

## CHAPTER 156: ZONING CODE

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**GENERAL PROVISIONS**

**§ 156.001 TITLE; PURPOSE.**

(A) This chapter is established for the purpose of:

- (1) Classifying, regulating and limiting the height, area, bulk and use of buildings hereafter erected;
- (2) Regulating and determining the area of front, rear and side yards and other open spaces about buildings and structures;
- (3) Regulating and determining the use and density of use of land and lot areas;
- (4) Classifying, regulating and restricting the location of trades, callings, industries, commercial enterprises and the location of buildings designed for specified uses;
- (5) Dividing the town into districts of such kind, character, number, shape and area as may be deemed necessary to carry out the purpose of this chapter; to provide for administration of and penalties for the violation of its provisions; authorizing the creation of a Board of Zoning Appeals and providing for review of the decisions of such Board by the court.

(B) This chapter, and chapters supplemental or amendatory thereto, shall be known as the Zoning and Master Plan of Whiteland, Indiana.

**§ 156.002 INTERPRETATION.**

(A) In interpreting and applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare.

(B) It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties, nor to interfere with or abrogate or annul any chapters, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this chapter or which shall be adopted or issued pursuant to law, regarding the use of buildings or land; provided, where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot areas per family than are required by or imposed by such easements, covenants or agreements between parties, or by such chapters, rules, regulations or permits, the provisions of this chapter shall control.

**§ 156.003 DEFINITIONS.**

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

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

**ACCESSORY USE.** A use which is incidental to the main use of the premises.

**ALLEY.** A public thoroughfare which affords only secondary means of vehicular access to abutting property and not more than 20 feet in width.

**APARTMENT.** A building or portion thereof designed for or occupied by more than two families. See **DWELLING, MULTIPLE.**

**AUTOMOBILE OR TRAILER SALES AREA.** An open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold or rented on the premises.

**AUTOMOBILE WRECKING.** The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.

**BASEMENT.** A story, wholly or partially underground, which, unless subdivided into rooms and used for tenant purposes, shall not be included as a story for the purpose of height measurement.

**BOARDING HOUSE.** A building where meals are regularly served for compensation for three or more persons but not exceeding 12 persons, not open to transients, in contradistinction to hotels and restaurants open to transients.

**BLOCK.** Property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting streets and railroad right-of-way or waterway.

**BUILDING.** A structure having a roof supported by columns or walls for the shelter, support, enclosure or protection of persons, animals, chattel or property. When separated by party walls without openings, each portion of such building shall be considered a separate structure.

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

**CAMP, PUBLIC.** Any area or tract of land used for or designed to accommodate two or more automobile house trailers or two or more camping parties, including cabins, tents or other camping outfits. See **MOTEL** or **TOURIST LODGE**.

**COMMISSION.** The Town Plan Commission.

**COMMERCIAL.** See **BUSINESS**.

**DISTRICT.** A section of the town for which uniform regulations governing the use, height, area, size, intensity of use of buildings and land and open spaces about buildings are established.

**DWELLING.** Any building or portion thereof which is designed or used exclusively for residential purposes.

**DWELLING, DOUBLE.** A two-family dwelling designed to house two families living side by side.

**DWELLING, DUPLEX.** A two-family dwelling designed to house two families living one above the other.

**DWELLING, SINGLE-FAMILY.** A detached building designed for or occupied by one family, exclusively.

**DWELLING, TWO-FAMILY.** A detached building designed for or occupied by two families living independently.

**DWELLING, MULTIPLE.** See **APARTMENT**.

**FAMILY.** A group of one or more persons occupying a building and living as a single housekeeping unit.

**FILLING STATION.** Any building, structure, premises or enclosure or other place used for the dispensing, sale or offering for sale at retail of fuels or oils for motor vehicles. When the dispensing, sale or offering for sale is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

**FRONT YARD LINE.** The line establishing a front yard between which line and the street, the location of buildings, uses or portions of building is regulated by this chapter.

**GARAGE, PRIVATE.** An accessory building with capacity for not more than three motor vehicles for storage only, not more than one of which may be a commercial vehicle of not more than three tons capacity. Provided, however, that a garage designed to house one motor vehicle for each family housed in an apartment shall be classed as a private garage.

**GARAGE, PUBLIC.** Any building or premises, except those defined above as a **PRIVATE GARAGE**, used for the storage or care of motor vehicles or where such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

**GROUP HOUSE.** A group of dwellings constructed in a row, with the dwelling units separated by vertical party walls without opening.

**GRADE.**

(1) For buildings having walls, adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

(2) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at

the center of all walls adjoining the streets.

(3) For buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is considered adjoining the street.

**HEIGHT OF BUILDING.** The vertical distance from the grade to the highest point of the building for flat roofs; to the deck line for mansard roofs; and to the main height level, between eaves and ridges for gables and hip roofs.

**HOME OCCUPATION.** Any occupation carried on by a member of the family residing on the premises in connection with which there is used one professional sign, other than the name plate, not more than one square foot in area, that will indicate from the exterior that the building is being used in part for any other purpose than that of a dwelling; there is kept no stock in trade; no commodity is sold on the premises; and no person is employed other than a member of the family residing on the premises.

**HOTEL.** A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, as distinct from a boarding house or lodging house.

**INSTITUTION.** A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

**KENNEL.** Any lot or premises on which four or more dogs, at least four months of age, are kept.

**LODGING HOUSE.** A building where lodging only is provided for compensation to three or more but not exceeding 12 persons, not open to transients, distinct from a hotel, which is opened to transients.

**LOT.** A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building and its accessory buildings, and the open spaces required by this chapter, and having its principal frontage on a street or an officially designated and approved place.

**LOT, CORNER.** A lot abutting two or more streets at their intersection.

**LOT, DEPTH OF.** The main horizontal distance between the front line and the rear line of the lot.

**LOT, INTERIOR.** A lot other than a corner lot or through lot.

**LOT LINE, FRONT.** In the case of an interior lot, a line separating the lot from the street or place; in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the front lot line.

**LOT LINE, REAR.** A lot line which is opposite and farthest from the front line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front line.

**LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder; or a parcel of land, the deed to which has been recorded in the office of the County Recorder, prior to the passage of this chapter.

**LOT LINE, SIDE.** Any lot boundary line not a front line or a rear lot line.

**LOT, THROUGH.** A lot having frontage on two streets at opposite ends of the lot.

**MOTEL.** A building or group of buildings in which lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicle.

**NONCONFORMING USE.** A building or premises which does not conform in its use and otherwise with all the regulations of the district in which such building or premises is located.

**OPEN SPACE.** An area of land not covered by structures or accessory uses except for those related to recreation. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yards, patio areas, or land scheduled for future development.

**PARKING LOT.** A parcel of land devoted to unenclosed parking space for five or more motor vehicles for compensation or otherwise.

**PLACE.** An open or unoccupied space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

**PROFESSIONAL OFFICE.** When conducted in a residential district, a **PROFESSIONAL OFFICE** shall be incidental to the residential occupancy of the building, shall be conducted entirely within a residential building and shall include only the office of doctors, lawyers, engineers, theologians or similar occupations that involve mental, rather than manual, labor.

**SITE ALTERATION.** Activities that would change the landform and natural vegetative characteristics of a site. Examples include, but are not limited to, fill, grading, excavation, removal of topsoil, placement of impervious or gravel surface, clearing of wooded areas (except as part of an agricultural operation), damming, and changes to water courses.

**STABLE, PRIVATE.** A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

**STABLE, PUBLIC.** A stable other than a private stable.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between such floor and the ceiling next above it shall be the **STORY**.

**STORY, HALF.** That portion of a building under a sloping gable, hip or gambrel roof, the wall plates on at least two opposite walls of which are not more than five feet above floor level of such half story.

**STREET.** A public thoroughfare 20 feet or more in width between property lines which affords principal means of vehicular access to abutting property.

**STRUCTURE.** Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something permanently located on the ground.

**STRUCTURAL ALTERATION.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or in the exterior walls.

**TOURIST HOME.** A residence in which lodging for not more than five transient guests is provided, which has not required structural alterations and which the residential use has not been discontinued.

**TOURIST LODGE.** See **MOTEL**.

**YARD, FRONT.** An open, unoccupied space between the front line of the building and the front line of the lot. The front line of the building shall be the line of the main wall nearest to and facing the street, including sun parlors and enclosed porches and excluding only steps below the first floor level and entranceways and open unroofed porches and terraces.

**YARD, REAR.** An open space between the rear line of the lot and the rear line of the building, extending the full width of the lot and unoccupied except for authorized accessory buildings.

**YARD, SIDE.** An open, unoccupied space on the same lot with a building between the side line of the building and side line of the lot and extending to a point 25% of the depth of the lot measured from the front to the rear line of the lot.

**ZONE.** See **DISTRICT**.

#### **§ 156.004 ANNEXED OR VACATED AREAS.**

(A) Territory which may be annexed to the town shall immediately be included in the R-1 Single-Family Residential District or as otherwise designated in the annexation ordinance until the required amendment to this chapter has been adopted.

