwelling unit shall be located at least 15 feet from the rear lot line.

(J) Minimum Side Yard Width for All R-10 Districts

Five feet.

(K) Maximum Height:

35 Feet.

(L) Maximum Occupancy

Single-unit dwelling: one family plus one person not related to the family.

(M) Minimum off-Street Parking and Loading Requirements

As required in §153.01(C) and (D) or in the special use performance standards.

§151.08. R-5 MEDIUM DENSITY RESIDENTIAL DISTRICT

(A) Statement of Intent

This district is established to provide areas for single-family residential purposes, and to provide protection from the encroachment of other types of uses which are not appropriate to low density residential areas.

(B) Number of Principal Structures Permitted

No more than one principal structure shall be located on any single lot.

(C) Principal Uses and Structures

Principal uses and structures shown with a "P" (for "Permitted") in the "R-10" column on the use table in Section §151.13 shall be allowed in the R-10 District.

(D) Accessory Uses and Structures

Accessory uses and structures customarily incidental to permitted principal uses and on the same parcel. See 0 for standards for accessory structures.

(E) Special Uses

(1) After a public hearing before the Plan Commission, the Town Council may permit as special uses any of the uses shown with an "S" (for "Special Use") in the R-10 column on the use table in §151.13.

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(F) Minimum Lot Size

The minimum lot size in this district shall be 5,000 square feet for lots created on or before December 31, 2014, which lots shall remain conforming lots under this ordinance. Lots created in this district after that date shall have a minimum lot size of 6,250 square feet. The minimum lot size for multi-family dwellings shall be 2,500 square feet per dwelling unit, with a minimum site size of 10,000 square feet for a multi-family dwelling.

(G) Minimum Lot Width

The minimum lot width shall be 60 feet.

(H) Minimum Front Yard Depth

(1) Any dwelling unit lawfully constructed before January 1, 2015, shall be considered a lawful conforming use if it has a front yard depth of five feet or more. Such a dwelling unit may be: expanded away from the front lot-line; repaired if damaged; and replaced if destroyed without a variance;

(2) Any dwelling unit constructed on a lot lawfully existing on January 1, 2015, shall have a front-yard depth of 20 feet; upon written request of the property owner, the Building Official may approve a reduced front-yard depth equal to the average front-yard depth of the five dwelling units nearest the proposed dwelling unit along the same street but in no case less than five feet;

(3) Any dwelling unit constructed on a lot created after January 1, 2015, shall have a front-yard depth of at least 20 feet.

(I) Minimum Rear Yard Depth

The minimum rear yard depth from any building shall be five feet; any dwelling unit shall be located at least 15 feet from the rear lot line.

(J) Minimum Side Yard Width for All R-10 Districts

Five feet.

(K) Maximum Height:

35 Feet.

(L) Maximum Occupancy

Single-unit dwelling: one family plus one person not related to the family.

(M) Minimum off-Street Parking and Loading Requirements

As required in §153.01(C) and (D) or in the special use performance standards.

§151.09. MH MOBILE HOME PARK DISTRICT

(A) Statement of Intent

This District is created to provide areas in which mobile home parks may be situated for residential dwelling purposes. It is the intent that this District be a desirable permanent area providing adequate open space, and essentially the same consideration be given to residents as are given to residents of other residential districts.

(B) Permitted Principal Uses and Structures

Principal uses and structures shown with a "P" (for "Permitted") in the "MH" column on the use table in Section §151.13 shall be allowed in the Mobile Home Park District.

(C) Permitted Accessory Uses and Structures

Accessory uses and structures customarily incidental to principal uses and structures and on the same parcel, including, but not limited to:

(1) One single-unit dwelling of conventional construction per mobile home park for occupancy by the manager of the park and his family.

(2) Storage buildings.

(3) See 0 for standards for accessory structures.

(D) Special Uses

(1) After a public hearing before the Plan Commission, the Town Council may permit as special uses any of the uses shown with an "S" (for "Special Use") in the MH column on the use table in §151.13.

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(E) Minimum Area for Mobile Home Park

Two acres.

(F) Minimum Width for Mobile Home Park

200 feet.

(G) Minimum Front Yard Depth for Entire Mobile Home Park

30 feet.

(H) Minimum Rear Yard Depth for Entire Mobile Home Park

20 feet.

(I) **Minimum Side Yard Width for Entire Mobile Home Park**

20 feet.

(J) **Maximum Height**

25 feet.

(K) **Maximum Occupancy**

One family per dwelling unit plus one person; or two persons for the first 300 square feet of floor area, plus one person for each additional 250 square feet of floor area.

(L) **Mobile Home Park Design and Installation Standards**

(1) **Placement of Individual Mobile Homes**

(i) No person shall place a mobile home for human occupancy or occupy a mobile home other than a mobile home placed or occupied in a licensed mobile home park within the corporate limits within the town, except after compliance with the conditions hereinafter stated.

(ii) The lot upon which the mobile home is placed shall contain no less than 6,200 square feet and be occupied only by the mobile home with its accessory buildings or uses. The foregoing notwithstanding, one mobile home with its accessory buildings or uses may be placed upon Lot Number 148 in the old Town of Ewing, now Brownstown.

(iii) Each lot upon which a mobile home is placed shall have no less than 50 feet thereof that abuts directly onto a public street, public road, public alley or public parking lot.

(iv) A hard surface area shall be provided for each lot upon which a mobile home is to be placed, of adequate size, to provide a base for steps to the mobile home.

(v) The lot upon which the mobile home is placed shall be provided with anchors or tie-downs to stabilize the mobile home.

i. Unless the tie-down system is designed by a registered professional engineer or architect, tie-downs shall be placed not more than 24 feet on centers beginning from the front wall, from the first stud and/or first cross member. Not more than six feet open-end spacing shall be provided at the rear wall of the mobile home unless additional tie-downs are provided.

ii. Provision for diagonal ties between ground anchors and the mobile home shall be made in conjunction with each vertical tie down.

iii. Tie-downs exposed to weathering shall be resistant to weathering deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 ounces per square foot of surface coated. Each tie-down shall be designed to resist an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50% overload without failure.

(vi) In addition to the mobile home, each lot may contain a porch or deck not greater than 50 square feet in area.

(2) **Restrictions for Emergency Residence in Mobile Homes**

(i) A mobile home, other than a mobile home placed in a licensed mobile home park may be placed within the corporate limits of the town for a period of not more than one calendar year on a lot upon which is located an existing dwelling, which dwelling is to be repaired or replaced due to damage by fire, explosion or act of God, or which is to be repaired or replaced due to obsolescence.

(ii) A mobile home placed upon the lot shall be occupied only by the immediate previous residents of the dwelling located on the lot.

(3) **Lot Requirements**

(a) No person shall place a mobile home dwelling or occupy a mobile home dwelling within the corporate limits of the town, except after compliance with the conditions hereinafter stated.

(b) The lot upon which the dwelling is placed shall contain no less than 6,200 square feet and be occupied only by the dwelling with its accessory buildings or uses. The forgoing notwithstanding, one dwelling with its accessory buildings or uses may be placed upon Lot Number 148 in the old Town of Ewing, now Brownstown.

(c) Each lot upon which a dwelling is placed shall have no less than 50 feet thereof that abuts directly onto a public street, public road, public alley or public parking lot.

§151.10. DB DOWNTOWN BUSINESS DISTRICT

(A) Statement of Intent

This district is intended to preserve the established character of the historic downtown of Brownstown and of the similar commercial area along Ewing Street in the north part of Brownstown. These areas are characterized by buildings built up to the sidewalk with no room for off-street parking. It is the intent of the Town Council in adopting this district to preserve that character and to avoid imposing burdensome site requirements that would disrupt the existing use patterns.

(B) Permitted Uses

Principal uses and structures shown with a “P” (for “Permitted”) in the “DB” column on the use table in Section 151.13 shall be allowed in the Downtown Business District.

(C) Permitted Accessory Uses and Structures

Accessory uses and structures customarily incidental to principal uses and structures.

(D) Special Uses

(1) After a public hearing before the Plan Commission, the Town Council may permit as special uses any of the uses shown with an “S” (for “Special Use”) in the DB column on the use table in §151.13**.**

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular

district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(E) Minimum Lot Area

The minimum lot area shall be 2500 square feet.

(F) Minimum Lot Width

The minimum lot width shall be 25 feet.

(G) Minimum Front Yard Depth

No front yard is required in this district and the inclusion of front yards is strongly discouraged.

(H) Minimum Rear Yard Depth

The minimum rear yard is 10 feet to allow space for trash receptacles, fire escapes where needed and other utility functions.

(I) Minimum Side Yard Width

No side yard is required.

(J) Maximum Building Height

45 feet.

(K) Minimum Off-Street Parking and Loading Requirements

None required.

(L) Site Landscaping

None required.

§151.11. HB HIGHWAY BUSINESS DISTRICT

(A) Statement of Intent

This district is intended to provide for highway-oriented businesses uses along U.S. 50 and State Highway 135 and for similar uses along other major thoroughfares. .

(B) Permitted Uses

Principal uses and structures shown with a “P” (for “Permitted”) in the “HB” column on the use table in Section §151.13**.** shall be allowed in the Highway Business District.

(C) Permitted Accessory Uses and Structures

Accessory uses and structures customarily incidental to principal uses and structures.

(D) Special Uses

(1) After a public hearing before the Plan Commission, the Town Council may permit as special uses any of the uses shown with an “S” (for “Special Use”) in the DB column on the use table in §151.13**.**

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(E) Minimum Lot Area

The minimum lot area shall be 20,000 square feet.

(F) Minimum Lot Width

The minimum lot width shall be 100 feet.

(G) Minimum Front Yard Depth

The minimum front yard depth shall be 40 feet; parking, gas islands and accessory structures such as ATMs are allowed in the front-yard area but the principal building must be set back from the front lot line by at least the minimum front-yard depth.

(H) Minimum Rear Yard Depth

The minimum rear yard is 10 feet generally or 20 feet where the nearest property to the rear lot line is in one of the R districts.

(I) Minimum Side Yard Width

The minimum side yard shall be 10 feet on each side.

(J) Maximum Building Height

35 feet.

(K) Minimum Off-Street Parking and Loading Requirements

See §153.01.

(L) Site Landscaping

See §153.03.

§151.12. I INDUSTRIAL DISTRICT

(A) Statement of Intent

This district is intended to provide for industrial uses and a limited number of commercial uses that support industrial uses. .

(B) Permitted Uses

Principal uses and structures shown with a "P" (for "Permitted") in the "I" column on the use table in Section §151.13 shall be allowed in the Industrial District.

(C) Permitted Accessory Uses and Structures

Accessory uses and structures customarily incidental to principal uses and structures.

(D) Special Uses

(1) After a public hearing before the Plan Commission, the Town Council may permit as special uses any of the uses shown with an "S" (for "Special Use") in the "I" column on the use table in §151.13**.**

(2) Some special uses are subject to additional design or performance standards, as set forth in 0; the existence of such standards for a particular use in a particular district is generally indicated through a note on the use table, but in case of any conflict, the provisions of 0 shall control.

(E) Minimum Lot Area

The minimum lot area shall be two acres.

(F) Minimum Lot Width

The minimum lot width shall be 200 feet.

(G) Minimum Front Yard Depth

The minimum front yard depth shall be 40 feet; parking is allowed in the front-yard area but the principal building must be set back from the front lot line by at least the minimum front-yard depth.

(H) Minimum Rear Yard Depth

The minimum rear yard is 30-feet generally or 50 feet where the nearest property to the rear lot line is in one of the R districts.

(I) Minimum Side Yard Width

The minimum side yard shall be 20 feet on each side.

(J) Maximum Building Height

70 feet.

(K) Minimum Off-Street Parking and Loading Requirements

See §153.01Site Landscaping

See §153.03.

§151.13. PERMITTED USES

PERMIITED USE TABLE

USE CATEGORIES	USE TYPES	AG	R-10	R-5	MH	DB	HB	I	USE STANDARD
Household Living (See Chapter §152(A))	Single family dwellings, except mobile homes	P	P	P	P				
	Two-family houses (duplex)	P	P	P					
	Dwelling units above the main floor					P		P	
	Multi-Unit Dwellings		S	P		P			
Group living (See Chapter §152(B))	All group living		S	S	S	S			
Community service (See 0)	Civic, social and fraternal	S	S	S	S	P	P		
	Community centers	S	S	S	S	P	P		
	Libraries	S	P	P	P	P	P		
	Museums		P	P					
Day care (See 0)	Adult day care	S	P	S			S		
	Day care centers for children	S	S	S		P	P		
	Family day care homes	P	P	P	S				

PERMIITED USE TABLE									
	Nursery education or school		S	S		P	P		
Educational facilities (See Chapter §152(C))	Primary (elementary) schools	P	P	P	P	P	P		
	Secondary schools	P	P	P	P	P	P		
	Special training and schooling	S	S	S	S	P	P		
	Professional schools					P	P	P	
	University and colleges					P	P	P	
Government facilities and services (See Chapter §152(D))	Executive legislative and judicial functions					P	P		
	Postal services					P	P	P	
	Fire protection and related activities	S	S	S	S	P	P	P	
	Fire stations	S	S	P	P	P	P	P	
	Police protection and related activities					P	P	P	
Medical facilities (See Chapter §152(E))	Hospital					P	P		
	Emergency and walk-in medical clinics					P	P	P	
	Medical laboratory services					P	P	P	
	Nursing, convalescent and rest homes	S	S	S	S	P	P		
	Outpatient surgical centers					P	P	S	
	Note: medical and dental offices without surgical facilities are listed under "office" uses								
Parks and open space (See Chapter §152(F))	Parks and playgrounds	P	P	P	P	P	P		
Passenger terminals and services (See Chapter §152(G))	Transportation terminals, passenger and freight					P	P	P	
Religious Institution (See Chapter §152(H))	House of worship (church, synagogue, temple, mosque or other)	P	P	P	P	P	P	P	
Social service institutions (See Chapter §152(I))	Welfare and charitable services					P	P	P	
Telecommunications facilities	Wireless communications facilities	S				S	P	P	
Utilities, major See Chapter §152(J))	Electrical public utility substation	S	S	S	S	S	P	P	
	Electrical transmission lines of 30 kilovolts or larger	S	S	S	S	S	S	S	
	Wastewater treatment facilities							S	
Eating and drinking establishments (See 0)	Drinking places (alcoholic beverages)					P	P		
	Eating places					P	P	P	
Entertainment,	Adult uses							P	

PERMIITED USE TABLE									
indoor (See 0)	Bars or nightclubs					P	P	P	
	Bowling alleys,, pool halls, and other similar recreational activities								
	Indoor sports facilities, including, but not limited to, racquetball, handball, tennis, basketball and other court games; gymnasiums; soccer; hockey;					P	P	P	
	Theaters and auditoriums					P	P		
Entertainment, outdoor (See 0)	Golf course		S	S	S				
	Miniature golf , batting cages, driving ranges		S	S	S				
Offices (See0)	Banking and financial institutions, without drive-through					P	P	P	
	Banking and financial institutions, with drive-through						P	P	
	Business administrative and professional offices except those listed separately					P	P	P	
	Dental offices and dental labs					P	P	P	
	Medical offices without surgical facilities					P	P	P	
	Printing services					P	P	P	
	Studios, television and radio					P	P	P	
	Telecommunications offices and exchanges					S	P	P	
	Veterinary clinics, small animal, without boarding					S	P	P	
Overnight accommodations (See0)									
	Bed and breakfast establishment.	S				P	P		
	Inn	S				P	P		
	Hotels and motels					P	P	S	
	Travel trailer parks or campground						S	S	
Retail sales and service, sales-oriented (See 0)	Retail, general, except as otherwise listed					P	P		
	Retail, groceries, except as otherwise listed					P	P		
	Building supplies and lumber, including electrical, plumbing, HVAC and other						P		
	Convenience stores with gasoline service						P	P	
	Fuel and ice dealers, including coal, bottled gas						P	P	
	Furniture, home furnishings and equipment					P	P		
	Hay, grain and feeds						P	P	
	Liquor					P	P		
	Nursery products and greenhouse						P	P	

PERMIITED USE TABLE									
Retail sales and service, personal service-oriented (See 0)	Service and repair businesses not separately listed					P	P	P	
	Art, music, and photographic studios	S				P	P	P	
	Beauty and barber services						P	P	
	Funeral services with crematorium								
	Laundering and dry cleaning (self-service)					P	P	P	
	Massage service					P	P		0
	Pressing, alteration and garment repairs						P	P	
	Shoe repair						P	P	
	Tattoo Parlor						P		
Self-service storage (See0)	Commercial storage of recreational vehicles							P	
	Mini-warehouses						P	P	
Vehicle and similar sales and service (See 0)	Auto repair and service						P	S	
	Automobile wash						P	P	
	Automobile and truck rental services						P	P	
	Farm and industrial equipment and supplies						P	P	
	Marine craft and accessories						P	P	
	Mobile homes and accessories						P	P	
	Motorcycle and all-terrain vehicle (ATV) sales						P	S	
	Motor vehicles (new and used cars)					P	P	S	
	Tires, batteries and accessories						P		
	Truck stops						P	S	
Light industrial service (See 0)	Building services, including janitorial, exterminating, general maintenance						P	P	
	Contractors, general and specialty, without outdoor storage						P	P	
	Contractors, general and specialty, with outdoor storage						P	P	
	Coating engraving and allied services							P	
	Laundering, dry cleaning and dyeing plants						S	P	
	Linen supply and industrial laundry services						S	P	
	Manufacturing, fabricating, processing, or assembling of products or materials							P	
	Research, development and/or testing services							P	
Heavy industrial (See 0)	Acid manufacturing							P	
	Ammunition manufacturing							S	
	Blast furnace, steelworks, or the rolling and finishing of ferrous metals							S	

PERMIITED USE TABLE									
	Iron and steel foundry							S	
	Meatpacking plant or slaughterhouse							S	
	Nonferrous metal foundry							S	
	Smelting and refining of nonferrous metals							S	
	Stockyards or livestock sales barns							S	
Warehouse and freight movement (See 0)	Equipment rental and leasing services						S	P	
	Farm products warehousing							P	
	Freight forwarding service							P	
	General warehousing and storage							P	
	Household goods warehousing and storage							P	
	Parcel services					P	P	P	
	Refrigerated warehousing (except food lockers)							P	
Waste-related service (See 0)	Junkyard or auto wrecking yard, or storage							S	
	General wholesale and trade except as otherwise listed								
Wholesale trade (See 0)	Beer, wine, and distilled alcoholic beverages							P	
	Commercial and industrial machinery and equipment							P	
	Construction equipment							P	
	Drugs, chemicals and allied products							P	
	Farm equipment							P	
	Farm and grain mill products							P	
	Machinery, equipment and supplies							P	
	Wholesale trade of products produced on the premises						S	P	
Agriculture (See 0)	General agricultural use except as separately listed	P						P	
	Confined animal feeding operation	S						S	
	Plant nursery or greenhouse	P					P	P	
Resource extraction See 0)	All resource extraction							S	

Chapter §152. USE REGULATIONS

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§152.01 USE CATEGORIES

(A) General

(1) Basis for classification

Use categories classify land uses and activities based on similar functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, likely impact on surrounding properties and site conditions. The use categories provide a systematic basis for assigning land uses to appropriate zoning districts.

