

New Whiteland Zoning Ordinance

adopted: November 1989

Gary V. Turner
consultant

TOWN OF NEW WHITELAND ZONING ORDINANCE

TABLE OF CONTENTS

Article	1	GENERAL PROVISIONS	
	1-100	Title.....	1
	1-200	Purpose.....	1
	1-300	Declaration of Necessity.....	1
	1-400	Authority.....	1
	1-500	Compliance.....	2
	1-600	Severability Clause.....	2
	1-700	Application & Interpretation.....	2
	1-800	Repeal of Conflicting Ordinances &.....	2
		Effective Date	
Article	2	DEFINITIONS	
	2-100	Application & Interpretation.....	3
	2-200	Words & Phrases Defined.....	3
Article	3	ADMINISTRATION & ENFORCEMENT	
	3-100	OFFICE OF PLAN COMMISSION.....	20
	3-101	Term of Appointments.....	20
	3-102	Conflict of Interest.....	20
	3-103	Proceedings of the Plan Commission.....	21
	3-104	Duties of the Plan Commission.....	21
	3-200	BOARD OF ZONING APPEALS.....	21
	3-201	Qualifications of Members.....	22
	3-202	Term of Appointments.....	22
	3-203	Conflict of Interest.....	22
	3-204	Proceedings of the Board of Zoning Appeals.....	22
	3-205	Duties of the Board of Zoning Appeals.....	23
	3-300	OFFICE OF ZONING ADMINISTRATOR.....	23
	3-301	Duties of Zoning Administrator.....	23
	3-400	IMPROVEMENT LOCATION PERMITS.....	24
	3-401	Application for Permits.....	25

3-402	Fees.....	25
3-403	Approval of Permits.....	25
3-404	Certificate of Occupancy.....	25
3-405	Temporary Occupancy Permit.....	26
3-406	Expiration of Permits.....	26
3-500	VIOLATIONS & PENALTIES.....	26
3-600	APPEALS.....	27
3-700	REVIEW BY CERTIORARI.....	27
Article 4	AMENDMENTS, VARIANCES & SPECIAL EXCEPTIONS	
4-100	ZONING AMENDMENTS.....	28
4-101	Contents of Application.....	28
4-102	Public Hearing by Plan Commission.....	28
4-103	Notice of Public Hearing.....	29
4-104	Notice to Parties in Interest.....	29
4-105	Recommendation by Plan Commission.....	29
4-106	Approvals.....	29
4-107	Effective Date.....	30
4-200	EFFECT OF ANNEXATION.....	30
4-300	VARIANCES.....	30
4-301	Definition of Variances.....	30
4-302	Revocation of a Dimensional Variance.....	30
4-303	Revocation of a Use Variance.....	31
4-304	Revocation Procedures.....	31
4-305	Application Standards for a Variance.....	31
4-306	Considerations in Granting a Variance.....	32
4-307	Supplementary Conditions & Safeguards.....	33
4-308	Public Hearing for Appeal & Variance.....	33
4-309	Action by the Board.....	33
4-400	SPECIAL EXCEPTIONS.....	33
4-401	Application for Special Exception.....	33
4-402	Considerations to Special Exception.....	34
4-403	Supplementary Conditions & Safeguards.....	35
4-404	Expiration of Special Exception.....	35

4-405	Revocation of Special Exception.....	35
4-406	Public Hearings for Special Exceptions.....	36
4-407	Action by the Board.....	36
4-500	PUBLIC HEARINGS.....	36
4-501	Notice of Public Hearing.....	36
4-502	Notice to Parties in Interest.....	36
4-503	Records.....	37
Article 5	ZONING DISTRICTS & OFFICIAL MAP	
5-100	Districts Established & Defined.....	38
5-200	Official Zoning Map.....	39
5-300	District Boundaries.....	40
Article 6	DISTRICT REGULATIONS	
6-100	PERMITTED USES & SPECIAL EXCEPTIONS.....	42
6-200	PROPERTY DEVELOPMENT REGULATIONS.....	44
6-201	Lot & Yard Requirements.....	44
6-202	Setback Requirements.....	46
6-203	Height Restrictions.....	48
6-300	RESIDENTIAL DISTRICTS.....	48
6-301	Restrictions for Permitted Uses.....	48
6-302	Property Development Regulations.....	50
6-400	GENERAL BUSINESS DISTRICTS.....	50
6-401	Restrictions for Permitted Uses GB1.....	50
6-402	Restrictions for Permitted Uses GB2.....	51
6-403	Property Development Regulations GB1 & GB2.....	53
6-500	MANUFACTURING DISTRICT.....	57
6-501	Restrictions for Permitted Uses.....	57
6-502	Property Development Regulations.....	57
6-503	General Manufacturing Performance Standards.....	60
6-504	Violation of Performance Standards.....	63

Article 7

GENERAL REGULATIONS

7-100 Nonconforming Uses, Lots, Buildings & Structures.....64

7-200 Accessory Uses, Buildings & Structures....66

7-300 Appurtenances.....67

7-400 Animals.....68

7-500 Corner Setback Requirements.....68

7-600 Fences, Walls & Hedges.....68

7-700 Home Occupations.....69

7-800 Houses Of Worship.....70

7-900 Off-Street Loading/Unloading Facilities...71

7-1000 Off-Street Parking & Loading Regulations..73

7-1100 Off-Street Parking.....75

7-1200 Parks, Playgrounds & Recreation Areas.....81

7-1300 Private Swimming Pools.....81

7-1400 Signs.....82

7-1500 Street Development Requirements.....86

7-1600 Temporary Uses.....88

7-1700 Storage & Parking of Trailers, Boats & Commercial Vehicles.....89

7-1800 Storage of Liquid Petroleum Gases.....89

7-1900 Erection of More than One Principal Structure on a Lot.....89

7-2000 Structure to Have Access.....90

Article 8

MANUFACTURED HOUSING REGULATION

8-100 Manufactured or Mobile Home Community or Park District.....91

8-200 Conflict with other Applicable Regulations.....91

8-300	Permitted Uses.....	91
8-400	Classification Definitions.....	92
8-500	Installation Standards.....	93
8-600	Approved Materials List for Type I & Type II Manufactured Homes.....	94
8-700	Mobile Home Park Application Procedures....	95
8-800	Mobile Home Park Development Regulations...	97
8-900	General Requirements for Manufactured or Mobile Home Communities or Parks.....	103
8-1000	Definitions.....	107
Article 9	PLANNED UNIT DEVELOPMENT (PUD)	
9-100	General Purpose.....	111
9-200	Definitions.....	111
9-300	General Design Requirements.....	112
9-400	Application & Approval Procedures.....	115
	Phase I Concept Approval.....	115
	Phase II Preliminary Plat Approval & Rezoning Petition.....	117
	Phase III Master Plan & Final Zoning Approval.....	120
	Phase IV Final Plats.....	122
9-500	Supplemental Regulations.....	122
9-600	INDUSTRIAL PARKS.....	123
Article 10	FLOOD HAZARD DISTRICT	
10-100	Purpose.....	126
10-200	Definitions.....	126
10-300	Basis for Establishing Flood Hazard Districts	126

10-400	Designation of Duties of Plan Commission..	127
10-500	Uses in Flood Hazard District.....	127
10-600	Nonconforming Uses.....	128
10-700	Determination of Flood Elevation.....	128
10-800	Variance.....	128
10-900	National Flood Insurance Program Regulations.....	128
10-1000	Disclaimer.....	128

Article 1 General Provisions

1-100. **TITLE.** This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of New Whiteland, Indiana."

1-200. **Purpose.** An ordinance establishing a Zoning Ordinance for the Town of New Whiteland, Indiana and providing for the administration, enforcement, and amendment thereof in accordance with the provisions of I.C. 36-7-4 et.seq. and for the repeal of all ordinances in conflict herewith.

1-300. **Declaration of Necessity.** The Zoning Ordinance of New Whiteland, Indiana is deemed necessary by the Town Council in order:

To preserve, promote and protect the public health, safety comfort, morals, convenience and general welfare of the Town;

To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.

To protect the character and the social and economic stability of all parts of the Town and to encourage the orderly and beneficial development of all parts of the Town;

To protect and conserve the value of land throughout the Town and the value of buildings and improvements upon the land and to minimize the conflicts among the use of land and buildings;

To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public improvements and facilities;

To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of land;

To preserve the natural beauty and topography of the Town and to insure appropriate development with regard to these natural features.

1-400. **Authority.** This Ordinance is adopted pursuant to Indiana Code I.C. 36-7-4 et.seq. as added by Public Law 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto.

1-500. Compliance. No structure shall be located, erected, constructed, reconstructed, moved, converted or enlarged; nor shall any structure or land be used or designed to be used except in full compliance with all provisions of this Ordinance and after lawful issuance of permits required by this Ordinance.

1-600. Severability. If any provision of this Ordinance or application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.

1-700. Application. The provisions of this Ordinance shall be interpreted and applied as minimum requirements. Whenever the requirements of this ordinance are at variance or in any way conflict with other lawfully adopted rules, regulations, ordinances or restrictions, the most restrictive requirements, or the higher standards shall govern.

1-800. Repeal of Conflicting Ordinances, Effective Date. All previously enacted Zoning Ordinances of the Town of New Whiteland are hereby repealed. This Ordinance shall become effective on November 21, 1989 consistent with the resolution of the Town Council of New Whiteland, Indiana duly adopted on the 21st day of November, 1989.

Article 2 DEFINITIONS

2-100. APPLICATION AND INTERPRETATION. For the purpose of this Ordinance, certain numbers, abbreviations, terms, words, and phrases shall be used, interpreted and defined as set forth in this article. Whenever any words and phrases are not defined within this article but are defined in I.C. 36-7-4 et.seq. and in any acts supplemental or amendatory thereto, the State statutory definition shall be deemed to apply. The following words and phrases used herein shall be interpreted as follows:

- a. The word "person" shall include an individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity.
- b. The masculine shall include the feminine.
- c. The present tense shall include the past and future tense.
- d. The singular number shall include the plural and the plural shall include the singular.
- e. The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.
- f. The words "used" or "occupied" shall include the words "intended, arranged, or designed to be used or occupied".

2-200. Words and Phrases Defined. Certain words used in this Ordinance are defined below. Any words not defined in this Article shall be construed in their generally accepted meanings as defined in a recent edition of a dictionary of the English Language.

ACCESSORY BUILDING AND USE An "accessory building or use" is a structure or use which:

- a. Is clearly incidental to and customarily found in connection with a principal building or use;
- b. Is subordinate to and serves a principal building or a principal use;
- c. Is subordinate in area, extent or purpose to the principal building or principal use served;
- d. Contribute to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served; and,
- e. Is located on the same lot as the principal building or use served.

f. Where an accessory building is attached to a principal building by means of a wall or roof assembly, such accessory building shall be considered a part of the principal building.

ALLEY A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side properties otherwise abutting a street, and which may be used for public utility purposes.

ALTERATION As applied to a building or structure, means any change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending outward from a side or sides, or by increasing in height; or the moving from one location or position to another.

APARTMENT A building or portion thereof arranged, intended or designed to be occupied by three or more families living independently of each other.

APARTMENT, TOWNHOUSE An apartment building located on a lot either alone or together with similar apartment buildings. which does not exceed three and one-half (3 1/2) stories and has private entrances to each dwelling unit.

AUTOMOBILE WASHING An activity conducted for the purpose of cleaning automobiles, whether performed automatically, semi-automatically, or manually.

AUTOMOBILE, TRAVEL TRAILER, OR MOBILE HOME SALES An open area other than a street used for the display, sale, or rental of new or used automobiles, travel trailers, or mobile homes. No repair work is done, except minor incidental repair of automobiles, travel trailers, or mobile homes to be displayed or sold on the premises.

AUTOMOBILE REPAIR The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

BASEMENT That portion of a building or structure that is constructed either partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground.

BILLBOARD Any off-premises sign on a permanent structure on which the copy is periodically changed and which is not located on the premises to which such advertising copy pertains.

BLOCK A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad rights-of-way, waterways, or boundary lines of the town.

BOARD Shall mean the Board of Zoning Appeals of New Whiteland, Indiana.

BOARDING HOUSE Any dwelling in which more than three persons individually or as families are housed or lodged for hire with or without meals. A rooming house or a furnished room house shall be deemed a boarding house.

BUILDING Any structure designed or intended for the support, enclosure, shelter or protection of person, animals, chattels or property of any kind.

BUILDING, ACCESSORY See Accessory Building and Use.

BUILDING HEIGHT The vertical distance measured from the average level of the proposed or existing finished surface of ground adjacent to the exterior walls of the building to the highest point of the building.

BUILDING INSPECTOR The term Building Inspector shall be synonymous with the term Zoning Administrator, and shall refer to the person delegated the primary responsibility of issuing improvement location permits (building permits), conducting related inspections and issuing certificates of occupancy.

BUILDING PERMIT (IMPROVEMENT LOCATION PERMIT) A certificate issued by the Building Inspector permitting a person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within the locality, or cause the same to be done.

BUILDING, PRINCIPAL A building in which is conducted the main or principal use of the lot on which the building is situated.

BUILDING, FRONT LINE OF A line extending across that portion or face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps. If no building exists, the depth of the required front yard shall determine the front line of building.

BUILDING, SETBACK LINE The line, established by this ordinance, beyond which a building shall not extend unless varied according to the procedures in this ordinance. Also called a building line. Setback lines may be applicable to the front, side and/or rear yard.

BUSINESS, GENERAL Commercial uses which generally require locations on or near major arterials and/or their intersections, and which serve the daily needs of the neighborhood and also supply the more durable and permanent needs of the community.

BUSINESS, PROFESSIONAL, RETAIL OFFICE Quasi-commercial uses which may often be transitional between retail business and/or

manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, clerical, and drafting.

BUSINESS SERVICES Any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in businesses and homes.

BUSINESS WHOLESALE Business establishments that generally sell commodities and materials in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business or service.

CARPOR, PORTABLE A detached manufactured accessory building customarily used for the shelter or storage of vehicles and/or watercraft, including canopies used for such, which can be easily moved without disassembly, after removal of any tie-down or other anchoring provisions intended to compensate for wind displacement, and which is generally a frame covered by lightweight membrane material.

(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)

CEMETERY Land use for the burial of the dead and dedicated for other cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CERTIFICATE OF OCCUPANCY A certificate issued by the Building Inspector stating that the actions approved in the Building Permit (Improvement Location Permit) have been completed satisfactorily and that the occupancy and use of land or building referred to therein complies with the provisions of this ordinance.

CHILD CARE CENTER Any place, home or institution which receives four or more children under the ages of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardians, or custodians, for regular periods of time and for compensation.

CLINIC An establishment where patients who are not lodged overnight are admitted for examination and treated by physicians.

CLUB A building or portion thereof or premises owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

COMMERCIAL ENTERTAINMENT FACILITIES Any activity conducted for economic gain which is generally related to the entertainment field, such as motion picture theater, carnivals, night clubs, and similar entertainment activities.

COMMERCIAL RECREATIONAL FACILITIES Any activity conducted for economic gain which is generally related to the recreational field, such as bowling alleys, roller skating rinks, miniature golf, golf driving ranges, and so on.

COMMISSION The Plan Commission of New Whiteland, Indiana.

(Remainder of page intentionally left blank)

COMPREHENSIVE PLAN A plan, or portion thereof, adopted by the Plan Commission and the governing body of the Town of New Whiteland, showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, parks, schools, transportation corridors, and other community facilities.

CONTIGUOUS Lands which have a boundary line or a portion of a boundary line in common or touching.

CONVALESCENT HOME See Nursing Home.

CORNER The point of intersection of any public road or easements which have been dedicated and accepted by a unit of government.

COVENANT A private legal restriction on the use of land contained in the deed to the property. Normally applied to all lots in any subdivision.

COVERAGE The lot area covered by all buildings located upon it, including the area covered by all overhanging roofs.

CUL -DE-SAC A minor street having only one means of ingress and egress and terminating in a tee or turn around.

DAY CARE CENTER AND OTHER PRESCHOOL FACILITIES A facility operated on a regular basis providing daytime care or instruction for four (4) or more children under seven (7) years of age, who are not related to the operators.

DENSITY A unit of measurement; the number of dwelling units per acre of land.

DENSITY, GROSS The number of dwelling units per acre of the total land to be developed, including public right-of-way.

DENSITY, NET The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way and other public land.

DEVELOPMENT PLAN A drawing, including a legal or site description, of the real estate, which shows the location and size of all existing and proposed lots, buildings, structures, and yards; location and dimension of all building lines and easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets; all of which presents a unified arrangement of streets, lots, buildings, and public parking areas, all of which shall have a functional relationship to all real estate comprising the planned development and to the uses of properties immediately adjacent thereto.

DISTRICT A part of the Town of New Whiteland wherein the restrictions of this ordinance are uniform.

DRIVEWAY A public or private access which provides ingress or egress to a property.

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

DWELLING, MULTIPLE FAMILY A residential building occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE FAMILY A detached residential dwelling unit other than a mobile home, occupied by only one family.

DWELLING, TWO FAMILY A detached residential building containing two dwelling units, designed for occupancy by two families with each unit having a separate entrance.

DWELLING UNIT One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

EASEMENT An authorization or grant by a property owner to a specific person or to the public to use land for specific purpose. The title to the land shall remain in the name of the property owner and shall be subject to the right of use designated in the easement.

FAMILY One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over five persons.

FENCE A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

FILLING STATION Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel at retail for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles.

FLOOD: (OR FLOODWATER) The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water. I.C. 1971, 13-2-22 as amended by Public Law 123, Acts of 1973, defines flood as "the water of any river or stream in the State of Indiana, which is above the bank and/or outside the channel and banks of such river or stream; and also means the water of any lake which is above and outside the banks thereof." See I.C. - 1971 for additional definitions.

FLOOD CONTROL The prevention of floods, the control, regulation, diversion or confinement of flood water or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage and destruction caused thereby, and all things incidental thereto or connected with.

FLOOD HAZARD AREA A floodplain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs, or other works approved by the Indiana Natural Resources Commission.

FLOODPLAIN The relatively flat or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The floodplain includes the channel, floodway and floodway fringe.

FLOODWAY The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

FLOODWAY FRINGE These portions of the flood hazard areas lying outside the floodway.

FLOOR AREA, GROSS The sum in square feet of the floor areas of all roofed portions of a building as measured from the interior walls. It includes the total of all space on all floors of a building. It also includes porches, attached garages, or space in a basement which is used for storage or other such incidental uses. The gross floor area is generally applied in residential use for determining minimum ground level floor area.