(B) Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of such street, alley, public way, railroad right-of-way, waterway or other similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall be subject to all appropriate regulations of the extended districts.

**§ 156.005 USE RESTRICTED TO THAT PERMITTED.**

No building or land shall be used and no building shall be erected, reconstructed or structurally altered which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such building or land is located.

**§ 156.006 HEIGHT.**

No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the district in which such a building is located.

**§ 156.007 YARDS; LOT AREA; SIZE OF BUILDINGS.**

No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon or reduce in any manner the yards, lot areas per family or size of building regulations established and specified for the district in which such building is located.

**§156.008 LOTS.**

Every building hereafter erected shall be located on a lot which fronts a street and in no case shall more than one building and its customary accessory buildings be erected on any lot.

**§ 156.009 AMENDMENTS.**

The Town Council may, from time to time, amend, supplement or change the regulations and districts fixed by this chapter in the manner prescribed in Sections 63 and 64 of Chapter 174 of the Acts of the Indiana General Assembly of 1947.

**§ 156.010 REMEDIES.**

The Town Plan Commission, the Board of Zoning Appeals, the Building Commissioner, or any designated enforcement official, or any person, firm or corporation, jointly or severally aggrieved, may institute a suit for injunction in the Circuit Court and/or the Superior Courts of Johnson County to restrain any individual or a government unit from violating the provisions of this chapter. The Town Plan Commission or Board of Zoning Appeals also may institute a suit for mandatory injunction directing an individual, corporation or government unit to remove a structure erected in violation of the provisions of this chapter. Any building erected, raised or converted, or land or premises used in violation of any provision of this chapter or the requirements thereof, is hereby declared a common nuisance and as such may be abated in a manner as the nuisances are now or hereafter may be abated under existing law.

**ADMINISTRATION AND ENFORCEMENT**

**§ 156.020 AUTHORITY OF PLAN COMMISSION AND THE TOWN COUNCIL.**

The Plan Commission and the Town Council are hereby designated and authorized to enforce this chapter.

**DISTRICTS AND BOUNDARIES**

**§ 156.040 DISTRICTS.**

The town is hereby divided into ten districts in order to carry out the purposes of this chapter. The districts shall be known as follows:

- (A) R-1, Single-Family Residential District.
- (B) R-2, Single-Family Residential District.
- (C) R-3, Multi-Family Residential District.
- (D) A-1, Apartment District.
- (E) B-1, Business District.
- (F) C-1, Commercial District.
- (G) C-2, Commercial District.
- (H) I-1, Industrial District.

(I) L-1, Light Industrial District.

(J) AG, Agricultural.

**§ 156.041 ZONE MAPS.**

(A) The zone map which accompanies and is hereby declared to be a part of this chapter shows the boundaries of and areas covered by the districts named in § 156.040 above. Notations, references, indications and other matters shown on the zone map are as much a part of the ordinance as if they were fully described in the text of the chapter.

(B) The zoning map approved by the Town Plan Commission and certified to the Town Council for consideration is hereby approved and all prior zoning maps are hereby repealed. Said zoning map is hereby incorporated to the Zoning Code by reference.

**§ 156.042 DETERMINATION AND INTERPRETATION OF DISTRICT BOUNDARIES.**

(A) In determining the boundaries of districts and establishing the regulations applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values throughout the town.

(B) Where uncertainty exists as to the exact boundaries of any district as shown on the zone map, the following rules shall apply:

(1) Where district boundaries are indicated as following street, alley or lot lines or approximately along such lines, such lines shall be construed to be district boundaries.

(2) In unsubdivided areas or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the zone map.

(3) In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the zone map as to the location of the boundary in question.

**R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT**

**§ 156.050 USES PERMITTED.**

No building or premises shall be used and no building shall be erected, reconstructed or structurally altered which is arranged, intended or designed to be used for other than the following uses, unless otherwise provided herein:

(A) Single-family dwelling.

(B) Church or other building for religious worship.

(C) Public school, elementary or high; and educational institutions having courses of study equivalent to those of public schools.

(D) Home occupation.

(E) Public park or public playground and essential accessory buildings thereof.

(F) Railroad right-of-way but not railroad yards, shops, stations or other buildings.

(G) Child care homes used as primary residence of the person who operates child care home pursuant to IC 36-7-4-1108.

(H) Vegetables and flower gardens, orchards and farming but not the raising of livestock and poultry and provided that no sign, display or sales stand is used in conjunction therewith.

(I) Church or public building bulletin boards not exceeding 12 square feet in area.

(J) Sign of a temporary character, not exceeding six square feet in area, pertaining to the lease, hire or sale of a building or premises, which sign shall be removed as soon as the building or premises has been leased, hired or sold.

**§ 156.051 HEIGHT SPECIFICATIONS.**

(A) Dwellings.

(1) Maximum 35 feet or 2½ stories.

(2) Maximum 45 feet, if building is set back from required side and rear yard lines one foot for each two feet of height above 35 feet.

(B) Public or semipublic buildings, churches, temples or schools: maximum 80 feet, if building is set back from required yard lines, one foot for each two feet of height above 35 feet.

(C) Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances permitted in this district: any height not in conflict with other ordinances or regulations.

**§ 156.052 INTENSITY OF USE.**

(A) Minimum lot area: 12,500 square feet.

(B) Minimum width of lot: 90 feet at building line.

**§ 156.053 SIZE OF BUILDINGS.**

(A) One-story dwelling, exclusive of open porches and terraces and garages: minimum area 1,200 square feet.

(B) Two-story dwelling, exclusive of open porches and terraces and garages: minimum first floor area, 900 square feet, with total area not less than 1,200 square feet.

(C) A minimum of two car garage with hard surface driveway to be same width of garage door or all doors.

**§ 156.054 YARDS.**

(A) Buildings shall be set back from the front, rear and side lines of all lots in order to establish open areas designated as front, rear and side yards.

(B) The minimum setbacks for such purposes shall be as follows:

(1) Front yard:

(a) The minimum front building line shall be 40 feet.

(b) In a block where 25% of lots are occupied by buildings, the average depth of front yards establish the front yard for the block.

(c) Where front yard or setback line is established in a recorded subdivision, such lines establish the front yards, provided such line is not closer to the front line than the provisions hereof.

(d) Lots extending through from one street to another, front yards required on each street.

(e) Detached building other than garages. The front line of such building shall be in the rear of the rear line of the principal structure on the lot.

(2) Side yard:

(a) Twelve-foot minimum on one side and 15-foot minimum on the other side, including 27 feet in both side yards, except corner lots where the side yard set back on the side street shall be the same as front yard set back.

(b) Accessory buildings located in rear yards may not be located within 12 feet of a side lot line.

(3) Rear yard:

(a) Normally 25% of the lot; minimum required, 30 feet.

(b) Where an alley abuts rear of lot: depth of rear yard may be measured from the center line of the alley.

(c) Accessory building. May not be located closer than six feet of the rear lot line.

(d) Accessory building detached from main building: maximum occupancy of rear yard, 20%.

(e) Lots extending through from street to street: may waive rear yard if compensated by other open space on the same lot.

(4) General yard specifications.

(a) Ordinary projections of skylights over basements, sills, belt courses, cornices, chimneys and flues and ornamental features not to exceed 12 inches; open or lattice-enclosed fire escapes, fireproof outside stairways, balconies and by windows projecting not more than four feet permitted; otherwise, yards must be open and unobstructed to the sky.

(b) Required yards for one building shall not be used again for another building.

**§ 156.055 LOTS DEFICIENT IN AREA OF WIDTH.**

(A) Lot included in a recorded subdivision at the time of passage of this chapter deficient in area or width may be used as a building lot for single-family dwellings.

(B) Lot in single ownership at time of passage of this chapter deficient in area or width may be used as a building lot for a single-family dwelling.

**§ 156.056 OFF-STREET PARKING.**

See §§ 156.215 and 156.216.

**§ 156.057 EXTERIOR MATERIALS.**

(A) Single-family dwelling units shall be constructed with exterior finishes consisting of either brick or stone covering 75% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

(C) All other permitted uses within the R-1 Single Family Residential District shall have exterior finishes consisting exclusively of brick or stone covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

**R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT**

**§ 156.065 USES PERMITTED.**

Specifications for this district are identical with those prescribed for R-1 Single-Family Residential District, except as specified in §§ 156.066 through 156.068.

**§ 156.066 INTENSITY OF USE.**

(A) Minimum lot area: 9,500 square feet.

(B) Minimum lot width: 80 feet at the building line.

**§ 156.067 SIZE OF BUILDINGS.**

(A) One-story dwelling, exclusive of open porches, terraces and garages, minimum ground floor area 1,000 square feet;

(B) One and one-half story or two-story dwelling, exclusive of open porches, terraces and garages, minimum ground floor area 720 square feet, and a total area of not less than 1,000 square feet;

(C) A minimum of two car garage with hard surface driveway to be same width as the garage door or all doors.