(2) Principal use characteristics

A principal use is assigned to the use category that most closely corresponds to its nature as described in the "Characteristics" section of each use category.

(B) Accessory Uses

Accessory uses are allowed by right, but only in conjunction with a principal use, unless otherwise stated elsewhere in this Chapter. Unless otherwise stated, accessory uses are subject to the same regulations as the principal use. Common accessory uses are listed as examples in the use category descriptions.

(C) Use of Examples

The "Examples" section of each use category lists uses common to that use category.

(1) The examples provided are not all-inclusive, but describe the types of uses that are common to that category. Similar uses may also be permitted upon determination by the Zoning Administrator that they are appropriate for that use category.

(2) The names of these sample uses are generic and are based on common meanings, not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse," but sells mostly to retail consumers, is included in the Retail Sales and Service category rather than the Wholesale Trade category.

(D) Uses Not Included

The "Uses Not Included" section provides cross-references to uses that may appear to be part of a particular category, but which are explicitly handled in a different use category.

(E) Use Categories

The following tables describe the characteristics of categories of uses, examples from each category, common accessory uses and uses that are not part of a given use category. These

tables are descriptive and the examples listed are not all-inclusive. Determination of the appropriate category for a proposed principal use or accessory not specifically listed will be made by the Town Clerk or the Clerk's designee.

§152.02 RESIDENTIAL USE CATEGORIES

(A) Household Living

Characteristics:
Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis.

Principal Uses	Accessory Uses	Uses not Included
Single-family detached, single-family attached, two-family houses (duplex), corner lot duplexes, multiplexes, zero lot line houses, townhouses, manufactured homes Multi-family building, retirement center apartments, other apartments Group homes (6 persons or fewer) Upper-story residential Other structures with self-contained dwelling units	Accessory apartments Greenhouses and nurseries not engaged in retail trade Hobbies Home occupations In-home care for fewer than six persons Parking of occupants' registered vehicles Raising of Pets Recreational Activities Storage sheds Swimming pools	Bed and breakfast establishments, Hotels, Motels, Inns, Extended-stay facilities (See Overnight Accommodations) Boarding or rooming houses (See Group Living) Group home/other (More than 8 persons) (See Group Living) Halfway house (See Social Service Institutions) Nursing or convalescent home (See Group Living) Residential assisted living facility not having individual dwelling units (See Group Living)

(B) Group Living

Characteristics:
Residential occupancy of a structure by a group of people that does not conform to the definition of "Household Living." Tenancy is usually arranged on a monthly or longer basis. Generally, Group Living structures have a common eating area for residents, and the residents may receive care, training or treatment.

Principal Uses	Accessory Uses	Uses not Included
Assisted or congregate living Dormitories Fraternities Group homes/senior (More than 8 persons) Group home/other (More than 8 persons) Hospices Boarding or rooming houses Monasteries and convents Nursing or convalescent homes	Associated offices Food preparation and dining facilities Parking of vehicles for occupants and staff Recreational facilities Physical Rehabilitation as in the case of a nursing home	Alternative or post-incarceration facilities (See Social Service Institutions) Bed and breakfast establishments, hotels, motels, inns, extended-stay facilities (See Overnight Accommodations) Congregate care facilities where individual units comply with the definition of a dwelling unit (See Household Living) Exclusive care and treatment for psychiatric, alcohol, or drug problems, where patients are residents

§152.03 PUBLIC AND CIVIC USE CATEGORIES

(A) Community Service

Characteristics:
Uses of a public, nonprofit or charitable nature providing ongoing education, training or counseling to the general public on a regular basis, without a residential component

Principal Uses	Accessory Uses	Uses not Included
Community centers Libraries Museums Philanthropic institutions Senior centers Social service facilities Youth club facilities	Associated offices Food preparation and dining facilities Health, arts and crafts, child care and therapy areas Indoor or outdoor recreation and athletic facilities Limited retail sales Meeting areas Parking	Athletic or health clubs (See Retail Sales and Service) Churches, mosques, synagogues, or temples (See Places of Worship) Counseling in an office setting (See Office) Parks (See Parks and Open Areas) Soup kitchen (See Social Service Institutions) Treatment centers, transient lodging or shelters for the homeless (See Social Service Institutions)

(B) Day Care

Characteristics:
Uses providing care, protection and supervision for more than six children or adults on a regular basis away from their primary residences. Care is typically provided to an individual for less than 18 hours each day, although the facility may be open 24 hours each day.

Principal Uses	Accessory Uses	Uses not Included
Adult day care programs Child care institution Child care center Latch-key programs Nursery schools Preschools	Associated offices Food preparation and dining facilities Health, arts and crafts and therapy areas Indoor or outdoor recreation facilities Parking	Counseling in an office setting (See Office) In home child care for fewer than six persons (See Accessory Use)

(C) Educational Facilities

Characteristics:
Public and private (including charter or religious) schools at the primary, elementary, middle, junior high or high school level that provide basic academic education. Also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, usually in a campus setting.

Principal Uses	Accessory Uses	Uses not Included
Boarding schools Community colleges Elementary schools High schools Liberal arts colleges Middle schools Military academies Private schools	Adult continuing education programs Associated offices Auditoriums Before- and after-school child care Child care Food services Health facilities Housing for students and faculty	Business, driving, fitness/wellness, trade and other commercial schools (See Retail Sales and Service) Dance, art, music studios or classes (See Retail Sales and Service) Preschools or nursery schools (See Child care)

Seminaries Universities	Laboratories Libraries Maintenance facilities Meeting areas Parking Play areas Recreational and sports facilities Support commercial (a college-operated bookstore, for example or theaters)	

(D) **Government Facilities**

Characteristics:
Offices, storage, maintenance and other facilities for the operation of local, state or federal government agencies.

Principal Uses	Accessory Uses	Uses not Included
Town hall Courthouse or judicial building Detention centers Emergency medical and ambulance stations Fire stations Government offices Local, State, or Federal offices Municipal office center Police stations Post offices	Associated helicopter landing facilities Auditorium and meeting rooms Cafeterias Camouflage telecommunications Child care Holding cells Infirmaries Limited fueling facilities Parking Satellite offices	Educational facilities (See Educational Facilities) Maintenance facilities (See Light Industrial Service) Parks and recreational facilities (See Parks and Open Areas) Utilities (See Utilities) Waste-related service (See Waste-Related Service)

(E) **Medical Facilities**

Characteristics:
Uses providing medical or surgical care to patients, with or without in-patient care.

Principal Uses	Accessory Uses	Uses not Included
Blood plasma donation centers Hospitals Medical and dental clinics Medical centers	Associated helicopter landing facilities Associated offices Cafeterias Chapel or other ancillary worship space Child care Housing for staff or trainees Laboratories Limited support retail Parking Out-patient clinics Pharmacies Recreational facilities	Exclusive care and treatment for psychiatric, alcohol, or drug problems, where patients are residents (See Social Service Institutions) Nursing and medical schools not accessory to a hospital (See Educational Facilities)

(F) **Parks and Open Areas**

Characteristics:
Uses focusing on natural areas consisting primarily of vegetation, with passive or active outdoor recreation areas; also includes community gardens and other open spaces with structures occupying less than 5 percent of the land area.

Principal Uses	Accessory Uses	Uses not Included
Botanical gardens Cemeteries and mausoleums Country club or golf course	Boat docks Boat house Basketball courts	Athletic or health clubs (See Retail Sales and Service) Golf driving ranges and miniature golf

Forest and nature preserves Game preserves (where shooting of wildlife is not allowed) Mini-parks Memorial parks Neighborhood parks Parks Reservoir Squares, plazas or greens Tot lot and playgrounds	Clubhouses Concessions Maintenance facilities Parking Play equipment Recreational trails Single residential unit for caretaker or security purposes Swimming pools Tennis courts	facilities (See Entertainment) Membership clubs and lodges (See Entertainment) Water park (See Entertainment) Water towers, tanks and standpipes (See Utilities)

(G) **Passenger Terminal and Services**

Characteristics:
Facilities for the takeoff and landing of airplanes and helicopters and terminals for rail, bus, taxi or transit services.

Principal Uses	Accessory Uses	Uses not Included
Airports Bus passenger terminals Heliports Landing strips Taxi dispatch center Train passenger terminals	Associated offices Concessions, including food services and retail Freight handling areas Fueling facilities Limited retail Maintenance facilities Parking	Hotel and similar accommodations except as expressly permitted in applicable zoning district

(H) **Religious Institutions**

Characteristics:
Places of assembly for worship services and related activities.

Principal Uses	Accessory Uses	Uses not Included
Churches Mosques Synagogues Temples	Associated offices Food services and dining areas Meeting room/classroom for meetings or classes not held on a daily basis Parking On-site child care, schools or facilities where children are cared for while parents or guardians are occupied on the premises or a site-sponsored special event, but not on a daily basis Staff residences located on-site	Athletic or health clubs (See Retail Sales and Service) Educational Facilities (See Educational Facilities) Preschools, child care centers, nursery schools, latch-key programs, Intermediate childcare, or adult day care programs (See Day Care) Senior centers, community centers or social service facilities (See Community Service) Soup kitchen (See Social Service Institutions) Treatment centers, transient lodging or shelters for the homeless (See Social Service Institutions)

(I) **Social Service Institutions**

Characteristics:
Uses that primarily provide treatment for individuals with psychiatric, alcohol or drug problems, and transient housing related to social service programs.

Principal Uses	Accessory Uses	Uses not Included
Alternative- or post-incarceration facility Exclusive care and treatment for	Adult educational facility Ancillary indoor storage	Assisted living facility with individual self-contained dwelling units (see Household

psychiatric, alcohol, or drug problems, where patients are residents Halfway house Neighborhood resource center Rehabilitative clinic Social service facility, soup kitchen, transient lodging or shelter for the homeless (NAICS 624, 6242)	Associated office Day care Food services and dining area Meeting room Parking Staff residences located on-site	Living) Assisted living facility without individual dwelling units, community residential home (see Group Living) Cemetery, columbarium, mausoleum, memorial park (see Parks and Open Areas) Educational facility (see Educational Facilities) Philanthropic institution (see Community Service)

(J) Utilities

Characteristics:
Public or private facilities that are parts of local infrastructure system providing sewer, water, stormwater, telecommunications, electrical, natural gas or other utility services; "Minor Utilities" generally do not have permanent on-site staff; "Major Utilities" typically have on-site staff on a regular basis.

Principal Uses	Accessory Uses	Uses not Included
Minor Utilities: Lift stations Stormwater retention and detention facilities Telephone exchanges Water and wastewater pump stations Major Utilities: Electrical generating plants and substations Electrical transmission facilities Stormwater pumping station Television and radio broadcasting transmitters Wastewater treatment plants Water treatment plants Water towers, tanks, or standpipes	Control, monitoring, data or transmission equipment Parking Cell antennae Storage Security measures, such as fences	Maintenance yards and buildings (See Light Industrial Service) Utility offices (See Office) TV and radio studios (See Office) Reservoir (See Parks and Open Areas)

§152.04 COMMERCIAL USE CATEGORIES

(A) Eating Establishments

Characteristics:
Establishments that prepare and sell food for on-premises consumption.

Principal Uses	Accessory Uses	Uses not Included
Bistro Coffee shops Drive-ins Fast food without drive-through Outdoor vendors with permanent facilities Pizza delivery establishments Restaurants with drive-through (where allowed) Restaurants, limited Restaurant and bar Small-scale catering establishments	Bars Decks and patios for outdoor seating Drive-through facilities Live music Off-street customer and employee parking Valet parking facilities	Bars and nightclubs (See Entertainment)

Yogurt or ice cream shops		

(B) Entertainment

Characteristics:
Generally commercial uses, varying in size providing daily or regularly scheduled recreation or entertainment activities. Such activities may take place indoors or outdoors.

Principal Uses	Accessory Uses	Uses not Included
Indoor: Bars and nightclubs Indoor entertainment activities such as bowling alleys, game arcades, pool halls, dance halls, indoor firing ranges and movie or other theaters Membership clubs and lodges Outdoor: Batting cages Commercial golf driving ranges, miniature amusement parks, miniature golf facilities and water parks Drive-in theaters Fairgrounds Golf driving ranges Mini amusement parks Miniature golf facilities Riding academy or boarding stable Stadiums and arenas Theaters Water parks	Associated offices Concessions Food preparation and dining areas Maintenance facilities Parking Restaurants	Botanical gardens and nature preserves (See Parks and Open Areas) Golf courses or country clubs (See Parks and Open Areas) Adult Entertainment

(C) Offices

Characteristics:
Activities conducted in an office setting and generally focusing on business, government, or financial services. These uses are sometimes compatible with residential uses, and most generate limited traffic. Accessory uses generally have no external access or signs.

Principal Uses	Accessory Uses	Uses not Included
Advertising offices Business management consulting Counseling in an office setting Data processing Financial businesses such as lenders, investment or brokerage houses, collection agencies, or real estate and insurance agents Professional services such as lawyers, accountants, bookkeepers, engineers, or architects	Cafeterias Child care Health facilities for employees working on-site Meeting rooms Parking On-site child care, schools or facilities where children are cared for while parents or guardians are occupied on the premises Other amenities primarily for the use of	Banks (See Retail Sales and Service) Contractors and others who perform services off-site, but store equipment and materials or perform fabrication or similar work on-site (See Light Industrial Service) Dental offices except where specifically allowed as a permitted use Government offices (See Government Facilities) Mailing or stenographic services (See

Sales office Travel agency TV and radio studios Utility office	on-site employees Small retail operations for on-site workers (with no external signage) Camouflage telecommunications facilities Technical libraries	Light Industrial Service) Mail-order houses (See Wholesale Trade) Medical facilities except where specifically allowed as a permitted use Offices that are part of and located with a principal use in another category (See Accessory Use) Research, testing and development laboratories (Light Industrial Service)

(D) Overnight Accommodations

Characteristics:
Hotel or similar rooms designed for short-term rent or lease, generally less than 30 days.

Principal Uses	Accessory Uses	Uses not Included
Bed and breakfast establishments Recreational vehicle parks and campgrounds Extended-stay facilities Hotels and motels Inns	Associated offices Food preparation and dining facilities Laundry facilities Limited storage Meeting facilities Parking Stealth cell antennae Swimming pools and other recreational facilities	Transient lodging or shelters for the homeless (See Social Service Institutions)

(E) Retail Sales and Service

Characteristics:
Establishments providing new or used consumer products for sale or rental or providing personal services or entertainment to the general public

Principal Uses	Accessory Uses	Uses not Included
Sales-oriented: Stores selling, leasing, or renting consumer, home and business goods including alcoholic beverages, antiques, appliances, art, art supplies, baked goods, bicycles, building supplies and lumber, books, cameras, carpet and floor coverings, crafts, clothing, computers, convenience goods, dry goods, electronic equipment, fabric, flowers, furniture, flea market or auction, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, liquor, manufactured homes, medical supplies, musical instruments, pet food and/or pets, pharmaceuticals, photo finishing, picture frames, plants, printed material, produce, sporting goods, stationery, tobacco and related products, vehicle parts and videos Farmers markets or farm stand Personal Service-oriented: Animal care facilities, including veterinary clinic, animal hospital, kennels	Accessory residential unit for security purposes Associated offices Crematorium Food preparation and dining areas Kennels Manufacture or repackaging of goods for on-site sale Parking Parking lot/sidewalk sales Storage of goods	Adult entertainment except where expressly allowed as a permitted use Large-scale catering (See Light Industrial Service) Laundry and dry-cleaning plants (See Light Industrial Service) Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation (See Wholesale Trade) Repair and service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (See Vehicle Sales and Service) Restaurants (See Eating Establishments) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures (See Wholesale Trade)

Characteristics: Establishments providing new or used consumer products for sale or rental or providing personal services or entertainment to the general public		
Principal Uses	Accessory Uses	Uses not Included
and grooming services Athletic or health clubs Banks Business, driving, trade and other commercial schools Dance, art, fitness/wellness, gymnastic or music studios or classes Dry-cleaning and laundry drop-off establishments Hair, nail, tanning and personal care services Laundromats Massage therapy Mortuaries or funeral homes Photocopy, blueprint and quick-sign services Photographic studios Psychics and mediums Security services Body art studios Taxidermists Urgent care or emergency medical offices Repair-oriented: Locksmith Repair of appliances, bicycles, canvas products, clocks, computers		

(F) Self-service Storage

Characteristics: Facilities providing separate storage areas for personal or business use, designed to allow private access by the tenant for storing or removing personal property or goods.		
Principal Uses	Accessory Uses	Uses not Included
Mini-warehouses Self-storage warehouse	Leasing offices Outside storage of boats and campers Accessory residential unit for security purposes	Rental of light or medium trucks (See Vehicle Sales and Service) Storage areas used as manufacturing uses (See Light Industrial Services) Storage areas used for sales, service and repair operations (See Retail Sales and Service) Transfer and storage businesses where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred (See Warehouse and Freight Movement)

(G) Vehicle Sales and Service

Characteristics:
Direct sales of and service for passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles

Principal Uses	Accessory Uses	Uses not Included
Fuel stations, including full-service, mini-service and self-service Vehicle service, full; including auto body shops, auto paint shops, upholstery shops Vehicle service, limited; including auto detailing, auto repair, battery sales and installation, quick lubrication facilities, tire sales and mounting, car washes Towing service Vehicle sales, rental, or leasing facilities, including passenger vehicles, motorcycles, light and medium trucks, boats and other recreational vehicles	Associated offices Parking Sales of parts Towing Vehicle fueling Vehicle storage	Refueling facilities for fleet vehicles that belong to a specific use (See Accessory Use) Retail sales of farm equipment and machinery and earth moving and heavy construction equipment (See Industrial) Vehicle parts sales as a principal use (See Retail Sales and Service)

§152.05 INDUSTRIAL USE CATEGORIES

(A) Light Industrial Service

Characteristics:
Establishments engaged in manufacturing, assembly, repair or service of industrial, business or consumer machines, equipment, products or by-products, mainly by providing centralized services for retail outlets. This category includes contractor, building maintenance and similar establishments that provide services off-site. These are distinguished from consumer repair services in part because few individual customers come to the site.