FLOOR AREA, NET The floor area of the specified use excluding stairs, washrooms, elevator shafts, storage spaces, display windows and so on. The net area is used in calculating parking requirements.

FLOOR AREA, USABLE LIVING The usable floor area is determined by subtracting from the gross floor area such areas as attached garages, unfinished basements or rooms, closets, stairways, etc. Usable living floor area is generally applied in residential use for determining minimum dwelling size for a given residential zoning district.

FLOOR AREA RATIO The gross floor area of the building divided by the area of the lot(s) on which the building is located.

FRONTAGE All the property on one side of a street between two intersecting streets, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

GARAGE, PARKING Any building, or portion thereof, used for storage of four or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.

GARAGE, PRIVATE An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which the garage is an accessory.

GARAGE, PUBLIC Any garage other than a private garage, available to the public, operated for gain, and which is used of storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GRADE, FINISHED The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROUND FLOOR AREA The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the first floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways and secondary stairways.

HOME FOR THE AGED A facility for the care of the aged with routine nursing and/or medical care and supervision provided. A home for the aged is different from a nursing home in that the clientele are restricted by age.

HOME OCCUPATION An occupation or profession for gain or support conducted only by members of a family residing on the premises, and conducted entirely within the principal building, provided that no article is sold or offered for sale. Said occupation shall be customary and traditional, incidental to the primary use of the premises as a residence, and not construed as a business, and be of a personal services or professional service nature. There shall be no outside storage or display. See Section 804 for operating rules and regulations for home occupations and Schedule of Uses section for permitted uses.

HOSPITAL An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

HOTEL A building in which lodging or boarding are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contrast to a boarding house, a lodging house, or an apartment.

IMPROVEMENT LOCATION PERMIT (BUILDING PERMIT) A certificate issued by the Building Inspector permitting a person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within the locality, or cause the same to be done.

INSTITUTION Building(s) and/or land designed to aid individuals in the need of mental, therapeutic, rehabilitative, counseling, or other correctional services.

JUNKYARD, INCLUDING AUTOMOBILE WRECKING Any place at which personal property may be salvaged for reuse, resale, or reduction or similar disposition.

KENNEL Any lot or premises on which three (3) or more dogs (except litters of animals not more than 6 months of age) are kept, raised, bred, cared for, or boarded for commercial or non-commercial purposes.

LOADING SPACE, OFF-STREET Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading space shall be located totally outside of any street or alley right-of-way. See Section 806.2 for loading space requirements.

LOT A lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, or of complete lots of record and portions of lots of records, or of portions of lots of record.
- d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

LOT AREA The area of any lot exclusive of street, highway, alley, road, or other rights-of-way. Easements are considered to be part of the Lot Area.

LOT, CORNER A parcel of land at the junction of and bounded by two or more intersecting streets.

LOT COVERAGE The ratio of ground floor area of all buildings on a lot to the horizontally projected area of the lot. See Floor Area Ratio.

LOT FRONTAGE The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

LOT LINE, FRONT On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

LOT LINE, REAR The lot line opposite the front lot line. On a lot pointed at the rear, the rear line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the side of the house containing the main entrance to the structure. If a corner lot contains multiple family dwelling units having entrances on each of the intersecting streets, the rear lot line shall be the interior lot line with the larger dimension.

LOT LINE, SIDE Any lot line other than a front line or rear lot line.

LOT, MEASUREMENT OF A lot shall be measured as follows:

- a. Depth - the horizontal distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- b. Width - the horizontal distance between the side lot lines, measured at the building setback line.

LOT OF RECORD A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the descriptions of which have been recorded in the office of the County Recorder.

LOT TYPES Terminology used in this ordinance with reference to different types of lots is as follows:

- a. Corner Lot - a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than 135 degrees in front of the lot.
- b. Interior Lot - A lot with only one frontage on a street.

- c. Through Lot - a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- d. Reverse Frontage Lot - a lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

MANUFACTURED HOME A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufacturing Housing Construction and Safety Standards Code or Indiana Public Law 360, Acts of 1971, as promulgated by the Indiana Administrative Building Council.

MANUFACTURING, HEAVY Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond district boundary.

MANUFACTURING, LIGHT Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating or storing with enclosed structures; and generating little industrial traffic and no nuisances.

MOBILE HOME A transportable structure larger than three hundred and twenty (320) square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction June 15, 1976.

MANUFACTURED OR MOBILE HOME COMMUNITY (PARK) A parcel of land platted for subdivision upon which five (5) or more manufactured or mobile homes are harbored for the purpose of being occupied as principal residences and includes all real and personal property used in the operation of the manufactured or mobile home park. An area of land that is subdivided in accordance with all requirements of this ordinance, designed or intended for lots to be conveyed by deed, lease or to be otherwise contracted for to individual owners is a manufactured or mobile home park if five (5) or more manufactured or mobile homes are harbored there for residential occupancy.

MOTOR HOME A self-propelled vehicle containing living accommodations, used for recreational purposes.

NONCONFORMING USE A building, structure, or use of land existing at the time of enactment of this ordinance, which does not conform to the regulations of the district in which it is situated.

NURSING HOME AND CONVALESCENT FACILITIES A private home, institution, building, residence or other place, whether operated for profit or not, including those places operated by units of government, which undertakes through its ownership or management to provide for a period exceeding twenty-four (24) hours, maintenance, personal care, or nursing for three (3) or more persons not related by blood or marriage to the operator who by reason of illness, physical infirmity, or advanced age, are unable to care for themselves.

OCCUPIED SPACE The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

OPEN SPACE A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include along with natural environment features, swimming pools, tennis courts, and other outdoor recreational facilities that the Plan Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included in the open space area calculations.

ORDINANCE Any legislative action, however denominated, of local government which has the force of law, including the amendment or repeal of any ordinance.

PARKING LOT, OFF-STREET An area which is adequate for parking sufficient automobiles to meet the optimum need of each appropriate land use, together with properly related access to a public street or alley and maneuvering room, and located totally off of a public right-of-way. Required off-street parking areas for three or more automobiles shall have individual spaces marked. As a rule of thumb, the area provided for an off-street parking lot should be at least one and one half times the space required for the number of parking spaces anticipated.

PARKING SPACE OR STALL The area required for parking one automobile, with its attendant maneuvering room. The area required for a parked car should be ten (10) feet wide and twenty-two (22) feet long; however, parking spaces which are designed for the exclusive use of compact or subcompact cars, the space may be designed appropriately smaller.

PERSONAL SERVICES Any enterprise conducted for profit which primarily offers services to the general public, such as barber shops, beauty parlors, day care centers and so on.

PLANNED UNIT DEVELOPMENT (PUD) An area of land in which a variety of residential, commercial, and/or industrial uses are planned and developed as a whole according to comprehensive and

detailed plans, with more flexible standards, such as lot sizes, uses, and setbacks, than those restrictions that would normally apply under these regulations.

PORTABLE CARPORT See definition for "Carport, Portable".
(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)

PREMISES One or more lots which are in the same ownership and are contiguous, or separated only by a right-of-way or water body, including all buildings, structures, and improvements.

PRINCIPAL USES The primary use to which the premises are devoted, and the main purpose for which the premises exist.

PROFESSIONAL ACTIVITIES The use of offices and related spaces for such professional services as provided by health practitioners, lawyers, architects, engineers, and similar professions.

PROHIBITED USE A use indicated as prohibited for a certain district in the Schedule of Uses shall not be allowed to locate in the said district except as specified under nonconformities. A "use" variance cannot be used to legalize the conversion to or erection of a prohibited use.

PUBLIC UTILITY Any person, firm, or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water, or sewage systems to the public under public regulation.

RECORDING SECRETARY For the purposes of this ordinance the Recording Secretary shall be the person employed and delegated the responsibility of recording and writing minutes and transcripts of the proceedings of the Plan Commission and/or Board of Zoning Appeals.

RECREATIONAL VEHICLE A vehicle primarily designed as temporary living quarters for recreation, camping, or travel, either with its own motor power or mounted on or towed by another powered vehicle.

RECREATION CAMPGROUND An area of land on which (2) or more recreational vehicles including campers, tents, or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure, or fixture of equipment that is used in connection with providing such accommodations.

REPLACEMENT COST The sum of money which would be required to re-erect a structure identical to the one in question.

RESEARCH ACTIVITIES Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering. All research, testing, and

development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside of the building.

(Remainder of page intentionally left blank)

ROADSIDE STAND A temporary structure designed or used for the display or sale of agricultural and related products, or novelties and other items of interest, to the motoring public.

ROOMING HOUSE (BOARDING HOUSE) A dwelling or part thereof, other than a motel, hotel, or restaurant, where lodging is provided for compensation, for three (3) or more unrelated persons.

SCREENING A structure erected or vegetation planted which eventually is of sufficient height and density for concealing an area from view.

SEAT For purpose of determining the number of off-street parking spaces for certain use, the number of seating units installed or indicated or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.

SETBACK A required open area unoccupied and unobstructed by any structure, or any projection except as specifically provided for in this ordinance.

SETBACK, FRONT A setback extending across the front of a lot, being the required minimum horizontal distance between the front lot line and front of the buildings.

SETBACK LINE A line established by the Zoning Ordinance, generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no building, other than a permitted accessory building or structure may be located above ground, except as may be provided in said ordinance.

SETBACK, REAR A setback extending across the rear of a lot, being the required minimum horizontal distance between the rear property line and the rear of the building.

SETBACK, SIDE A setback between any structure and the side lot line extending from the required front setback to the required rear setback and being the minimum horizontal distance between a side lot line and the rear of the building.

SIDEWALK That portion of the road right-of-way which is improved for the use of pedestrian traffic.

SIGN An identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, service, person, institution, or business. Sign regulations are set out in Section 810 of this ordinance.

SPECIAL EXCEPTIONS A use that is not listed as a permitted use in the particular district under this ordinance but which may be compatible with such permitted uses and may promote the realization of the purposes of this ordinance if such special

exception uses are restricted as to number and location in the district and to such other conditions as may be required by the Board of Zoning Appeals. Special Exceptions permitted in each district are listed in the Official Schedule of Uses.

STATE The State of Indiana.

STREET A dedicated public right-of-way, other than an alley, intended for vehicular traffic, including expressways, primary and secondary arterials, parkways, collector streets, primary thoroughfares, local streets, cul-de-sacs, marginal access streets, roads, lanes, and other public ways, further defined as follows:

- a. Expressways, Arterial Highway, or Primary Thoroughfares - Major streets and highways used primarily for through traffic, or fast or heavy traffic, generally including U.S. and/or state routes.
- b. Secondary Thoroughfares - Streets or roads designed, planned, and intended to serve as collectors and distributors of through vehicular traffic in conformance with the New Whiteland Comprehensive Plan.
- c. Collector Streets - Streets designed, planned, and intended to carry intermediate traffic volumes within residential areas and from minor streets to secondary, primary, and arterial streets.
- d. Local Streets - Streets designed, planned, and intended to carry intermediate traffic volumes within residential areas to secondary, major, and arterial streets.
- e. Marginal Access Streets - Minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.
- f. Cul-de-sacs - Short streets having one end open to traffic, the other end being permanently terminated by a vehicular turn-around.

STORY The part of a building between the surface of a floor and the ceiling immediately above; or if there is a floor above, the portion of a building between the surface of any floor and the surface of the floor next above.

STRUCTURE Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, and signs, portable carports, and sheds (whether the shed is anchored or not anchored to the ground).
(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)

SUBDIVISION The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development, provided however, that the division of land into parcels of more than three (3) acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining land owners, if such transfer or exchange does not create additional building lots, shall not constitute a subdivision for purposes of this ordinance.

SUBDIVISION REGULATIONS The applicable requirements, standards and specifications imposed by the Subdivision Control Ordinance as enacted by the governing body of the Town of New Whiteland, Indiana.

SWIMMING POOL A pool, pond, lake, or open tank containing at least eighteen (18) inches of water at any point and maintained by the owner or manager.

SWIMMING POOL, PRIVATE A swimming pool used exclusively without paying an additional charge for admission, by the residents and guests of a single household, a multiple family development, a community, the members and guests of a club, or the patrons of a motel or hotel; and accessory use.

TEMPORARY PERMITS The Plan Commission may authorize by written permit in any zoning district for a period of not more than one (1) year from the date of such permit, a temporary building which is incidental and necessary for the sale, rental, lease construction or reconstruction of real property on premises in the zoning districts, or as otherwise provided in Section 3-405 of this ordinance.

THOROUGHFARE PLAN The portion of the Comprehensive Plan indicating the general location recommended for arterial, collector, and local streets and roads within the appropriate jurisdiction.

TOWN COUNCIL The Town Council of New Whiteland, Indiana.

TRAVEL TRAILER A vehicle or other portable structure less than thirty-five (35) feet in length designed to move on the highway, not under its own power, and designed as a recreational dwelling.

USE The specific purposes for which land or a building is designated, arranged, intended, or for which it is occupied or maintained.

(Remainder of page intentionally left blank)

VARIANCE A modification of the strict terms of the relevant regulations of this ordinance where such modifications will not be contrary to the public interest, and where, owing to conditions peculiar to property and not the result of the action of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

VETERINARY ANIMAL HOSPITAL OR CLINIC A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those animals which are in need of medical or surgical attention. It may also include overnight accommodations on the premises for treatment, observation, and/or recuperation and boarding that is incidental to the principal activity or use.

WALKWAY A public way, four (4) or more feet in width, for pedestrian use only, whether along the side of a street or not.

YARD An open area on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance

YARD, FRONT An open unoccupied area extending the full width of the lot and situated between the front lot line and the front line of the building projected to the side lines of the lot. Covered porches whether enclosed or unenclosed, shall be considered as part of the building and shall not project into a required front yard. On corner lots, the front yard shall be determined by the location of the main entrance of the structure.

YARD, REAR A yard extending the full width of the lot between a principal building and the rear lot line or lines.

YARD, SIDE A yard between the principal building and side lot line, and extending from the front yard line of the building to the rear line of the building.

ZONING A police power measure, enacted by the governing body of local governments, which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts.

ZONING BOARD The Board of Zoning Appeals of New Whiteland, Indiana.

Article 3 Administration & Enforcement

3-100. OFFICE OF PLAN COMMISSION. The Plan Commission shall consist of seven (7) members appointed as follows:

- a. The Town Council shall appoint three (3) persons in the municipal government as members of the Plan Commission.
- b. The Town Council shall appoint four (4) citizen members who are not elected or appointed members of the municipal government, of whom no more than two (2) may be of the same political party.

3-101. Term of Appointments. Each new appointment to the Plan Commission shall be made for a term of four (4) years:

- a. The term of each member shall expire on the first Monday of January of the fourth year after the year of the member's appointment. A member serves until his successor is appointed and qualified. A member is eligible for reappointment.
- b. If a vacancy occurs among the members of the Plan Commission, the Town Council shall appoint a member for the unexpired term of the vacating member. In addition, the Town Council may appoint an alternate member to participate with the Plan Commission in any hearing or decision in which the regular member has a disqualification under subsection 4 of this section.
- c. A member of the Plan Commission who misses three (3) consecutive regular meetings of the Commission shall be treated as if he had resigned. The secretary shall give written notification to the Town Council within seven (7) days following the third consecutive absence of any Commission member. The Town Council shall remove the absent member and appoint a replacement to complete the unexpired term of the absent member.

3-102. Conflict. A member of the Plan Commission may not participate in a hearing or decision of the board concerning a zoning matter in which he or she has a direct or indirect financial interest. For the purpose of this article the term "zoning matter" does not include the preparation or adoption of a comprehensive plan. The Plan Commission shall enter in its records:

- a. The fact that a regular member has such a disqualification; and,
- b. The name of the alternate member, if any, who participated in the hearing or decision in place of the regular member.

3-103 Proceedings of the Plan Commission. The Plan Commission shall adopt rules necessary for the conduct of its affairs in keeping with the provisions of this ordinance.

- a. At the first meeting of each year the Commission shall elect a Chairman and a Vice-Chairman from its members.
- b. Meetings shall be held at the call of the Chairman or at other times which the Commission deems necessary.
- c. All meetings shall be open to the public.
- d. The Commission shall keep minutes of its proceedings showing the vote of each member for each question, or if absent or failing to vote indicating such.
- e. The Commission shall also keep records of its examinations and other official actions all of which shall be of public record and be immediately filed in the office of the Plan Commission.

3-104. Duties of the Plan Commission. For the purposes of this ordinance the Plan Commission shall have the following duties:

- a. To initiate proposed amendments to this ordinance.
- b. To review all proposed amendments to this ordinance and make recommendations to the Town Council.
- c. To review and make findings on development plans for subdivisions, commercial structures, industrial structures, planned unit developments and other similar plans for all proposed developments within the Commission's jurisdiction.
- d. To review and revise the zoning ordinance, subdivision regulations, and other land use regulations to keep them up-to-date.
- e. Render interpretations of this ordinance as may be necessary from time to time.

3-200 BOARD OF ZONING APPEALS. As part of this ordinance, a Board of Zoning Appeals is hereby re-established and shall consist of five (5) members, appointed as follows:

- a. Four (4) citizen members appointed by the Town Council of whom one (1) must be a member of the Plan Commission and three (3) must not be members of the Plan Commission.
- b. One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed under subdivision a., above.

3-201. **Qualifications of Members.** The members appointed to the Board of Zoning appeals must have the following qualifications:

- a. A member must be a town resident.
- b. No member may hold other elective or appointed offices in the town government.

3-202. **Term of Appointments.** Each new appointment to the Board of Zoning Appeals shall be made for a term of four (4) years.

- a. The term of each member shall expire on the first Monday of January of the fourth year after the year of the member's appointment. A member serves until his successor is appointed and qualified. A member is eligible for reappointment.
- b. If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority (Town Council or Plan Commission) that had appointed the vacating member shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision in which the regular member it has appointed has a disqualification under paragraph 3-203 of this Article.
- c. A member of the Board of Zoning Appeals who misses three (3) consecutive regular meetings of the Board shall be treated as if he had resigned.

3-203. **Conflict.** A member of the Board of Zoning Appeals may not participate in a hearing or decision of the board concerning a zoning matter in which he has a direct or indirect financial interest. The Board shall enter in its records:

- a. The fact that a regular member has such a disqualification; and
- b. The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

3-204. **Proceedings of the Board of Zoning Appeals.** The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance.