**§ 156.068 YARDS.**

(A) Buildings shall be setback from front, rear and sidelines of all lots in order to establish open areas designated as front, rear and side yards.

(B) The minimum set backs for such purposes shall be as follows:

(1) Front yard. The minimum front building line shall be 40 feet, or 20% of depth of lot, whichever is more.

(2) Side yard.

(a) Twelve feet minimum on each side, except corner lots where the side yard set back on the side street shall be the same as front yard set back.

(b) Accessory building located in rear yard may not be located within 12 feet of the side yard line.

- (3) Rear yard.
  - (a) Normally 25% of the lots, minimum required 25 feet.
  - (b) Where an alley abuts rear of lot, depth of rear yard may be measured from center line of alley.
  - (c) Accessory buildings may not be located closer than six feet of the rear lot line.

**§ 156.069 EXTERIOR MATERIALS.**

(A) Single-family dwelling units shall be constructed with exterior finishes consisting of either brick or stone covering 75% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

**R-3 SINGLE- OR MULTI-FAMILY RESIDENTIAL DISTRICT**

**§ 156.080 USES PERMITTED.**

- (A) Uses permitted and specified: for R-1 and R-2 Single-Family Residential Districts.
- (B) Additional uses: two-family dwelling.

**§ 156.081 HEIGHT SPECIFICATIONS.**

Identical with those prescribed in § 156.051.

**§ 156.082 INTENSITY OF USE.**

- (A) Single-family dwellings:
  - (1) Minimum lot area: 7,500 square feet.
  - (2) Minimum lot width at building line: 70 feet.
- (B) Two-family dwelling:
  - (1) Minimum lot area: 7,500 square feet
  - (2) Minimum lot width at building line: 70 feet

**§ 156.083 SIZE OF BUILDINGS.**

(A) Single-family or duplex (one family above the other) dwellings, exclusive of open porches, terraces and garages, minimum area of 800 square feet.

(B) Double (one family beside the other) dwellings, exclusive of open porches, terraces and garages, 800 square feet for each living unit.

(C) A minimum of two car garage with hard surface driveway to be the same width as garage door or all doors for single-family residence.

(D) A minimum of one car garage for each unit of a double or duplex with hard surface driveway to be the same width as garage door or all doors.

**§ 156.084 YARDS.**

(A) Buildings shall be set back from the front, rear, and side lines of all lots in order to establish open areas designated as front, rear and side yards.

(B) Minimum set backs for such purposes shall be as follows:

- (1) Front yard.
  - (a) The minimum front building line shall be 30 feet.
  - (b) Any block where 25% of the lots are occupied by buildings, the average depth of front yards established by the front yards for the block.
  - (c) Where front yard or set back line is established in a recorded subdivision, such lines establish the front

yards, provided such line is not closer to the front line than the provisions hereof.

(d) Lots extending through from one street to another, front yards required on each street.

(e) Detached building other than garages, the front line of such building shall be in the rear of the rear line of the principal structure on the lot.

(2) Side yard.

(a) Ten-foot minimum on each side, except corner lots where the side yard set on the side street the back shall be the same as front yard set back.

(b) Accessory buildings located in rear yards may not be located within 10 feet of the side lot line.

(3) Rear yard.

(a) Normally 25% of the lot, minimum required, 25 feet.

(b) Where an alley abuts rear lot, depth of rear yard may be measured from the center line of the alley.

(c) Accessory buildings may not be located closer than six feet of the rear lot line.

#### **§ 156.085 LOTS DEFICIENT.**

Lots deficient in area or width and off-street parking for motor vehicles are identical with those prescribed in §§ 156.055, 156.215 and 156.216.

#### **§ 156.086 OFF-STREET PARKING.**

See §§ 156.215 and 156.216.

#### **§ 156.087 EXTERIOR MATERIALS.**

(A) Single and two-family dwelling units shall be constructed with exterior finishes consisting of either brick or stone covering 75% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

### **APARTMENT DISTRICT**

#### **§ 156.095 USES PERMITTED.**

(A) Uses permitted and specified for use for the R-1 Single-Family and R-3 Multi-Family Residential Districts.

(B) Additional uses:

(1) Apartment for more than two families.

(2) Group houses.

(3) Lodging houses.

(4) Boarding houses.

(5) Hotel in which business may be conducted for the sole convenience of the occupants of the building and provided there shall be no entrance to such place of business except from the inside of the building and that no display of stock of goods for sale shall be so arranged that it can be viewed from the outside of the building.

(6) Tourist home.

(7) Private clubs and lodges except those the chief activity of which is a service customarily carried on as a business.

(8) Spires, churches, steeples, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances are permitted in this district.

#### **§ 156.096 HEIGHT SPECIFICATIONS.**

(A) Single-family and two-family dwellings, three- and four-family apartments: same as prescribed in §

156.082.

(B) Apartments for more than four families.

(1) Minimum lot area: 8,000 square feet for the first four families plus 500 square feet for each additional family to be housed in the apartment.

(2) Minimum lot width: 65 feet.

**§ 156.097 INTENSITY OF USE.**

(A) Single-family and two-family dwellings, three- and four-family apartments, see § 156.082.

(B) Apartments for more than four families.

(1) Minimum lot area of 8,000 square feet for the first four families, plus 500 square feet for each additional family to be housed in the apartment.

(2) Minimum width of lot: 65 feet.

**§ 156.098 SIZE OF BUILDINGS.**

(A) Three- or four-family apartments: 500 square feet per living unit.

(B) Apartments for more than four families: minimum ground floor area: 1,000 square feet.

**§ 156.099 YARD SPECIFICATIONS.**

(A) Yard specifications for lots deficient in area or width and off-street parking for motor vehicles are identical with those prescribed in §§ 156.055, 156.215 and 156.216.

(B) Front yard, side yard and accessory buildings the same as prescribed in § 156.084.

**§ 156.100 OFF-STREET PARKING.**

See §§ 156.215 and 156.216.

**§ 156.101 EXTERIOR MATERIALS.**

(A) All multiple-family dwelling units consisting of three or more units shall have exterior finishes consisting exclusively of brick or stone covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

**B-1 BUSINESS DISTRICT**

**§ 156.110 USES PERMITTED.**

(A) Uses permitted and specified for R-1 Residential districts.

(B) Additional uses.

(1) Library.

(2) Insurance agencies.

(3) Real estate agencies.

(4) Law offices.

(5) Investment services except banks.

(6) Accounting, bookkeeping, tax consultants, and notary offices.

(7) Home occupations.

(8) Utility offices.

(9) Bed and breakfasts.

- (10) Commercial research facilities.
- (11) Professional office.
- (12) Information technologies.
- (13) Churches.
- (14) Public schools.

**§ 156.111 HEIGHT SPECIFICATIONS.**

(A) Dwelling:

- (1) Maximum of 35 feet or 2½ stories.
- (2) Maximum of 45 feet, if building is set back from required side and rear yard lines one foot for each two feet in height above 35 feet.

(B) Public or semi-public buildings, churches, temples or schools: maximum of 80 feet, if building is set back from required yard line, one foot for each two feet in building height above 35 feet.

(C) Spires, church steeples, chimneys, cooling towers, elevator bulk heads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances permitted in this district, any height not in conflict with other ordinances or regulations.

**§ 156.112 INTENSITY OF USE.**

- (A) Minimum lot area: 12,500 square feet
- (B) Minimum width of lot: 90 feet at building line

**§ 156.113 SIZE OF BUILDINGS.**

- (A) One story dwelling, exclusive of open porches, terraces and garages: minimum area of 1,200 square feet.
- (B) Two story dwelling, exclusive of open porches, terraces and garages: minimum first floor area 900 square feet, with a total of 1,200 square feet.

**§ 156.114 YARD SPECIFICATIONS.**

(A) Buildings shall be set back from the front, rear and side lines of all lots in order to establish open areas designated as front, rear and side yards.

(B) The minimum setbacks for such purposes shall be as follows:

(1) Front yard:

- (a) The minimum front building line shall be 40 feet.
- (b) In a block where 25% of lots are occupied by buildings, the average depth of front yards establish the front yard for the block.
- (c) Where front yard or setback line is established in a recorded subdivision, such lines establish the front yards, provided such line is not closer to the front line than the provisions hereof.
- (d) Lots extending through from one street to another, front yards required on each street.
- (e) Detached building other than garages. The front line of such building shall be in the rear of the rear line of the principal structure on the lot.

(2) Side yard:

- (a) Twelve-foot minimum on one side and 15-foot minimum on other side, including 27 feet in both side yards, except corner lots where the side yard set back shall be the same as front yard set back.
- (b) Accessory buildings located in rear yards may not be located within 12 feet of a side lot line.

(3) Rear yard:

- (a) Normally 25% of the lot, minimum required, 30 feet.

- (b) Where an alley abuts rear of lot: depth of rear yard may be measured from the center line of the alley.
  - (c) Accessory building may not be located closer than six feet of the rear lot line.
  - (d) Accessory building detached from main building: maximum occupancy of rear yard, 20%.
- (4) General yard specifications.