Principal Uses	Accessory Uses	Uses not Included
Building, heating, plumbing or electrical contractors, contractors and others who perform services off-site, but store equipment and materials or perform fabrication or similar work on-site Catering facility, large-scale Clothing or textile manufacturing Commercial bakery Crematorium Dental laboratories Dry cleaning plant Exterminators Janitorial and building maintenance services	Cafeterias Child care Employee recreational facilities Offices Parking On-site repair facilities Single residential unit for security purposes Storage	Manufacture and production of goods from composting organic material (See Waste-Related Service) Small-scale catering establishments (See Eating Establishments)

Large-scale catering establishments Laundry, dry-cleaning and carpet cleaning plants Mailing and stenographic services Maintenance facilities Manufacture or assembly of consumer equipment, instruments (including musical instruments), appliances, precision items and other electrical items Movie production facilities Photo-finishing laboratories Printing, publishing and lithography Production of artwork and toys Repair of scientific or professional instruments, electric motors Research, testing and development laboratories Sign making Storage areas used as manufacturing uses Truck stop or truck plaza Vehicle and equipment maintenance facilities Welding, machine and tool repair shops Woodworking, including cabinet makers and furniture manufacturing		

(B) Warehouse and Freight Movement

Characteristics:
Establishments involved in the storage or movement of goods, primarily for commercial users with few retail customers coming to the site.

Principal Uses	Accessory Uses	Uses not Included
Bus barn Cold storage plants, including frozen food lockers Household moving and general freight storage Parcel services Separate warehouses used by retail stores such as furniture and appliance stores Stockpiling of sand, gravel, or other aggregate materials Transfer and storage businesses where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred	Cafeterias Child care Employee recreational facilities Offices Parking Outdoor storage yard Single residential unit for security purposes Truck fleet parking and maintenance areas	Mailing and shipping services Mini-warehouses, multi-story enclosed storage facilities or storage garages (See Self-Service Storage) Solid or liquid waste transfer or composting (See Waste-Related Service)

(C) Waste Related Service

Characteristics:
Uses that receive solid or liquid wastes from others for processing or for transfer to another location.

Principal Uses	Accessory Uses	Uses not Included

Animal waste processing Landfill Manufacture and production of goods from composting organic material Recycling centers Solid or liquid waste transfer or composting Wrecking or salvage yard	Offices Parking On-site refueling and repair Recycling of materials Repackaging and shipment of by-products	Stockpiling of sand, gravel, or other aggregate materials (See Warehouse and Freight Movement)

(D) Wholesale Trade

Characteristics:
Establishments involved in the sale, lease or rental of products primarily intended for industrial, institutional or commercial customers. The uses emphasize on-site order taking and may include display areas. These businesses may or may not be open to the general public, but sales to the general public are typically very limited.

Principal Uses	Accessory Uses	Uses not Included
Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation Mail-order houses Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures Wholesale of food, clothing, auto parts and building hardware	Cafeterias Child care Minor fabrication services Offices Parking Product repair Repackaging of goods Single residential unit for security purposes Warehouses	Stores selling, leasing, or renting consumer, home and business goods (See Retail Sales and Service) Warehouse and freight movement uses (See Warehouse and Freight Movement)

(E) Light Industrial

Characteristics:
Establishments involved in research and development activities and operations involving light assembly.

Principal Uses	Accessory Uses	Uses not Included
Drink bottling Milk processing plant Processing of food and related products	Cafeterias Drainage structures Offices Parking Product repair Repackaging of goods Warehouses	Animal waste processing (See Waste-Related Service) Repair and service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (See Vehicle Sales and Service) Stores selling, leasing, or renting consumer, home and business goods (See Retail Sales and Service)

(F) Heavy Industrial

Characteristics:
Manufacturing and processing operations that do not fall under “Light Industrial” and that are not excluded below.

Principal Uses	Accessory Uses	Uses not Included
Animal concentrations, including commercial feed lots, pig farms and similar uses Animal processing, packing, treating and	Cafeterias Drainage structures Offices Parking	Animal waste processing (See Waste-Related Service) Repair and service of motor vehicles, motorcycles, RVs, boats, and light and

storage Abattoirs and slaughter houses Concrete batching and asphalt mixing Feed and fertilizer mills Fuel oil distributors Heavy equipment sales and rental Power generation Retail sales of farm equipment and machinery and earth moving and heavy construction equipment Production or fabrication of metals or metal products including enameling and galvanizing Production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products Railroads and appurtenances, right-of-way and tracks Sawmills Sheet metal shops Woodworking, including cabinet makers and furniture manufacturing	Product repair Repackaging of goods Warehouses	medium trucks (See Vehicle Sales and Service) Stores selling, leasing, or renting consumer, home and business goods (See Retail Sales and Service)

§152.06 OTHER USE CATEGORIES

(A) Agriculture

Characteristics:
Farming and related uses and uses that are commonly incidental to agricultural uses

Principal Uses	Accessory Uses	Uses not Included
Agricultural crops Community gardens Feed stores Grain storage	Auction ring Barns Farm stands with retail sales of products produced or harvested on-site Garages Offices Sheds Silos Stables	Animal concentrations, including commercial feed lots, pig farms and similar uses (See Heavy Industrial Animal processing, packing, treating and storage (See Heavy Industrial) Animal waste processing (See Waste-Related Service) Kennels with overnight facilities (See Retail Sales and Service, Personal-service Oriented) Processing of food and related products (See Heavy Industrial)

(B) Resource Extraction

Characteristics:
Mining, quarrying and similar uses

Principal Uses	Accessory Uses	Uses not Included
Mines Quarries, gravel or rock Surface mines	Garages Materials storage, open-air Offices Sheds Silos	Materials processing (see various industrial categories))

§152.07 PRINCIPAL USES

(A) Massage Therapy

A massage therapy studio or other facility is a use by right in the indicated zoning districts only if operated by a licensed medical professional or a massage therapist certified by the National Certification Board for Therapeutic Massage and Bodywork (http://www.ncbtmb.org/) and staffed entirely by massage therapists who are certified by the NCBTMB and/or who are members of the American Massage Therapy Association (http://www.amtamassage.org).

§152.08 SPECIAL USES

(A) Standards for Special Uses

(1) General Standards

(a) All special uses are subject to the general standards for height, setback, signs, parking and other matters, as applicable to the district in which the use is located.

(b) Approval of special uses may be subject to reasonable conditions imposed in the form of "commitments" as provided in Ind. Code §36-7-4-1015.

(2) Special Performance and Design Standards

(a) Certain special uses are subject to additional standards in some or all districts.

(b) Those standards are set forth in this section and are in addition to the general district standards and any conditions that may be imposed through the special use review process.

§152.09 ACCESSORY USES, STRUCTURES AND BUILDINGS

(A) Accessory Buildings

Accessory buildings and other accessory structures except communication towers expressly permitted by this ordinance shall be subject to the following standards:

(1) Location

No accessory building shall be erected within three feet of any side or rear lot line, and no accessory building shall be erected in any required minimum front yards. No separate accessory building shall be erected within five feet of any other building on the same parcel.

(2) Use

(c) The use of an accessory building or structure shall be limited to an allowed accessory use or to an extension of the principal use of the principal building on the site;

(d) In no case shall an accessory building or structure be used for a second principal use on a site.

(3) Size/Scale/Number - Generally

The following standards shall apply to accessory buildings or enclosed structures in all R districts.

(a) The height of an accessory building shall not exceed the lower of the following:

(i) 10 feet less than the permitted height for the zoning district; or

(ii) 25 feet.

NOTE that this height limit does not apply to permitted antenna structures or the towers or other support systems for them.

(b) There shall be no more than two accessory buildings on a lot or tract with one principal building; there shall be no more than one accessory building if the principal use of the site does not involve a building.

(B) Satellite Dish Antennas Regulated

Satellite dish antennas shall not be considered accessory structures in any zoning districts within the jurisdiction of this ordinance, but will be subject to the following restrictions:

(1) Installation Generally

(a) No satellite dish may be mounted so that it blocks, wholly or partially, a required exit, including egress windows required by the building code.

(b) In any historic district or on any historic building subject to local regulation, satellite dishes may be installed only after the issuance of a Certificate of Appropriateness.

(2) Dishes Larger than One Meter

Satellite dishes larger than one meter in diameter shall be subject to the following additional restrictions:

(a) In the R-5. R-10, and the MH Districts, such satellite dish antennas shall not be located in any "front yard" (as defined in Title XV) , in any portion of the lot closer to a public street than a principal building located on said lot is to that public street, or within 10 feet of any side and/or rear lot lines.

(b) In all other zoning districts not specified above, satellite dish antennas shall not be located in any "front yard" (as defined in Title XV) or within 10 feet of any lot lines.

(3) Removal of Abandoned, Damaged, or Non-Functioning Satellite Dishes

Any satellite dish that has been abandoned, damaged, or is no longer functioning shall be removed from the premises. This includes satellites mounted within the yard or attached to a structure. All components of the satellite dish shall be removed including the satellite dish, any mounting devices, and wiring.

Chapter §153. SITE DEVELOPMENT STANDARDS

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§153.01. OFF-STREET PARKING, LOADING AND STACKING

(A) Applicability of Regulations

(1) The off-street parking and off-street loading provisions of this section shall apply as follows:

(2) Accessory off-street parking, off-street loading and off-street stacking facilities shall be provided as required by the regulations of this ordinance and the schedule of district regulations for all uses and structures established in each district after the effective date hereof.

(3) When the intensity of use of any structure or premises will increase through the addition of dwelling units, gross floor area, seating capacity, or other units of measurement in the amount specified herein requiring parking or loading facilities, such required parking and loading facilities for the addition shall be provided and the entire parking, loading and stacking area shall be brought into conformance with the construction, lighting and landscaping standards of this Chapter 153.

(4) Whenever the existing use of a structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said structure was erected prior to the effective date hereof, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed the requirements for the existing use. If additional parking is required, the entire parking, loading and stacking area shall be brought into conformance with the construction, lighting and landscaping standards of this Chapter 153

(5) The issuance of a building permit for new construction will require all existing driveway and parking areas serving the new structure(s) to be brought into compliance with current code requirements, regardless of whether there may have been a previous driveway and/or parking area on the lot.

(B) Permissive Parking and Loading Facilities

Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities to serve any existing uses or structures, provided that there is adherence to all regulations herein governing the access, use, and design of such facilities, and providing the parking facilities are in the same district.

(C) Off-Street Parking

(1) Existing Parking Facilities

Accessory off-street parking facilities in existence on the effective date hereof shall not hereafter be reduced below the requirements for a similar new structure or use under the provisions of this ordinance.

(2) Location

Except as hereinafter in this subsection provided, all required accessory off-street parking spaces shall be located on the same lot as the principal structure or use. Accessory parking spaces for principal nonresidential structures or uses may be provided on other land situated within 300 feet of the aforesaid commercial or professional structure or use. In the event that such spaces situated within said 300 feet are no longer provided or available, then this permitted exception shall at once become inapplicable and accessory off-street parking spaces shall forthwith be required to be located on the same lot as the aforesaid principal structure or use.

(3) Use

Accessory off-street parking facilities, as accessory to uses listed herein, shall be solely for the parking of vehicles of patrons, occupants, guests or employees. No motor vehicle repair work or service of any kind shall be permitted in accessory off-street parking facilities.

(4) Limitation

Parking shall be limited to driveway or parking areas in all zoning districts. New driveway and parking areas shall be designed and surfaced in accordance with the standards outlined in subsections (5) and (6), below.

(5) Standards for New Public and Private Driveways and Off-street Parking Areas Containing Four or Fewer Spaces

Before the maintenance, operation, construction, or improvement of a driveway or an off-street parking area with four or fewer spaces, a certificate of zoning use shall be obtained for same.

(a) Maximum Driveway Surface Area and Curb Cuts Allowed In Certain Zoning Districts

Driveway areas in front yards of those zoning districts with parking requirement of four or fewer spaces per lot shall not exceed 24 feet in width at the right of way line and shall not exceed 34 feet in width at the curb or edge of pavement. No driveway shall be less than 12 feet in width at the right of way line. More than one curb cut is permitted per lot, provided, there is 65 feet of spacing between curb cuts, measured between interior edges of pavement.

(b) Standards

Minimum surfacing standards for new public and private driveways and parking areas containing four or fewer spaces are provided in the table below:

Minimum Surfacing Standards for Driveways and Parking Areas With Four or Fewer Spaces	
DISTRICT	Required Surfacing
AG	Gravel
All other districts	Hot Mix Asphalt

(1) Driveway and parking areas requiring gravel as the minimum surfacing standard shall be surfaced with a minimum of six inches of stabilized rock, gravel, or crushed stone material.

(2) Driveway and parking areas requiring Hot Mix Asphalt as the minimum surfacing standard shall be constructed with a minimum of six inches of stabilized rock, gravel, or crushed stone base, and surfaced with two inches of Hot Mix Asphalt; or a minimum of six inches of Portland cement concrete poured over earth compacted to 90 percent standard laboratory density.

(c) **Curb Cuts**

Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety; curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. All curb cuts and aprons located on the public right-of-way shall be a minimum of six inches of Portland cement concrete. Existing curb cuts and curb cut radii shall be used only if they comply with standards for proposed curb cuts and curb radii. If existing curb cuts are not utilized at the time of development, the curb cut shall be removed and replaced in accordance with existing street conditions.

(6) **Design Standards for Public and Private Off-street Parking Lots Containing More Than Four Spaces**

Before the maintenance, operation, construction, or improvement of an off-street parking lot with more than four spaces, a certificate of zoning use shall be obtained for same. No permit shall be issued until the plans and specifications of the lot have been submitted to the administrative official and it is determined that all of the following standards have been met:

(a) **Minimum Parking Space Requirements**

Each required parking space shall meet the following minimum stall requirements which are based on the size of the vehicle to be parked:

Table A: Minimum Parking Stall Dimensions			
PARKING SPACE STALL TYPE			Minimum Parking Stall Size
Type 1	(STD)	Standard car spaces (Design vehicle 6'8" x 18'0")	9'0" x 18'0"
Type 2	(PAR-STD)	Parallel/standard space (Design vehicle 6'8" x 18'0")	8'0" x 21'0"
Type 3	(HAND)	Handicap spaces	(Provided in accordance with section §153.01(C)(11)of this code)

(b) **Space and Aisle Construction**

(i) All spaces and aisles in off-street parking areas with more than four spaces shall be constructed in accordance with applicable provisions of "Standard Specifications" for asphalt or concrete pavement as adopted from time to time by the Indiana Department of Transportation::

i. a minimum of eight inches of stabilized rock, gravel, or crushed stone base, and surfaced with three inches of Hot Mix Asphalt; or

ii. a minimum of six inches of Portland cement concrete poured over earth compacted to 90 percent standard laboratory density.

(c) **Parking Lot Striping**

All standard spaces shall be marked using 4 inch wide white paint. All accessible spaces shall be marked using high-visibility yellow paint in accordance with the Americans with Disabilities Act (ADA) and the Indiana Accessibility Code (IAC) and other applicable Federal or State standards and requirements. This shall apply to any new construction or any time an existing parking lot is repaired or resurfaced.

(d) **Flow Direction Designation**

The location of each parking space, each entrance or exit, and the direction of traffic flow shall be marked by appropriate traffic control signs and surface marking.

(e) **Curb Cuts**

Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety; curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. All curb cuts and aprons located on the public right-of-way shall be a minimum of six inches of Portland cement concrete. Existing curb cuts and curb cut radii shall be used only if they comply with standards for proposed curb cuts and curb radii. If existing curb cuts are not utilized at the time of development, the curb cut shall be removed and replaced in accordance with existing street conditions.

(f) **Bumper Blocks**

Where more than five rows of parking are provided, concrete curbs or bumper blocks shall be installed in at least every second double row of parking or every third single row of parking; and in addition all parking lots shall provide bumper blocks or wheel stops to prevent encroachment of vehicles on sidewalks.

(g) **Lighting**

Where parking lots are to be used after dark, a system of lighting shall be provided.