- a. At the first meeting of each year the Board shall elect a Chairman and Vice-Chairman from its members.
- b. Meetings shall be at the call of the Chairman and at other times as the Board may determine.

- c. The Chairman or in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses.
- d. All meetings shall be open to the public.
- e. The board shall keep minutes of its proceedings, showing the vote of each member, or if absent or failing to vote.
- f. The Board shall keep record of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Recording Secretary.
- g. A majority of Board Members shall constitute a quorum.
- h. The concurring vote of three members of the Board shall be necessary to decide in favor of the applicant any matter upon which said Board is required to pass under the provisions of this ordinance.

3-205. Duties of the Board of Zoning Appeals. For the purpose of this ordinance the Board of Zoning Appeals has the following specific duties:

- a. To hear and to determine appeals from and review any decision or determination made by the Zoning Administrator.
- b. To hear and to determine special exceptions to the terms of this ordinance.
- c. To authorize variances from the zoning ordinance in cases where a literal enforcement of the ordinance would result in undue hardship, provided that the public interest is not injured by granting the variance.

3-300. OFFICE OF THE ZONING ADMINISTRATOR. A Zoning Administrator employed and designated by the Plan Commission shall administer and enforce this ordinance. For the purpose of this ordinance the term Zoning Administrator shall be synonymous with the term Building Inspector. He may be provided with the assistance of other persons as the Town Council directs.

3-301. Duties of the Zoning Administrator. For the purpose of this ordinance, the Zoning Administrator shall have the following duties:

- a. To issue Improvement Location Permits, conduct inspections to assure compliance with this ordinance and issue Certificates of Occupancy.
- b. To notify in writing persons responsible for violations of the provisions of this ordinance and order the action necessary to correct such violations.
- c. To order discontinuance of illegal uses of land, buildings, or structures.

- d. To order removal of illegal buildings, structures, or illegal additions or alterations.
- e. To order discontinuance of any illegal work being done.
- f. To assume responsibilities as the Plan Commission directs.
- g. To take any other action authorized by this ordinance to ensure compliance with or to prevent violations of this ordinance.

3-400 **Improvement Location Permits (Building Permits).** No building or structures shall be erected, moved, enlarged, be established or changed in use without an improvement location permit issued by the Plan Commission or its designated representative. Building permits shall be issued in conformance with this Ordinance unless a written order is received from the Plan Commission, Board of Zoning Appeals or Court directing the issuance of a permit not in conformance with this ordinance.

The Town of New Whiteland requires that an improvement location permit (building permit) be obtained for the following specific projects:

- a. Single-family and two family residential dwellings;
- b. Residential storage shed (maximum 140 square feet);
- c. Detached residential buildings (over 140 square feet);
- d. Residential garages, carports, portable carports (except portable carports located, or to be located, on the premises for less than 72 hours during any thirty day period), and/or additions;
(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)
- e. Temporary structures;
- f. Signs;
- g. Swimming pools;
- h. Fences over 42 inches high;
- i. Demolition;
- j. New buildings;
- k. Alterations, modification or remodeling;

- l. Structures other than buildings;
- m. Drainage work (land alteration);
- n. Street cuts;
- o. Curb cuts;

(Remainder of page intentionally left blank)

p. Storm sewer hook-ons;

q. Driveways;

No improvement location permit (building permit) shall be required for ordinary repair and maintenance where the total cost of materials and labor does not exceed five hundred dollars (\$500.00) and the work does not include a potential health or safety hazard or expand the scope of any existing use.

3-401. **Application For Permit.** Applications for improvement location permits (building permits) shall be made on forms provided by the New Whiteland Plan Commission. Each application shall be accompanied by two (2) copies of a plot plan which is drawn to scale and shows clearly and completely:

- a. the location, dimensions and nature of the property;
- b. the location and dimensions of any existing or proposed structure;
- c. All adjoining streets and any existing or proposed access to these streets;
- d. the existing and proposed uses of all structures and land;
- e. the location and type of sewerage system, water system and drainage facilities;
- f. estimated cost of construction; and,
- g. such other information as may be necessary to determine conformance with this Ordinance.

3-402. **Fees.** Fees shall be charged for all applications for permits or petitions in accordance with the fee schedule adopted by the New Whiteland Plan Commission and Town Council. Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal or petition. No fee shall be required for appealing a decision of the Zoning Administrator.

3-403. **Approval of Permits.** Within thirty (30) days after receipt of the application, the Zoning Administrator shall either approve or disapprove the application. One set of plans shall be returned to the applicant, marked approved or disapproved. If the application is disapproved, the reasons for the disapproval shall be stated in writing. All commercial and industrial projects shall be submitted to the Technical Committee for review prior to receiving an improvement location permit. At the option of the Technical Committee:

- a. additional data may be required; and/or,

- b. the Technical Committee may elect to forward the application to the Plan Commission.

3-404. **Certificate of Occupancy.** It is unlawful to use or occupy any building or premises without a certificate of occupancy. An application for an improvement location permit shall without an additional fee, include and be deemed an application for a certificate of occupancy. A certificate of occupancy shall be obtained before any person may:

- a. occupy or use any vacant land;
- b. occupy or use any structure hereafter constructed, reconstructed, moved, enlarged or structurally altered;
- c. change the use of a structure or land to a different use; or,
- d. renew, change, or extend, a non-conforming use.

3-405 **Temporary Occupancy Permit.** Pending the issuance of a permanent certificate of occupancy, a temporary occupancy permit may be issued by the building inspector for a period of not more than six (6) months. Such temporary certificate shall not be construed in any way to alter the respective rights, duties or occupancy of the land or building or any other matter covered by this ordinance. The temporary occupancy permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

3-406 **Expiration of the Permit.** If work has not commenced within 90 days after the date of issuance of the permit, the permit shall expire. If work described in any permit has not been substantially completed within six (6) months of the date of issuance thereof, said permit shall expire. One six month extension of a permit may be obtained without an additional fee, if:

- a. No code violations exist related to the project,
- b. the project is in compliance with inspection requirements, and
- c. a written extension request is submitted prior to the expiration of the original permit.

In the event a six month extension has been granted and the project is not substantially complete within one year after the date of issuance of the original permit, a new permit must be applied for and a new permit fee shall be required. Once a permit has expired, further work shall not occur unless pursuant to a new permit.

(Editor's Note: Amended by Ord. 1058 adopted on 8/20/02)

3-500 **Violations & Penalties.** It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any structure or land in violation of any regulation in, or any provisions of, this Ordinance or any regulation enacted hereunder by the Commission or Board. Unless otherwise

specified herein, any person who initiates such construction activities, for which a building permit is required by the relevant provisions of this Ordinance, prior to obtaining a building permit and all other required permits shall be subject to a fine of Five Hundred Dollars (\$500.00) and may be required to remove or modify improvements made prior to issuance of all requisite permits that: (i) do not conform with all relevant provisions of this Ordinance, or (ii) because any such improvements are covered or concealed and not open to inspection, their conformance with all relevant provisions of this Ordinance cannot be confirmed. Any person who initiates such construction activities on residential property, for which a building permit is required by the relevant provisions of this Ordinance, prior to obtaining a building permit and all other required permits, shall be subject to a fine of One Hundred Dollars (\$100.00), rather than the Five Hundred Dollars (\$500.00) fine referenced above. Any person who otherwise violates this Ordinance or fails to comply with its other provisions shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00). Each day the violation continues shall constitute a separate and distinct violation.

3-600 Appeals. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator. Questions shall be presented to the Board of Zoning Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Board of Zoning Appeals shall be to the courts as provided by laws. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance may be taken by any persons aggrieved by any officer or bureau of the legislative authority of the town affected by any decision of the Zoning Administrator. Such appeal shall be taken within such times as established by the Board of Zoning Appeals by general rule. The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

3-700 Review by Certiorari. Every decision of the Board of Zoning Appeals shall be subject to review by certiorari. Any person aggrieved by a decision of the Board may present to the court of the county in which the premises affected area located, a petition duly verified, setting forth that the decision by the Board is illegal in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the entry of the decision of the Board.

Article 4 AMENDMENTS, VARIANCES & SPECIAL EXCEPTIONS

4-100 ZONING AMENDMENTS. Amendments to this ordinance may be initiated in one of the following ways:

- a. By adoption of a motion by the Plan Commission;
- b. By adoption of a resolution by the Town Council;
- c. By the filing of a petition of at least fifty (50) percent of the owners of property within the area proposed to be changed or affected by the amendment.

4-101. Contents of Application. Application for amendments to the zoning ordinance shall contain at least the following information:

- a. Name, address, and phone number of applicant;
- b. Any application filed by any person other than the legal owner of the real estate involved shall be accompanied by a written statement of such legal owner consenting to the filing of such application.
- c. Present use;
- d. Present zoning district;
- e. Proposed zoning district;
- f. A vicinity map showing property lines, thoroughfares, existing and proposed zoning, and other items which the Zoning Administrator may require;
- g. A list of all property owners and their mailing addresses for all adjoining parcels of land to a depth of two (2) ownerships or 250 feet, whichever is greater, of the exterior boundaries of the area proposed to be rezoned or redistricted, as well as a list of all parcels of land that are within the area included in the petition whose owners are not petitioners, and others that may have substantial interest in the case.
- h. A statement of how the proposed amendment relates to the Town's comprehensive plan.

4-102. Public Hearing by Plan Commission. The Plan Commission shall schedule a public hearing after a petition is received. The hearing shall not be less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or the filing of the application.

4-103. **Notice of Public Hearing.** Notice of public hearing shall include the following:

a. At least fifteen (15) days prior to holding the public hearing, notice of the hearing shall be given in one or more newspapers of general circulation in the Town, and posted at the Town Hall.

(Editor's Note: Amended by Ord. 1058 adopted on 8/20/02)

b. The notice shall state:

1. The time and place of the hearing;
2. Either the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies, if the proposal is a text amendment; or the geographic area that is the subject of the zone map change, if the proposal is a zone map change;
3. Either a summary of the subject matter contained in the proposal that describes any new or changed provisions, if the proposal is a text amendment; or a description of the proposed change in the zone maps, if the proposal is a zone map change;
4. If the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;
5. The place where a copy of the proposal is on file for examination before the hearing;
6. That written objections to the proposal that are filed with the secretary of the Plan Commission before the hearing will be considered;
7. That oral comments concerning the proposal will be heard; and
8. That the hearing may be continued from time to time as may be found necessary.

c. The Commission shall require the initiator(s) of the petition to bear the cost of the public notice.

4-104. **Notice to Parties in Interest.** Notice to parties in interest shall include:

- a. If the proposed amendment intends to alter, rezone, or redistrict any parcel of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the initiator(s) of a petition by certified mail, return receipt requested, in a form which meets the Board's requirement at least fifteen (15) days prior to the day of the hearing to the owners of all adjoining parcels of land to a depth of two (2) ownerships or 250 feet, whichever is greater, of the exterior boundaries of the area proposed to be rezoned or redistricted, and to the owner of all parcels of land within the area included in the petition, who are not petitioners. For the purpose of notification of parties in interest, where any such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include adjacent land owned by petitioner.
- b. All cost for required notice to parties in interest shall be borne by the initiator(s) of petition.
- c. A verified written statement that all parties in interest have been mailed a written notification as set out in (a) above shall be submitted by the petitioner prior to final action being taken on the petition.
- d. Failure of a person to receive notice shall not invalidate the amendment.
- e. If Section 4-104(a) does not apply to a proposed amendment, due notice to interested parties shall be satisfied by the publication otherwise required under I.C. 36-7-4-604 and New Whiteland Zoning Ordinance Section 4-103.

4-105. **Recommendation by Plan Commission.** Within sixty (60) days from the receipt of the proposed amendment, the Plan Commission shall transmit its recommendation to grant, modify, or deny the request to the Town Council. After receipt of recommendations from the Plan Commission the Town Council may amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classifications of property whenever the public welfare or good zoning practices require.

4-106. **Approvals.** After the public hearing, the Town Council shall either adopt or deny the recommendation of the Plan

Commission or some modification thereof, consistent with the requirements of I.C. 36-7-4.

4-107. **Effective Date.** An amendment adopted by the Town Council shall become effective immediately upon adoption and approval by the Town Council.

4-200. **EFFECT OF ANNEXATION.** All land annexed to the Town of New Whiteland subsequent to the adoption of this ordinance shall automatically be zoned RS1 low density single family residential unless otherwise requested in the annexation ordinance or until such time as the Official Zoning Map is amended according to the provisions of this ordinance.

4-300. **VARIANCES.** The Board of Zoning Appeals may authorize upon appeal in specific cases variances from the terms of this ordinance when because of special conditions a literal enforcement of this ordinance would result in unnecessary hardship upon a specific property. No conforming use of neighboring lands, structures, or buildings in the same district, and no permitted nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

4-301. **Definitions of Variances.** Two types of variances may be granted by the Board of Zoning Appeals. They are as follows:

- a. **Dimensional Variance** - designed to adjust the regulations of the zoning ordinance to the land for which the variance is granted. Generally speaking, a dimensional variance applies to a bulk, height, area, or space requirement of the zoning ordinance. The primary basis for granting a dimensional variance is the showing by the applicant that a "practical difficulty" exists if the letter of the law is strictly applied. Once granted, a dimensional variance shall run with the land.
- b. **Use Variance** - serves a different function than a dimensional variance. If a zoning ordinance is valid in general, but confiscatory as applied to a specific property, the traditional remedy is a use variance. A use variance grants permission for a prohibited use in a given zoning district. The primary basis for granting a use variance is the showing by the applicant that an "unnecessary hardship" exists if the letter of the law is strictly applied. When granted, a use variance runs with the applicant (tenant or landlord), not with the land itself.

3-302. **Revocation of a Dimensional Variance.** A dimensional variance shall be deemed automatically null and void if the property, building, or structure for which the variance was granted is for any reason demolished or destroyed. Thus, a new replacement building or structure may be required to conform to

regulations in effect at that time. The granting of a dimensional variance becomes official only upon issuance of an improvement location permit for the subject property. The issuance of said permit must occur within ninety (90) days of the date that the dimensional variance was approved by the Board of Zoning Appeals or the approval becomes null and void. Actual construction must begin within ninety (90) days from the date that the improvement location permit is obtained or said permit shall become null and void.

4-303. **Revocation of a Use Variance.** A use variance shall be deemed automatically null and void under any or all of the following conditions:

- a. If the use for which the variance was granted ceases for any continuous period greater than six (6) months in length;
- b. If the property or structures for which the variance was granted change ownership or occupancy;
- c. If the applicant to whom the variance was granted fails to comply with any of the conditions made a part of the variance;
- d. If the Board of Zoning Appeals discovers at some future date that the variance has created some previously unforeseen problem, nuisance, or hazard that is adversely affecting the health, safety, or welfare of adjacent properties or the general public.

3-304. **Revocation Procedures.** Procedures for revocation of a variance shall be as follows:

- a. Upon determination by the Zoning Administrator that possible grounds for revocation of a variance exists, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.
- b. The original applicant to whom the variance was granted or his successor shall be notified by certified mail of the reasons for the possible revocation at least thirty (30) days prior to the public hearing.
- c. Notice of the public hearing shall also be given as set out in Section 4-500.

4-305. **Application Standards for a Variance.** A Variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Administrator and the Board of Zoning Appeals containing:

- a. Name, address, and phone number of applicant;
- b. Any application filed by any person other than the legal owner of the real estate involved shall be accompanied by a

written statement of such legal owner consenting to the filing of such application.

- c. Legal description of property;
- d. Description of nature of variance requested;
- e. A narrative statement demonstrating that the requested variance conforms to each of the following standards:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - 2. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - 3. That special conditions and circumstances do not result from the action of the applicant.
 - 4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings.
- f. There shall accompany such application for a variance a verified statement (affidavit) by the applicant that adjoining property owners were notified in writing at least fifteen (15) days prior to the date of the public hearing of such application as required by Section 4-502;
- g. Any applicant shall furnish a verified proof (affidavit) of at least one publication of a notice in at least one newspaper having general circulation within the Town of New Whiteland consistent with the requirements of Section 4-501.
- h. The cost of legal advertising any any required notice to affected property owners shall be borne by the petitioners.

4-306. Considerations prior to Granting a Variance. Prior to granting a variance, the Board of Zoning Appeals shall consider the following conditions:

- a. The variance must not be injurious to the public health, safety, and welfare of the town.
- b. The use or value of adjacent property must not be adversely affected by the variance.
- c. The need for a variance must arise from some condition peculiar to the property involved and must not exist in

similar property in the same district.

- d. Undue hardship as a result of strict application of the ordinance must be proven. Literal interpretation of the provisions of this ordinance must be shown to deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- e. The hardship must not be self-imposed from previous actions. It should not be a purely financial hardship or a matter of convenience.
- f. The variance granted is the minimum variance that will make it possible to reasonably use the land or structure.

4-307. **Supplementary Conditions & Safeguards.** Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance which allows a use not permissible under the terms of this ordinance in the district. The Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of these conditions and safeguards when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance and punishable under Section 3-500 of this Ordinance.

4-308. **Public Hearing for Appeal & Variance.** The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after receipt of an application for an appeal or variance from the applicant, but only after assuring itself that legal advertisement and interested party notification requirements as set out in Section 4-500 paragraphs f & g have been met. However, the public hearing shall not be held sooner than fifteen (15) days after its receipt.

4-309. **Action by the Board of Zoning Appeals.** Within a reasonable length of time after the public hearing required in Section 4-308, the Board of Zoning Appeals shall either approve, approve with conditions and safeguards, or disapprove the request for an appeal or variance. Furthermore, the Board shall demonstrate that the reasons set forth in the application justify the granting of a variance to make a reasonable use of the land or buildings possible.

4-400. **SPECIAL EXCEPTIONS.** Special exceptions or conditional uses are uses which have unique characteristics and cannot be properly classified in any particular zone. In each case, the impact of those uses upon neighboring land must be given individual consideration. Special exceptions, while requiring special consideration by the Board of Zoning Appeals, shall be deemed permitted uses in the district in which they are provided.