(a) Ordinary projections of skylights over basements, sills, belt courses, cornices, chimneys and flues and ornamental features not to exceed 12 inches; open or lattice-enclosed fire escapes, fireproof outside stairways, balconies and by windows projecting not more than four feet permitted: otherwise, yards must be open and unobstructed to the sky.

(b) Required yards for one building shall not be used again for another building.

**§ 156.115 LOTS DEFICIENT IN AREA OF WIDTH.**

(A) Lot included in a recorded subdivision at the time of passage of this amendment which is deficient in area or width may be used as a building lot for B-1 Business District structures.

(B) Lot in single ownership at time of passage of this amendment deficient in area or width may be used as a building lot for Business District.

**§ 156.116 OFF-STREET PARKING.**

See §§ 156.215 and 156.216

**§ 156.117 EXTERIOR MATERIALS.**

All structures permitted within the B-1 Business District shall be constructed with exterior finishes consisting of brick, stone, or other approved masonry material covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

**C-1 COMMERCIAL DISTRICT**

**§ 156.125 USES PERMITTED.**

(A) Uses permitted and specified for B-1 Business District, excluding uses permitted and specified in R-1 Residential Districts.

(B) Additional uses:

- (1) Gas stations not engaging in motor vehicle services.
- (2) Business services including:
  - (a) Banks and loan offices.
  - (b) Engineering and architectural offices.
- (3) Personal and social services including:
  - (a) Public education.
  - (b) Day care centers.
  - (c) Employment offices (Human Resources Management).
  - (d) Dance studios and academies.
- (4) Health services including:
  - (a) Nursing homes.
  - (b) Medical labs.
  - (c) Medical offices.
  - (d) Emergency health care offices.
- (5) Clothing service uses including:

- (a) Dry cleaning.
- (b) Self service laundries.
- (c) Tailors, dressmakers, and millinery.
- (d) Shoe repair.
- (6) Equipment and retail service uses including:
  - (a) Computer and electronic sales and service.
  - (b) Appliance stores.
  - (c) Record, tape or compact disc stores.
  - (d) Personal and small business printing trades.
  - (e) Building trades.
  - (f) Retail general merchandise.
  - (g) Auto sales without motor vehicle service.
  - (h) Drugstores.
  - (i) News dealers and magazine shops.
  - (j) Flower shops and greenhouses in conjunction with a flower shop.
- (7) Food service uses including:
  - (a) Grocery.
  - (b) Meat markets.
  - (c) Delicatessens.
  - (d) Retail food.
  - (e) Restaurants and fast-food.
  - (f) Micro-brewery in conjunction with retail food sales.
- (8) Boarding houses.

**§ 156.126 HEIGHT SPECIFICATIONS.**

(A) Dwelling:

- (1) Maximum of 35 feet or two stories.
- (2) Maximum of 45 feet, if building is set back from required side and rear yard lines one foot for each two feet in height above 35 feet.

(B) Public or semi-public buildings, churches, temples or schools: maximum of 80 feet, if building is set back from required yard line, one foot for each two feet in building height above 35 feet.

(C) Spires, church steeples, chimneys, cooling towers, elevator bulk heads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances permitted in this district, any height not in conflict with other ordinances or regulations.

**§ 156.127 [RESERVED].**

**§ 156.128 [RESERVED].**

**§ 156.129 YARD SPECIFICATIONS.**

- (A) Front yard. No structures shall be erected closer than 100 feet from the edge of the pavement of any public road or street or closer than the front of existing buildings at the time of passage of this section.
- (B) Side yard. Where a District 2 adjoins a residential district, five feet required along the line separating the C-

2 District from such a residential district.

**§ 156.130 OFF-STREET PARKING; DOCKING.**

See §§ 156.215 and 156.216.

**§ 156.131 EXTERIOR MATERIALS.**

All structures permitted within the C-1 Commercial District shall be constructed with exterior finishes consisting of brick, stone, or other approved masonry material covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

**C-2 COMMERCIAL DISTRICT**

**§ 156.140 USES PERMITTED.**

(A) Uses permitted and specified for Apartment District, Business District and C-1 Commercial District, excluding uses permitted and specified in all Residential Districts.

(B) Additional uses:

- (1) Gas stations engaging in motor vehicle repair service.
- (2) Public parking lots.
- (3) Tire dealers and tire repair service.
- (4) Retail and department stores.
- (5) Hospitals.
- (6) Insurance companies.
- (7) Bakery.
- (8) Wholesale uses including:
  - (a) Wholesale storage and warehouses.
  - (b) Wholesale sales.
- (9) Recreational uses including:
  - (a) Amusement parks.
  - (b) Motion picture theaters but not drive-in theaters.
  - (c) Golf courses and driving ranges.
  - (d) Bowling alley.
  - (e) Skating rink.
  - (f) Billiard rooms.
- (10) Night clubs, bars or taverns and retail establishments selling alcoholic beverages by the drink.
- (11) Hotels and motels.
- (12) Private clubs.
- (13) Veterinary clinics without animal incineration.
- (14) Mobile home sales and service.
- (15) Public warehouses.
- (16) Retail hardware and building material sales.
- (17) Funeral homes.
- (18) General contracting and special trades services without outside storage:

- (a) Heating and air conditioning contractors.
- (b) Electrical contractors.
- (c) Masonry contractors.
- (d) General construction and home improvement contractors.
- (19) Motor vehicle sales and service.
- (20) Motor vehicle service including body shops, motor vehicle wash or motor vehicle detail shop.
- (21) Governmental services:
  - (a) Town halls.
  - (b) Assessors office.
  - (c) Postal offices.
  - (d) Campaign headquarters.
  - (e) Fire and police.

**§ 156.141 HEIGHT SPECIFICATIONS.**

(A) Maximum: 100 feet.

(B) Commercial, industrial, apartment or public buildings may be erected to heights above 100 feet if the portion above 100 feet is set back from the street line one foot for each two feet of additional heights.

**§ 156.142 [RESERVED].**

**§ 156.143 [RESERVED].**

**§ 156.144 YARDS.**

(A) Front yard: no structure shall be erected closer than 100 feet from the edge of the pavement of any public road or street or closer than the front of existing buildings at the time of the passage of this section.

(B) Side yard: where a District 2 adjoins a Residential District, five feet required along the line separating the C-2 District from such Residential District. See §§ 156.215 and 156.216.

**§ 156.145 OFF-STREET PARKING.**

See §§ 156.125 and 156.216

**§ 156.146 EXTERIOR MATERIALS.**

All structures permitted within the C-2 Commercial District shall be constructed with exterior finishes consisting of brick, stone, or other approved masonry material covering 100% of the aggregate total area of all exterior walls, exclusive off doors, windows, and associated trim.

**§ 156.147 EXCEPTIONS TO ALL ZONING DISTRICTS.**

The masonry portion of this ordinance only applies to newly platted subdivisions and does not apply to any lot platted or any building built prior to January 14, 2008.

**I-1 INDUSTRIAL DISTRICT**

**§ 156.155 USES PERMITTED.**

(A) Uses permitted and specified in Apartment District, B-1 Business District, C-1 Commercial District, C-2 Commercial District and L-1 Light Industrial District, excluding uses permitted and specified in all Residential Districts.

(B) Additional uses.

- (1) Motor bus or railroad stations, railroad shops or yards.
- (2) Freight terminals.

- (3) Building material storage yard.
- (4) Lumber yard.
- (5) Farm implement sales and service.
- (6) Motor vehicle salvage and junk storage.
- (7) Brewery.
- (8) Bulk storage of flammable fluids in aboveground tanks.
- (9) Cement product manufacturing.
- (10) Creamery or manufacturing of dairy products.
- (11) Grain elevators, flour or cereal mills.
- (12) Foundry or metal forging.
- (13) Automobile or truck manufacturing.
- (14) Veterinary hospitals and kennels including animal incineration.
- (15) Manufacturing of durable goods.
- (16) Monument and stone cutting.
- (17) Tree services.

(C) Uses not permitted.

- (1) Gas manufacture for commercial sale.
- (2) Acid manufacture.
- (3) Alcohol manufacture.
- (4) Ammonia, bleaching powder, or chlorine manufacture.
- (5) Blast furnace.
- (6) Cement, lime, gypsum or plaster of paris manufacture.
- (7) Creosote manufacture.
- (8) Distillation of bones, wood or coal.
- (9) Dyestuff manufacture.
- (10) Explosives or fireworks manufacture or storage.
- (11) Fat rendering.
- (12) Garbage, offal or dead animals reduction or storage.
- (13) Glue or gelatine manufacture.
- (14) Petroleum refining.
- (15) Smelting of tin, copper, zinc or iron ores.
- (16) Tar distillation or manufacture.
- (17) Manufacture or industrial operations of any kind which is noxious or offensive more than 200 feet beyond the confines of the premises of building in which such operation is conducted by reason of the emission of smoke, dust, gas, fumes, odors, noise or vibrations.