(1) A minimum of 0.125 foot-candle of illumination at any space and an average of 0.25 foot-candle of illumination for the entire lot shall be provided and the foot-candles of illumination shall be consistent with city codes and subject to review of the public works director. A photometric plan shall be submitted showing light levels at 30’ intervals.

(2) All outdoor lighting fixtures shall employ one or more of the following techniques to reduce glare or spillage: full cut-off fixtures; fully shielded fixtures, or 'NEMA' type II, III and IV reflectors and shall be maintained in such a manner as to confine light rays to the premises. All lighting, regardless of location, shall be designed to prevent direct glare, light spillage, and hazardous interference with automotive, bicycle and pedestrian traffic on adjacent streets and properties.

(3) In all residential areas or on any site located within 100 feet of property zoned in any R-5 or R-10 district, the maximum height above ground level of parking lot lights shall be 15 feet.

(4) Commercial or industrial areas that are not located within 100 feet of property zoned R-5 or R-10, the maximum height above ground level of parking lot lights shall be 30 feet.

(5) In non-vehicular pedestrian areas the light height shall not exceed 15 feet.

(7) **Computation**

When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, any fraction one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one parking space.

(8) **Employee Parking**

Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing on the premises at any one time.

(9) **Required Spaces**

There shall be parking provided for each structure and use hereafter erected, structurally altered, or enlarged, unless elsewhere exempted. The minimum number of accessory off-street parking spaces shall be provided in accordance with the following schedule:

Off-Street Parking Schedule		
1	DWELLING AND LODGING USES	
	Group living: assisted living	2 spaces plus 0.5 space for each dwelling unit
	Group living: nursing homes and similar types of establishments	1 space for each 3 beds, in accordance with designed capacity
	Hotels or motels	1.25 spaces for each lodging room or dwelling unit; plus parking spaces as required for other uses on the premises (such as restaurant, bars, etc.) as indicated elsewhere in this subsection J
	Multi-unit dwellings; two-, three- or four-unit dwellings; and rooming houses	1 space per bedroom with a minimum of 1.5 spaces per dwelling unit
	Single-unit dwellings	2 spaces per dwelling unit if on a local street: 3 spaces per dwelling unit if on an arterial road or collector street, provided, however, that a single unit dwelling that is occupied as a rooming house shall provide parking as required in this subsection for a rooming house . Parking within a garage shall not be counted toward the minimum parking requirement.
2	THEATERS, SCHOOLS, INSTITUTIONS AND AUDITORIUMS OR OTHER PLACES OF ASSEMBLY:	
	Auditoriums, theaters, houses of worship	1 space for each 5 seats

Off-Street Parking Schedule		
	and similar public assembly uses, except school auditoriums	
	Day care centers, child care centers, day nurseries, nursery schools, kindergartens, play groups and centers or workshops for mentally or physically handicapped	1 space for each 5 students in accordance with licensed or designed capacity
	Hospitals	1.5 spaces per bed in accordance with designed capacity; plus additional spaces for outpatient clinics, schools, etc., located within the hospital building, in accordance with requirements indicated elsewhere in this subsection J
	Libraries	2 space for each 1,000 square feet of gross floor area or fraction thereof
	Museums, art galleries	1 space for each 1,000 square feet of gross floor area or fraction thereof
	Private clubs and lodges	1 space for each 5 seats in accordance with designed seating capacity
	School or institutional auditoriums	If on same site as school, parking for school includes parking for the auditorium
	Schools, commercial or trade, music, dance or business school	1 space for each 250 gross square feet of office floor area or fraction thereof, plus 1 space for each students in accordance with designed capacity
	Schools, elementary or junior high	1 space for each 5 students of design capacity
	Schools, high (except those high schools with only 9th and 10th grades which follow criteria for junior high school)	1 space for each 4 students of design capacity
3.	RECREATION USES, COMMERCIAL OR NONCOMMERCIAL:	
	Bowling alleys	4 spaces for each alley and spaces as may be required herein for affiliated uses such as restaurants
	Health salons, swimming pools, dance halls, recreational buildings and community centers	4 spaces for each 1,000 square feet of floor area that is open to users
4	BUSINESS, COMMERCIAL AND INDUSTRIAL USES:	
	All retail, service, wholesale, office and other commercial uses not listed separately below	1 space for each 300 square feet of gross floor area or fraction thereof
	Automobile service stations	1 space for each 6 pump meters or fraction thereof, and 2 spaces for each service bay
	Carwash:	Self-serve, no parking but see stacking spaces §153.01(E) ; if staffed, one space per projected peak-hour employee, plus stacking spaces
	Coin operated laundromat	1 space for each 4 coin operated cleaning, washing, and drying machines, in accordance with designed capacity
	Industrial or manufacturing operations	1 space per 2 employees on largest shift, plus 15 percent of that number of spaces for company vehicles or visitors. Documentation regarding number of employees shall be provided to the administrative official
	Funeral home	1 space for each 5 chapel or parlor seats
	Mini-warehouses	1 space for each 50 storage cubicles to be located at the project office for the use of prospective customers or active customers conducting business with the mini-warehouse management plus 2 spaces for the manager's quarters (if provided).
	Restaurants and cafes, high turnover and fast-food	1 space per 100 square feet of gross floor area plus required stacking spaces for drive-through lane(s)
	Warehouse and storage establishment and freight or truck terminals	4 spaces plus 1 space for each 1,500 square feet over 4,500 square feet of gross floor area or fraction thereof plus truck parking

(10) **Other Uses**

Parking spaces for other permitted uses not listed above shall be provided on the same basis as required for the most similar use or as reasonably determined by the

Development Assistance Committee. Parking spaces for other special uses not listed above shall be provided as required by the Town Council after a hearing by the Plan Commission and guided by the above requirements and the special use performance standards; however, the council may set higher requirements for any special use case.

(11) **Handicapped Access**

All handicapped accessibility shall comply with the Americans with Disabilities Act (ADA) and the Indiana Accessibility Code (IAC) and other applicable Federal or State standards and requirements.

(D) **Off-Street Loading**

Off-street loading spaces scaled to the type of vehicle anticipated to utilize the spaces shall be provided accessory to any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles in accordance with the following:

(1) **Location**

Off-street loading berths shall be on the same lot as the principal use and they shall not be located in a front yard.

(2) **Screening**

When a use which requires or provides off-street loading facilities adjoins a residential district, such facilities shall be concealed from view therefrom by a fence or wall not less than six feet nor more than eight feet in height. In lieu of a concealing fence, a densely planted evergreen tree or shrub hedge shall be provided and maintained to not less than six feet in height. If an evergreen tree or shrub hedge is utilized, original plantings shall be at least three feet in height.

(3) **Access**

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements and shall be subject to the approval of the administrative official.

(4) **Surfacing**

All off-street loading spaces and access to them shall be surfaced to meet the standards of the “Standard Specifications” of the Indiana Department of Transportation, as adopted by the Department from time to time.

(5) **Use**

Space allocated to any off-street loading space shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities. No storage of any kind nor motor vehicle repair work or service of any kind shall be permitted within any required loading space.

(6) **Required Spaces**

(a) Uses which require the receipt or distribution of materials or merchandise by trucks or similar vehicles shall provide off-street loading spaces in accordance with the following schedule:

Required Space			
Gross Floor Area of Establishments			Required Spaces
15,000	to	25,000	1
25,001	to	40,000	2
40.001	to	100,100	3

(b) for each additional 100,000 square feet of gross floor area or fraction thereof over the first 100,000 square feet, one additional loading space. "Gross floor area" shall mean the sum of the several floors of a building or buildings devoted to the use for which off-street loading is computed as measured from the faces of exterior walls or the centerline of party walls. Gross floor area shall not include covered mall space which is not used as sales area.

(c) **Nonresidential uses in residential districts**
One off-street loading space for buildings containing 10,000 to 100,000 square feet of gross floor area plus one additional space for each 100,000 square feet of gross floor area or fraction thereof.

(E) **Stacking Spaces**

(1) **Applicability**

Any development that includes drive-through or drive-up lanes shall include stacking spaces as required by this section.

(2) **Number**

(a) Sites with drive-through lanes for banks shall include five stacking spaces per drive-through lane;

(b) Sites with drive-through lanes for fast-food restaurants shall include five stacking spaces per lane;

(c) Sites with automatic car washes shall include four stacking spaces per bay;

(d) Sites with drive-through lanes for uses other than banks or fast-food shall include two stacking spaces per lane.

(3) **Area, Design, Location**

(a) The area required for stacking for drive-through lanes shall not be counted as part of the required parking area;

(b) Stacking areas shall be located and designed so that they do not block public sidewalks or driveways providing access and egress to the site or adjoining sites;

(c) The required number of stacking spaces shall be provided on the site and shall not include space in a street, alley or any portion of a right-of-way;

(d) Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-up facilities;

(e) Drive-in facilities and stacking lanes shall be located and designed to minimize turning movements relative to driveway access to streets and intersections;

(f) Where turns are required in the exit lane, the minimum distance from any drive-up station to the beginning point of the curve shall be 34 feet. The minimum inside turning radius shall be 25 feet;

(g) Drive-in facilities and stacking lanes shall be located and designed to minimize or avoid complete conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways;

(h) A bypass lane shall be provided; and

(i) Stacking areas shall be paved.

§153.02. SITE LIGHTING

(A) Applicability

The following standards apply to any development except a single-family or two-family residence.

(B) Standards

Where lighting facilities are provided, they shall be designed to provide safe, convenient and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site and shall be designed to meet the following standards:

(1) Exterior light sources such as luminaires or lampposts shall not exceed the following heights:

(a) Within a parking lot that is not located in or within 100 feet of any R10 or R5 zoning district, 30 feet;

(b) Within a parking lot that is located in or within 100 feet of any R10 or R5 zoning district, 20 feet; or

(c) Within any non-vehicular pedestrian areas, 15 feet.

(2) All outdoor lighting fixtures shall employ one or more of the following techniques to reduce glare or spillage: full cut-off fixtures; fully shielded fixtures, or 'NEMA' type II, III and IV reflectors and shall be maintained in such a manner as to confine light rays to the premises. All lighting, regardless of location, shall be designed to prevent direct glare, light spillage, and hazardous interference with automotive, bicycle and pedestrian traffic on adjacent streets and properties.

(3) Mercury vapor fixtures shall not be permitted as a component of exterior design.

(C) Light Glare from Vehicles

When a parking lot adjoins or is within 300 feet of a residential area, provision shall be made to screen all vehicle lights to curtail direct illumination of the residential area; screening provided on the land may be provided by the use of closely spaced evergreen trees or physical structures which will harmonize with the developed use of the land and with the residential area. Vehicle light need not be screened on that portion of a site bounded by and parallel to a street.

§153.03. REQUIRED LANDSCAPING

(A) Applicability

(1) This section shall apply to any property in the HB (Highway Business) or I (Industrial) district.

(2) This section does not have retroactive effect on sites fully developed before January 1, 2015. It will, however, apply to such sites at any time that there is an application for a permit for any of the following:

(a) A new building on the site;

(b) Demolition of an existing building on the site; or

(c) Expansion of a building on the site by more than 250 square feet.

(B) General Rule

A minimum of ten (10) percent of the total area of any site is required to be landscaped according to the following specifications. Where the sum of the landscaping required by the following sections would occupy more than fifteen (15) percent of the total site area, all required landscaping may be reduced proportionately.

(C) Type and Size of Landscaping Materials

Landscaping materials required by this section shall meet at least the following size and quality standards at the time of planting:

(1) Shade trees shall have a minimum three (3) inch trunk diameter at three (3) feet above grade, a minimum height of seven (7) feet, and branching no lower than one-third (1/3) height of tree;

(2) Ornamental trees shall have a minimum two (2) inch trunk diameter at one (2) feet above grade, a minimum height of five (5) feet, and branching no lower than one-third (1/3) height of tree;

(3) Evergreen Trees shall have a minimum height of seven (7) feet and width not less than sixty (60) percent of the height;

(4) Deciduous shrubs shall be a minimum of eighteen (18) inches in diameter with no less than six (6) main branches;

(5) Evergreen shrubs shall be a minimum of eighteen (18) inches in diameter with no less than six (6) main branches;

(6) Tree (3) monocultures are not permitted;

(7) Mature height and spread of the chosen tree species shall not interfere with overhead utilities. In cases where overhead utilities are present, unless special placement considerations are made.

(D) Foundation Plantings

(1) Foundation plantings shall be included along the front façade, any façade visible from a public right-of-way, and any façade with a dedicated public entrance into the building, except at any entrance or exit points.

(2) The minimum width of foundation planting area shall be five (5) feet.

(E) Plantings in Required Front Yards

(1) Required front yard landscaping should consist of trees planted in one of the following alternatives:

(a) If deciduous shade trees or evergreens are used, one tree planted at a maximum of every forty (40) feet on center of linear distance, extending the entire length of the front lot line. Required trees may be grouped together in the front yard; however, in no case shall spacing between trees exceed eighty (80) feet.

(b) If deciduous ornamental trees are used, one tree planted at a maximum of every twenty (20) feet on center of linear distance, extending the entire length of the front lot line. Required trees may be grouped together in the front yard; however, in no case shall spacing between trees exceed fifty (50) feet.

(2) Required front yard landscaping may not be located within any portion of a public street right-of-way or regulated easement.

(F) Perimeter Buffering Requirements

(1) Perimeter buffering should be located along the side and rear lot lines of a lot that abuts or is across the street from property in an R10, R5 or MH zoning district and should extend the entire length of the side and rear lot lines.

(2) Perimeter buffering may not be located within any portion of a public street right-of-way or regulated easement.

(G) Landscaping in Parking Lots

(1) Parking area landscaping located within and surrounding the parking lot area shall include a minimum of one shade tree and five shrubs for every seven (7) parking spaces provided and shall not be less than twenty (20) trees per parking lot acre. Buildings with parking areas located in the front yard shall have a minimum of one (1) shade tree and five (5) shrubs for every five (5) parking spaces provided and no less than twenty four (24) trees per acre. For parking lots with one hundred (100) or more spaces, twenty (20) percent of trees required, must be included within the interior of the parking lot, planted in islands of at least eight (8) inches by eighteen (18) inches in dimension.

(2) No trees may be planted in an area where there is less than two and one-half (2½) feet of soil on all sides of the tree.

§153.04. DRAINAGE

(1) Drainage designs shall be laid out by a professional engineer in accordance with code requirements and good engineering practices.

(2) Runoff water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained.

(3) Surface runoff waters shall be directed into municipal facilities; where municipal facilities are inadequate or not available, a drainage retention area or a drainage detention area owned or controlled by the owner or developer shall be provided sufficient to not allow a greater discharge rate in a 5-year flood with a one hour duration from the improved site than that which would be discharged from the site if it were covered by grass.

§153.05. OUTDOOR RUBBISH, GARBAGE, STORAGE AND BURNING

(1) Outside rubbish and storage areas shall be permanently screened from view to a height of at least six feet and shall be constructed to prevent accidental dispersal of the material contained therein;

(2) All dumpsters, grease vats, and recycling receptacles shall be located within an enclosure with a height of at least six feet and shall be constructed to ground level to prevent dispersal; and

(3) Open storage is not allowed in the front yard or any side yard that abuts a public street except in the event of seasonal uses with the issuance of a Zoning Certificate. For the purposes of this section, open storage shall also include vehicles being repaired.

§153.06. SIGNS

(A) Purpose and Title.

(1) The purposes of this chapter are:

(a) To regulate, classify, restrict, and control the location, size, type and placement of all signs and sign structures;

(b) To eliminate and prevent excessive and confusing sign displays which do not relate to the premises on which they are located within the town;

(c) To preserve the natural beauty and environment which is instrumental in attracting those who come to visit, trade, attend school, or set up residence;

(d) To safeguard, stabilize, and enhance property values;

(e) To protect public and private investment in buildings and open spaces;

(f) To insure a consistent and appropriate aesthetic environment; and

(g) To protect the public health, safety, and general welfare.

(2) This section shall be known as the Town of Brownstown Sign Ordinance. (Ord. 2004-01, passed 4-5-04)

(B) Scope of Application

(1) Hereinafter, all construction, relocation, enlargement, alteration, and modification of signs within the town shall conform to the requirements of this chapter, all state

and federal regulations concerning signs and advertising, the Uniform Building Code, and the National Electric Code.

(2) If a permit for a sign has been issued in accordance with law prior to the effective date of this chapter and provided that construction is begun within six months of the effective date of this chapter and diligently prosecuted to completion, said sign may be completed in accordance with the approved plans on the basis of which the permit has been issued, subject thereafter, if applicable, to the provisions herein for nonconforming signs.

(Ord. 2004-01, passed 4-5-04)

(C) Administration

The Town Council shall have the power to administer and enforce the provisions of this section. The Town Council may, in its discretion and with their consent, delegate and assign such administrative, enforcement, and inspection duties hereunder to the Town Police Department, the Town Fire Department, or other appropriate person or agency. (Ord. 2004-01, passed 4-5-04)

(D) Prohibited Signs; Special Exemptions with Written Permit

(1) Signs prohibited. Subject only to the exemptions set forth in division (B) of this section, the following signs are hereby expressly prohibited as to erection, construction, creation, maintenance, repair, alteration, location or relocation within the town:

(a) Portable signs;

(b) Animated signs;

(c) Chaser signs;

(d) Flashing signs;

(e) Inflatable displays;

(f) Wind signs;

(g) Any sign on a motor vehicle or on a semi-trailer with or without tractor which can be seen from the street if circumstances, including the absence of vehicular use and/or the fact that the vehicle or semi-trailer carries no current motor vehicle registration or license plate, demonstrate that the primary use for said vehicle or semi-trailer is the advertisement of a business, product, or service of a business located on the premises where such a vehicle is parked. (Trailers used for construction purposes during the course of construction on site are exempt from this section.) Any such sign advertising a business, product, or service not conducted or available on site is an off-premise sign;

(h) Off-premise signs except as expressly permitted;

(i) Any sign attached to or painted or otherwise rendered on a bench or seat which is located outside a building or structure on a public sidewalk or right-of-way. (Such a sign on a bench or seat not on a public sidewalk or right-of-way is not prohibited by this provision but must comply with **all** other regulations and its surface area shall be included in the total allowable surface area permitted for the building);

(j) Signs which advertise a business which has not been conducted within the past 90 days, or a product or service which has not been offered for sale within the past 90 days, on the premise where such sign is located; if otherwise in compliance with this chapter, a sign may be located at such location indicating a move of such business to another location for a period of time not exceeding 90 days from the date of discontinuance of the business at the sign's location;

(k) Signs which use string lights or any unshielded light within public view if used in connection with commercial premises for commercial purposes, except that this shall not include:

(1) Holiday decorations at holiday time; or

(2) Non-flashing neon window signs.