4-401. **Application for a Special Exception.** An application for a special exception permit shall be filed with

the Zoning Administrator and the Board of Zoning Appeals by at least one owner or lessee of the property for which the special exception is proposed. At a minimum, the application shall contain the following information:

- a. Name, address, and phone number of applicant;
- b. Any application filed by any person other than the legal owner of the real estate involved shall be accompanied by a written statement of such legal owner consenting to the filing of such application;
- c. Legal description of the property;
- d. Description of existing use;
- e. Zoning district;
- f. Description of the proposed special exception;
- g. A plan of the proposed site for the special exception showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open space, landscaping, refuse and service areas, utilities, signs, yards, and other information as the Board may require to determine if the proposed special exception meets the intent and requirements of this ordinance and is appropriate for the location at which it is proposed.
- h. There shall accompany such application for a special exception a verified statement (affidavit) by the applicant that adjoining property owners were notified in writing at least fifteen (15) days prior to the date of the public hearing of such application as required by Section 4-502;
- i. Any applicant shall furnish a verified proof (affidavit) of at least one publication of a notice in at least one newspaper having general circulation within the Town of New Whiteland consistent with the requirements of Section 4-501.
- j. The cost of legal advertising and any required notice to affected property owners shall be borne by the petitioner.

4-402. Considerations prior to Granting a Special Exception. The Board of Zoning Appeals may grant a special exception after consideration of the appropriateness of the specific property for the use, congestion of public streets, availability of public facilities, and impact on surrounding property. The Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that such use at the proposed locations:

- a. Is in fact a special exception as established under the provisions of this ordinance and appears on the Official Schedule of Uses for the zoning district involved.
- b. Will be designed, constructed, operated, and maintained in a manner which is harmonious and appropriate in appearance with the existing character of the area and shall not change the essential character of the area.
- c. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be hazardous or disturbing to any persons or property.
- d. Will have vehicular approaches to the property which shall not create an interference with traffic on surrounding public thoroughfares.
- e. Will not create excessive additional requirements for public facilities and services.
- f. Will not result in the destruction, loss, or damage of natural, scenic, or historic features.

4-403. **Supplementary Conditions & Safeguards.** In granting any special exceptions, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. When the conditions and safeguards are made part of the terms upon which the special exception is granted, violations shall be deemed a violation of this ordinance and punishable under Section 3-500.

4-404. **Expiration of Special Exception.** A special exception authorized by the Board of Zoning Appeals shall become void if the use for which the special exception was granted has not commenced within one year.

4-405. **Revocation of a Special Exception.** Special exceptions may be revoked or modified by the Board of Zoning appeals after a public hearing for any one or more of the following reasons:

- a. The approval was obtained by fraud or misrepresentation of the facts;
- b. The special exception is being exercised contrary to the terms or conditions of approval or in violation of any statute, ordinance, law, or regulation.

Procedure for revocation of a special exception shall be as follows:

- a. Upon determination by the Zoning Administrator that possible grounds for revocation of a special exception exists, the matter shall be placed on the Board of Zoning Appeals' agenda for a public hearing.

- b. The original applicant to whom the special exception was granted or his successor shall be notified by certified mail of the reasons for the possible revocation at least thirty (30) days prior to the public hearing.
- c. Notice of the hearing shall also be given as stated in Section 4-500.

4-406. **Public Hearing for Special Exception.** The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after receipt of an application for a special exception from the applicant, but only after assuring itself that legal advertisement and interested party notification requirements as set out in Section 4-500 have been met. However, the public hearing shall not be held sooner than fifteen (15) days after its receipt.

4-407. **Action by the Board of Zoning Appeals.** The Board of Zoning Appeals shall approve, approve with stipulations, or disapprove the request for a special exception within a reasonable time after the public hearing.

4-500 **PUBLIC HEARING.** The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after the receipt of an application for an appeal, variance, special exception, or revocation from the applicant or initiator. However, the public hearing shall not be held sooner than fifteen (15) days after its receipt.

4-501. **Notice of Public Hearings.** The notice requirements for publication in a newspaper are as follows:

- a. Before holding the public hearing, notice of the hearing shall be given in one or more newspapers of general circulation in the Town at least fifteen (15) days before the date of the hearing.
- b. The notice shall set forth the time and place of the hearing, and the nature of the proposed appeal, variance, special exception or revocation.
- c. All cost for the Notice of Public Hearing shall be borne by the applicant or initiator and a proof of publication shall be required from the applicant or initiator prior to final action being taken on the petition.

4-502. **Notice to Parties in Interest.** Notice shall be given to parties of interest as follows:

- a. Before holding the public hearing, written notice of such hearing shall be mailed by the applicant(s) or initiator(s) by certified mail, return receipt requested, in a form which meets the Board's requirements at least fifteen (15) days prior to the day of the hearing to the owners of all

adjoining parcels of land to a depth of two (2) ownerships or 250 feet, whichever is greater, of the exterior boundaries of the subject property. For the purpose of notification of parties in interest, where any such adjacent parcels of land are owned by the applicant(s), the subject property shall be deemed to include adjacent land owned by the applicants.

- b. A verified written statement that all interested parties have been mailed a written notice as set out in 4-502 a. above shall be submitted by the applicant prior to final action being taken on the petition.

4-503. **Records.** The Board shall keep records of its examinations, findings, and other official actions, all of which shall be public record and be immediately filed in the office of the Recording Secretary of the Board.

5-100. **ZONING DISTRICTS ESTABLISHED & DEFINED.** To classify, regulate, and restrict the use of land and structures, the Town of New Whiteland is hereby divided into, or provisions are hereby made for future division into, the following zoning districts. Furthermore, these districts have been established to encourage the most appropriate use of land within the town, to protect property values, to regulate the intensity of land use, and to promote the health, safety, and general welfare of the public.

5-101 **Single Family Residential Districts.** The Residential Districts are intended to be limited to dwellings and public or semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in residential districts are those which would not detract from the residential character of the neighborhood. The purpose of these three districts is to create an attractive, stable and orderly residential environment. However, the property development regulations vary among the three districts in order to provide for the various housing needs and designs of citizens.

5-102 **General Business One (GB1).** The General Business One district is created to provide for local or neighborhood business uses that will be compatible with adjoining residential areas. The GB1 District is designed to provide for commercial, office, public and semi-public structures which are to be typically much less commercial in appearance and architecturally more harmonious with residential structures. This district can serve as a buffer between residential areas and general business districts where a gradual transition from existing residential use to general business use is occurring or should occur.

5-103 **General Business Two District (GB2).** The General Business Two District is designed to permit the development of a complete range of retail sales and personal, professional, and business services required to meet the demands of a fully developed residential community. In general, to achieve maximum flexibility of permitted land use, the GB 2 District makes possible a highly varied grouping of retail and business functions.

5-104. **Manufacturing (M).** The purpose of the Manufacturing District is to encourage the establishment of manufacturing and wholesale businesses which are clean, quiet and free of hazardous or objectionable elements. Operation of these establishments should take place entirely within an enclosed structure and should generate little industrial traffic. No storage of raw materials, manufactured products, or any other

materials is permitted in the non-screened open space around the building. This district has strict controls on the intensity of land use providing protection of each industry from the encroachment of other industries. It is usually located adjacent to residential areas and may serve as a buffer between heavier industrial districts and business or residential districts.

5-105. **Manufactured or Mobile Home Community or Park District (MH).** The purpose of the MH District is to accommodate the housing needs of those residents who prefer manufactured or mobile home living and of those who desire an economic alternative to conventional dwellings. The term mobile home when used in this section shall denote either a manufactured home or a mobile home, both of which are more specifically defined in Section 8-400, and the term mobile home park when used in Article 8 of this ordinance shall mean a parcel of land platted for subdivision upon which five (5) or more manufactured or mobile homes are harbored for the purpose of being occupied as principal residences.

5-106. **Flood Hazard District (FH).** Flood hazard zoning has been created to protect the public health and to reduce the financial burdens which may be imposed on the community, its governmental units and its citizens as a result of improper use of lands which are subject to periodic flooding. Construction or development of the flood hazard areas of the Town of New Whiteland could result in the potential loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community these lands are to be reserved for suitable open space uses that do not require structures or fill.

5-200. **OFFICIAL ZONING MAP.**

5-201. The Town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter, is hereby adopted by reference and declared to be a part of this ordinance.

5-202. The Official Zoning Map shall be identified by the Chairman of the New Whiteland Plan commission with the date of the adoption of this ordinance.

5-203. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 3, Section 3-500.

5-204. The Official Zoning Map which shall be located in the Town Hall and shall be the final authority as to the current

zoning status of land and water areas, building, and other structures in the Town.

5-205. Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, the Plan commission may by resolution adopt a new Official Zoning Map which shall supercede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omission in the prior Official Zoning Map.

The new Official Zoning Map shall be identified by the signature of the Chairman of the Plan commission under the following words:

This is to certify that this is the Official Zoning Map of the Town of New Whiteland, adopted this ____ day of _____, and hereby supersedes and replaces any and all previous zoning maps.

Plan Commission Chairman

Recording Secretary

Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

5-300. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- a. **Center Lines of Streets** - Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines; and
- b. **Platted Lot Lines** - Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines; and
- c. **Town Limits** - Boundaries indicated as approximately following Town limits shall be construed as following such Town limits; and
- d. **Railroad Lines** - Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks; and

- e. **Conflicts to Official Zoning Map** - Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections a through d above, the Board of Zoning Appeals shall interpret the district boundaries.

- f. **Lots Divided by District Boundaries** - Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals may permit, as a special exception, the extension of the regulations for either portions of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

TABLE A: OFFICIAL SCHEDULE OF USES

	DISTRICTS:	RS1	RS2	RS3	RF1	MH	F.	GB1	GB2	GBM	M
USE CATEGORY:											
Single Family Dwelling		P	P	P	P			S	S		
Two Family Dwelling		S	S	S	P			S	S		
Attached Single Family		S	S	S	P			S	S		
Manufactured HomesType I		P	P	P	P			S	S		
Manufactured HomesType II						P					
Manufactured or Mobile Home Parks						P					
Accessory Buildings		P	P	P	P	P	P	P	P	P	P
Auto Sales, Service & Repairs								S	S	A	
Banking & Credit Services								P	P	A	
Bulk Fuel Storage											S
Cemeteries		S	S	S	S		S	S	S		S
Commercial Recreational Uses							S		P	A	S
Community Centers		S	S	S	S	S					
Construction, Building & Special Trade Contractors									P	A	P
Construction Materials & Supply Yards										A	P
Drinking Establishments Bars, Taverns & Lounges									P	A	
Eating Places, Restaurants & Drive-ins.									P	A	
Fire & Police Stations		S	S	S	S	S		P	P	A	P
Funeral Homes		S	S	S	S	S		S	P		
Gardening & Horticulture		P	P	P	P	P	P	P	P		P
Government Services		S	S	S	S	S		P	P	A	P
Home Occupations		S	S	S	S	S		P	P		P
Hotels & Motels									P	A	
Houses of Worship		S	S	S	S	S		P	P		P
Libraries & Museums		S	S	S	S	S		P		A	
Manufactured or Mobile Home Park Office						P					

	RS1	RS2	RS3	RF1	MH	F.	GB1	GB2	GBM	M
Manufactured or Mobile Home Park - Sale Lot					P				A	
Manufacturing, Light									A	P
Manufacture & Processing of Explosive Materials										
Mini Warehouses									A	
Motor Freight Terminals & Warehouses									A	P
Nursery Schools & Day Care Centers				S	S		S	P		
Nursing & Convalescent Centers				S			S	P		
Parking Lots	P	P	P	P	P	P	P	P	P	P
Parks & Playgrounds	P	P	P	P	P	P	P	P		
Personal & Professional Services	S	S	S	S	S		P	P	A	
Pet Boarding/Grooming							P	P	A	
Private Clubs or Camps						S		P		
Processing Plants									A	S
Public/Parochial Schools	S	S	S	S	S		S			
Public & Private Utility Services & Facilities	P	P	P	P	P	P	P	P	A	P
Publishing & Printing							P	P	A	
Research & Testing Labs									A	P
Retail Sales							P	P	A	
Rooming or Boarding Houses								P		
Stockyards & Slaughterhouses										S
Temporary Construction Office	P	P	P	P	P	P	P	P	P	P
Theaters								P	A	
Wholesale Trade								S	A	P
Veterinary Clinic								P	A	P

Notes to Table A:1. Accessory Buildings. No accessory building shall be constructed upon a lot until the construction of the principal building has actually been commenced, and no accessory building shall be used unless the principal building on the lot is also being used.

TABLE B PROPERTY DEVELOPMENT REGULATIONS

DISTRICT	MINIMUM LOT AREA AND DIMENSIONS				MINIMUM SETBACKS			MAXIMUM BUILDING HEIGHT		FLOOR AREA RATIO	Usable Living Area	MINIMUM FLOOR AREA	Ground Level
	Lot Area	Width of Frontage	Lot Width	Front Yard	Side Yard	Rear Yard	Principal Building	Accessory Building					
Low Density Residential	RS 1	23,000	50'	100'	35'	12'	25'	35'	20'	30%	1500	1000	
Medium Density Residential	RS 2	10,000	35'	75'	30'	10'	20'	35'	20'	30%	1200	950	
High Density Residential	RS 3	7,200	35'	60'	25'	6'	20'	35'	20'	40%	950	750	
Zero Lot Line Residential	RF 1	10,000	35'	90'	25'	8'	20'	35'	20'	40%	950	1000	
General Business 1	GB 1	N/A	35'	N/A	35'	(6-403)	(6-403)	45'	N/A	N/A	N/A	N/A	
General Business 2	GB 2	N/A	35'	N/A	35'	(6-403)	(6-403)	45'	N/A	N/A	N/A	N/A	
Manufacturing	H	N/A	75'	N/A	(6-502)	(6-502)	(6-502)	35'	N/A	N/A	N/A	N/A	

SEE NOTES TO TABLE B ON PAGE 46

Notes to Table B:

1. **Setback Lines:** Setback dimensions given are based upon the requirements for a local street. Other more stringent setbacks shall be required if adjacent to a higher type of thoroughfare, see Section 6-202.

2. **Open Space:** The following requirements are intended to provide exceptions to or qualify and supplement, as the case may be, the specific district regulations set forth in each of the district's developmental Regulations.
 - a. **Open Space Not To Be Counted For Two Structures**

An open space or lot area required for an existing building or structure shall not be counted as open space for any other building or structure.

 - b. **Eaves, Cornices, Sills, Porches**

Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed four (4) feet. Open uncovered porches or open fire escapes may project into a front or rear yard a distance not to exceed five (5) feet.

 - c. **Minimum Lot Size, Cover, and Street Frontage**

No dwelling shall be erected on a lot not less than fifty (50) feet in width or which does not abut on at least one street or alley for a distance not less than thirty-five (35) feet. A street or alley shall form the direct and primary means of ingress and egress for all dwelling units. Accessory buildings which are not a part of the main building may be built in the rear yard but shall not cover more than twenty percent (20%) of the rear yard.

 - d. **Attached or Detached Garages**

An attached or detached private garage which faces on a street shall not be located closer than thirty (30) feet to the right-of-way line.

6-202. **Setback Requirements** The below shown setbacks are considered to be minimums. The Plan Commission may prescribe greater setbacks if either the proposed use or the condition of the area, in the discretion of the Plan Commission, warrant such greater setbacks. Yards, having a minimum depth in accordance with the following setback requirements, shall be provided along all public street right-of-way lines, and building setback lines shall be as follows:

- a. Expressway, Arterial Highway, or Primary Thoroughfare, U.S. 31 as designated on the Comprehensive Plan of New Whiteland, Indiana.

No part of any structure shall be built closer than seventy-five (75) feet to any right-of-way line of an Expressway or Arterial Highway, and not closer than forty-five (45) feet to any right-of-way line of a Primary Thoroughfare.

Except, however, in Manufacturing District which shall have setback requirements as set out in Section 6-

- b. Secondary Thoroughfare, as designated on the Comprehensive Plan of New Whiteland, Indiana.

No part of any structure shall be built closer than forty (40) feet to any right-of-way line of a Secondary Thoroughfare.

Except, however, in Manufacturing District which shall have setback requirements as set out in Section 6-

- c. Local Streets or Marginal Access Streets or Cul-de-sacs.

No part of any structure shall be built closer than twenty-five (25) feet to any right-of-way line of a local street or marginal access street or cul-de-sac, except where more restrictive requirements are otherwise provided for in this ordinance.

Except, however in Manufacturing District which shall be as set out in Section

Additionally, it shall be further provided, that in any block in which an existing yard depth is established (by existing legally established structures within the same District) for more than twenty five percent (25%) of the frontage of the block (or a distance of four hundred (400) feet, whichever is the lesser), the required yard depth and setback for any new building shall be the average of such established yards.

- d. Established Setbacks

1. If twenty-five (25%) percent or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line greater than the minimum setback requirements for that specific zoning district, and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings.

2. If twenty-five percent (25%) or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line less than the minimum setback requirements for that specific zoning district, and no building varies more than six (6) feet from this average setback line, then it shall be permissible to erect a building as close to the street line as the average setback line so established by the existing building; provided, however, that this provision shall not apply to corner lots or lots having frontage on more than one street.

6-203 **Height Restrictions.** The following requirements are intended to provide exceptions to or qualify and supplement as the case may be, the specific district regulations set forth in Section 6-201, and in each of the individual district's developmental Regulations.

- a. **In measuring heights,** a habitable basement or attic shall be counted as a story at a heights of four (4) feet above the floor does not exceed two-thirds (2/3) of the area of the story immediately below it and which does not contain an independent apartment, shall be counted as half story. Height shall be measured from ground level to the highest point of the building.
- b. **Projections Not for Human Occupancy.** Chimneys, elevators, poles, spires, tanks towers, and other projections not used for human occupancy may extend above the height limit.
- c. **Public and Semi-public Buildings.** Houses of worship, schools, hospitals, sanatoriums, and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in district are increased one (1) foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed height limitation.
- d. **Accessory Buildings.** The building height of an accessory building may not exceed the building height of the principal building.
(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)

6-300

RESIDENTIAL DISTRICTS

6-301 **Restrictions for Permitted Uses.** The permitted uses of property in all Residential Districts are the same. Variations among RS1, RS2, & RS3 are in the property development regulations as shown in Table B. See Section 6-100 Official Schedule of Uses for a complete listing of permitted uses in these districts. The following additional requirements shall apply in all residential districts:

(Remainder of page intentionally left blank)

a. **Attached Single Family Dwelling (ZERO LOT LINES)** An attached, single-family dwelling shall be defined as a dwelling structure designed and intended for multiple-family occupancy with the provision, unlike rental apartments or condominiums, for private fee simple ownership of each individual dwelling and lot. Attached, single-family dwellings may provide for two or more dwelling units per attached structure, up to a maximum of eight (8) units per attached dwelling structure.