**§ 156.156 HEIGHT SPECIFICATIONS.**

- (A) Maximum: 80 feet.
- (B) Commercial and industrial buildings may be erected to heights above 80 feet if the portion above 80 feet is

set back from the street line one foot for each two feet of additional height.

**§ 156.157 INTENSITY OF USE; SIZE OF BUILDING.**

Specifications for intensity of use and size of building (applicable to residential structures), are identical with those prescribed in §§ 156.097 and 156.098.

**§ 156.158 YARDS.**

(A) Residential structures: identical with those prescribed in § 156.054.

(B) Where an I-1 Industrial District is located directly opposite an R-1, R-2, R-3 or C-3 District the front yard shall conform to requirements of § 156.054.

(C) Where an I-1 Industrial District adjoins an R-1, R-2 or R-3 District a side yard of five feet is required along the side line separating the I-1 Industrial District from the R-1, R-2 or R-3 District.

**§ 156.159 OFF-STREET PARKING.**

See §§ 156.215 and 156.216.

**L-1 LIGHT INDUSTRIAL DISTRICT**

**§ 156.170 USES PERMITTED.**

(A) Uses permitted and specified in Apartment Districts, B-1 Business Districts, C-1 Commercial District and C-2 Commercial District, excluding uses permitted and specified in all Residential Districts.

(B) Additional uses.

- (1) Commercial bakery.
- (2) Bottling works.
- (3) Milk and dairy products distribution other than manufacturing or processing.
- (4) Electronic parts fabrication.
- (5) Tool and die making.
- (6) Plastics manufacturing.
- (7) Garment factory.
- (8) Machine shops.

**§ 156.171 HEIGHT SPECIFICATIONS.**

(A) Maximum: two stories or 30 feet.

(B) Commercial and industrial buildings may be erected to heights above 80 feet if the portion above 80 feet is set back from the street line a minimum of 15 feet.

**§ 156.172 INTENSITY OF USE; SIZE OF BUILDINGS.**

Specifications for intensity of use and size of buildings: 8,000 square feet.

**§ 156.173 YARDS.**

(A) Residential structures: identical with those prescribed in § 156.054.

(B) Where an L-1 Light Industrial District is located directly opposite an R-1, R-2, R-3 or C-3 District, front yard shall conform to requirements of § 156.054.

(C) Where an L-1 Light Industrial District adjoins an R-1, R-2 or R-3 District a side yard of 15 feet required along the side lines separating the L-1 Light Industrial District from the R-1, R-2 or R-3 District.

**§ 156.174 OFF-STREET PARKING.**

See §§ 156.215 and 156.216.

## **AG AGRICULTURAL DISTRICT**

### **§ 156.177 USES PERMITTED.**

(A) Uses permitted under the Agricultural District will be as follows:

- (1) Production of crops, keeping and raising of livestock, operation of stables, commercial or wholesale nursery, orchards and vineyards.
- (2) Any other use pertaining to agricultural use of land.

## **SPECIAL USES AND EXCEPTIONS**

### **§ 156.180 ENUMERATED.**

The following uses or structural alterations thereto, which are hereby classified as special uses and exceptions, may be permitted by the Board of Zoning Appeals after public notice and hearing according to law and after a report by the Town Plan Commission and determination by the Board of Zoning Appeals that the special use on the site applied for is consistent with the spirit, purpose and intent of this chapter and will not substantially or permanently injure the appropriate use of neighboring property; and if of a public or semipublic nature, will substantially serve the public convenience and general welfare.

- (A) Museums and art galleries.
- (B) Churches.
- (C) Cemetery.
- (D) Colleges and universities.
- (E) Community centers.
- (F) Public utilities.

## **NONCONFORMING USES**

### **§ 156.190 CONTINUATION PERMISSIBLE.**

The lawful use of a building or premises, existing at the time of passage of this chapter, may be continued although such use does not conform to all the provisions of this chapter, except as hereinafter provided.

### **§ 156.191 EXTENSION.**

A nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.

### **§ 156.192 CHANGE.**

A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use or a less restricted use.

### **§ 156.193 APPLICATION TO AMENDMENTS.**

These provisions apply in the same manner to a use which may become a nonconforming use due to a latter amendment to this chapter.

### **§ 156.194 ERECTION OF BUILDINGS.**

No building shall be erected upon any premises devoted to a nonconforming use, and no building located upon any such premises, which has been damaged by fire or other causes to the extent of more than 75% of its assessed valuation, shall be repaired or rebuilt, except in conformity with regulations of this chapter.

### **§ 156.195 DISCONTINUANCE.**

(A) Use to conform after discontinuance. In the event a nonconforming use of any building or premises is discontinued for any period, the use of the same thereafter shall conform to the uses permitted in the district in which

it is located.

(B) Discontinuance of nonconforming use of land. The lawful use of land for storage purposes which does not conform to the provisions of this chapter shall be discontinued within five years from the date of passage of this chapter and the use of land for storage purposes, which may become nonconforming use by reason of an amendment to this chapter, shall be discontinued within five years from date of passage of such amendment.

**UNIT DEVELOPMENT PLAN**

**§ 156.205 RESIDENTIAL DEVELOPMENT PLAN.**

(A) The owner of any tract of land comprising an area of not less than ten acres may submit to the Board of Zoning Appeals a plan for the use and development of the land primarily for residential purposes. The proposed development plan shall be submitted to the Town Plan Commission for examination, study and report and for a public hearing. If the Commission approves the development plan, the plan, together with the recommendations of the Commission, shall be embodied in a report to the Board of Zoning Appeals stating the reasons for the approval of the plan and application, and specific evidence and facts showing that the proposed residential development plan has considered and made provision for the following essential elements:

- (1) That the appropriate use of the property adjacent to the area included in the plan will be fully safeguarded;
- (2) That the plan is consistent with the intent of this chapter to promote public health, safety and the general welfare;
- (3) That the buildings shall be used primarily for single-family or two-family dwellings, apartments or group houses and the usual accessory uses such as garages, storage space and community activities, and that only a small commercial area composed of service stores may be included;
- (4) That the area of the tract, excluding street area, but including the area to be devoted to parks, parkways and other open spaces, will provide the minimum lot area per family, counting all families to be housed under the unit development plan, which is required for the district in which said development is to be located.

(B) If the Board of Zoning Appeals approves the proposed residential development plan, building permits and improvement location permits shall be issued, even though use of the land, location of the buildings to be erected in the area, and the yards and open spaces provided in the plan do not conform in certain respects to the regulation for the district in which the development is to be located.

**§ 156.206 DEVELOPMENT PLANS.**

(A) Purpose

Development plan review is a process in which certain types of proposed construction and development are reviewed by the Plan Commission to ensure their compliance with the Zoning Code, Comprehensive Plan, and other applicable codes and requirements. This section shall apply to all zoning districts.

(B) Types of Review

- (1) The Plan Commission shall review and determine the compliance of certain types of construction and development, while other types shall require only staff review. The levels of review for different types of development are outlined in the following table:

Table A: Plan Review	
Staff-only Review	Plan Commission Development Plan Review
<ul style="list-style-type: none"> <li>• Construction of or additions to single- and two-family dwelling</li> <li>• Construction of or additions to agricultural buildings in the AG zoning district</li> <li>• Enlargements of non-residential or multi-family structures not to exceed 25% of the area of the existing structure*</li> </ul>	<ul style="list-style-type: none"> <li>• Construction of new non-residential and multi-family structures</li> <li>• Enlargements of non-residential or multi-family structures exceeding 25% of the area of the existing structure</li> <li>• Non-residential accessory structures exceeding 200 square feet</li> </ul>

<ul style="list-style-type: none"> <li>• Residential accessory structures</li> <li>• Non-residential accessory structures not exceeding 200 square feet in area</li> <li>• Temporary uses and structures</li> <li>• Reconstruction of conforming structures due to natural disaster or emergency, provided that the structure is rebuilt using the pre-disaster footprint</li> <li>• Site alterations of less than 5 acres of disturbed soil</li> </ul>	<ul style="list-style-type: none"> <li>• Site plans submitted as part of a rezoning petition</li> <li>• Site alterations exceeding 5 acres of disturbed soil</li> </ul>
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- (2) Staff-only review does not require a formal development plan, and such proposals are not subject to this section, except in cases of (3) and (4) below.
- (3) The sum of multiple enlargements to non-residential or multi-family structures cannot exceed 25% of the original structure area without Plan Commission review.
- (4) Staff may determine in writing that a proposed development has particularly significant, unique, or otherwise special features that require Plan Commission review.

(C) Application Procedures

(1) Pre-application conference

In order to best review all applications, at least one pre-application conference between the applicant and staff is recommended to informally discuss application requirements, procedures, and details of the proposed development. Formal application or filing is not required, and any discussion is not binding on the Plan Commission review.