(l) Any sign or sign structure determined by the Town Council to be:

(1) Structurally unsafe; or

(2) A hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment. Any sign which obstructs the vision of drivers, or unduly distracts the attention of drivers, or obstructs the visibility of any traffic sign or traffic control device by reason of size, location, coloring, or illumination;

(m) Any sign which obstructs free ingress and egress from a required door, window, fire escape, or other exit way;

(n) Signs with a commercial purpose which make use of words such as "Stop," "Look," or "Danger," or other similar words, phrases, symbols, or characters in such a manner as to imply the need of stopping or the existence of danger;

(o) Any sign unlawfully installed, erected, or maintained;

(p) Any sign or other advertising structure containing any obscene, indecent, or immoral matter;

(q) Any sign placed or installed in or on any parkway, alley, public street, easement or right-of-way except as may be authorized by the Town Council;

(r) Any sign not in compliance with federal or state law;

(s) Any sign which is constructed or installed in such a manner as to overhang a public street, sidewalk, or right-of-way, except as otherwise expressly permitted by this chapter;

(t) Snipe signs;

(u) Signs which are accessory to an unlawful use.

(2) **Exemptions by special permit**

(a) **Exemptions for grand openings**

A business or other venture commencing its activities on a site shall be, for a period of one week prior to such opening and for two weeks after such opening, if such business applies to the Town Council for an exemption, granted exemption from the prohibitions in §153.06(D)(1)(a) through (g) above.

The surface area of these signs shall not be counted toward the maximum sign surface area permitted nor be subject to any height regulation.

(b) **Exemptions for special promotions**

Upon application to the Town Council, a business or other venture engaging in special promotions shall be granted exemption from the prohibitions in division §153.06(D)(1)(a) through (g) above for a period or periods totaling up to ten weeks per calendar year. The application shall indicate the exact period or periods of the special promotion(s). The surface area of these signs shall not be counted toward the maximum sign surface area permitted nor subject to any height regulation. (Ord. 2004-01, passed 4-5-04)

(E) **Exempt Signs**

The following signs, if they comply with the limitations as stated in this section, are exempt from the requirement of a sign permit:

(1) Construction signs;

(2) Real estate signs, as hereinabove defined. (A sign erected by any person or firm in the business of selling or brokering real estate advertising said business is not a real estate sign.)

(3) Specific decorative displays used for holidays, public demonstrations or promotions of civic affairs or charitable activities, except that such may be situated on public property only if authorized by the Town Council;

(4) Signs advertising private garage sales;

(5) Posters announcing special programs or events;

(6) Campaign signs as permitted in § 153.11, but not including campaign signs on billboards;

(7) Home occupation signs;

(8) Window signs;

(9) House numbers, name plates for residential housing units identifying the occupancy and address of the premise, not to exceed two square feet;

(10) Signs identifying the building name or occupancy and address of the building on professional buildings, not to exceed eight square feet in area;

(11) Integral signs;

(12) Signs painted on or attached to vehicles bearing current license plates;

(13) Signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that as to each such device the sign area does not exceed six square feet;

(14) Signs not exceeding six square feet each which contain only noncommercial messages including designation of restrooms, telephone location, restrictions on smoking, door openings, and private traffic control and parking signs;

(15) One sign, not to exceed six square feet in area, per parking lot entrance identifying the business served and providing driving and parking information;

(16) Business signs, not to exceed two square feet in area per sign face, containing information on credit cards and business affiliations;

(17) Wall signs of no greater than ten square feet and installed no higher than the interior ceiling of the first floor level;

(18) Artisan signs;

(19) Financer's signs. (Ord. 2004-01, passed 4-5-04)

(F) Development Standards for Signs

(1) Setback requirement

No part of a ground sign or ground sign structure shall be closer than five feet to a paved street, a driveway, a sidewalk, the nearest easement line, the nearest property line, or the nearest right-of-way line.

(2) Height regulations

Ground signs. The maximum height of any portion of a permitted ground sign or ground sign structure shall be determined as follows:

(a) For lots with street frontage of 150 feet or less - 15 feet;

(b) For lots with street frontage of more than 150 feet and less than 300 feet - one foot of height for each ten feet of street frontage;

(c) For lots with 300 feet or more of street frontage — 30 feet;

(d) If a lot has frontage on more than one street, the calculation shall be based on the largest frontage.

(3) Wall signs

No maximum height applies to wall signs which do not project in any part above the roof line. Any sign so projecting shall be subject to the height regulations for ground signs, and such shall be measured from the uppermost portion of the sign to ground level.

(4) Surface area regulations

(a) The gross surface area (see definition of "area of sign") of all signs (whether ground signs, wall signs, or projecting signs) excluding exempt signs as set forth in §153.06(E), real estate signs, and other signs permitted on a lot or building shall not exceed three square feet of sign area for each one linear foot of building frontage, subject to the further limitation in division (C)(1)(b) below.

(1) For purposes of calculation, each side of a building which abuts upon a public way shall be considered separate building frontage; however, the surface area of signage attributable to each frontage must face such frontage.

(2) For any one business or venture, three square feet of sign area for each one linear foot of building frontage or 132 square feet, whichever is less. For purposes of the 132 square feet limitation for one business or venture, if such business has frontage on more than one public way, it shall have up to 132 square feet for each public way provided that the signage attributable to each frontage must face such frontage.

(b) A business or activity with no ground floor frontage is not prohibited from displaying signage; however, the total area of all signs on the building shall not exceed that calculated on the basis of the ground floor.

(5) **Projection regulations**

(a) No sign shall project more than 45 inches into the public way, sidewalk, or dedicated public easement all as determined, in case of dispute, by a registered surveyor. Any such projecting sign shall be oriented so that the face surfaces of the sign are perpendicular to the face of the wall from which they project; provided, however, that a sign projecting from a point at which two walls meet to form a corner may be oriented in any direction. Such projecting signs shall not exceed one and one-half inches in thickness.

(b) Subject to the limitations set forth herein, projecting signs are permitted, provided that the building is set back a minimum of 20 feet from the public right-of-way.

(c) Regulations. If permitted, projecting signs shall meet the following requirements:

(1) A maximum of one projecting sign per building or building lot (except that for buildings or building lots with more than one business or professional user, each user may have one such projecting sign);

(2) The lowest part of such sign or structure encasing such sign is a minimum of eight feet above ground level;

(3) The projection from the building shall not be more than six feet (or 45 inches pursuant to division (D)(1) above) if the sign projects over a public right-of-way or sidewalk;

(4) No part of the sign shall be closer than 12 inches from a line extended vertically from the curb of a public street or alley; and

(5) The surface area of any sign shall not exceed eight square feet.

(6) **Illumination regulations**

If a sign is illuminated by light beamed or reflected upon it, direct rays of light shall not beam upon any part of any existing residential area nor into a residential district, nor into a street. A sign in direct line of vision of a traffic signal shall not be red, green, or amber in color. Illuminated signs are permitted. (See the definition of "illuminated sign".)

(7) **Unified shopping centers**

If the premises have three or more occupants each with a distinct business name, as in a unified shopping center under single ownership or control, one additional ground sign is permitted containing the name of the premises, the occupants thereof, and, if desired, a changeable copy sign. Such ground sign shall not exceed one square foot of sign area for each one linear foot of building frontage, but in no event shall the total surface area of such ground sign exceed 100 square feet. Such sign shall be in addition to the maximum surface area for such premises as set forth in division (C) above.

(8) **Large commercial buildings**

For individual buildings (i.e., not in a Unified Shopping Center) one additional ground sign is permitted if the following conditions are met:

(1) The premises have a minimum of 1,500 square feet of usable floor space;

(2) The building is set back from any street *a* minimum of 30 feet; and

(3) The sign does not exceed 40 feet in surface area. Such sign shall be in addition to the maximum surface area for such premises as set forth in division (C) above.

(9) **Off-premise signs**

Subject to the provisions of this section, off-premise billboards, posterboards, or panels are permitted provided that:

(a) No such sign shall exceed 100 square feet in surface area;

(b) No part of such sign shall be closer than 300 feet from any part of any other sign, whether such other sign is an off-premise or on-premise sign. (Ord. 2004-01, passed 4-5-04)

(G) **Automobile Service Station Signs**

Any business which dispenses gasoline products at the pump to the public for motor vehicles may display, in addition to all other signs permitted for the nature of the use, not more than two additional signs, each of which shall not exceed eight square feet in surface area, for the purpose of indicating the pump price of fuel sold or the announcement of special offers. Said sign or signs may be attached to an existing ground sign, lighting standard, the pump, or the wall of a building. The area of such signs shall not be counted against the total sign area limit. Such signs shall not require a permit. (Ord. 2004-01, passed 4-5-04)

(H) **Campaign Signs**

(1) There shall be no time limit on properly placed campaign signs.

(2) There is no maximum number of campaign signs per lot. Ord. 2006-1, passed 2-6-06) (Ord. 2004-01, passed 4-5-04); Amended 2006-01, passed 2-6-06

(I) **Sign Permits Required**

No sign shall be erected, constructed, created, or located or relocated within the town by any person or persons, or entity, except for signs expressly exempted from the permitting process in § 153.08, without first obtaining a written sign permit from the Town Council. No person, persons or entity shall engage in any work requiring a permit without having the written permit in his possession at the job site. (Ord. 2004-01, passed 4-5-04)

(J) **Confiscation of Snipe Sign**

In addition to any and all other remedies set forth in this chapter for a violation thereof, the Town Council or its designee may remove any snipe sign and confiscate it.

Chapter §154. FLOODPLAIN REGULATIONS

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§154.01. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

(A) Statutory Authorization

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Brownstown does hereby adopt the following floodplain management regulations. (Ord. 2014-1 Adopted October 6, 2014, effective November 19, 2014).

(B) Findings of Fact

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

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages. (Ord. 2014-1 Adopted October 6, 2014, effective November 19, 2014).

(C) Purpose

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 federal flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(D) **Objectives.**

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.

§154.02. DEFINITIONS

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 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:

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 depths are shown.

Zone AE and A 1-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.)

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 analyses are shown within this zone.

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 analyses are shown within this zone.

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.

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.

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.

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.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

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.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Boundary River means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

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.

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.

D Zone means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.
Development 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.

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).

Elevation Certificate is a certified statement that verifies a structure's elevation information.

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.

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.

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).

FEMA means the Federal Emergency Management Agency.

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.

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.

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.

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.

Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

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.

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.

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.

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

Floodproofing certificate 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.

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.

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.

Fringe is those portions of the floodplain lying outside the floodway.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Town Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

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.

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.

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:

> **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.
>
> **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
>
> **Letter of Map Revision Based on Fill (LOMR-F)** 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.

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.

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:
   a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
   b) the total net area of all openings shall be at least one (1) square inch for everyone 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,
   c) such enclosed space shall be usable solely for the parking of vehicles and building access.

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."

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.

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.

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.

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.

National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

New manufactured home park or subdivision 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.

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

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

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".

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.

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.

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.

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

Regulatory flood 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 as 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".

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 exceeded 25% of the market value of the structure before the damage occurred.

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 by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Brownstown are generally identified as such on the Jackson County, Indiana and Incorporated Areas Flood Insurance Rate Map dated November 19, 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).

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.

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

Substantial damage 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.

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".

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.

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.

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.

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.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 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.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone)

Zone B, C, and X 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 Zones B and C.)

§154.03. General Provisions.

Lands to Which This Ordinance Applies.

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Brownstown. Basis for Establishing Regulatory Flood Data.
This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Brownstown shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Jackson County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated November 19, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Brownstown, delineated as an "A Zone" on the Jackson County, Indiana and Incorporated Areas Flood Insurance Rate Map dated November 19, 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.

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

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

(A) 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.

(B) 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.

(C) 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.

(D) Discrepancy between Mapped Floodplain and Actual Ground Elevations

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

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

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

(E) Interpretation

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

(1) Considered as minimum requirements.

(2) Liberally construed in favor of the governing body.

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

(F) 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 Town of Brownstown, 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.

(G) 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 shall be punishable by a fine not exceeding $2,500.00.

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

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

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

§154.04. ADMINISTRATION

(A) Designation of Administrator

The Town Council of the Town of Brownstown hereby appoints the Clerk Treasurer to dminister and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

(B) Permit Procedures

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

(1) Application Stage.

a) A description of the proposed development.

b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

c) A legal description of the property site.

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

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

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

g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any 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.)

(2) 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 surveyor failure to make said corrections required hereby shall be cause to issue a stopwork order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

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

(3) Finished Construction.

Upon completion of construction, an elevation certification 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.

(C) Duties and Responsibilities of 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:

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

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

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

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

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

(8) 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.

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

(10) Review certified plans and specifications for compliance.

(11) 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.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been flood proofed in accordance with Article 4, Section B.

(13) Stop Work Orders

a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.

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

(14) Revocation of Permits

a) 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.

b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

§154.05. PROCEDURES FOR FLOOD HAZARD REDUCTION

(A) General Standards

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

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

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

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

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

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

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

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

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

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

(B) Specific Standards

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

a) Construction or placement of any structure having a floor area greater than 400 square feet.
b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This 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.
f) Reconstruction or repairs made to a repetitive loss structure.
g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) **Residential 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 Article 5, Section B (4).

(3) **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 flood proofed 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 Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (12).

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

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

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

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

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

d) 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).

e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

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

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

b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
e) The top of the lowest floor including basements shall be at or above the FPG.

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

a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
(i) 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.
(ii) 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 Article 5, Section B. 4.
(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
b) These requirements apply to all manufactured homes to be placed On a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
(i) 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.
(ii) 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 Article 5, Section B. 4.
(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
c) Recreational vehicles placed on a site shall either:
(i) be on site for less than 180 days;
(ii) 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
(iii) meet the requirements for "manufactured homes" as stated earlier in this section.

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

a) Shall not be used for human habitation.
b) Shall be constructed of flood resistant materials.
c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
d) Shall be firmly anchored to prevent flotation.
e) Service facilities such as electrical and heating equipment shall be elevated or flood proofed to or above the FPG.
f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(C) Standards for Subdivivsion Proposals

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

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

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

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

(D) Critical Facility

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

(E) Standards for Identified Floodways

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana

Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a 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 Article 5 of 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 Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(F) Standards for Identified Fringe

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of 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.

(G) Standards for SFHAs without Esablished Base Flood Elevation and/or Floodways/Fringes

(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 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 Article 5 of 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 Article 5 of this ordinance have been met.

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

(H) Standards and 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 Article 5.

§154.06. VARIANCE PROCEDURES

(A) Designation of Variance and Appeals Board

The Town Council shall hear and decide appeals and requests for variances from requirements of this ordinance.

(B) Duties of Variance and Appeals Board

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Jackson County Circuit Court.

(C) 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;

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

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

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

(4) The necessity of the facility to a waterfront location, where applicable.

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(6) The compatibility of the proposed use with existing and anticipated development.

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) Conditions for Variances

(1) Variances shall only be issued when there is:
   a) A showing of good and sufficient cause.
   b) A determination that failure to grant the variance would result in exceptional hardship.
   c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

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

(7) Any 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 (See Article 6, Section E).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

(E) Variance Notification

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

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

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

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

(F) Historic Structure

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(G) Special Conditions

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Town Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Chapter §155. DECISION-MAKING BODIES AND OFFICIALS

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§155.01. PLAN COMMISSION

(A) Creation and Membership

(1) Pursuant to authority granted by the 200 SERIES COMMISSION ESTABLISHMENT AND MEMBERSHIP of Title 36, Article 7, Chapter 4, of the Indiana Code, a plan commission is hereby created, and shall be known as the Brownstown Advisory Plan Commission.

(2) The municipal plan commission consists of seven (7) members, as follows:

(a) The Town Council shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.

(b) The President of the Town Council shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party. At least one member shall be a resident of or property owner in the unincorporated area which is subject to the Town's planning and zoning jurisdiction under Ind. Code §36-7-4-205.

(c) Members appointed by the Town Council shall generally serve four-year terms and may be reappointed, except that the term of office of a member (who is appointed from the membership of a legislative body, a park board, or the advisory council on town affairs) is coextensive with the member's term of office on that body, board, or council, unless that body, board, or council appoints, at its first regular meeting in any year, another to serve as its representative.

(d) Members appointed by the President of the Town Council shall serve four-year terms and may be reappointed.

(e) Terms of members shall expire at the beginning of the first meeting of the calendar year that falls four years after the date on which such person took office.

(f) To ensure staggering of terms of office, in making initial appointments to the Commission, the Town Council shall designate two persons to serve four-year terms and one person to serve a two-year term and the President of the Town Council shall designate two persons to serve four-year terms and two to serve two-year terms.

(g) Any vacancy on the commission shall be promptly filled by an appointment by the person or entity who appointed the member whose seat is vacant.

(3) The chairperson and any other officers created by the bylaws of the Brownstown Plan Commission shall be elected from the commission membership. Each shall serve for a one-year period, beginning at the first meeting of the calendar year. Officers may be reelected without limitation. All members of the commission shall serve without compensation.