1. **Intent.** It is the intent of this Section to provide for the construction of attached, single-family dwellings and to clarify the distinction between such units and apartments or condominiums. The structure itself may be the same as a conventional two-family or multiple-family structure. The difference is in the extent of ownership and method of maintenance.

A conventional apartment building has a single owner (individual or corporate) with the individual dwelling units leased or rented to tenants. Building and grounds maintenance normally would be the responsibility of the property owner.

Condominiums, on the other hand, have individual owners for each dwelling unit, with the surrounding common grounds owned and maintained by a condominium association. In other words, the property owner normally owns only the dwelling unit in which he resides.

Attached, single family dwellings are similar to apartments and condominiums, yet unique in that the property owner owns both the dwelling and the accompanying lot. Attached, single-family dwellings are single-family dwellings with zero lot lines and common walls (with other single-family dwellings) on three or less sides.

2. **Permitted Zoning Districts.** Attached, single-family dwellings shall be permitted in the RF1 zoning district and by special exception in RS1, RS2, or RS3 single family zoning districts.

b. **Manufactured Housing Type I** It is the intent of this ordinance to encourage the provision of alternative modest income housing in certain residential areas by permitting the use of TYPE I Manufactured Homes. To assure similarity in exterior appearance between manufactured houses and homes constructed on-site, only TYPE I Manufactured Houses as defined in Section 8-400 of this ordinance will be a permitted use in general residential areas.

1. Permitted Placement. The establishment, location and use of TYPE I Manufactured Homes as permanent residences approved individually, by specific materials, or by design, shall be permitted in any zoning district permitting installation of a dwelling unit, subject to requirements and limitations applying generally to such residential use in the district, and provided such homes shall meet the requirements for TYPE I Manufactured Homes as set out in Article 8 of this Ordinance. Other types of Manufactured Homes including Mobile Homes shall be a permitted use only in the MH district.

6-302. Residential Property Development Regulations.

a. Minimum Lot Areas:

1. Any plat of a subdivision consisting of five (5) lots or more for plat approval in accordance with the Subdivision Control Ordinance of New Whiteland, Indiana subsequent to the effective date this ordinance, may reduce said minimum lot area of 20% of the total number of lots within said plat, to the extent of 20% below such square feet requirements, provided the average size of all lots within said approved plat shall then be at least equal to the minimum lot area requirements for the district involved.
2. When not serviced by a public sanitary sewer system the minimum lot area for a single-family dwelling shall be increased to a minimum of one acre. The Plan Commission shall require approval of the private system to be used from the Johnson County Health Department.

b. Minimum Lot Width and Street Frontage:

1. Any plat of a subdivision consisting of five (5) lots or more submitted for plat approval in accordance with the Subdivision Control Ordinance of New Whiteland, Indiana, subsequent to the effective date of this ordinance, may reduce said minimum width of 20% of the total number of lots within said plats, to the extent of 10% below such 80 - 75 - and 60 foot requirements.
2. Each lot shall have as a minimum the front footage shown on a public street, and shall gain access from said street.

6-400. GENERAL BUSINESS DISTRICTS.

- 6-401. Restrictions for Permitted Uses - General Business 1 (GB1).** All permitted GB1 uses are listed in the Official

Schedule of Uses in Table A, Section 6-100. The following restrictions shall be applicable to all permitted uses within the GB1 District:

- a. All uses and operations (except off-street loading, off-street parking, and drive-in customer service windows) shall be conducted within completely enclosed buildings.
- b. No merchandise shall be produced, stored or handled on the premises for purposes of delivery or for sale at retail, wholesale, or discount to the public or other businesses unless minor and incidental to the primary office function.
- c. No show windows or other exterior display, displaying, promotion, or advertising products, merchandise or services retailed, offered, promoted, or advertised by the use occupying the premises shall be permitted.

6-402. Restrictions for Permitted Uses - General Business 2 (GB2). All permitted uses shall be as listed in the Official Schedule of Uses Table A, Section 6-100. The following additional restrictions shall be applicable in the GB2 District:

- a. **GASOLINE SERVICE STATION, TIRE AND AUTO SERVICE CENTER**, shall be limited to indoor service bays only. Provided, however, that the service station and center functions, services, operation, and sales shall not include the following:
 1. Outdoor operations other than the dispensing of gasoline, oil, antifreeze, and other similar products and the performing of minor services for customers.
 2. The sale, rental, display, or storage of new or new motor vehicles, trailers, tractors, machinery, or other similar equipment; or merchandise not related to the minor servicing of motor vehicles or for the immediate convenience of customers.
 3. Commercial parking of motor vehicles.
 4. Major exterior displays of merchandise; or any exterior displays which restrict traffic visibility in any way or which impede the movement of vehicles on the service or center driveways or public rights-of-way, or located in or in any way conflicting or interfering with pedestrian walks, off-street parking areas, or required landscaped yards. Any exterior display shall be maintained in an orderly manner.
 5. Major servicing or motor or body repair such as, but not limited to, body, fender work, motor overhaul, major transmission repair, auto glass work, tire recapping.

6. Dismantling or wrecking of motor or other vehicles, or the storage of inoperable, damaged, or wrecked vehicles.
7. A driveway so located and constructed that it permits traffic movement completely around or behind the service station or service center structure (except where necessary to provide adequate access to the off-street parking area, building, storage tanks, trash containers, etc., or to adjacent commercial property, or in the case of a station or service center structure designed to provide service on all sides).

b. **AUTOMOBILE SALES, NEW OR USED, SERVICE AND REPAIR**, are a permitted use, provided:

1. Any major repair and service is conducted within enclosed buildings.
2. Auto storage is incidental to the primary function.
3. Not more than fifty (50%) percent of the developed area of the premises is used for outdoor display, storage and/or sales.
4. Outdoor storage shall be screened by a solid decorative fence or wall not less than six (6) feet in height, and to a distance from the front lot line not less than the front building line of the primary structure.
5. Outdoor display of automobiles shall be located not less than twenty (20) feet from the front lot line. Provided, a twenty (20) foot wide strip of the required front yard, paralleling and measured from the front lot line, and extending the full length thereof (except for walks, access cuts and driveways) shall be landscaped in grass and shrubbery, trees, and/or hedge.
6. Any lighting used to illuminate an outdoor display area or an outdoor area where any service or activity is conducted shall comply with the following requirements:
 - a) When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.
 - b) In applying exterior floodlighting, equipment shall be of those types or distribution that are appropriate to lighting within the property line. The lighting equipment shall be so located, shielded and directed that the lighting distribution is confined to the area to be lighted.

- c) Objectionable spill light onto adjacent properties or streets shall be avoided to prevent direct glare or disability glare.

Further, it shall be prohibited to:

- 1) Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter.
- 2) Make use of attention attracting lighting from apparatus of a type used by emergency vehicles.

6-403. Property Development Regulations - GB1 & GB2.

a. Use - GB2:

- 1. All uses and operations (except off-street loading and off-street parking) shall be conducted within completely enclosed buildings, except where otherwise permitted.
- 2. No outdoor storage shall be permitted other than trash containers, provided that trash containers exceeding six (6) cubic feet shall be located within a solid-walled stall behind or beside the primary structure.
- 3. No vending machines shall be permitted on the exterior of any building on the premises except where contained in a shelter, stall, or other area so located as not to interfere materially with the use of adjacent properties.

b. Required Front Yard, Minimum Front Setback - GB1 GB2. A front yard, having at least thirty-five (35) feet width of frontage on a public street and having a minimum depth in accordance with the Thoroughfare Setback Requirements of Section 6-202, shall be provided along the street right-of-way line.

Frontage roads shall be considered collector streets, requiring a front setback of thirty-five (35) feet from the right-of-way of such frontage road unless such frontage road is designated otherwise on the Official Thoroughfare Plan of New Whiteland, Indiana, or on the recorded plat thereof as required by the Subdivision Control Ordinance of New Whiteland, Indiana.

c. Required Corner Side Yard, Double Frontage Lot Minimum Setback - GB1 & GB2. In any case where the side or rear lot line abuts a street right-of-way line, there shall be provided a side or rear yard in which the setback of any structure shall comply with the Minimum Front Setback

requirements of this section, unless subject to the Established Setback Provisions of Section 6-202.

- d. **Required Side Yards, Minimum Side Setback - GB1 (only).** A side setback and landscaped side yard of not less than eight (8) feet in depth shall be provided along each side lot line, (unless subject to the additional setback requirements of Section 6-403, paragraph k, for building or structural heights in excess of thirty-five (35) feet, or transitional yards requirements of this Section 6-403, paragraph h). If any portion of a side yard is used for a driveway or off-street parking area, there shall be provided and maintained along the entire length of such lot line, a three (3) foot landscaped strip, extending the full length thereof; provided, however, that where a dedicated alley separates a side yard from the adjacent property, the entire required side yard may be used for off-street parking and/or driveway.

- e. **Required Side Yard, Minimum Side Setback - GB2.** No side yard or side setback is required unless subject to the requirements for transitional yards of Section 6-403, h.

- f. **Required Rear Yard, Minimum Rear Setback - GB1.** A rear yard and setback of not less than ten (10) feet in depth shall be provided along the rear lot line (unless subject to additional setback requirements of Section 6-403, subsection c or subsection k, for building or structural heights in excess of thirty-five (35) feet, or transitional yards requirements of Section 6-403, h.).

Said rear yard, whether abutting an adjacent property or separated therefrom by a dedicated alley, may be entirely used for off-street parking and/or driveway.

- g. **Required Rear Yard, Minimum Rear Setback - GB2.** No rear yard or rear setback is required unless subject to the requirements for transitional yards of Section 6-403, h.

- h. **Transitional Yards - GB1 & GB2.**
 1. Where a front yard abuts a street on the opposite side of which is a Residential District, the minimum required front yard and setback shall be the same as the standard front yard and setback requirement of Section 6-403, subsection b. Provided, however, the front yard use of such minimum required transitional front yard shall not include off-street parking if said abutting street is a Collector, Local, marginal Access Street, or Cul-De-Sac. If the abutting street is an Expressway, Primary, or Secondary Thoroughfare, the front yard may include off-street parking provided a twenty (20) foot wide strip of said required front yard, paralleling and measured from the front lot line,

and extending the full length thereof (except for walks, access cuts, and driveways) shall be maintained as a landscaped portion of the yard in conformance with Section 6-403, subsection i.1.

2. Where a side or rear lot line abuts either a side or rear lot line in an adjacent Residential District, a side or rear yard and setback not less than fifteen (15) feet in depth shall be provided along such side or rear lot line.

i. **Screening and Landscaping of Transitional Yards for Yards Fronting Upon or Abutting a Residential District.**

1. Front transitional yards (fronting upon a Residential District) shall be landscaped in an open pattern, in grass and shrubbery, trees and/or hedge to provide a partial screening of the GB use.

An ornamental, decorative fence or masonry wall, not more than two and one-half (2- 1/2) feet in height if solid, or six (6) feet if open, may be used in conjunction with the landscaping.

Provided, however, along any portion of said transitional front yard in which an off_street parking area is located there shall be provided and maintained along the front lot line a buffer screen of either:

ARCHITECTURAL SCREEN - a wall or fence of ornamental block, brick, solid wood fencing, or combination thereof. Said wall or fence shall be at least 42 inches in height and shall be so constructed to such minimum height to restrict any view there through, or

PLANT MATERIAL SCREEN - a compact hedge of evergreen or deciduous shrubs, at least 36 inches in height at the time of planting.

Ground area between such wall, fence or hedge and the front lot line shall be planted and maintained in grass, other suitable ground cover, shrubbery and/ or trees. All shrubs and trees shall be planted balled and burlapped and shall meet the standards of the American Association of Nurserymen.

To provide maximum flexibility in the landscape design of side screen and ground area, a variety of plant material may be used, provided, however, that a plan indicating the species, variety, size, spacing and location of all plants shall be filed with the Zoning Administrator and approved by him prior to the time of planting.

2. Side and rear transitional yards (abutting residential districts) shall be landscaped in grass and shrubbery, trees and/or hedge to form an effective screening of the GB 1 use. an ornamental, decorative fence or masonry wall, may be used in conjunction with the landscaping.

Provided, however, if any portion of a side or rear transitional yard is used for a driveway or off-street parking area, there shall be provided and maintained along the entire length of such lot line to the front setback line, a wall or fence of ornamental block, brick, solid wood fencing, or combination thereof. Said wall or fence shall be at least six (6) feet in height and shall be so constructed to such height to restrict any view there through.

- j. **Use of Required Yards.** All required yards shall be landscaped in grass and shrubbery, trees and/or hedge, or in combination with other suitable ground cover materials, except:

1. Required front yards may include:

- a) Pedestrian walks, access cuts, driveways, flag poles, and similar appurtenant uses.
- b) Off-street parking, provided, however, a six(6) foot wide strip of the required front yard, paralleling and measured from the front lot line, and extending the full length thereof (except for walks, access cuts and driveways), shall be maintained as a landscaped portion of the front yard as required above, unless subject to the transitional yard requirements of Section 6-403, subsection h.

2. Required side and rear yards may include:

- a) Pedestrian walks, access cuts, driveways, flag poles, and similar appurtenant uses.
- b) Off-street parking, subject to the requirements of Section 6-403, subsections d, e, f and g.

- k. **Height of Buildings and Structures - GB1.** The maximum height of buildings and structures shall be forty-five (45) feet. Provided, however, in case of transitional yards as specified in Section 6-403, subsection h, minimum required side and rear setbacks shall be increased by one (1) foot for each additional three (3) feet, or part thereof, of building or structural height above thirty-five (35) feet.

6-500 MANUFACTURING DISTRICT (M).

6-501. Restrictions for Permitted Uses - Manufacturing (M). All permitted M1 District uses are listed in the Official Schedule of Uses, Table A, Section 6-100. The following restrictions shall be applicable to all permitted uses within the M District.

- a. The storage, utilization and/or manufacture of materials intended for detonation (explosives) shall not be a permitted use in any manufacturing district.
- b. Retail sales or services, business offices or discount establishments dealing directly with the consumer, shall not be a permitted use within the M District; except those service facilities expressly designed for employees or guests, and further provided that said service facilities shall be wholly within a building and shall have no exterior advertising display.

6-502. Property Development Regulations - M.

a. Use:

1. Enclosed Operations. All operations, servicing or processing (except storage and off-street loading) shall be conducted within completely enclosed buildings.
 2. Outside Storage. All outside storage of materials or products shall be:
 - a) Within completely enclosed buildings, or
 - b) Effectively screened by a chain link, lattice or similar type fence, with ornamental, non-solid or chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening). The height of said fence shall be at least six (6) feet and shall not exceed eight (8) feet. said fence shall be surrounded by trees or an evergreen hedge of a height not less than the height of said fence. The storage of materials or products within the enclosure may not exceed the height of the fence. Total area of outside storage shall not exceed twenty-five (25%) percent of the total gross floor area of enclosed structures and buildings.
- b. Required Front Yard, Minimum Setback. A front yard, having at least seventy-five (75) feet width of frontage on a public street and having a minimum depth in accordance with the following setback requirements, shall be provided along the street right-of-way line.

No part of any structure (excluding an eave or cornice overhang not exceeding four (4) feet or a canopy at an entrance) shall be built closer to the centerline of a right-of-way of the following streets (as designated on the Comprehensive Plan of New Whiteland, Indiana) than:P

1. Primary thoroughfare . . . one hundred five (105) feet
2. Secondary Thoroughfare ninety five (95) feet
3. Or closer to the right-of-way line of all other streets (including but not limited to collector streets, local streets, cul-de-sacs and marginal access streets) than: fifty (50 feet).
4. Frontage roads shall be considered collector streets, requiring a front setback of fifty (50) feet from the right-of-way of such frontage road unless such frontage road is designated otherwise on the Official Comprehensive Plan of New Whiteland, Indiana, or on the recorded plat thereof as required by the Subdivision Control Ordinance of New Whiteland, Indiana.

c. **Required Corner Side Yard, Minimum Setback.** In any case where the side lot line abuts a street right-of-way line, there shall be provided a corner side yard in which the setback of any structure shall comply with the minimum front setback requirements of Section 6-502, subsection b, unless subject to the requirement for transitional yards of Section 6-502, f.

d. **Required Side Yards, Minimum Side Setback.** A side yard and setback of not less than thirty (30) feet in depth shall be provided along each side lot line. Provided, however, if the side lot line abuts a railroad operating right-of-way the building shall be permitted to abut the railroad operating right-of-way unless subject to the requirement for transitional yards of Section 6-502, f.

e. **Required Rear Yard, Minimum Rear Setback.** A rear yard and setback of not less than thirty (30) feet in depth shall be provided along the rear lot line. Provided, however, if the rear lot line abuts a railroad operating right-of-way, the building shall be permitted to abut the railroad operating right-of-way unless subject to the requirement for transitional yards of section 6-502, f.

f. **Transitional Yards. Minimum Front, Side and Rear Yards and Setbacks**

1. Where a front lot line faces a residential district on the opposite side of the street, a front yard and setback shall be provided not less than one hundred (100) feet in depth from the front lot line.

2. Where a side lot line abuts a side or rear lot line in an adjacent residential district, a side yard and setback not less than fifty (50) feet in depth shall be provided along such side lot line.
3. Where a rear lot line abuts a side or rear lot line in an adjacent residential district, a rear yard and setback not less than fifty (50) feet in depth shall be provided along such rear lot line.

Provided, however, additional front, side and/or rear setback distances for transitional yards, as specified in Section 6-502, subsection i, shall be required to permit building heights exceeding twenty-two (22) feet to a maximum height of thirty-five (35) feet.

- g. **Screening and Landscaping.** Where a side or rear lot line adjoins a residential district, a compact hedge, row of shrubbery or evergreen trees shall be provided along or within twenty (20) feet of such lot line, and not less than six (6) feet in height. Such hedge, shrubbery, or row of trees shall extend the full length of said lot line, except that it shall be omitted between the front lot line and a point five (5) feet greater than the required or established building setback line of the adjacent residential or business district. Any ground area between such hedge, shrubbery or row of trees and the lot line shall be planted in grass and/or shrubbery, maintained in good condition, and kept free of litter.