(2) Development Plan filing requirements

Development Plans requiring Plan Commission review shall submit at least the following materials:

- (a) List of interested parties names and addresses
- (b) Two full-scale copies and ten smaller scale (no larger than 11"x17") copies of the Development Plan, containing at least the following information:
  1. Scale drawing of the parcel with dimensions and acreage
  2. Locations and uses of proposed and existing structures
  3. Locations of existing structures within 25' of the subject parcel
  4. Proposed and existing rights-of-way, streets, and alleys, and street names
  5. Existing adjacent rights-of-way, streets, and alleys, and street names
  6. Easements on the parcel or adjacent to the parcel, including the easement holder and a description of the easement type
  7. Location of any existing or proposed drainage tile
  8. Elevation of existing and proposed structures
  9. Proposed and existing elevations, shown by two-foot contour lines
  10. Location of existing and proposed ponds, lakes, stormwater detention basins, etc, with normal pool elevations
  11. Location of any wetlands and floodplains/floodways
  12. Location of areas of mature trees, greater than 9" in DBH
  13. Proposed landscaping plan
  14. Proposed lighting plan
  15. Proposed locations of dumpsters, recycling bins, free-standing signs, and/or other accessory items
  16. Location of existing and proposed utility lines, septic systems, wells, etc.
  17. Vicinity map showing the site within context of the surrounding area, including at least the zoning classification and existing use of surrounding parcels, nearby thoroughfares, and nearby water courses
- (c) Storm water management plan, including water quality control and soil erosion control measures.
- (d) Calculations of existing and proposed lot coverage of structures and impervious areas (e.g. parking lots, driveways, sidewalks, etc.)

- (e) Traffic impact analysis that includes average daily and peak hour estimates and proposed public right-of-way improvements
  - (f) Drawings and elevations of proposed structures
  - (g) Drawings and elevations of any proposed signage
  - (h) For sectionalized developments, a proposed schedule of development phases
  - (i) One digital copy of the above submitted materials in pdf format
  - (j) Application form
  - (k) Filing fee
  - (l) Staff may waive or reduce the detail of any of the above required information if not relevant or necessary for adequate review. Staff may also require any additional information reasonably necessary for review of complex or unique projects.
- (3) The filing deadline for Development Plan review is as stated in the Plan Commission schedule of meetings.

(D) Notification requirements

The petitioner shall be responsible for notifying all interested parties and publishing legal notice in accordance with the Plan Commission Rules of Procedure.

(E) Review Procedures

(1) Plan Commission review

- (a) The Whiteland Technical Review Committee (TRC) will review and comment on the Development Plan. The committee's comments will be provided to the applicant at a scheduled TRC meeting prior to the Plan Commission meeting date.
- (b) The Planning Director will submit a staff report for the Plan Commission to review prior to their meeting. The report will outline the development proposal, surrounding land uses, compliance with the applicable codes, utility availability, TRC comments, and other pertinent facts about the development.
- (c) The Plan Commission will review the Development Plan application in a public hearing. The Commission shall consider:
  - 1. The Development Plan application and supporting information
  - 2. The staff report, and any information presented by the Planning Director, Building Commissioner, TRC, and/or other department or agency
  - 3. Testimony of the applicant
  - 4. Input from members of the public during the public hearing
  - 5. Any applicable provisions of the Whiteland Zoning Code, Subdivision Control Code, Sign Code, Building Code, or other applicable code
  - 6. Any other information as may be required by the Plan Commission to evaluate the application
- (d) The Plan Commission shall make the following findings of fact. Approval of the findings may be stated generally. Disapproval of any of the findings shall specify the code with which there is noncompliance.
  - 1. The Development Plan is consistent with the Town of Whiteland Comprehensive Plan.
  - 2. The Development Plan does not cause a hazard or unsafe conditions on existing or proposed streets, or at points of access.
  - 3. The Development Plan does not cause existing or proposed streets to exceed their capacity or cause excessive traffic congestion.
  - 4. The Development Plan dedicates the necessary right-of-way for future expansion of perimeter roads as indicated in the Thoroughfare Plan.
  - 5. The Development Plan creates a safe environment for pedestrians and non-motorized vehicles to safely move about the development and to connect to perimeter pedestrian facilities.
  - 6. The Development Plan arranges buildings and structures appropriately for function and aesthetic appeal.
  - 7. The Development Plan is compatible with surrounding uses, buildings, and zoning districts; or is designed to effectively and appropriately buffer or transition to surrounding uses, buildings, or zoning districts.

8. The Development Plan satisfies the applicable design and development standards of the Whiteland Zoning Code.
9. The Development Plan satisfies the applicable design and development standards of the Whiteland Subdivision Control Code.
10. The Development Plan satisfies the applicable design and development standards of the Whiteland Sign Code.
11. The Development Plan satisfies the applicable design and development standards of the Whiteland Building Code.

(e) The Plan Commission shall take final action or continue the application to a specific future meeting date. The final action shall be based on the findings of fact, and the Plan Commission shall approve, approve with conditions, or deny the application.

**(F) Waivers**

As part of an approved Development Plan, the Plan Commission may waive or modify the height, intensity of use, size of buildings, yard specifications, parking specifications, exterior materials, and/or the number and location of permitted signs sections of the Zoning and Sign Codes. Such waivers shall be supported by the findings of fact.

**(G) Duration**

- (1) An approved Development Plan shall be valid for two (2) years from the date of approval, unless the Plan Commission specifies a different period in its approval. It shall expire if development of the approved site improvements have not been completed within the two year period, and it has not been granted an extension.
- (2) The Plan Commission may grant two-year extensions of an approved Development Plan for cause. The applicant may submit a request for an extension along with any supporting documentation prior to the expiration of the Development Plan. The Plan Commission shall review the request and take action to approve the extension, approve an extension shorter than two years, or deny the extension. No further notification or hearing is required for an extension request.
- (3) An approved Development Plan that has not expired shall be effective for as long as the project for which it was approved exists, or until superseded by a new or modified Development Plan.
- (4) A denied Development Plan shall not be resubmitted for at least one (1) year from the date of denial. A new, redesigned, Development Plan application may be submitted prior to one year, if the plan addresses the reasons for the denial.

**(H) Modifications**

- (1) Minor amendments to approved Development Plans may be authorized by the Planning Director without public hearing, if the proposed amendments do not:
  - (a) Increase height, area, or intensity of land uses, structures, or signs
  - (b) Designate additional land uses
  - (c) Reduce setbacks, yards, or buffers
  - (d) Reduce the amount of landscaping
  - (e) Add driveways or vehicular access points
  - (f) Adversely impact the purpose or intent of the overall approved development
  - (g) Adversely impact surrounding properties or the general public
- (2) Requests for modifications that involve changes to the above list, or that the Planning Director determines are not minor amendments, are major amendments and shall require a new Development Plan application, review, and approval.

**(I) Fee Schedule**

A fee shall be charged by the Town for review, inspection and analysis of the Development Plan as follows:

Planned Unit Development:

Concept Plan and Zoning	\$500.00
Final Plan	\$250.00

**OFF-STREET PARKING**

**§ 156.215 GENERAL PROVISIONS.**

The following general and special provisions shall apply to the furnishing of off-street parking facilities for motor

vehicles and loading and unloading berths:

(A) The vehicle parking spaces and loading berths required are the minimum areas to be provided. Open areas devoted to vehicle parking may be used in computing open spaces required by this chapter. Required parking space shall be counted only once in determining off-street parking requirements for individual buildings.

(B) Space for off-street vehicle parking may be provided on the lot occupied by the building which it serves or upon approval by the Board of Zoning Appeals on adjacent areas within 300 feet of such building provided the property is zoned to permit such use.

(C) The Board of Zoning Appeals may grant a permit for the establishment of a parking lot in a residential district, provided the entire area of the parking lot is within 200 feet of and adjacent to a C-1, C-2, C-3 or I District, or in the case of a church or other place of congregation in a residential district, immediately adjacent to such church or other place of congregation and provided further that:

(1) There shall be no sales, dead storage, repair work, dismantling or servicing of any kind on said parking lot.

(2) Entrances and exits shall be approved as to location by the Town Plan Commission.

(3) No parking shall be permitted between the front yard line and the front lot line.

(4) Except for approved entrances and exits, suitable guards shall be erected so as to conform with the required front yard line and may be required along boundaries of adjoining residentially zoned or used property.

(5) The lot shall be paved with a dustproof or hard surface meeting the standard specifications of the town.

(6) Lighting facilities, if provided, shall be so arranged as to be reflected away from residentially zoned or used property.

(7) If, at any time after the issuance of the required permits, any of the provisions of this section are not complied with, the permits shall be revoked.

(D) A church or other place of congregation, which requires parking facilities at times when other nearby uses would not require their established parking facilities and, if such agreement is approved by the Board of Zoning Appeals, the Board may relieve the church or other place of congregation from establishing its own off-street vehicle parking facilities.

(E) Groups of stores or other buildings and uses requiring off-street parking facilities, as prescribed herein, may join in establishing group parking lots with adequate capacity for all the buildings and uses participating in their establishment.

(F) Open parking lots shall be paved with a dustproof or hard surface meeting the standard specifications of the town.