(B) Organization

The Brownstown Plan Commission may adopt and later change or alter bylaws consistent with city ordinances and state laws. The commission shall keep written records of its proceedings which shall be open at all times to public inspection. The commission shall also file an annual report with the Town Council setting forth its transactions and recommendations, and such other reports as may be requested by the council.

(C) Powers and Duties

The Brownstown Plan Commission shall have the following powers and duties:

(1) To originate, prepare and recommend to the Town Council a comprehensive plan for its consideration and adoption as a guide for the future physical and social development of a territory which includes the town and such contiguous unincorporated area as may be subject to the jurisdiction of the Commission under Ind. Code §36-7-4-205. Such comprehensive plan shall be periodically reviewed by the Plan Commission and recommendations made to the Town Council for changes as deemed appropriate by the Plan Commission.

(2) To originate and recommend to the Town Council, after public hearing, amendment, change, supplement, or repeal of the zoning ordinance; conduct public hearings on amendments to the zoning ordinance that may be submitted for consideration; and conduct public hearings and make recommendations on other matters relative to the developmental aspects of the town.

(3) To review and make recommendations to the council concerning the continuing plans for roads and other capital improvements.

(4) To review and act on applications for subdivision approval as provided in the subdivision regulations of this code.

(5) To cooperate with the Jackson County Plan Commission, other municipal plan commissions and other agencies or groups to further the local planning program and to promote harmonious and integrated planning for the area as requested by the Town Council.

(D) Meetings

(1) All meetings of the commission shall be held at such times as the commission may determine.

(2) The Town Clerk-Treasurer shall act as clerk for the commission and shall make and keep records of all meetings, hearings, and official acts. The minutes of the proceedings shall show the vote of each member upon question, or if absent or failing to vote, indicate such fact.

(3) Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board shall be filed immediately in the office of the Town Clerk and Treasurer and shall be a public record.

(4) The board may adopt its own rules of procedure not in conflict with this ordinance or with the applicable provisions of the Indiana Code, a copy of which shall be filed in the office of the Town Clerk-Treasurer.

§155.02. BOARD OF ZONING BOARD OF APPEALS

(A) Creation and Membership

(1) Pursuant to authority granted by the 900 SERIES BOARD OF ZONING APPEALS of Title 36, Article 7, Chapter 4, of the Indiana Code, a board of zoning appeals is hereby created, and shall be known as the Brownstown Board of Zoning Appeals.

(a) The Board of Zoning Appeals shall have five members.

(b) The Town Council shall appoint one citizen member.

(c) The President of the Town Council shall appoint three (3) citizen members, one of whom shall be a member of the Plan Commission and two of whom shall not be members of the Plan Commission.

(d) The Plan Commission shall appoint one of its members other than the member appointed by the President of the Town Council; if the member of the Plan Commission appointed by the President of the Town Council is not the representative of the unincorporated area, the Plan Commission shall appoint the representative of the unincorporated area as its representative to the Board of Zoning Appeals.

(e) Members shall generally serve four-year terms and may be reappointed, except that the term of office of a member who is appointed from the membership of the Plan Commission is coextensive with the member's term of office on commission.

(f) Members appointed by the President of the Town Council shall serve four-year terms and may be reappointed.

(g) Terms of members shall expire on the first Monday of the January falling one, two, three or four years after the date of appointment, depending on the term for which each is appointed.

(h) To ensure staggering of terms of office, in making initial appointments to the Board, the President of the Town Council shall designate one person to serve a three-year-year term, one person to serve a two-year term and one person to serve a one-year term; the members appointed by the Town Council and the Plan Commission shall serve four-year terms.

(i) Any vacancy on the board shall be promptly filled by an appointment by the person or entity who appointed the member whose seat is vacant.

(2) The chairperson and any other officers created by the bylaws of the Brownstown Board of Zoning Appeals shall be elected from the board membership. Each shall serve for a one-year period, beginning at the first meeting of the calendar year. Officers may be reelected without limitation. All members of the board shall serve without compensation.

(B) Jurisdiction and Authority

The Board of Zoning Appeals shall have the following jurisdiction and authority:

(1) To hear and decide appeals from and review any order, requirement, decision, or determination made by the administrative official charged with enforcement of this ordinance, in accordance with §36-7-4-918.1 of the Indiana Code.

(2) To consider and decide whether to grant, grant with conditions or deny requests for variances from development standards in accordance with §36-7-4-918.5 of the Indiana Code.

(3) To hear and decide all matters referred to it or upon which it is required to pass under this ordinance.

(4) The Board shall have no jurisdiction over variances in flood fringe (FF) or floodway (FW) districts. (for variance procedures in FF or FW districts, see §154.06.

(5) The Board shall not have the authority to grant use variances under §36-7-4-918.4 of the Indiana Code.

(C) Meetings

(1) All meetings of the board shall be held at such times as the board may determine.

(2) The Town Clerk-Treasurer shall act as clerk for the board and shall make and keep records of all meetings, hearings, and official acts. The minutes of the proceedings shall show the vote of each member upon question, or if absent or failing to vote, indicate such fact.

(3) Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board shall be filed immediately in the office of the Town Clerk-Treasurer and shall be a public record.

(4) The board may adopt its own rules of procedure not in conflict with this ordinance or with the applicable provisions of the Indiana Code, a copy of which shall be filed in the office of the Town Clerk-Treasurer.

Chapter §156. PROCEDURES FOR PERMITS AND APPROVALS

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§156.01. COMMON PROCEDURES

(A) Fee Schedule

The Town Board shall establish fees and charges for building permits, zoning certificates, appeals, and other matters pertaining to this ordinance. A schedule of fees shall be posted in the office of the Town Clerk and may be altered or amended by resolution of the Town Board. Until all applicable fees and charges have been paid in full, no action shall be taken on any application or appeal.

(B) Complete Application Required

Only complete applications shall be processed under this ordinance. An incomplete application shall be returned to the applicant with a checklist of items necessary to make the application complete. No public hearing shall be scheduled until the Town Clerk has received a complete application for the matter which is the subject of the proposed public hearing.

§156.02. ZONING CERTIFICATES

(A) General

(1) It shall be unlawful after the effective date hereof to permit any building or premises hereafter to be erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a zoning certificate shall have been issued therefor stating that the proposed use of the building or land conforms to the requirements of this ordinance use of the building or land conforms to the requirements of this ordinance.

(2) It shall be unlawful to change the use of a building, structure or land from one use to another until a zoning certificate has been issued stating that the proposed use conforms to the applicable provisions of this ordinance.

(3) A record of all zoning certificates shall be maintained by the Town Clerk or the Clerk's designee and such record shall be available for public inspection.

(4) Zoning certificates shall be issued by the Town Clerk only after it is determined that the proposed structure and/or use is in compliance with the provisions of this ordinance.

(5) Zoning certificates shall state specifically whether the certificate is for a permitted use, variance, and/or special use.

(6) No building permit for the erection, alteration, or moving of any building within the Town shall be issued until a zoning certificate has been applied for and issued.

(7) A zoning certificate is required prior to the construction, alteration or moving of any structure or use of land in the area lying outside of but within the extraterritorial planning jurisdiction of the Town as designated on the official zoning map.

(8) The issuance of a zoning certificate for any new construction will require the property to be brought into compliance with the current code. This includes but is not limited to existing driveways and curb cuts.

(B) Expiration

The work or use authorized by any zoning certificate must be commenced within 12 months of the date of issuance of such certificate, otherwise, the same shall lapse and become null and void. All work so authorized shall be completed within 18 months from the issuance of the zoning certificate therefore, except that for good cause shown, the administrative official may extend the work completion time.

(C) Appeal

Action on a permit under this section may be appealed to the Board of Zoning Appeals in accordance with §156.09.

§156.03. BUILDING PERMITS

(A) General

It shall be unlawful within the city limits to construct, add to, alter, remove or demolish, or to commence the construction, addition, alteration, removal or demolition of a building or structure or install equipment for the operation of a building or structure without a building permit.

(B) Expiration

Building permits shall be valid for a period of time as provided in the building code, as adopted from time to time by reference.

(C) Appeal

Action on a permit under this section may be appealed to the Board of Zoning Appeals in accordance with §156.09.

§156.04. OCCUPANCY PERMITS

(1) No building or structure or land shall be occupied or used in whole or in part within the jurisdiction of this ordinance until an occupancy permit shall have been issued by the administrative official charged with the enforcement of this ordinance.

(2) An occupancy permit issued within the limits of Town City shall state that all applicable Building, Housing, Electrical and Plumbing Codes and ordinances of the City and the provisions of this ordinance have been complied with.

(3) An occupancy permit issued in the area outside of the Town but within the extraterritorial planning and zoning jurisdiction of the Town as designated on the official Zoning Map shall state that the provisions of this ordinance have been complied with.

(4) A temporary occupancy permit may be issued during alteration or for occupancy of a building pending its completion. A temporary occupancy permit may include conditions and safeguards necessary to protect the safety of the occupants and the public. Such conditions may be imposed in the form of "commitments" as provided in Ind. Code §36-7-4-1015 or may simply be noted on the temporary permit.

(B) Appeal

Action on a permit under this section may be appealed to the Board of Zoning Appeals in accordance with §156.09.

§156.05. SITE PLAN REVIEW

(A) Initial Review

The Town Clerk or the Clerk's designee responsible for the issuance of building permits shall have the authority to review proposed site plans to determine whether a building and other improvements proposed on a site will conform to the requirements of this Title, including the dimensional requirements applicable to the district under Chapter §151 and the Site Development Standards of Chapter §153. The person responsible for such review may, at such person's discretion, refer the site plan to the Plan Commission for review. If the applicant or any other interested party is dissatisfied with the determination of the Clerk or the Clerk's designee, such person may request a new review by the Plan Commission. In either case, the consideration of the site plan by the Plan Commission shall take place at its next regular meeting occurring at least ten (10) days after the submittal of a complete site plan application.

(B) Plan Commission Review

The review of a site plan by the Plan Commission shall take place at a public meeting and shall be listed as an item of business on the published agenda for the meeting. Notice of the time and place of the meeting shall be provided to the applicant and to any other party who has declared an interested in the matter or who, in the opinion of the Town Clerk, may be interested in such matter. At the meeting, the Plan Commission shall hear from the applicant and from the person responsible for issuing building permits and from such other persons as it may deem appropriate. Following its review of the testimony and other available evidence, the Plan Commission shall, at the same meeting, approve, approve with conditions or reject the site plan. Any conditions shall be imposed in the form of "commitments" as provided in Ind. Code §36-7-4-1015.

(C) Appeal

The site plan review by the Plan Commission is an administrative action and may be appealed to the Board of Zoning Appeals in accordance with §156.08.

§156.06. USE INTERPRETATIONS

In case of any confusion, dispute or question over the interpretation of the status of a particular use under this Title, the Town Clerk or the Clerk's designee may provide an interpretation of the applicable provisions of this Title, referring to 0, to Chapter §159 and to other pertinent provisions of the ordinance. Alternatively, the Town Clerk or the Clerk's designee may refer the question to the Board of Zoning Appeals, which shall consider the

matter at its next regular meeting and provide an interpretation. If the Town Clerk or the Clerk's designee provides an interpretation of the use, any party aggrieved may appeal the matter to the Board of Zoning Appeals in accordance with §156.08.

§156.07. TEXT AND MAP AMENDMENTS

(A) Initiation

Request for zoning change may be initiated in the following ways:

(1) Any person with an interest in affected property may apply for a change of the zoning map or text affecting the property;

(2) Any person without a property interest may request the Town Board to direct the Town Clerk to accept an application for change from such person;

(3) The Plan Commission may initiate a change to the zoning map or the text of this ordinance.

(B) Hearing Required

Regulation imposed and the districts created by this ordinance may be amended from time to time by ordinance, but no such amendments shall be made without public hearing before the Plan Commission of the Town.

(C) Notice of Hearing

The Plan Commission shall cause notice of the hearing to be given in accordance with the requirements of Ind. Code §36-7-4-604, including but not limited to:

(1) The time and place of the hearing;

(2) A general description (but not metes and bounds description) of property affected by the proposal;

(3) If the proposal is for a text amendment, a description of the nature of the proposed text amendment;

(4) Information on where and when the public can review the full proposal and available background information before the hearing;

(5) That written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered;

(6) That oral comments concerning the proposal will be heard; and

(7) That the hearing may be continued from time to time as may be found necessary.
.

(D) Timing of Notice

Notice shall be given at least ten days before the date of the hearing.

(E) Type of Notice

(1) Every hearing under this section shall be advertised in the same way and the same place(s) as hearings for proposed ordinances in the Town.

(2) Every hearing for a proposal involving a change in the zoning map shall also be advertised by the following:

(a) A sign posted on the affected property by or at the expense of the applicant. The sign shall be at least 3 feet by 4 feet, shall be clearly legible from a public street, and shall specify the time and place of the hearing and the type of amendment proposed, together with a phone number, web address or other contact information to obtain additional information about the application; and

(b) Notice sent by certified mail to all record owners of property located within the area affected by the proposed amendment or within 250 feet thereof.

(F) Criteria

In reviewing a proposed change to the zoning map or to the text of this ordinance, the Plan Commission and, on its recommendation, the Town Board shall consider the criteria set forth in Ind. Code §37-3-603 as it may be amended from time to time. On the date of adoption of this ordinance, those criteria include consideration of:

(1) Whether the proposal is consistent with the comprehensive plan;

(2) The current conditions and character of current structures in each district affected by the proposal;

(3) The most desirable use for which the land affected by the proposal is adapted;

(4) The conservation of property values throughout the Town and its planning and zoning jurisdiction; and

(5) Responsible development and growth.

(G) Procedure

(1) On receiving or initiating the proposal, the commission shall, within sixty (60) days, hold a public hearing in accordance with Ind. Code §36-7-4-604 of this chapter. Within ten (10) business days after the commission determines its recommendation (if any), the commission shall certify the proposal under Ind. Code §36-7-4-605.

(2) The Town Board shall vote on the proposal within ninety (90) days after the plan commission certifies the proposal under §36-7-4-605.

(3) This subsection applies if the proposal receives a favorable recommendation from the Plan Commission:

(a) At the first regular meeting of the legislative body after the proposal is certified under section §36-7-4-605 (or at any subsequent meeting within the ninety (90) day period), the Town Board may adopt, reject, or amend the proposal. The legislative body shall give notice under Ind. Code §5-14-1.5-5 of its intention to consider the proposal at that meeting.

(b) If the Town Board adopts (as certified) the proposal, it takes effect as other ordinances of the Town.

(c) If the Town Board fails to act on the proposal within ninety (90) days after certification, the proposal takes effect as if it had been adopted (as certified) ninety (90) days after certification.

(d) If the Town Board rejects or amends the proposal, it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons

for the rejection or amendment. The Commission has forty-five (45) days in which to consider the rejection or amendment and report to the Town Board as follows:

(i) If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the legislative body as of the date of the filing of the commission's report of approval with the legislative body or the end of the forty-five (45) day period.

(ii) If the commission disapproves the rejection or amendment, the action of the legislative body on the original rejection or amendment stands only if confirmed by another vote of the legislative body within forty-five (45) days after the commission certifies its disapproval. If the legislative body fails to confirm its action under this clause, the ordinance takes effect in the manner provided in subdivision (c).

(4) This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission:

(a) At the first regular meeting of the Town Board after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the legislative body may adopt, reject, or amend the proposal. The legislative body shall give notice under Ind. Code §5-14-1.5-5 of its intention to consider the proposal at that meeting.

(b) If the Town Board adopts (as certified) the proposal, it takes effect as other ordinances of the Town.

(c) If the Town Board rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.

(d) If the Town Board amends the proposal, it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the amendment. The Commission has forty-five (45) days in which to consider the amendment and report to the legislative body as follows:

(i) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the Town Board as of the date of the filing of the Commission's report of approval with the Town Board or the end of the forty-five (45) day period.

(ii) If the Commission disapproves the amendment, the action of the Town Board on the original amendment stands only if confirmed by another vote of the Town Board within forty-five (45) days after the Commission certifies its disapproval. If the Town board fails to confirm its action under this clause, the ordinance is defeated.

(H) Vote Required by Town Board

A proposal to amend this ordinance or the zoning map shall be effective only if approved by a vote of a majority of the entire Town Board.

(I) Judicial Review

A decision by the Board under this section is a final decision, subject to appeal under §156.12.

§156.08. SPECIAL USE PERMITS

(A) Application

Any person with an interest in property may apply to the Board of Zoning Appeals for a special use permit to allow the use of specified property for a use designated with an "S" in the use table in §151.13.

(B) Setting of Hearing

Upon receipt of a complete application for a special use permit, the Town Clerk shall schedule the matter for hearing before the Board of Zoning Appeals at the first regular meeting of the Board that will occur at least two weeks after receipt of the complete application.

(C) Notice

The Town Clerk shall give notice of the hearing before the Board by the same means used to give notice of a proposed zoning map amendment under §156.07(C), §156.07(D) and §156.07(E).

(D) Action

At the same meeting at which the matter is heard or at a meeting to which the matter is continued, the Board shall approve the proposed application, approve the application with conditions, or deny the application. Any conditions shall be imposed in the form of "commitments" as provided in Ind. Code §36-7-4-1015.

(E) Judicial Review

A decision by the Board under this section is a final decision, subject to appeal under §156.12.

§156.09. APPEALS TO BOARD OF ZONING APPEALS

(A) Initiation

Any person aggrieved by a decision of an administrative official acting under this ordinance may appeal that decision to the Board of Zoning Appeals by filing an appeal under this section within thirty days of receiving notice of the decision of the administrative official.

(B) Form of Appeal

An appeal to the Board may be filed by letter or other petition filed with the Town Clerk. An appeal filed with the Board must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the board of zoning appeals by rule. The appeal shall be accompanied by any fee required by the resolution of the Town Board establishing fees under this ordinance.