Exception: Such hedge, row of shrubbery or evergreen trees shall not be required if:

1. The entire yard between the lot line and the building is landscaped with grass, trees, and shrubbery or hedges. Non-vegetative materials not exceeding twenty-five (25%) percent of the entire yard area may be used in combination with vegetation and structural or ornamental fixtures.
- h. **Use of Required Yards** All required yards shall be planted with grass or landscaped with other suitable ground cover materials, except:
1. Required front yards may include:
 - a) Pedestrian walks, driveways, entrance guard boxes, flag poles, directional signs and similar appurtenant uses.
 - b) Off-street parking areas not exceeding ten (10%) percent of the total area of the required front yard and subject to the off-street parking regulations of Section 807.

- c) Access cuts and drives, provided they are not located within twenty (20) feet of a lot line abutting a residential district.
2. Required side and rear yards may include:
- a) Pedestrian walks, driveways, entrance guard boxes, flag poles, directional signs and similar appurtenant uses.
 - b) Off-street parking, subject to the off-street parking regulations of Section 807.
 - c) Access cuts and drives, provided they are not located within twenty (20) feet of a lot line abutting a residential district.
- i. **Height of Buildings and Structures.** Maximum vertical height of buildings and structures shall be thirty-five (35) feet. Provided, however, along any required front, side or rear setback line which is adjacent to a residential district, the maximum vertical height shall be:
Twenty-two (22) feet; or

Thirty-five (35) feet if for each foot of height in excess of twenty-two (22) feet, to an absolute maximum height of thirty-five (35) feet, one (1) additional foot setback shall be provided beyond such adjacent required front, side or rear setback line.

Height Exceptions - the following exceptions to the height regulations shall be permitted:

- 1. Parapet walls not exceeding two (2) feet in height.
- 2. Roof structures for the housing of elevators, stairways, air conditioning apparatus, roof water tanks, ventilating fans, sky lights, or similar equipment to operate and maintain the building.
- 3. Chimneys, smokestacks, flag poles, radio and television antennas, and other similar structures.
- 4. A monitor roof not exceeding twenty-five (25%) percent of the total horizontal area of the roof.

6-503. **General Manufacturing Performance Standards.** All uses established or placed into operation after the effective date of this ordinance shall comply with the following performance standards. No use in existence on the effective date of this ordinance shall be so altered or modified as to conflict with these standards. Performance standards as measured at the boundary lines of the Manufacturing District are maximums. Firms which exceed these standards are in violation of this ordinance.

a. **Smoke:**

1. For the purpose of measuring the density of smoke, the Ringelmann Chart, published by the United States Bureau of Mines shall be used.
2. The emission of smoke shall not exceed twenty (20) smoke units and a smoke density greater than Ringelmann number two (2) is prohibited except as otherwise provided herein.
3. For the purpose of fire cleaning and blowing of stacks, a smoke density not to exceed Ringelmann number three (3) shall be permitted. Such emissions in excess of Ringelmann number two (2) shall not exceed thirty (30) minutes in any twenty-four (24) hour period.

b. **Particulate Matter:**

1. Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, and roads shall be kept to a minimum by the provision of landscaping, paving, oiling, fencing, and other appropriate means.
2. The emission from all sources within the lot area of particulate matter containing more than ten (10%) percent by weight of particles with a diameter larger than forty-four (44) microns is prohibited.

c. **Noise:**

1. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.
2. Impulsive type noises shall be subject to the performance standards hereinafter prescribed provided that such noises may be accurately measured with the equipment.
3. For the purposes of this ordinance, noises capable of being measured shall be those which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured such as those of an irregular and intermittent nature shall be controlled so as not to create a nuisance to adjacent uses.
4. At the boundary of a residential or business district, the sound pressure level of any operation or plant (other than the operation of motor vehicles or other transportation facilities) shall not exceed the decibel limits in the octave bands designated as the following:

Octave Band (Frequency cycles per second)	Maximum Permitted Sound Level (Decibels)	
	Along Residential District Boundaries	Along Business District Boundaries
0 to 75	72	75
75 to 150	67	70
150 to 300	59	63
300 to 600	52	57
600 to 1200	46	52
1200 to 2400	40	45
2400 to 4800	34	40
Above 4800	32	38

d. **Fire and Explosive Hazards.** The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association (a copy of which is on file in the office of the Zoning Administrator for New Whiteland, Indiana, and which standards are hereby incorporated by reference and made a part hereof). Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

e. **Vibration:**

1. Vibrations shall be measured at any point along the district boundary line with a measuring instrument approved by the Plan Commission and shall be expressed as displacement in inches.
2. No industrial operation or activity shall cause ground transmitted vibrations in excess of the following limits:

Frequency (Cycles per Second)	Maximum Permitted Displacement Along Manufacturing District Boundaries
0 to 10	.0008
10 to 20	.0005
20 to 30	.0002
30 to 40	.0002
40 and over	.0001

f. **Odor.** The emission of odorous matter in a quantity which is readily detectable along the perimeter lot lines of the point of origination or which produces a public nuisance or hazard beyond said lot lines is prohibited.

g. **Toxic or Noxious Matter.** No use shall discharge toxic or noxious matter of any sort in concentrations which may be detrimental to the public health safety, comfort, or welfare or which may cause injury or damage to property or business.

h. **Glare or heat.** Any operation producing intense glare or heat shall be performed completely within an enclosed building so it does not create a public nuisance or hazard along lot lines.

- i. **Discharge of Waste Matter.** No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable ordinances, standards and regulations of New Whiteland, Indiana; the Indiana State Board of Health; and the Stream Pollution Control Board of the State of Indiana; or in such a manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use:
 1. Plans and specifications for proposed sewage disposal facilities there for (unless a connection is being made to a public sewer), and industrial waste treatment and disposal facilities, shall be submitted to and written approval obtained from the Stream Pollution Control Board of the State of Indiana;
 2. Written approval of proposed connection to a public sewer shall be obtained from the Zoning Administrator of New Whiteland, Indiana; and
 3. Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the Zoning Administrator of New Whiteland, Indiana.

6-504. **Violation of Performance Standards.**

- a. When rough tests by a duly constituted enforcement officer indicate to the Plan Commission that a possible violation of performance standards may exist, the Plan Commission shall require the manufacturer to obtain and bear the cost of the appropriate technical assistance to measure the exact extent of the effects at the lot lines of the property in question. This technical assistance shall be approved in writing by the Plan Commission before tests are conducted.
- b. Results of the tests shall be presented to the Plan Commission in writing. Any test results in excess of the appropriate performance standards shall be considered a violation of this ordinance with penalties as set out in Section 3-500 of this ordinance.

7-100. NONCONFORMING USES, LOTS, BUILDINGS, AND STRUCTURES. Within the districts established by this ordinance or by amendments that may be adopted later, there exist:

- a. Nonconforming uses; and
- b. Nonconforming structures; and
- c. Nonconforming uses of land and structures in combination, which were lawful before the effective date of this zoning ordinance, but which would be prohibited, regulated, or restricted under the terms of this ordinance. It is the purpose of these zoning regulations to prohibit the enlargement, expansion, or extension of such nonconforming lots, structures, and uses.

7-101. Existing Uses. Any lawful lot, structure, or use of land existing at the effective date of these zoning regulations which will become a nonconforming use by the terms of this ordinance shall not be considered to be in violation of these regulations. However, any such lot, structure, or use shall be subject to their continuance, change, and discontinuance.

7-102. Buildings Under Construction. To avoid undue hardship, nothing in these zoning regulations shall be interpreted to require a change in the plans, construction, or designated use of any building on which a valid building permit was issued prior to the effective date of adoption or amendment of this zoning ordinance.

7-103. Nonconforming Uses of Land. Any use of land having lawful existence at the effective date of adoption or amendment to this zoning ordinance which does not conform to the provisions of this ordinance, may be continued, subject to the following provisions:

- a. Nonconforming uses shall not be extended to occupy a greater land area or replaced by another use not specifically permitted in the zoning district.
- b. If any nonconforming uses of land are discontinued or abandoned for more than six (6) months, any subsequent use of land shall conform to the regulations specified by this ordinance for the district in which the land is located.
- c. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with the nonconforming land use.

- d. Nonconforming uses shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by the nonconforming use at the effective date of adoption or amendment of this ordinance.

7-104. Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not now be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such a structure may be continued so long as it remains lawful, subject to the following provisions:

- a. The nonconforming structure may not be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- b. If a nonconforming structure or nonconforming portion of a structure is destroyed by any means to the extent of more than fifty-one (51%) percent of the fair market value of the building immediately prior to the damage, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- c. If a structure is moved for any reason for any length of distance, it shall thereafter conform to the regulations for the district in which it is located after the move.

7-105. Nonconforming Uses of Structure and Land in Combination. If a lawful use involving individual structures, or if a structure and land use in combination, exist at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued subject to the following provisions:

- a. No existing structures devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, constructed, reconstructed, moved, or structurally altered except in changing the use to a use permitted in the district.
- b. A nonconforming use may be extended throughout any parts of the building which was arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy land outside such a building.
- c. If no structural alterations are made, any nonconforming use of a structure, or structure and land, may upon appeal to the Board of Zoning Appeals be changed to another nonconforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally

appropriate or more appropriate to the district than the existing nonconforming use. In permitting such a change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this ordinance.

- d. Any structure or combination of structure and land where a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not be resumed.
- e. When a nonconforming use of a structure, combination of structure and land is discontinued or abandoned for more than six (6) months, the structure or structure and land combination, shall thereafter only be used in conformity with the regulations of the district in which it is located.
- f. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

7-106 Repairs and Maintenance. Nothing in this section shall be interpreted to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charge with protecting the public safety. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, provided that the area of the nonconforming use is not increased.

7-107 Uses Under Special Exception Provision Are Not Nonconforming Use. Any use which is a permitted use as a special exception in a district under the terms of this ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

7-200 Accessory Uses, Buildings And Structures. This section includes those accessory uses, buildings and structures customarily incidental and subordinate to the principal use or building and located on the same lot, it does not include fences, walls and hedges which are covered in Section 7-600.

7-201 Permitted Accessory Uses - Residential Districts. The following Accessory Uses shall be permitted in all Residential Districts (except the MH district, see Article 8), subject to the Accessory Use Requirements of Section 7-203.

- a. Accessory garages; carports; portable carports; canopies; awnings; greenhouses; sheds, storage and accessory buildings; patios; outdoor fireplaces; children's playhouses; swings and swing sets; basketball goals; and other play structures and equipment; and other similar uses.
(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)
- b. Off-street parking areas, as regulated in Section 7-1100.

- c. Signs, as regulated in Section 7-1400.
- d. Private swimming pools, as regulated in Section 7-1300.
- e. Amateur radio sending and receiving antenna, provided the height thereof (including masts) shall not exceed seventy-five (75) feet measured from finished -lot grade.

7-202 Permitted Accessory Uses - All Non-Residential Districts. Permitted accessory uses, buildings and structures for all non-residential districts shall be subordinate, appropriate and incidental to the permitted principal uses as set out in the Official Schedule of Uses for the district in which they are located.

7-203 Accessory Use Requirements. Accessory uses in all zoning districts, unless otherwise specified in this ordinance, shall comply with the following requirements:

- a. Shall be customarily incidental accessory and subordinate to, and commonly associated with, the operation of the principal use of the lot.
- b. Shall be operated and maintained under the same ownership and on the same lot as the principal use.
- c. Shall be subordinate in area, extent, and purpose to the principal use of building served.
- d. Unless otherwise specified in this ordinance, accessory buildings:
 - 1. Shall not be located closer to any front or side lot line than the required minimum front and side yard setback distances of the District, except as provided in Section 6-202, and
 - 2. In all Residential Districts, shall not be located closer to any rear lot line than five (5) feet, but in no case shall it encroach upon any easement. Sheds constructed on skids and not anchored to the ground may be located upon an easement.
- e. Shall not be permitted prior to the erection of the principal building.
- f. The entire floor area of carports, portable carports, storage rooms, sheds, patios, and porches shall be of concrete or other permanent hard surface material. However, this requirement

shall not apply to portable carports located, or to be located, on the premises for less than 72 hours during any thirty day period.

- g. Portable carports shall be assembled to comply with the manufacturer's instructions and anchored to the ground in compliance with one of the following methods. (However, this requirement shall not apply to portable carports located, or to be located, on the premises for less than 72 hours during any thirty day period.)

1) One continuous 8" wide by 36" deep concrete stem wall on each longitudinal side of the carport with threaded anchor bolts embedded to match the carport manufacturer's recommended anchorage spacing.

2) A 4" thick concrete slab that extends beyond the perimeter of the carport in each direction with threaded anchor bolts embedded in the slab, deepened to 8" at each anchorage location, to match the carport manufacturer's recommended spacing.

3) Each of the support legs of the frame be embedded in at least 40 pounds of concrete. This can be achieved by placing each leg in a standard 5-gallon bucket filled with concrete or by adding one 40-pound bag of sack concrete mix per bucket. The foot of each metal support shall have 4 #10 self-tapping sheet metal screws with at least 1" of length and head protruding for embedment, or comparable physical method of holding the leg in the concrete.

4) Bolting the support legs, or adjacent cross support, to an existing concrete slab. The method of attaching the upright frame to the slab must be shown in the application for building permit.

5) Install concrete footings under each leg and bolt the legs, or adjacent cross support, to the new footings. The new footings are to be approximately 1 ft. x 1 ft. x 1 ft. deep. The method of attaching the upright frame to the footing must be shown in the application for building permit.

6) An alternate anchoring design that provides a permanently paved hard surface floor and anchors the portable carport to the ground and that is

approved by the Zoning Administrator. If an alternative method is proposed, complete installation details must be provided for review.

The plans and details submitted must clearly indicate the method of anchoring and the flooring to be used. If new concrete footings or slabs are to be installed, they must be inspected when formed and prior to pouring of concrete. In all cases, a final inspection must be requested by the applicant

(Editor's Note: Amended by Ord. 1069 adopted on 10/21/03)

7-300 **Appurtenances.** The following regulations shall govern appurtenant features in all districts:

a. Such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths and structures of like nature, shall be permitted on any lot.

(Remainder of page intentionally left blank)

- b. The growing of vegetables, grasses, fruits, flowers, shrubs, vines, and trees, provided such operations are not for profit, shall be permitted on any lot.
- c. Fences and walls shall be permitted provided they do not impede the view of street and/or railroad intersections.

7-400. ANIMALS. No animals other than common household pets shall be permitted in any residential district. Examples of common household pets include but are not limited to dogs, cats, hamsters, and parakeets. Rabbits, chickens, ducks, snakes and other such animals are not considered household pets.

7-500 . CORNER VISIBILITY. On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2 1/2) and six (6) feet above the centerline grades of the intersecting streets in an area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of the intersection.

7-600. FENCES, WALLS, and HEDGES. Nothing herein shall be construed so as to permit construction within a public or private easement in which it is prohibited.

7-601. Residential Fences, Walls, and Fences. All fences and said walls shall be of sound construction and shall not detract from the surrounding area and, shall be governed by the following standards:

- a. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected in any residential area.
- b. When used to enclose a patio, swimming pool, garden supply or tool compound, or similar living, recreational, or storage areas, the facility and the fences, walls, and hedges surrounding it shall be considered an accessory structure.
- c. HEIGHT:
 - 1. Unless otherwise permitted by the Board of Zoning Appeals under the provisions of Section 4-300, fences, walls, or hedges in the front yard of any lot or in the side yard along a flanking street of a corner lot shall not exceed forty-two (42) inches in height.
 - 2. In the rear and side yards, not along a flanking street, fences, walls, or hedges shall not exceed seventy-two (72) inches.

d. LOCATION

1. Fences, walls or hedges may be erected, placed, or maintained on lot lines provided that placement of a fence, wall or hedge shall not interfere with provisions contained in granted easements for the lot on which they are to be located.
2. Fences, walls, and hedges shall not shield the driveway entrances in such a way as to obstruct the view of a driver entering a public road from the driveway.

7-602. Non-Residential Fences, Walls and Hedges. All fences and walls shall be of sound construction and shall not detract from the surrounding area. All non-residential uses shall comply with the requirements for fences, walls, and hedges as set out in the district regulations in which the non-residential use is located.

7-700. HOME OCCUPATIONS. This Section includes rules and regulations for occupations or activities which may be maintained or conducted within a dwelling. These uses shall exist only if the following general provisions are fulfilled.

- a. Any use of a residence for a home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants. It shall not change the character or adversely affect the uses permitted in the residential district of which it is a part;
- b. Such use shall be conducted entirely within the dwelling unit;
- c. Such occupation shall be conducted solely by resident occupants, non-resident employees are expressly prohibited;
- d. No more than one room or twenty-five (25%) percent of the gross floor area of the dwelling, whichever is less, shall be used for such purposes. Use of accessory buildings or detached garages for these purposes is prohibited;
- e. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located;
- f. There shall be no outside storage of any kind related to the home occupation. Generally speaking, with a nameplate as permitted herein excluded, a home occupation shall be "invisible" from outside the dwelling;

- g. Only one nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed one (1) square foot in area, shall not be illuminated, and shall be attached flat to the main structure or visible through the window. The limitation to one (1) nameplate is extended to apply to all lots, including corner lots;
- h. The home occupation may increase vehicular traffic flow and parking by no more than one (1) vehicle at a time. Off-street parking shall be provided without encroaching upon required front-yard open space or set-back requirements;
- i. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists;
- j. The home occupation shall not involve the use of advertising signs or any other local advertising media which calls attention to the fact that the dwelling is used for business purposes, telephone number excluded;

7-701. Professional Offices - Special Restrictions. A physician, dentist, lawyer, clergyman, engineer, insurance agent, real estate agent, consultant, or other professional person may use his residence for office work, consultation, emergency treatment, or performance of religious rites, but not for the general practice of his profession and not for the installation or use of any mechanical or electrical equipment customarily incidental to the practice of any such profession.

7-702. Variance Procedure Available. Non-residential uses which are either (1) expressly prohibited as home occupations or (2) which do not conform to all of the conditions and restrictions of this section, may be conducted in a residential dwelling only upon submission of a variance petition to the New Whiteland Board of Zoning Appeals and receiving a favorable decision from said Board. The procedures and requirements for submitting a variance petition to the Board of Zoning Appeals are found in Section 4-305 of this ordinance.

7-800. HOUSES OF WORSHIP. Property Development Regulations for Houses of Worship shall be as follows:

- a. Minimum lot area for a House of Worship shall be not less than thirty thousand (30,000) square feet.
- b. Houses of Worship and main and accessory buildings, other than dwellings, and accessory buildings to dwellings, shall be set back from all exterior and interior sidelines a distance of not less than twenty-five feet.