#### **§ 156.216 REQUIREMENTS.**

In order to lessen or avoid congestion in the streets and to secure safety and promote general welfare, the following regulations are established to require that each building hereafter erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any of the following uses, shall provide off-street parking space of no less than 250 square feet for each space within the building or on the premises surrounding the building, or on other premises when specified, as follows:

(A) Residence and apartment buildings: One vehicle parking space for each family housed in the building.

(B) Hotels and lodging houses: One vehicle parking space for each two sleeping rooms.

(C) Theaters, sports arenas, churches, temples, mortuaries and other places of congregation: One vehicle parking space for each five seats.

(D) Bowling alleys, skating rinks, lodge halls, union halls, supermarkets, retail stores, restaurants, taverns and night clubs: Four square feet of parking space for each square foot of floor structure.

(E) Industrial, manufacturing, wholesale and office uses: One vehicle parking space for each three employees or occupants. The maximum number of employees of a manufacturing, industrial or wholesale use or occupants of an

office building shall be used as a basis for determining the number of parking spaces to be provided.

(F) Roadside sales stand: A minimum of six vehicle parking spaces to be determined and required as a part of the permit for such special use.

**§ 156.217 LOADING AND UNLOADING BERTHS.**

Loading and unloading berths of not less than 250 square feet each shall be provided in connection with each building hereafter erected, reconstructed or structurally altered, which is arranged, intended or designated to be used for any of the following purposes:

(A) Building used for manufacturing, storage, wholesale and retail stores and hospitals:

- (1) Square feet of gross floor area 25,000 or less, number of berths: 1.
- (2) Square feet of gross floor area 25,001 to 84,000, number of berths: 2.
- (3) Square feet of gross floor area 84,001 to 156,000, number of berths: 3.

(B) Office buildings and hotels:

- (1) Square feet of gross floor area 100,000 or less, number of berths: 1.
- (2) Square feet of gross floor area 100,001 to 336,000, number of berths: 2.

**TELECOMMUNICATION TOWERS**

**§ 156.225 ZONING DISTRICT.**

Telecommunications towers shall only be permitted on C-1 commercial district, C-2 commercial district, I-1 industrial district, L-1 light industrial district, and municipally owned property.

**§ 156.226 SEPARATION.**

The distance between a telecommunication tower and residential districts R-1, R-2, and R-3; A-1 apartment districts; B-1 business districts shall be no less than 500 feet.

**§ 156.227 PERMIT.**

A building permit shall be required for the telecommunication tower.

**§ 156.228 CONFLICT.**

If any portion of this section is found to be in conflict with any of the provisions of the zoning, building, fire, or health ordinance of the code, the provision which establishes the higher standard shall prevail.

**PLANNED UNIT DEVELOPMENTS**

**§ 156.300 PLANNED UNIT DEVELOPMENTS**

(B) Purpose and Intent

As provided for by I.C. 36-7-4-1500 et seq., the purpose of these regulations is to allow greater design flexibility in development of land while remaining consistent with the goals of the Comprehensive Plan. The regulations are intended to encourage developments that are innovative and/or responsive to unique opportunities or constraints of a site. Planned Unit Developments should be used to address unique environmental aspects, provide a mix of land uses, or otherwise better implement the goals of the Comprehensive Plan than what could be accomplished with established zoning districts. Planned Unit Developments should be avoided where the proposed development could be achieved using a combination of established zoning districts.

(C) Uses Allowed

- (1) All uses are subject to the discretion and approval of the Plan Commission and Council during the adoption of a Planned Unit Development (PUD). Uses must be compatible with the intent of the Comprehensive Plan and surrounding existing and future land uses.
- (2) Permitted and special exception uses shall be specified in the PUD proposal. Special exception uses should be minimized.

(D) Development Standards

- (1) Development standards and requirements shall be stated as part of a Planned Unit Development proposal. All proposed development standards shall be subject to review and approval of the Plan Commission and Council during the approval process.
  - (2) Generally, PUD proposals may provide standards in place of lot or development standards stated in Chapter 156, the Zoning Code; sign development standards stated in Chapter 153, the Sign Code; and standards in Chapter 154, the Subdivision Control Ordinance.
  - (3) No PUD proposal shall reduce the restrictions of Chapter 151, Flood Damage Prevention.
  - (4) Minimum Land Area  
In order to encourage innovative design in a variety of scales, there is no minimum land area required for a PUD.
  - (5) Minimum Open Space
    - (a) In recognition that innovative designs, particularly those proposing town center plans, may require flexibility in the amount of open space provided in the development, there is no minimum open space required.
    - (b) However, proposals with less than 20% of the gross area dedicated as open space must detail the design elements that justify lower amounts of open space.
  - (6) Development standards that are not specified in the PUD shall revert to the standards of the closest comparable established zoning district.
- (E) Origin of Proposals
- (1) An applicant may propose a Planned Unit Development district in accordance with the procedures established in this Section.
  - (2) The applicant must be the land owner(s) or intended developer of the development.
  - (3) The area proposed for a PUD may or may not be under single ownership. If under multiple ownership, the owners must have a contractual agreement to develop the property in accordance with the unified plan stipulated in the PUD and to assure the completion of the PUD as planned and to the satisfaction of the Plan Commission.
- (F) Limitation on Zoning Ordinance Amendments
- (1) Any amendment of the Zoning Ordinance that would affect an approved Planned Unit Development prior to its completion shall not be applied to the PUD.
  - (2) New amendments to the Zoning Ordinance shall only apply to PUDs that have expired or that have been completely developed.
- (G) Procedures for Approval
- Application shall be accompanied by all plans and documents required by this code and by the planning staff. A three-step application process shall be used: pre-design conference, concept plan approval, and PUD master plan approval.
- (H) Pre-design Conference
- Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-design conference with the planning staff. The purposes of this conference shall be:
- (1) To allow the applicant to present a general concept and to discuss characteristics of the proposed development; and
  - (2) To allow the planning staff to inform the applicant of applicable policies, standards, and procedures.
  - (3) This pre-design conference is for informational purposes only, and no decision made during the conference is binding upon either party or upon the Plan Commission.
  - (4) There is no limit to the number of pre-design meetings requested by the applicant, if the meetings serve to advance the design and planning of the proposal.
- (I) Concept Plan Approval
- (1) An application for Planned Unit Development, the PUD concept plan, written development standards, other documentation, and filing fee shall be submitted to the planning staff by the application deadline indicated on the Plan Commission calendar. Written development standards shall include, at a minimum, standards for the following:
    - (a) Lot size(s);
    - (b) Height;
    - (c) Density or intensity;
    - (d) Setbacks;
    - (e) Floor area;

- (f) Open space;
- (g) Permitted uses;
- (h) Any other relevant development standard, as determined by the planning staff.

The planning staff shall confirm the application to be complete and ready for review by the Technical Review Committee.

- (2) The planning staff and the Technical Review Committee shall review the proposal and prepare comments and recommendations.
- (3) The application, TRC comments, planning staff report, and other pertinent documents shall be forwarded to the Plan Commission for its consideration, public hearing, and recommendation.
- (4) The Plan Commission shall hold a public hearing on the application in accordance with its Rules of Procedure.
- (5) After the public hearing and review of the application, the Plan Commission shall certify the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.
- (6) The Town Council shall act upon the certified proposal as in the case of any rezoning petition.
- (7) Upon Council approval of the PUD concept plan, the PUD zoning shall become effective and shown on the Zoning Map designated as a Planned Unit Development. After approval, the use and development of the site shall be governed by the Planned Unit Development concept plan, subject to the approval of a PUD master plan. No permit of any kind shall be issued in the PUD district until a PUD master plan has been approved.

(J) Planned Unit Development Master Plan Approval

The purpose of the PUD master plan is to set the specific regulations for development of the Planned Unit Development. The PUD master plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use(s) within each building. The PUD master plan shall conform to the approved PUD concept plan.

- (1) The PUD master plan and supporting data shall be submitted to the planning staff.
- (2) The planning staff and the Technical Review Committee shall review the proposed master plan in accordance with Section 156.206 (Development Plans).
- (3) The master plan shall be reviewed by the Plan Commission at a public hearing in accordance with its Rules of Procedure. The Commission may approve, deny, or approve with conditions the application.
- (4) No permit of any kind shall be issued within a Planned Unit Development unless in accordance with the approved PUD master plan.

(K) PUD Plan Content Requirements

Planned Unit Development PUD plans shall include all documentation listed in this section of the zoning ordinance, unless certain documentation is deemed superfluous or irrelevant by the planning staff due to specific circumstances of the particular request.