(C) Transmittal of Record

Upon learning of an appeal of a decision to the Board, the Town Clerk or other administrative official responsible for the decision or in possession of the records related to

the decision shall transmit to the Board all documents, plans, and papers constituting the record of the action from which an appeal was taken.

(D) Hearing Required

The Board of Zoning Appeals may act on an appeal only after holding a hearing in accordance with these provisions. Upon receiving a complete application for appeal, the Town Clerk shall schedule the matter for the next regularly scheduled meeting of the Board occurring at least two weeks after receipt of the appeal.

(E) Notice of Hearing

The Town Clerk shall cause notice of the hearing to be given in accordance with the requirements of Ind. Code §36-7-4-920, including but not limited to:

(1) The time and place of the hearing;

(2) A general description (but not metes and bounds description) of property affected by the proposal;

(3) Information on where and when the public can review appeal and available background information before the hearing;

(4) That written objections to the proposal that are filed with the Town Clerk before the hearing will be considered;

(5) That oral comments concerning the proposal will be heard; and

(6) That the hearing may be continued from time to time as may be found necessary..

(F) Timing of Notice

Notice shall be given at least ten days before the date of the hearing.

(G) Type of Notice

(1) Every hearing under this section shall be advertised in the same way and the same place(s) as hearings for proposed ordinances in the Town.

(2) Every hearing for a proposal involving a change in the zoning map shall also be advertised by the following a sign posted on the affected property by or at the expense of the applicant. The sign shall be at least 3 feet by 4 feet, shall be clearly legible from a public street, and shall specify the time and place of the hearing and the type of amendment proposed, together with a phone number, web address or other contact information to obtain additional information about the application.

(H) Action

Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken. The Board may also grant a variance, in accordance with the standards of of this section.

(I) Timing of Action

(1) The Board shall make a decision on any matter that it is required to hear under this section either:

(a) At the meeting at which that matter is first presented; or

(b) At the conclusion of the hearing on that matter, if it is continued.

(2) Within five (5) days after making any decision under the 900 series, the board of zoning appeals shall file in the office of the board a copy of its decision.

§156.10. VARIANCE

Upon an appeal, the Board may approve or deny a variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The Board may impose reasonable conditions as a part of the board's approval. Such conditions shall be imposed i in the form of “commitments” as provided in Ind. Code §36-7-4-1015. A variance may be approved under this section only upon a determination in writing that:

(1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) 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

(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this subdivision.

§156.11. SIGN PERMITS

(A) Permit Application Procedure

Application for a sign permit may be made by the owner (or agent) of the sign during regular business hours at the office of the town Clerk-Treasurer. The application shall be made on a form provided by the town and shall contain or have attached thereto the following information:

(1) Name, address, and telephone number of the applicant;

(2) Name, address, and telephone number of the person or company who will erect, alter, construct, or relocate the sign (if not the applicant);

(3) Name, address, and telephone number of the person or firm for whom the sign is being made or installed (if not the applicant);

(4) The position of the sign or advertising structure in relation to nearby building(s) or structure(s), easements, rights-of-way, or applicable set-back lines;

(5) Two blue prints or ink drawings to scale of the plans and specifications and method of construction, attachment to the building or other structure or placement in the ground;

(6) If required by the Town Council, a copy of the stress sheets and calculations showing the structure's deadload and wind pressure capacities;

(7) If the sign includes electrical service, a description of the service to be installed;

(8) Written consent or other proof of authorization of the owner of the building, structure, or land to which or on which the sign is to be erected;

(9) Such other information as the Town Council may require to demonstrate full compliance with this chapter, other town ordinance, or any applicable requirement of state or federal law. (Ord. 2004-01, passed 4-5-04)

(B) Issuance of Sign Permit

(1) The Town Council shall, within 30 days of the filing of the completed application, grant such permit if, and only if:

(a) The application contains all necessary information;

(b) If the sign requires electrical service, proof that the electrical work will be done by a qualified electrician;

(c) The sign complies with this chapter, all other town ordinances, and all applicable state and federal law.

(2) The Town Council may grant a permit on the condition that the work be stopped at specified time(s) to permit inspection(s). If the Town Council denies such permit, the reason(s) therefor shall be stated to the applicant. If the Town Council fails to take any action within 30 days, the application is deemed denied. All denials are appealable pursuant to § 153.22.

(C) Permit Fees

Signs granted approval by the town will not be subject to any fee for a sign permit. (Ord. 2004-01, passed 4-5-04)

(D) Appeal

Action on a permit under this section may be appealed to the Board of Zoning Appeals in accordance with §156.09.

§156.12. Judicial Appeal

Designated final actions of the Town Board or the Board of Zoning Appeals under this Chapter may be appealed to the courts in accordance with Ind. Code §§36-7-4-1600 et seq,

Chapter §157. NONCONFORMING SITUATIONS

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§157.01. NONCONFORMING STATUS

(A) General

(1) Within the districts established by this ordinance there exist lots, structures, uses of land and structures, use of structures, and signs which were lawful, but which would be prohibited, regulated, or restricted under the terms of this ordinance. It is the intent hereof to provide for the elimination of certain nonconformities, to permit some nonconformities to conditionally continue, and to ensure that nonconformities shall not be horizontally or vertically enlarged, increased, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(2) Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure and land in combination shall not be enlarged, increased, expanded or extended by the addition of other uses prohibited generally in the district involved.

(3) Nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun but not completed prior to the effective date hereof and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

(B) Construction of Article

Any lot, structure, use, sign or combination thereof which was lawfully established after January 1, 2015, but which does not conform with any aspects of this ordinance shall remain a lawful nonconforming lot, structure, use, sign or combination thereof.

(C) Special and Nonconforming Uses Distinguished

Special uses and nonconforming uses are distinguishable. A nonconforming use means the use of a building or premises that does not comply with the regulations and restrictions of the district in which it is located. A special use is one which is controlled and conditionally permissible in a given zone. It is granted by the Board of Zoning Appeals only after a public hearing, upon a finding that conditions of the zoning provisions of this Code are satisfied.

§157.02. NONCONFORMING LOTS

(A) Lots of Record

(1) The minimum lot area and minimum lot width shall not apply to any lot legally recorded in the form of a deed or plat existing on the effective date hereof, providing such lot is in separate ownership and not of contiguous frontage with other lots in the same ownership. Further provided, that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of such other yard requirements shall be obtained only through action of the Board of Zoning Appeals.

(2) In any district, if two or more unimproved lots or combination of lots and portions of lots with continuous frontage in single ownership are of record in the form of a deed or plat on the effective date hereof, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of said parcel shall be used or sold in a manner which creates noncompliance with lot width and area requirements established by this ordinance, nor shall any voluntary division of any parcel be made which creates a lot with width or area below requirements stated in this ordinance.

(B) NONCONFORMING STRUCTURES

Where a structure exists on the effective date of this ordinance, that could not be built under the provisions hereof by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, it may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be horizontally or vertically enlarged or altered in a way which increases the nonconforming floor area, or moved in a way which increases its nonconformity.

(2) A nonconforming structure may be remodeled or added to, provided that the remodeling or addition or the use thereof, will not create a violation of any provisions of this ordinance.

(3) In the event more than 50 percent of such nonconforming structure shall be rendered unusable, it shall not be reconstructed except in conformity with the provisions of this ordinance or with action taken by the Board of Zoning Appeals.

(C) NONCONFORMING USES

Where a use of land exists on the effective date of this ordinance that would not be permitted under the provisions hereof, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged, increased, expanded or extended to occupy a greater area of land than was occupied on the effective date hereof.

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of this ordinance.

(3) In the event any such nonconforming use of land shall be discontinued for a period of 90 days, the same shall not thereafter be permitted to continue as a nonconforming use, and any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

(4) No additional structures or facilities which fail to conform to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

(D) USES OF STRUCTURES OR STRUCTURES AND LAND IN COMBINATION

Where a use of a structure or of structures and land in combination exists on the effective date hereof, that would not be permitted under the provisions hereof, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use of a structure, or of structures and land in combination, shall be horizontally or vertically enlarged, increased, expanded or extended to occupy or use a greater area of land or a greater portion of a structure than was so occupied or used on the effective date of this ordinance.

(2) Nonconforming home occupations may be continued only so long as the ownership thereof shall not be changed.

(3) If no structural alterations are made, a nonconforming use of a structure or premises may be changed to another nonconforming use after a hearing before the Plan Commission and approval by the Town Council. The Plan Commission in making a positive recommendation to the Council, must find that the new nonconforming use is more appropriate to the district than the existing nonconforming use. In permitting such changes, the Town Council may establish and require appropriate conditions and safeguards in accord with the provisions of this ordinance. Any such conditions shall be imposed in the form of “commitments” as provided in Ind. Code §36-7-4-1015.

(4) In the event that any such nonconforming use shall be superseded for any period of time by a permitted use, or in the event the same shall be discontinued or abandoned for a period of six consecutive months, or for at least 18 intermittent months of any consecutive 36 month period, the same shall not, after the expiration of such applicable period, be permitted to continue as a nonconforming use, and any subsequent use shall conform to the regulations specified by this ordinance for the district in which the structure or land is situated.

(5) Normal repairs or maintenance of nonconforming structures or portion of a structure containing a nonconforming use, may be done.

(E) Nonconforming Signs

(1) Any sign located within the town limits on the date of the adoption of this chapter and which does not conform to the provisions of this chapter shall be a "legal nonconforming" sign and will be permitted, provided the sign is a permanent sign.

(2) Loss of legal nonconforming status.

(3) A legal nonconforming sign shall immediately lose its legal nonconforming status if:

(a) The sign or sign structure, because of improper installation or maintenance, constitutes a threat to public health or safety and remains in such condition after a reasonable time is given to remedy the problem;

(b) The sign is demolished or damaged to the extent of 50% or more of its value;

(c) The permit or condition under which the sign was allowed expires; or

(d) The sign or sign structure is substantially structurally altered so as to prolong its expected life.

(4) On the happening of any one of the above-listed items, the sign shall be immediately brought into conformance with this chapter or shall be removed. The following shall not result in loss of legal nonconforming status:

(a) Any changes of color, design, or message on the sign's face; and

(b) Any modification to the sign or sign structure which does not constitute a substantial structural modification.

(5) Nothing in this chapter shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from any provisions regarding safety, maintenance and repair of signs.

Chapter §158. VIOLATIONS, ENFORCEMENT AND PENALTIES

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§158.01. VIOLATIONS

Unless otherwise expressly allowed by another provision of the Brownstown Municipal Code or Indiana law, any violation of this Title XV, including but not limited to the following, will be subject to the remedies and penalties provided for in this article:

(A) to use land or Buildings in any way not consistent with the requirements of this Title XV;

(B) to install or use a sign in any way not consistent with the requirements of this Title XV;

(C) to engage in the use of a building or land, the use or installation of a sign, or other development activity requiring one or more permits or approvals under this Title XV without obtaining all such required permits or approvals;

(D) to engage in the use of a building or land, the use or installation of a sign, or other development activity requiring one or more permits under this Title XV in any way inconsistent with any such permit or approval or any conditions imposed thereon;

(E) to operate any business or other use subject to specific use or operating conditions under this Title XV except in accordance with such use or operating conditions or restrictions;

(F) to construct a building or other structure or to develop land within a floodplain, except in accordance with the requirements of this Title XV;

(G) to violate the terms of any permit or approval granted under this Title XV or any condition imposed on such permit or approval;

(H) to obscure, obstruct or destroy any notice required to be posted or otherwise given this Title XV; or

(I) to violate any lawful order issued by any person or entity acting under this Title XV.

§158.02. RESPONSIBILITY

(A) Generally

The owner, tenant or occupant of any land or structure, shall be presumed to know of activity occurring on the such land or in such structure and thus may be charged with a violation of this Title XV for any violation found on any premises subject to this Title XV. Where an architect, contractor, builder, agent or other person appears to have participated directly in a violation of this Code, the building and neighborhood services Division may also charge such person with a violation of this Title XV. The presumption established by this section shall be rebuttable as part of the enforcement proceeding.

(B) For Signs

Unless circumstances clearly show otherwise, there exists the following presumptions in connection with any existing sign (including snipe signs) which violates any provision of this chapter:

(1) The sign was erected at its location by, or with the consent of, the owner and occupier of the site;

(2) The sign was erected by, or with the consent of, the company or business advertised thereon; and

(3) The sign was erected by, or with the consent of, the promoter of the item or event advertised thereon (including, in the case of the advertisement of available residential housing, the realtor or other promoter thereof). Any person cited for a violation may rebut any such presumption by introducing evidence of the non-existence of the presumed fact sufficient to prove by a preponderance of the evidence that the presumed fact is not true.

§158.03. REMEDIES

The Town may use any of the following remedies and enforcement powers or any combination of such remedies and enforcement powers:

(A) Referral to Other Agencies

Where a violation of this Code may also constitute a violation of state or federal law, Town Council or its designee may, without effect on the Town's other enforcement efforts, refer the matter to the any appropriate federal, state or regional agency.

(B) Withhold Permits & Approvals

The Town Council or its designee deny or withhold all permits, certificates or other forms of authorization on any land, or structure or improvements thereon:

(1) upon which there is an uncorrected violation of a provision of this Title XV or of a condition or qualification of a development order, permit, certificate, approval or other authorization previously granted by the Town; and

(2) owned or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this Title XV or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the Town.

(C) Approval of Permits and Approvals with Conditions

Instead of withholding or denying a permit or other authorization, the Town Council or its designee may grant such a permit or other authorization only if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety or general welfare. Any conditions shall be imposed in the form of "commitments" as provided in Ind. Code §36-7-4-1015.

(D) Revoke Permits and Approvals

Any permit or other form of authorization required under this Title XV may be revoked by the Town Clerk-Treasurer by any Town official with authority to issue such permit when the responsible official determines: (1) that there is a clear and material departure from the plans, specifications, or conditions as required under terms of the permit, (2) that the permit was procured by materially false representation or was issued by mistake, or (3) that any of the provisions of this Title XV are being materially violated and, after reasonable notice, such violations have not been corrected.

(1) Written notice of revocation shall be served upon the owner, the owner's agent or contractor, or upon any person responsible at the site of the building or structure for which such permit was issued, or shall be posted in a prominent location, and thereafter construction shall stop.

(2) A revocation under this section may be appealed to the Zoning Board by following the appeals provisions of section §156.08.

(3) Upon revocation of a permit or approval, any use or activity on the land which depended on the permit or approval shall cease immediately; this shall have no effect on any separate, lawful use on the property.

(E) Stop Work

Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this Title XV, the Town Council or its designee may order the work to be immediately stopped.

(1) The stop-work order shall be in writing and directed to the person doing the work.

(2) The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

(3) Violation of a stop-work order may be prosecuted under §158.03(F) and/or §10.99 of the Town Code

(F) Legal or Equitable Relief

(1) The Town may commence a civil action or proceeding in circuit court to stop any violation of this Title XV or of a permit, certificate or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation. The relief sought may include:

(a) an injunction or other equitable relief;

(b) a mandatory injunction requiring specific performance of the requirements of a site plan, landscaping plan, environmental remediation plan or any development order, approval or permit requiring specific site improvements as a remedy under this Title XV or as a condition of approval of such development order, approval or permit;

(c) an order in the nature of mandamus or abatement;

(d) a civil action in a court of competent jurisdiction to establish liability and to recover damages to property including animal, plant, and aquatic life, caused by any violation;

(e) a judgment or order enforcing any requirement of, or under, this Title XV to pay a fee or reimburse or compensate the Town, including when the Town is required or authorized to take specified action at the expense of the landowner; or

(f) any other judgment or order available under Indiana law.

(2) It shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the Town has failed to exhaust its administrative remedies, or has failed to hold an administrative hearing prior to the institution of a civil action.

Chapter §159. DEFINITIONS AND INTERPRETATIONS

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§159.01. GENERAL RULES

(1) All words shall be given their common, ordinary meanings unless the context otherwise requires.

(2) The singular includes the plural and the plural includes the singular, as the context may suggest.

(3) Words of one gender include other genders as applicable.

(4) The word "shall" is mandatory; the word "will" is directory but not mandatory; the word "may" is permissive.

§159.02. ADMINISTRATIVE INTERPRETATION

Upon application of any property owner or resident of the jurisdiction, the planning services division shall either issue an interpretation of the meaning of any part of this Title XV that may be unclear or shall refer the matter to the Board of Zoning Appeals for interpretation; any interpretation by the Planning Services Division may be appealed to the Board of Zoning Appeals in accordance with §156.09.

§159.03. MEASUREMENTS

For the purposes of this ordinance the following illustrations and the definitions contained therein shall be deemed to be part of the definitions:

(1) **Height**

(a) **Building**
The height of a building shall be measured from the finished grade to the highest point on the building.

(b) **Lighting Fixture**
The height of a lighting fixture shall be measured from the finished grade to the highest point on the fixture.