- c. Houses of Worship may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in district are increased one (1) foot for each two (2) feet by which the House of Worship exceeds the prescribed height limitations.
- d. Off-street parking shall be provided as specified in Section 7-1100.
- e. All other property development regulations within the districts in which the House of Worship is located shall apply and be the minimum required. If a House of Worship is to be located in a non-residential district, property development regulations of the most restrictive district (RS1) shall be the minimum unless otherwise specified in this Section 7-800, subsection a., b. and c.

7-900. OFF-STREET LOADING/UNLOADING FACILITIES. Off-street loading facilities accessory to uses in Non-residential Districts shall be provided in accordance with the following regulations, in addition to the requirements of Section 7-1100.

7-901. Off-Street Loading/Unloading Regulations. Minimum Area: A required off-street loading berth shall be at least twelve (12) feet in width by at least fifty-five (55) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.

7-902. Access To & From Off-Street Loading/Unloading Facilities:

- a. Each required off-street loading space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such loading space.
- b. All off-street loading facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement.
- c. No driveway extending into the street right-of-way (between the lot line and street pavement) shall exceed a width of twenty-five (25) feet. Provided, however, two (2) driveways not exceeding twenty-five (25) feet in width each, may constitute a single entrance-exit.
- d. Off-street loading entrances shall be located a minimum distance of fifty (50) feet from the nearest point of two intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of New Whiteland Subdivision Conform Ordinance thereof.

7-903. Location and Setback:

- a. All required loading berths shall be located on the same lot as the use served, and shall be so designed and located that the trucks shall not back from or into a public street.
- b. No open loading berth shall be located in a minimum required front yard or the area between the front lot line and the front line of the principal building.
- c. No loading berth shall be located in a minimum required side or rear yard.

7-904. Screening. All motor vehicle loading berths on any lot abutting a residential district or separated by an alley from a residential district shall be enclosed within a building or screened and landscaped in accordance with the Non-residential District's regulations for screening and landscaping of transitional yards.

7-905. Use of Loading Area. Spare time allotted to off-street loading berths and maneuvering area shall not be used to satisfy the off-street parking space requirements.

7-906 Surface of Loading Area:

- a. Open and Enclosed Loading Areas: Off-street loading berths may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for loading, it shall be treated as any other major structure and subject to all requirements thereof.
- b. All open off-street loading areas shall be paved with concrete, or improved with a compacted macadam base, and surfaced with an asphaltic surface to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash, and debris, except that:
 1. A gravel surface may be used for a period not exceeding one (1) year after the loading area is opened for use where ground conditions are not immediately suitable for permanent surfacing as specified above.
 2. A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.
- c. The surface shall be graded and drained in such a manner that there will be no detrimental flow of water onto adjacent properties or public sidewalks.

- d. When lighting facilities are used to illuminate a loading area, they shall be so located, shielded, and directed upon the loading area that they do not create glare or reflect onto adjacent properties or interfere with street traffic.

7-907. Amount of Loading Area Required. Off-street loading space shall be provided and maintained in accordance with the following minimum requirements.

Type of Use	Gross Floor Area (sq.ft.)	Loading/Unloading Berths Required
Retail Stores, Department Stores, Wholesale Establishments, Storage & Other Business Uses	10,000 to 25,000	1
	25,001 to 60,000	2
	Each 60,000 additional	1 additional
Office Buildings	10,000 to 40,000	1
	40,001 to 100,000	2
	Each 60,000 additional	1 additional
Manufacturing Establishments	40,000 or less	1
	40,001 to 100,000	2
	100,001 to 200,000	3
	Each 200,000 additional	1 additional

For any Non-residential use not specified above, the requirements for off-street loading for a specified use to which said use is most similar, shall apply. These requirements may be modified or waived by the Plan Commission.

7-1000. OFF-STREET PARKING AND LOADING REGULATIONS. Accessory off-street parking and loading facilities for motor vehicles shall be provided and maintained for all uses in all Districts in accordance with the following regulations.

7-1001. Application of Regulations. The off-street parking and loading provisions of this ordinance shall apply as follows:

- a. Buildings, Structures, Uses Hereafter Established - Special Exception Permits Previously Issued.

For all buildings and structures erected and all uses of land established after the effective date of this ordinance, accessory parking and loading facilities shall be provided in accordance with the regulations of this Section. However, where improvement location and building permits

have been issued prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, but not to exceed two (2) years after the issuance of said building permit, parking and loading facilities in the amounts required for issuance of said permits may be provided in lieu of any different amounts required by the off-street parking and loading regulations of this ordinance.

b. Buildings, Structures, Uses Existing or Hereafter Established - Increased Intensity of Use.

When the intensity of use of any building, structure or premises (existing on the effective date of this ordinance or hereafter established) shall be increased (through addition of gross floor area or other unit of measurement specified herein for required parking or loading facilities), parking and loading facilities as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected or use lawfully established prior to the effective date of this ordinance shall be required to provide such additional parking or loading facilities unless and until the aggregate increase in units of measurement shall equal not less than fifteen (15%) percent in which event parking and loading facilities as required herein shall be provided for the total increase.

c. Change of Use. Whenever the use of a building, structure, or premises shall hereafter be changed to a new use permitted by this ordinance, parking and loading facilities shall be provided as required for such new use.

7-1002. Existing Parking or Loading Facilities. Accessory off-street parking or loading facilities in existence on the effective date of this ordinance shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirement for such a new building or use of the provisions of this Ordinance.

7-1003. New or Expanded Parking or Loading Facilities. Nothing in this ordinance shall be deemed to prevent the establishment of off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design and operation of such facilities shall be adhered to.

7-1004. Damage or Destruction. For any non-conforming buildings or use which is hereafter damaged or partially destroyed by fire or other disaster not exceeding two-thirds (2/3) of the gross floor area of the structures or facilities affected, and which is reconstructed, off-street loading and parking facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and

continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this ordinance for equivalent new use or construction.

7-1005. Control of Off-Site Parking Facilities. In cases where accessory parking facilities are permitted on land other than the lot on which the building or use served is located, such facilities shall be in the same possession as the lot occupied by the building or use to which the parking facilities are accessory.

7-1006. Submission of Parking Area Plan.

- a. Plans for proposed parking areas which have a capacity of five (5) or more vehicles shall be submitted to the Plan Commission. The plan shall include the location, size, shape, design, curb cuts, lighting, landscaping, and other features of the proposed area.
- b. The plan shall be submitted to the Plan Commission prior to the issuance of a building permit.
- c. If deemed necessary, the Plan Commission may require additional lighting, joint development of parking areas, entrances and exits, enclosures and other restrictions.

7-1007. Computation. In determining the minimum required number of off-street parking spaces or loading berths, if the unit of measurement (number of persons or square foot area, etc.) is any fraction of the unit specified in relation to the number of parking spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one (1) additional space or berth.

7-1008. Collective Parking Areas. Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use, and provided that all regulations governing location of accessory parking spaces in relation to the use served are adhered to.

7-1100. OFF-STREET PARKING REGULATIONS. Off-street parking facilities for motor vehicles shall be provided for all uses in the Non-residential Districts in accordance with the following regulations, in addition to the requirements of Section 7-1000.

7-1101. Minimum Parking Space Dimensions. A required off-street parking space shall be at least ten (10) feet in width and at least twenty-two (22) feet in length, exclusive of access drives or aisles, ramps, columns, or office or work areas

7-1102. Access to and from Parking Areas.

- a. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- b. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement.
- c. No driveway extending into the street right-of-way (between the lot line and street pavement) shall exceed a width of twenty-five (25) feet. Provided, however, two driveways, not exceeding twenty-five (25) feet in width each, may constitute a single entrance-exit.
- d. In any Manufacturing (M) District, each industrial use which is so located that it fronts upon and provides access to a parkway, secondary, or primary thoroughfare, or expressway, shall provide a frontage lane paralleling and adjoining the improved part of the right-of-way and at least eleven (11) feet in width for right turn traffic entering the lot. The access point(s) shall be located so the frontage lane shall be a minimum of one hundred (100) feet in length, exclusive of the entrance way. Provided, however, if the lot frontage is too small to provide such one hundred (100) feet of frontage, the entrance shall be so located that the frontage land shall extend the entire width of the lot (except for the side yard twenty (20) foot setback requirement of Section 6-502, subsection h, for access drives in the case of lots abutting a residential district) except when regulated by Section 7-1102, subsection e. below.
- e. Off-street parking and loading entrances shall be located a minimum distance of fifty (50) feet from the nearest point of two intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of the New Whiteland Subdivision Control Ordinance.

7-1103. Location and Setback.

- a. All parking spaces required to serve buildings or uses erected or established after the effective date of this ordinance shall be located on the same lot as the building or use served. Buildings or uses existing on the effective date of this ordinance which are subsequently altered or enlarged so as to require the provision of additional parking spaces under the requirements of this ordinance may be served by parking facilities located on land other than the lot on which the building or use served is located, provided such facilities are within two hundred (200) feet of a lot line of the use served. (See Control of Off-Site Parking Facilities, Section 7-1005.)

- b. Front yards: Off-street parking may be located in minimum required front yards of Manufacturing Districts, provided the total parking area does not occupy more than ten percent (10%) of the total area of the minimum required front yard. In any Manufactured District off-street parking may be located in front of the building provided the parking area is located between the required front the building setback line and the building.
- c. Side and Rear Yards: Off-street parking may be located in required side and rear yards provided that it does not extend within twenty (20) feet of any lot line abutting a residential district.

7-1104. Screening and Landscaping. The ground area between the required off-street parking area setback and any lot line abutting a residential district shall be screened and landscaped in accordance with the Non-residential District's Transitional Yard requirements.

7-1105. Use of Parking Area.

- a. The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment, or materials, and shall be for the sole use of the occupants and visitors of the premises.
- b. The required parking area shall not be used for the storage of any commercial vehicles.
- c. Buildings or structures shall be permitted for shelters for guards, attendants or watchmen; however, any such structure shall not occupy required off-street parking space.
- d. Loading and unloading spaces and maneuvering area as required in Section 7-900, shall not constitute required off-street parking space, nor shall off-street parking area be used for off-street loading purposes.

7-1106. Surface of Parking Area.

- a. Open and Enclosed Parking Spaces: Off-street parking spaces may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any major structure and subject to all requirements thereof.
- b. All open off-street parking areas shall be paved with concrete or improved with a compacted macadam base, and surfaced with an asphaltic pavement to adequately provide a durable and dust-free surface which shall be maintained in good condition free of weeds, dirt, trash and debris, except that:

1. A gravel surface may be used for a period not exceeding one (1) year after the parking area is opened for use where ground conditions are not immediately suitable for permanent surfacing as specified above.
 2. A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.
- c. The surface shall be graded and drained in such a manner that there will be no free flow of water onto either adjacent properties or public sidewalks.
 - d. The parking area(s) shall be so lined or designated where abutting a required yard that no part of the parked vehicles shall extend beyond the boundary of the established parking area into any minimum required yard or into adjoining property.
 - e. When lighting facilities are used to illuminate the parking area(s) they shall be so located, shielded, and directed upon the parking area that they do not create glare or reflect onto adjacent properties or interfere with street traffic. In no instance shall bare incandescent bulbs be used for such illumination.

7-1107. Amount of Parking Area Required. For any use not specified in this Section, the requirements for off-street parking for a specified use to which said use is most similar, as determined by the Plan Commission, shall apply. The parking space requirements set out in this Section may be modified or waived by the Plan Commission.

USES	REQUIRED PARKING SPACES
Automobile or Trailer Sales Area	1 per 1,000 sq.ft. of retail area
Automobile Sales and Repair (indoor)	1 per 200 sq.ft. of floor area
Banks, Business Offices, Professional Services, and similar service uses	1 per 300 sq.ft. of floor area
Boarding or Lodging house, Sorority, Fraternity or Student Housing	1 per 3 occupants
Bowling Alley	3 per lane plus 1 per 6 spectator seats

USES	REQUIRED PARKING SPACES
Clinic, Medical or Dental	1 per 100 sq.ft. of floor area
Commercial Recreational Use	1 per 1 employee plus 1 per 200 sq.ft. of floor area
Home Occupation	1 in addition to residence requirement
Hospital, Nursing, or Convalescent Homes or Homes for Aged	1 per 3 beds plus 1 per 2 staff doctors plus 1 per employee plus 1 per institutional vehicle on largest work shift
Hotels, Motels or Motor Hotels	1 per employee plus 1 per sleeping room
Industrial Park, Research and Manufacturing	1 per person estimated on premises at peak period during day or night
Industrial Uses Generally	1 per person estimated on premises at peak period during day or night
Kindergarten or Day Nursery	1 per employee plus 1 per 5 children
Manufactured or Mobile Home Community (Park)	1 per 1 employee plus 2 per manufactured or mobile home space
Mortuary or Mausoleum	1 per 50 sq.ft. of floor area of parlors or assembly rooms
Police or Fire Station	1 per 1 employee on a shift
Private Club or Lodge	1 per 6 active members
Private Recreational Development	1 per customer plus 1 per employee per shift
Public Library or Town Building	1 per 200 sq.ft. of floor area
Radio or TV Tower	1 per employee per shift plus 1 for a service vehicle
Residential use, including apartments	2 per dwelling unit

USES

REQUIRED PARKING SPACES

Retail Stores-Heavy Traffic
Generators, including but
not limited to, Supermarkets
and other food stores,
Restaurants, Bars, Night Clubs
Ice Cream parlors, Bakery,
Drug Stores, Beauty & Barber
Shops, Discount Stores

1 per 150 sq.ft. of floor area for
an individual use or a combination
of 2 or more uses in 1 structure
or a shopping center of comparably
integrated uses where all uses
included do not exceed 50,000
sq.ft. of floor area

Retail stores - Light
Traffic Generators, including
but not limited to, Furniture
Jewelry, Gifts, Hardware,
Appliance Stores and the
like, Personal Service Shops,
Household or Equipment Repair
Shops, Clothing and Shoe
Repair Shops, Wearing Apparel

1 per 300 sq.ft. of floor area for
an individual use or a combination
of 2 or more uses in 1 structure
or a shopping center of comparably
integrated uses where all uses
included do not exceed 50,000
sq.ft. of floor area

School

1 per staff member plus 1 per 6
auditorium seats

Shopping Center
(over 50,000 sq.ft.)

1 per 160 sq.ft. of floor area

Theater

1 per 3 seats

Trade, Vocational or
Business School

1 per 3 students and 1 per staff
member

Truck Freight Terminal

1 per employee plus 4 for
customers plus truck capacity

Veterinary hospital for
small animals kennel

1 per 3 animal spaces (cages or
pens)

USES

REQUIRED PARKING SPACES

Wholesaling, distributing,
warehousing, storage, transfer
firms, contractors, custom
fabricators,

1 per 2 persons estimated on
premises at peak period during
day or night. Retail space in
establishment shall require
additional space specified for
that type of retail establishment

7-1200. PARKS, PLAYGROUNDS, AND RECREATION AREAS. These
uses are permitted in a district so long as the plans for their
development and use are approved by the Plan Commission. See
individual District's for recreational space requirements.

- a. Illuminated areas shall be approved prior to development. Lights shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. In no case shall lights be placed closer than fifty (50) feet from adjacent property lines.
- b. At the option of the Zoning Administrator or the Plan Commission, buffers may be required to shield adjacent residences from noise or activities. Buffers may be in the form of a tall solid fence or hedge.

7-1300. PRIVATE SWIMMING POOLS. The requirements of this section shall apply to all pools which are accessory uses to single and multiple family dwellings. No pool shall be erected or constructed until an improvement location permit has been obtained therefor.

7-1301. Location:

- a. Unenclosed pools or pools enclosed only with open mesh screen shall meet the setback requirements for accessory uses. They shall be located:
 - 1. a minimum of ten (10) feet from any principal or other accessory building.
 - 2. a minimum of 30 feet from any street right-of-way.
 - 3. no closer to a street right-of-way than the principal building.
- b. Any pool which is covered by a roof shall be subject to the same setback regulations as the principal use.

7-1302 Fencing: In-Ground Swimming Pools.

- a. The pool area shall be enclosed by a substantial protective barrier', which shall be adequate to prevent persons, children, or animals from danger or harm, and shall be equipped with a self-closing, self-latching gate. Such protective barrier shall be chainlink or ornamental fence, solid fence or wall, and shall be not less than five (5) feet in height.
- b. A buffer screen shall be provided and maintained between the pool and lot lines.

7-1303 Fencing: Above-Ground Swimming Pools. Every above-ground swimming pool shall meet the fencing requirements for in-ground pools or shall be constructed to limit access to a gate.

7-1400 Signs. Except as otherwise provided in this Ordinance, no sign shall be erected, moved, enlarged, improved or altered nor shall any sign be established or changed in use without an improvement location permit issued by the Plan commission or its designated representative. Permits shall be issued in conformance with this Ordinance. The purpose of the sign regulations of this Ordinance is to promote the use of signs which enhance the visual environment of the Town of New Whiteland and to encourage the use of signs which are harmonious with their surroundings.

(Editor's Note: Amended by Ord. 1068 adopted on 9/30/03)

- a. All signs and their surrounding structures shall be kept in good repair.
- b. Two (2) permanent freestanding subdivision or project identification ground signs shall be permitted at each entrance to a subdivision or other residential project that has been approved in accordance with the Subdivision Control Ordinance. Such signs shall be located on some portion of the subdivision or project property. The maximum sign face area of such a sign shall not exceed forty (40) square feet. If the sign is located on a fence or wall, only the area of the actual sign itself shall be calculated in determining the maximum sign area, not the fence or wall itself. No part of the sign face or the sign support structure of a ground sign shall be more than four (4) feet above grade level, and earth mounding that is inconsistent with the ground level of the land surrounding the sign structure and that increases the elevation of the sign, shall be included in the measurement of the sign height. Such signs shall be located no closer than ten (10) feet from the existing street right-of-way line and no closer than five (5) feet from a side or rear property line. Such signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans without the express consent of the Plan Commission. Such signs shall not be placed as to interfere with the sight path of vehicular traffic.