- (1) Pre-design conference plans
  - (a) A letter of intent from the applicant setting forth the applicant's intention for developing the site, including at least the proposed uses and a draft of development standards.
  - (b) A scale sketch drawing of the site showing the proposed location and extent of land uses, major streets, and other significant proposed improvements, and the approximate location of all existing natural features, topographic or geologic constraints, and easements and rights-of-way.
- (2) PUD concept plans
  - (a) A drawing of the Planned Unit Development shall be submitted at a scale appropriate to the size of the proposed development. The drawing shall show in concept the major circulation pattern, general location and dimension of buildings, structures, parking areas and other improvements, recreation facilities, stormwater facilities, and other details to indicate the character of the proposed development. The submission shall include at least:
    - 1. Site location map
    - 2. The proposed name of the development and "Concept Plan" title
    - 3. Boundary lines and acreage of each component land use
    - 4. Projected phasing of the PUD
    - 5. Existing easements, including location, width, and purpose
    - 6. Existing land use(s) on abutting properties

7. Other conditions on adjoining property: topography, use and location of major buildings, railroads, power lines, name of any subdivision plats, etc.
  8. Existing streets on and adjacent to the site, including street name, right-of-way width, walks, curbs, gutters, and culverts
  9. Proposed major streets and other major public improvements
  10. Streets and other major improvements planned by the public for future construction on or adjacent to the site
  11. Existing utilities on the site
  12. Other conditions on the site, including water courses, wetlands, wooded areas, isolated trees six inches or greater in diameter, existing structures, and other significant features
  13. Existing vegetation to be preserved and location and general nature and purpose of proposed landscaping
  14. Map data, such as north arrow, scale, date of preparation, and contact information.
- (b) Written statement of the Planned Unit Development character. This statement shall include an explanation of the character of the proposed PUD and the reasons why it has been designed to take advantage of the flexibility of these regulations. The written statement shall be the proposed draft PUD ordinance, and shall include:
1. A statement of purpose of the PUD.
  2. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies that affect the site, and how the PUD better meets these objectives than established zoning districts.
  3. A statement of present and proposed ownership of the land within the project.
  4. Proposed development schedule, including detailed phasing and projected dates of completion of each phase. Projected phase details shall include land area, use, density/intensity, and public facilities to be developed with each proposed stage.
  5. Proposed permitted land uses and development standards for each use.
  6. Architectural concepts for each proposed use, described by narrative, sketch/rendering, or representative photo.
  7. Facilities reports. Concepts and feasibility plans for roads, sidewalks, sanitary sewers, stormwater management, water supply, street lighting, and other utilities.
- (c) Traffic impact analysis, if requested by planning staff or the Plan Commission.
- (d) Notification of public hearing, as required by the Plan Commission Rules of Procedure. Additionally, notices shall include a reduced copy of the proposed concept plan and a copy of the proposed uses/development standards section of the proposal.
- (e) Miscellaneous materials that the planning staff deems necessary to adequately review the proposal. Staff shall notify the applicant of such requirements after the pre-design meeting.
- (3) PUD master plans
- (a) Any additional materials or information as may have been required by or during the concept plan approval.
  - (b) An accurate plan of the entire phase for which PUD master plan approval is being requested that complies with the requirements of §156.206 (Development Plans). Single family residential development on individual lots need not show precise locations of buildings on each lot, but shall show setbacks and other bulk constraints.
  - (c) If land is to be subdivided concurrently with PUD master plan approval, a subdivision preliminary plat meeting the requirements of the concept plan and Chapter 154 of the Town Code.
  - (d) Projected construction schedule
  - (e) Agreements and covenants that govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads (if any).
- (L) PUD Review Considerations
- When considering a Planned Unit Development concept plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation to Town Council, and the Town Council in its decision shall consider as many of the following as may be relevant to the specific proposal:

- (1) The extent to which the proposed PUD meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the Town.
- (2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.
- (3) The extent to which the proposed plan departs from the established zoning and subdivision regulations otherwise applicable to the subject property, and the reasons why such departures are or are not deemed to be in the public interest.
- (4) The proposal will not be injurious to the public health, safety, and general welfare.
- (5) The physical design of the PUD and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation, and visual enjoyment.
- (6) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or adversely affect the value of adjacent properties and neighborhoods.
- (7) The desirability of the proposed plan to the Town's physical development, tax base, and economic well-being.
- (8) The proposal will not cause undue traffic congestion nor place excessive burdens on public infrastructure, and can be adequately served by existing or planned public facilities and services.
- (9) The proposal preserves significant ecological, natural, historical, and architectural resources to the best extent possible.

(M) Modifications

- (1) Changes requiring new concept plan approval by the Town Council.  
Modifications that alter the concept or intent of the Planned Unit Development, including, but not limited to:
  - (a) Significant changes in the proportion or allocation of land uses;
  - (b) Changes in the list of uses;
  - (c) Changes in the location of uses;
  - (d) Changes in functional uses of open spaces, where such change significantly alters the intensity of the open space use; and/or
  - (e) Changes in the final governing agreements where such changes conflict with the approved concept plan.
- (2) Changes requiring new PUD master plan approval by the Plan Commission.  
Modifications that constitute major changes from the approved PUD master plan, including, but not limited to:
  - (a) Changes in site design requirements, such as location of required landscaping, signage, building height, bulk, or footprint, or other such requirements;
  - (b) Increases in the number and/or size of signs;
  - (c) Reduction in landscaping;
  - (d) Alteration of the number of parking spaces or setbacks by 5% or more;
  - (e) Increase in building square footage or height of 10% or more;
  - (f) Changes in density by 10% or more;
  - (g) Changes to the internal street system or off-street parking areas that the planning staff considers significant;
  - (h) Significant changes in drainage management structures, as determined by the MS4 Coordinator;
  - (i) Changes in access to the site, where such change results in an increase of intensity of traffic patterns on or off the site; and/or
  - (j) All other changes not expressly addressed under subsection (1) above shall require new PUD master plan approval by the Plan Commission.
- (3) Minor changes to approved PUD master plan may be approved by the planning staff. The staff may defer approval to the Plan Commission if it is deemed to be in the best interest of the community. Decisions of the staff may be appealed to the Plan Commission. Minor modifications shall include, but are not limited to:
  - (a) Changes in lot arrangements that are not detrimental to the proposed thoroughfare pattern of development;

- (b) Substitution of plants in landscaping plans that are deemed to be equivalent to those shown in the approved PUD master plan;
- (c) Changes in the number of parking spaces or size of setbacks by less than 5%;
- (d) Increases in building square footage or height by less than 10%;
- (e) Addition of buildable lots that result in a density increase of less than 10%;
- (f) Changes to the internal street system or off-street parking areas that the planning staff considers minor;
- (g) Minor changes in drainage management facilities, as determined by the MS4 Coordinator; and/or
- (h) Changes in access to the site, where such change does not result in an increase of intensity of traffic patterns.

(N) Expiration, Extensions, Rezoning

(1) Expiration or abandonment

- (a) If a Planned Unit Development concept plan establishes its own development and construction schedule, then the PUD concept plan shall expire according to that schedule.
- (b) A Planned Unit Development concept plan shall expire if a PUD master plan application is not submitted within two (2) years after the Town Council approval of the PUD concept plan.
- (c) A Planned Unit Development concept plan shall also be considered expired if a PUD master plan or a secondary plat has not been submitted within three (3) years of a previous PUD master plan approval or a secondary plat approval.
- (d) A Planned Unit Development master plan shall expire if a primary plat based on the PUD master plan is not submitted within two (2) years after the Plan Commission approval of the PUD master plan. If the approved primary plat expires, the PUD master plan shall expire at the same time.
- (e) Expired PUD master plans cannot be reinstated and must be formally resubmitted.

(2) Extensions

- (a) The planning staff shall periodically report to the Plan Commission on Planned Unit Development concept plans that have expired time limits. The developer, applicant, and/or property owner of the PUD site shall be notified of the expiration.
- (b) The Plan Commission shall determine whether to extend the time limit for the expired PUD, or to initiate a zoning map amendment so as to rescind the PUD zoning designation.
- (c) Extensions are at the discretion of the Plan Commission and shall be considered based on the requirements of Section (K).
- (d) No PUD master plan shall be considered for approval under an expired PUD concept plan unless the concept plan is formally extended by the Plan Commission.
- (e) An extension denial for any Planned Unit Development concept plan shall be equivalent to a major modification to the concept plan and shall require reapproval of the concept plan by the Plan Commission and Town Council.

(3) Rezoning Authority

- (a) A Planned Unit Development site may be rezoned to an established zoning district (or districts) by the applicant.
- (b) The Plan Commission or Town Council may initiate zoning map amendments for any expired Planned Unit Development for which an extension has not been granted.
- (c) The Plan Commission or Town Council may initiate zoning map amendments for any PUD that has been completely developed. Such amendment should duly consider the uses, development standards, and other provisions of the PUD plans prior to be approved.

(O) Fees

Fees shall be charged by the Town for review, inspection, and analysis of Planned Unit Development petitions, as listed in the Schedule of Fees, Section 10.97 of the Whiteland Municipal Code.

**§ 156.999 PENALTY.**

Any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build, reconstruct or structurally alter any buildings in violation of any detailed statement or plan submitted and approved thereunder shall, for each and every violation or noncompliance, be fined \$150 and each day such violation or noncompliance shall be permitted to exist shall

constitute a separate offense.