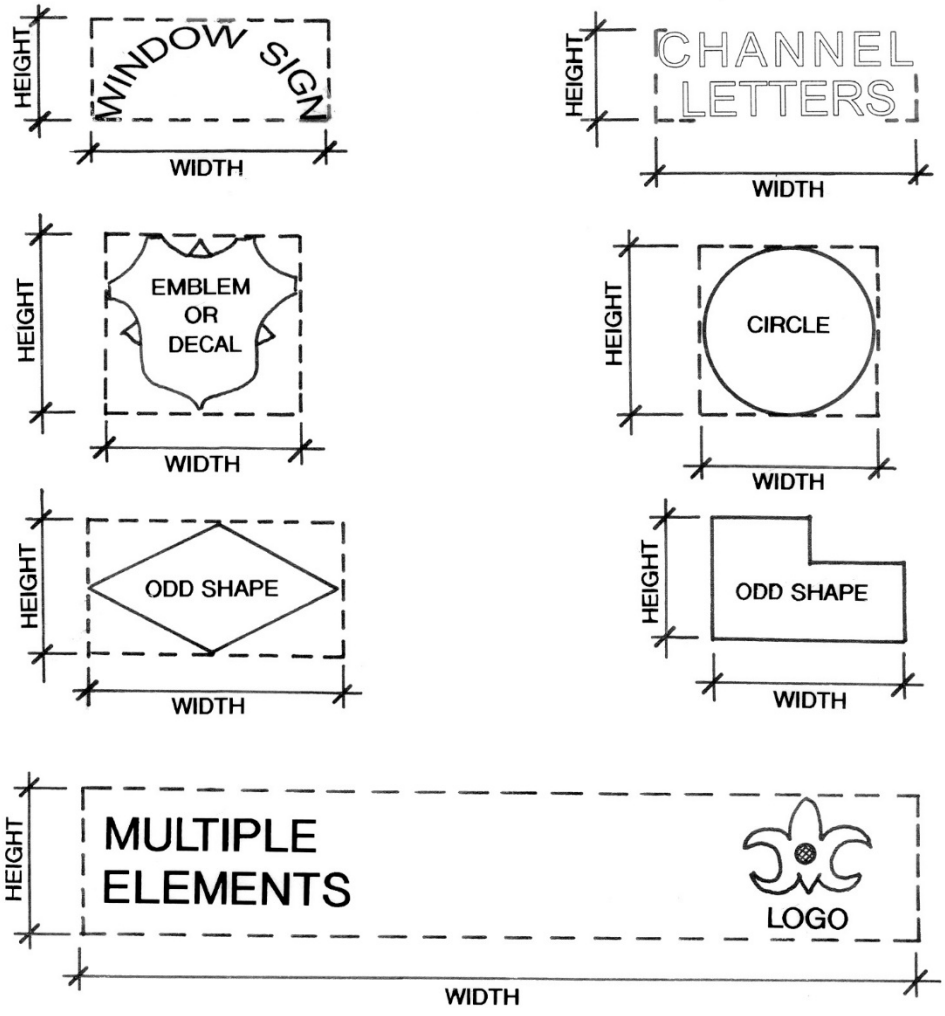
(c) **Sign**
The height of a sign shall be measured from the finished grade to the highest point on the sign.

(B) **Miscellaneous Sign Measurements**

(1) SIGNS, NUMBER OF: An individual sign shall be considered to be a single display surface or display device containing elements organized to form a unit. Where matter is displayed in a random manner without organized relationship of

elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

(2) SIGNS, SURFACE AREA OF: the surface area of a sign shall be computed as including the entire area of a regular geometric form or combination of regular geometric forms within which the sign shape may be inscribed and comprising all the display area and frame (or border) of the sign surface area and including all of the elements of the matter displayed. Structural member not bearing advertising matter shall not be included in the computation of the surface area.



§159.04. GENERAL DEFINITIONS

ACCESSORY BUILDING or USE. A subordinate building or use which is located on the same lot on which the main building or use is situated, and which is reasonably necessary and incidental to the conduct of the primary use of the building or main use.

ADULT ARCADE. A commercial establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image

producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video disks (e.g. DVD's), slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE. A commercial establishment which has a significant or substantial portion (25 % or more) of its stock-in-trade or interior business

ADULT CABARET. A nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

1) Persons who appear semi-nude or in a state of semi-nudity; or

2) Live performances which are characterized by the exposure of specified anatomical areas or by pictures, video cassettes, digital video disks (e.g. DVD's), slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL. A motel, hotel, or similar commercial establishment which:

1) Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video disks (e.g. DVD's), slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical arias and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, or television; and

2) Offers a sleeping room for rent for a period of time less than ten hours; or

3) Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where films, motion pictures, video cassettes, digital video disks (e.g. DVD's), slides, or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

ANIMATED SIGN. Any sign which includes action, motion, or color changes on all or any part of the sign facing, requiring electrical energy, or set in motion mechanically or by movement of the atmosphere. This definition includes signs commonly called bi-view, tri-view, or multi-view signs which alternate or otherwise change displays whether through mechanical or electrical means. An animated sign does not include a clock and/or thermometer display.

AREA OF SIGN. The area or "surface area" of a sign is defined by the smallest perimeter fully enclosing the total surface devoted to the sign's message, together with any ornamentation, embellishment, and associated background, excluding any necessary supports or uprights on which the message is placed and excluding any architectural ornamentation. As an aid to interpreting this formulation, the following is to be employed:

if the message is on a surface, structure or frame specifically employed for holding signage, the entire surface area within the frame's border is counted; if the message is on a door, wall, or other structural part of a building, only that portion of the door, wall, or structure actually devoted to the message and associated symbols and background, if any, is counted. If a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that if two faces are placed back-to-back and are at no point more than three feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or the area of the larger face if the two faces are of unequal area.

ARTISAN SIGN. An unilluminated sign not exceeding eight square feet in area placed on a site during the period that the work is being engaged in, with the permission of the site's owner, displaying the name of the contractor or artisan improving the site or structure on the site.

BUILDING FRONTAGE. The total length in linear feet of a building(s) along that edge most nearly parallel with a street abutting the building's lot regardless of whether such is functionally the front, rear, end, or side of the building.

CAMPAIGN SIGN. Any sign, poster, billboard, or other outdoor advertisement advocating the election or defeat of a particular candidate for public office, or group of candidates, or political party.

CHANGEABLE COPY SIGN. A sign wherein provision is made for letters or characters to be placed in or upon the surface area either manually or electronically to provide a message. Such message may not be changed more often than daily, except for time and/or temperature displays. A changeable copy sign does not include any sign that meets the definition of a flashing sign.

CHARACTERIZED BY. This term means the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

CHASER SIGN. A sign that creates a running effect in a bank of lamps or tubes.

COMMERCIAL SEXUAL ENTERTAINMENT CENTER. Any commercial establishment not otherwise described herein which as one of its principal uses regularly offers matter, services or entertainment appealing to adult sexual interests if the establishment or its entertainment, services or goods are advertised by or on behalf of the establishment in a manner patently designed to appeal to such adult sexual interests.

CONSTRUCTION SIGN. An unilluminated sign giving the name or names of principal contractors, architects, and lending institutions responsible for new construction or major renovation on the site where the sign is placed together with other information included thereon authorized by the Town Council in connection with construction operating for a specific project not to exceed 36 square feet in area beginning with the commencement of construction and extending to a date 15 days after the completion of construction operations.

DEPENDENT MOBILE HOME. A mobile home which does not possess a toilet, sink, bath or shower facilities.

DWELLING. A building or portion thereof, but not a mobile home, designed exclusively for residential occupancy including one-family, two-family and multiple-family dwellings, but not including hotels, boarding housing and lodging houses.

ELECTRONIC READER BOARD. A sign which contains a traveling message or a message which appears to be traveling, and usually in a horizontal direction.

EMPLOYEE. Any person hired by or suffered or permitted to work in a sexually oriented business establishment whether that person receives remuneration or compensation directly from the operator or owner of the establishment, from patrons of the establishment or from any other source whether by contract of employment or otherwise, for work or services performed for the benefit of the sexually oriented business establishment. EMPLOYEE does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods, such as foods, to the premises.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESCORT. A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESTABLISH or ESTABLISHMENT. Includes any of the following:

1) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
2) The conversion of an existing business, if not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
3) The opening or commencement of any type of sexually oriented business as a new business after the adoption of this chapter; or
4) The relocation of any sexually oriented business.

FINANCER'S SIGN. An unilluminated sign not exceeding eight square feet in area placed on a site during the period of construction or renovation and for seven days after the completion of the project, with the permission of the site's owner, displaying the name of the person, firm, or financial institution providing the financing for the project.

FLASHING SIGN. Any sign which contains a continually intermittent light or sequential flashing light source. This definition specifically includes signs that use intermittent lighting changes for the purpose of changing the graphics or copy within the copy area of a sign more often than daily as in an electronic reader board (as herein defined) or message center (as herein defined), except that such reader boards or message centers may display time and/or temperature readings which change more often than daily.

GROUND SIGN. Any sign supported by uprights or braces in or upon the ground and not attached to any building.

HOME OCCUPATION SIGN. A sign directing attention to a business or professional activity conducted on the same lot in a residential district, containing only the name and occupation of the resident, not to exceed two square feet in area, and only as approved by the Town Council.

ILLUMINATED SIGN. A sign designed to give forth artificial light or reflect it from another source. A sign designed to give forth artificial light is an "internally illuminated sign."

INDEPENDENT MOBILE HOME. A mobile home which has a self-contained toilet, sink, and bath or shower facilities.

INFLATABLE DISPLAY. Any three-dimensional, ambient air-filled object depicting a container, figure, product or product trade dress, whether or not such object contains a message.

INSTITUTION SIGN. A sign containing information about an on-site institution, such as churches, schools, hospitals, rest homes, private clubs and similar institutions or organizations.

INTEGRAL SIGN. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface on the wall of a building, or when constructed of bronze or other incombustible materials mounted on the wall of a building.

KNOWINGLY. A person engages in conduct "knowingly" if, when he engages in the conduct, he is aware of a high probability that he is doing so.

LICENSEE. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license.

LOT. A parcel of land occupied or suitable for occupancy by one main building, structure or use with accessory buildings.

MASSAGE PARLOR. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any person providing this treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor, osteopath, or certified massage therapist, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor, osteopath, or certified massage therapist, nor by trainers for any amateur, semi-professional, or professional athlete or athletic team or school athletic program.

MESSAGE CENTER. A sign which contains a changing message within the copy area which remains on for a specified minimum period of time and blacks out for a specified minimum period of time between messages. Messages contained on the sign do not travel or appear to travel in any direction.

MESSAGE. A sign's message includes its text, drawings, figures, logo, and any associated background.

MOBILE HOME PARK. An area of land upon which five or more mobile homes are harbored for the purpose of being occupied as principal residences and includes all real and personal property used in the operation of the mobile home park. An area of land that is subdivided and contains individual lots which are leased or otherwise contracted for is a **MOBILE HOME PARK** if five or more mobile homes are harbored there for the purpose of being occupied as principal residences.

MOBILE HOME. Any vehicle, including equipment sold as a part of a vehicle, which is so constructed as to permit its being used as a conveyance upon public streets or highways by either self-propelled or non-self-propelled means, which is designed, constructed or reconstructed, or added to by means of an enclosed addition or room in a manner that will permit the occupancy thereof as a dwelling for one or more persons, which is both used and occupied as a dwelling having no foundation other than wheels, jacks, skirting, or other temporary supports.

NUDITY or STATE OF NUDITY. Any of the following: the showing of the human male or female genitals, pubic area, anus or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

OFF-PREMISE SIGN. A sign attached to a building, the ground, or structure advertising a business, product, service or event conducted, sold, or offered elsewhere than upon the same lot. This

OPERATE or CAUSE TO OPERATE. To cause to function, or to put or keep in a state of doing business.

OPERATOR. Any person on the premises of a sexually oriented business who operates or manages the business or exercises overall control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

PARTIALLY DEPENDENT MOBILE HOME. A mobile home which possesses toilet and sink but does not possess a bath or shower facilities.

PERMANENT SIGN. Any sign which is not a portable sign.

PERMITTED OR LICENSED PREMISES. Any premise that requires a license or permit and that is classified as a sexually oriented business.

PERMITTEE. The same as LICENSEE.

PERSON. An individual, proprietorship, partnership, corporation, association, or other legal entity.

PERSON. Any individual, association, corporation, or other legal entity.

PORTABLE SIGNS. Any sign not permanently affixed to a building, structure, or the ground such as a sign designed to be moved from place to place, or designed to be removed and re-erected from time to time, or attached directly or through a structure to a chassis equipped with wheel and axle or other means of mobility.

PRINCIPAL USE. A substantial or significant use, but not necessarily a majority of the business activity or stock in trade. The fact that a business may have one or more other principal uses unrelated to sexually oriented business shall not relieve the business from the provisions of this chapter applicable to sexually oriented business establishments. For a sexually oriented business, a principal use shall exist in the following circumstances:

1) Where a business establishment dedicates, or permits the use of, at least 25 % of the utilized square footage of its premises for sexually oriented business activity or activities; or

2) Where at least 25 % of the gross receipts of a business establishment, excluding food and beverage receipts, result from sexually oriented business activity or activities.

PROJECTING SIGN. Any sign supported by a building or other structure which projects over any street, sidewalk, alley, public way, or public easement more than 12 inches from the face of the building or structure.

PUBLIC BUILDING. Any building owned, leased or held by the United States, the state, the county, a city, town, township, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for government purposes.

PUBLIC PARK or RECREATION AREA. Public land which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas, or similar public land within the town which is under the control, operation, or management of the United States, the state, the county, a city, town, township, any special district, school district, or any other agency or political subdivision of the state or the United States.

REAL ESTATE SIGN. A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or lease of one or more structures or a portion thereof located on such lot or tract of land, during the pendency of such sale or lease and for seven days after closing.

RECKLESSLY. A person engages in conduct "recklessly" if he engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result and the disregard involves a substantial deviation from acceptable standards of conduct.

REGULARLY. As used in the phrases herein such as "regularly features" and "regularly offers," **REGULARLY** means a consistent and repeated course of conduct engaged in or permitted by the operator of the business.

RELIGIOUS INSTITUTION. Any church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities.

RESIDENCE. Any structure, manufactured home or mobile home used by one or more persons as a dwelling.

RESIDENTIAL DISTRICT OR USE. A single family, duplex, townhouse, multiple family, or mobile home park or subdivision and campground as defined in this code of ordinances.

ROOF LINE. The upper edge of any building wall or parapet, exclusive of any tower, chimney, ventilation equipment or utility equipment.

SCHOOL. Any public or private educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. **SCHOOL** includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

SELF-DESIGNATED SEXUALLY ORIENTED BUSINESS CENTER Any establishment which designates all or a portion of its premises as for adults only and has a policy of excluding minors from its premises or from a portion of its premises and which advertises so as to convey the impression that the services, entertainment, matter or goods available at the premises or

at the portion of the premises designated for adults only are characterized or distinguished by displays of human genitals or sexual activities.

SEMI-NUDE MODEL STUDIO. Any place where a person, who regularly appears in a state of semi-nudity, is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

SEMI-NUDE. A state of dress which shows the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

SEX CLUB also known as a **SWINGERS CLUB.** An establishment which provides patrons the opportunity to voluntarily engage in and/or view live consensual sexual activity and which collects remuneration of any kind, including entrance fees, facility use fees, gratuities, fees for goods provided far in excess of their value, and/or donations.

SEXUAL DEVICE SHOP. A commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services.

SEXUAL DEVICE. Any three-dimensional object designed and marketed for stimulation of the male or female human genital organ or anus, or for sadomasochistic use or abuse of oneself or others, and shall include devices such as dildos, vibrators and penis pumps, and shall also include other devices with non-sex related utility, such as leather whips, straps and ligatures, when such devices are marketed in a context suggesting sexual or sadomasochistic purposes. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy. Nothing in this definition shall be construed to restrict sales by any pharmacy, drug store, medical provider or any establishment primarily dedicated to providing medical or healthcare products or services.

SEXUAL ENCOUNTER ESTABLISHMENT. A business or commercial establishment that, as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purposes of specified sexual activities.

SEXUALLY ORIENTED BUSINESS. Any of the following businesses, as defined herein: adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort, escort agency, massage parlor, self-designated sexually oriented business center, semi-nude model studio, sex club, sexual device shop, or sexual encounter establishment. **SEXUALLY ORIENTED BUSINESSES** shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SIGN. A name, display, identification, device, notice, figure, painting, drawing, message, placard, poster, word, bulletin board, symbol, letter, numeral, emblem, trademark, flag, or banner, pennant, or other illustration which is affixed to or painted or represented directly or

indirectly upon a building, or other outdoor surface, or parcel of land and which directs attention to an object, product, place, activity, person, institution, organization, or business, and is visible from any alley, street, highway, sidewalk, or other public way, whether such is placed out of doors or in windows.

The term sign does not include any display of official notices of courts or other public offices, nor the flag, emblem or insignia of a nation, political unit, school, or religious group. The term SIGN shall not include the merchandise which is for sale on the premises, the packaging or container for such merchandise, or any writings or other symbols on such merchandise, container, or packaging.

SNIPE SIGN. Any sign (whether attached in any way to a utility pole, tree, traffic control device, or any object, or the ground, or otherwise situated) on (a) public property without the consent of the appropriate public body, or (b) private property without the consent of the owner or occupier thereof.

SPECIFIED ANATOMICAL AREAS. Includes any of the following:

1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following: masturbation, intercourse, oral copulation, or sodomy, or excretory functions as a part of or in connection with any of these activities.

SUBSTANTIAL ENLARGEMENT OF SEXUALLY ORIENTED BUSINESS. Increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on the date of the passage of this chapter.

TOWN. Always refers to the Town of Brownstown, and means the town itself or any subdivision, board, commission, or agency of the town; it does not include the Brownstown Community School System.

WALL SIGN. A sign mounted on, attached to, or painted or applied on the exterior wall of a building or structure in a plane parallel to that of the supporting wall or structure, or painted or otherwise applied to an awning or canopy consisting of cloth or fabric material provided such awning or canopy is attached to a wall and not to the ground, extending no more than 12 inches from the surface to which it is attached. Any sign meeting this definition is not a projecting sign.

WIND SIGN. Any attention-arresting device, with or without message, or a series of devices such as streamers, and/or pennants, with or without message, designed and fastened in such a manner as to move upon being subjected to pressure by the atmosphere; except that such definition shall not include (a) on each building, up to four banners, flags, or pennants, and (b) on each light standard, one banner, flag, or pennant.

WINDOW SIGN. A sign installed on the exterior or on or near the interior of a window for the purpose of viewing from outside the premises.