(Editor's Note: Amended by Ord. 1061 adopted on 10/01/02)

- c. No sign shall be erected or maintained at any location where by reason of its position, working size, shape, color or illumination it may obstruct, obscure, impair, or interfere with the view of, or be confused with any authorized traffic control device, signal, or sign.
- d. No part of any sign attached to the exterior wall of a building shall be erected to a height in excess of six (6) feet above the roof line or parapet line of such building.
- e. No part of any free-standing sign shall be erected to a height greater than that specified for other structures in the district in which it is located; rooftop signs shall not extend more than twenty (20) feet above the roof line nor shall such sign be located closer to an exterior wall than a distance equal to the height such sign extends above the roof.
- f. The area of a sign shall be determined by the smallest circle, triangle, or rectangle that can be used to enclose the sign, exclusive of supporting members that bear no message.
- g. Illumination:
 - 1. No illuminated sign shall be permitted within fifty (50) feet of any residential district or in the GB District, unless it is so designed that it does not reflect or shine light into said district.
 - 2. No illuminated sign shall create an unduly distracting or hazardous condition to motorists or pedestrians. No sign shall project beyond a lot line, obstruct a driver's vision of the road, or hinder his passage in any way. Further, no sign shall hinder or obstruct any pedestrian path.
 - 3. No illuminated sign shall shine directly or reflect glare into any dwelling, hospital, nursing, or convalescent home.
 - 4. All sign illumination shall be indirect or interior. No exposed bulbs, neon tubing or fluorescent tubing shall be allowed, with the exception of automatic changing signs which display time, temperature or other general information and illuminated seasonal or holiday signs.
- h. Each permitted or required parking area that has a capacity of more than five (5) cars shall be permitted one (1) sign, not more than two (2) square feet in area, designating each entrance or exit; and one (1) sign, not more than twelve (12) square feet in area, identifying or designating the conditions of use of such parking area for each twenty-five (25) spaces.
- i. Signs established by, or by the order of any governmental agency shall be permitted.
- j. One (1) sign, not more than twelve (12) square feet in area, for construction and development, giving the name of the

contractors, engineers, or architects, shall be permitted but only during the time that construction or development is actively under way.

(Editor's Note: Amended by Ord. 1061 adopted on 10/01/02)

7-1401 District Requirements: Residential Districts.

- a. A nameplate which shall not exceed one (1) square foot in area is permitted for each dwelling unit of a single family, or multi-family structure; such nameplate shall indicate nothing other than name and/or address of the occupant, and/or customary home occupation. No other sign shall be allowed. No permit is required.

(Editor's Note: Amended by Ord. 1068 adopted on 9/30/03)

- b. Multiple-family residences and residential projects of all types may display identification signs indicating *nothing* other than name and/or address of the premises and/or the name of the management. Such sign shall not exceed six (6) square feet in area.
- c. For uses other than those listed in paragraphs a. and b. above, bulletin boards or identification signs indicating nothing other than name and/or address of the premises and schedule of services or other information relevant to the operation of the premises; such signs shall not exceed twelve (12) square feet in area.
- d. For each use of paragraphs b. and c. above, eligible to display a sign, only one (1) sign per street frontage shall be permitted; except that uses occupying extended frontages shall be permitted one such sign per five hundred (500) feet of frontage or major fraction thereof.

7-1402 District Requirements: GB Districts.

- a. Residential Uses shall be subject to the provisions of section 7-1401 paragraphs a. through d. above.

(Remainder of page intentionally left blank)

- b. Each public recreation, community facility, clinic use, and similar uses shall be permitted one (1) bulletin board or identification sign, not to exceed twelve (12) square feet, except that use occupying extended frontages or major fraction thereof.
- c. Each primary use other than those listed in Section 810.2, subsection 2., paragraphs a. and b. above, shall be permitted signs according to the following formula: The Area of all permanent advertising signs for any single business enterprise may have an area equivalent to one and one-half (1 1/2) square feet of sign area for each lineal foot of width of a building, or part of a building occupied by such enterprise, but shall not exceed a maximum area of one hundred (100) square feet.
- d. The area of all permanent advertising signs for any single business enterprise shall be limited according to the widths of the building or part of the building occupied by such enterprise. For purposes of this section, width shall be measured along the building face nearest parallel to the street line. In the case of a corner lot, either frontage may be used in determining width, but the frontage selected shall be considered the front wall of the building for the purpose of determining maximum area of the sign.
- e. No sign shall project over a lot line and no sign shall project in to a required yard by more than two (2) feet, except in those blocks where twenty-five (25) percent of the frontage is already occupied by business uses and where overhanging signs are already established. Signs may project to within two (2) feet of an established right-of-way line but in no event shall a sign extend more than six (6) feet beyond the face of the building.
- f. Free-standing signs not over twenty-five (25) feet in height, having a maximum total sign area of one hundred (100) square feet and located not closer than ten (10) feet to any street line, and not closer than one hundred (100) feet to any adjoining lot line may be erected to serve a group of business establishments.

7-1403. District Requirements: Manufacturing Districts. Each use shall be permitted identification signs on the lot only as incidental uses. All provisions applying to GB Districts apply except that the area of all permanent advertising signs for any single manufacturing enterprise may have an area equivalent to five square feet of sign area for each lineal foot of width of a building, or part of a building occupied by such enterprise.

7-1404. Special Restrictions: Billboard Signs. Billboard signs shall only be permitted in the GB2 and M Districts and shall be subject to the following regulations, which are in addition to the zoning ordinance regulations otherwise applicable and not in conflict herewith:

a. Billboard Sign Size. The face of a billboard sign shall not be greater than fourteen (14) feet in vertical dimension nor greater than fifty (50) feet in horizontal dimension, and shall not contain more than two (2) signs per facing.

b. Distance Between Billboard Signs. The minimum distance between billboard signs shall be as specified below.

1. Linear Spacing Between Billboard Signs. The minimum distance between billboard signs located along and oriented toward the same public street shall be one thousand (1,000) feet, subject to the following:

a) The spacing requirement shall be applied regardless of whether the signs are on the same side of the street.

b) The spacing requirement shall be applied continuously along a street to all signs oriented toward that street in either direction whether the signs are in the same block or are in different blocks separated by an intersecting street.

c) For purposes of applying the spacing requirement to billboard signs, pole, roof, wall, ground, and projecting signs shall be treated the same, whether double-faced or single-faced.

d) Billboard signs located at the same intersection are not in violation of the minimum spacing requirement specified in this section because of their nearness to one another if they are located so that their messages are directed toward traffic flowing in different directions.

2. Radial Spacing Between Billboard Signs. In no event shall any point of a billboard sign or sign structure be closer than five hundred (500) feet from any point of any other billboard sign or sign structure regardless of location or orientation.

3. Method of Measurement. The method of measurement of the spacing between billboard signs oriented toward the same street shall be along the centerline of the street to which the sign is oriented from the point in the streets' centerline closest to the leading edge of the sign.
- c. Billboard Signs Adjacent to Protected Districts. No billboard sign shall be located within two hundred fifty (250) feet of any protected district fronting on the same street to which the sign is oriented measured along the centerline of the street to which the sign is oriented from the point in the streets' centerline that is closest to the leading edge of the sign. In no case, however, shall any billboard sign be located within one hundred (100) feet of any protected district measured in any direction. For the purposes of this section, a protected district shall include any Residential District, or any property used for parks, schools, or churches.
- d. Roof Top Billboard Signs. Roof top billboard signs shall not be permitted in any zoning district.
- e. Billboard Sign Setback. Signs or sign structures shall be set back in accordance with the building setback lines required by the applicable zoning district.
- f. Construction of Billboard Signs. The supports, uprights, bracing and framework of an billboard sign shall be of steel construction.

(Remainder of page intentionally left blank)

7-1405 Special Restrictions: Signs Not Permitted in any District.

- a. Portable, folding, and similar movable signs shall not be permitted, except under a temporary sign permit,
- b. Signs which are structurally unsafe, or are incompatible with their surroundings as determined by the Commission or its designated representatives,
- c. Signs obstructing free ingress or egress from a required exit, or which prevent light or ventilation as required in local codes and ordinances,
- d. Signs which by reason of size, location, content, coloring, or illumination violate municipal or state highway standards,
- e. Signs, words, phrases, symbols, colors, or characteristics which may mislead, interfere with, or confuse motorists.
- f. Signs erected on or attached to any sidewalk, street, or highway right-of-way, curb, curbstones, hydrant, lamppost, tree, barricade, temporary walkway, telephone, telegraph, or electric light pole, other utility pole, public fence, or on a fixture of the fire alarm or police system except public information signs.
- g. An advertising sign shall not be painted directly on an exterior wall of a building or structure, or
- h. Signs which involve revolving or rotating beams of light.

7-1406 Temporary Signs. The following temporary signs shall be permitted within any district within the Town of New Whiteland and shall be required to have a permit unless otherwise specified. A temporary sign permitted under this section may be displayed for a time period not to exceed 60 days in a 180 day period unless otherwise specified. Temporary signs that obstruct the flow or sight pattern of vehicular traffic on any established right-of-way shall be prohibited.

- a. "For Sale" or "For Rent". One (1) "For Sale" or "For Rent" sign, not more than twelve (12) square feet in area, for each dwelling unit, garage, or other quarters, buildings, structures, or land, shall be permitted. Such a sign is not subject to the generally applicable display time limitations of this Section. No permit is required.
- b. Agricultural Products. One (1) sign, not more than twenty (20) square feet in area, pertaining to the sale of agricultural products raised on the premises shall be permitted.

- c. Public Interest Event. For an event of public interest such as a county fair, or church event, one (1) sign, not over twenty-four (24) square feet in area and located upon the site of the event shall be permitted, as well as off-site signs advertising such event, not more than twelve (12) square feet in area, and not more than one such sign per parcel. Such signs shall not be erected more than thirty (30) days before the event in question and shall be removed immediately after such event. Also, directional signs shall be permitted, not more than three (3) feet in area, showing only a directional arrow and the name of the event of public interest. Such directional signs shall not be erected more than fourteen (14) days before the event in question and shall be removed immediately after the event. No permit is required for such off-site and directional signs.
- d. Construction. Construction signs which identify the architects, engineers, and contractors of individual buildings, and other individuals or firms involved with such construction, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, and limited to a maximum of thirty-two (32) square feet for each firm. Such signs may not include any advertisement of any product. The minimum setback shall be ten (10) feet from any street right-of-way. Such signs shall be confined to the parcel that is the site of building construction and shall be removed within thirty (30) days after the end of construction. Such a sign is not subject to the generally applicable display time limitations of this Section.
- e. Sale of Subdivision Lots. For real estate development that has been approved in accordance with the Subdivision Control Ordinance, one (1) temporary sign per entrance, not more than thirty-two (32) square feet of face area advertising the sale of property in such subdivision shall be permitted, but only when located on some portion of the subdivision having undeveloped lots being advertised for sale. Such a sign shall be located a minimum distance of ten feet from any street right-of-way. Such a sign shall not be illuminated. Such a sign shall be maintained only during such time as there are undeveloped subdivision lots advertised for sale that remain unsold. Permits for such signs shall be issued for one (1) year periods and may be renewed for additional one (1) year periods to allow time for reasonable display. Permanent subdivision or project identification signs may be obtained pursuant to Section 7-1401(b). Such a sign is not subject to the generally applicable display time limitations of this Section.
- f. Banners and Pennants. Banners, flags, streamers, and pennants shall be permitted so long as they are at least ten (10) feet from any street right-of-way located so as not to obstruct vision or otherwise create a hazard to traffic. No permit

shall be required if the banners, flags, streamers, or pennants are being used in a residential district for residential purposes.

- g. Window Signs. Window signs are permitted, provided such signs conform to the construction, illumination, and safety regulations of this Ordinance. A "window sign" shall mean a sign posted, painted, placed, or affixed in or on a window exposed to public view, or an interior sign that faces a window exposed to public view that is located within three feet of the window. No permit is required.
- h. Portable Signs. In residential districts, one (1) portable sign of a non-commercial nature may be permitted for a time period not to exceed 72 hours in any seven (7) day period. No permit is required for portable signs in a residential district. In non-residential districts, one (1) portable sign may be permitted for a time period not to exceed sixty (60) days in any one hundred eighty (180)-day period. Renewal permits may be obtained so long as there are no zoning violations relative to said permit. A "portable sign" shall be defined as any sign that is not permanently attached to the ground and that is designed to be transported and used from place to place, including, but not limited to, signs transported by means of wheels; signs attached to A- or T-frames; yard card signs; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used for transportation in the normal day-to-day operation of the business. Such a portable sign shall:
- 1) Be located not less than ten (10) feet from any public right-of-way;
 - 2) Not obstruct the flow or sight pattern of vehicular traffic on any established right-of-way;
 - 3) Be located not less than ten (10) feet from an adjoining residential lot;
 - 4) Have a face not exceeding thirty-two (32) square feet;
 - 5) Meet the illumination requirements as set forth in Section 7-1400(g); and
 - 6) Be approved by the Building Inspector.
- i. Garage Sale Signs. Signs advertising the sale of miscellaneous household items for the purpose of a residential garage or yard sale shall not exceed four (4) square feet in area. Such signs may be erected on the premises one (1) week in advance of the sale and shall be removed within forty-eight (48) hours after the sale. If the garage sale is a coordinated neighborhood garage sale, one (1) temporary sign for each entrance of the neighborhood, not more than twenty (20) square feet in area, shall be permitted. No permit is required.

- j. Political Campaign Signs. Political campaign signs announcing candidates seeking public political office shall be confined within private property and not within the street right-of-way, shall be permitted no more than forty-five (45) days prior to the scheduled election, and shall be removed within fourteen (14) days after election for which they were made. A permit shall not be required for such signs.
- k. Model Home Signs. For lots containing a model home, one (1) sign identifying the model home, not exceeding sixteen (16) square feet in total surface area and four (4) feet in height located on the street frontage of the lot containing the model home. Such a sign shall not be located on or within any public right-of-way or located on the model home building, and shall be removed immediately after the building no longer serves as a model home. A permit shall not be required. Such a sign is not subject to the generally applicable display time limitations of this Section.

(Editor's Note: Amended by Ord. 1068 adopted on 9/30/03)

7-1407 **Sign Permits**

- a. Except as otherwise provided in this Ordinance, it shall be unlawful for any person to establish any sign within the jurisdictional area of this Ordinance, or cause the same to be done without first obtaining a sign permit for each such sign from the Building Inspector as required by this Ordinance. These directives shall not be construed to require any permit for a change of copy for legal changeable copy, nor for the repainting, cleaning, and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way to violate the standards or provisions of this Ordinance. No permit is required for signs which are exempted from permits elsewhere in this Ordinance. No new permit is required for signs which have permits and which conform with the requirements of this Ordinance on the date of its adoption unless and until the sign is altered or relocated in violation of this Ordinance. A permit must be secured when the fee ownership of the property upon which the sign is located has been changed, or when the ground upon which the sign is situated has been leased to a new tenant.
- b. Every sign permit issued by the Building Inspector shall become null and void if the sign is not established within six (6) months after the issuance of such permit. Signs which require approval by the Commission must be established within one (1) year after the date such approval is granted, or such approval shall become null and void. Signs which require variance approval from the Board shall be established within one (1) year.
- c. No person shall establish any sign upon any property or building without the consent of the owner or person entitled

to possession of the property or building, if any, or their authorized representative.

- d. Application for a permit shall be made to the Building Inspector upon a form provided by the Building Inspector and shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the Town including, but not limited to:
- 1) Name and address of the owner of the sign.
 - 2) Name and address of the owner (fee owner) of the premises where the sign is to be located.
 - 3) Name and address of the person leasing the premises (if applicable).
 - 4) Clear and legible drawing(s) clearly indicating the proposed location of the sign which is the subject of the permit, and all other existing signs that require permits, when such signs are on the same premises.
 - 5) Drawings showing the dimensions, construction supports, sizes, electrical wiring and components, materials, and design of the sign and method of attachment. The design, quality, materials, and loading shall conform to the requirements of the Building Official's and Administrative Code (B.O.A.C.), as amended. If required by the Building Inspector, engineering data shall be supplied on plans submitted certified by a duly licensed engineer.
- e. The Building Inspector shall issue a permit for the establishment of a sign when an application therefore has been properly made to the Town. The person establishing a sign shall notify the Building Inspector upon completion of the work for which permits are required, and shall submit a color photograph of the established sign to the Building Inspector. All signs shall be subject to an inspection by the Inspector.
- f. The Building Inspector may, in writing, suspend or revoke a permit issued under provisions of this Section whenever the permit is issued on the basis of a misstatement of fact or fraud after due notice by and hearing before the Building Inspector. When a sign permit is denied or revoked by the Building Inspector, he shall give written notice of the denial to the applicant together with a brief written statement of the reasons for the denial. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign. An appeal may be taken to the Board from either the Building Inspector's denial or revocation of a permit or from the failure of the Building Inspector to formally grant or deny a permit within thirty (30) days.

g. **Permit Fees.** The application, including all required documentation, shall be filed with the Building Inspector together with the appropriate permit fee. If any sign is hereafter erected, placed, installed to or otherwise established on any property before obtaining a permit as required herein, the fees specified shall be doubled. Payment of such double fee shall not relieve any person from compliance with other provisions of this code and penalties prescribed herein.

(Editor's Note: Amended by Ord. 1068 adopted on 9/30/03)

7-1408 **Variance.** A variance from the terms of these regulations may be submitted to the New Whiteland Board of Zoning Appeals as stated in Section 4-300 of this Ordinance.

(Editor's Note: Amended by Ord. 1068 adopted on 9/30/03)

7-1500 **Street Development Requirements.**

7-1501 **Attached Multi-Family Dwellings, Manufactured or Mobile Home Dwellings and Industrial Park Buildings - Site Plan Requirement to Improvement Location Permit Issuance.** Prior to improvement location permit issuance for any structure or building within an attached multi-family dwelling, manufactured or mobile home dwelling or industrial park projects, two (2) copies of the site plan for the entire project shall be filed with the Zoning Administrator.

(Remainder of page intentionally left blank)

7-1502. Public Street Requirements.

- a. All public streets shall be dedicated to the public and improved and constructed in accordance with the standards set forth in the subdivision Control Ordinance for New Whiteland, Indiana.
- b. The right-of-way of all streets indicated on the Comprehensive Plan for New Whiteland, Indiana, within the project shall be dedicated to the public, or the right-of-way thereof shall be reserved for future dedication or acquisition.

7-1503. Requirements for Private Interior Access Roads or Driveways - Attached Multi-Family Dwellings, Manufactured or Mobile Home Dwelling or Industrial Park Projects.

- a. All interior access roads and driveways shall be paved with concrete or improved with a compacted aggregate base and surfaced with an asphaltic pavement, to adequately provide a durable and dust-free surface.
- b. Interior access roads and driveways shall be privately maintained (not by governmental agencies) in good condition and free of weeds, dirt, trash, and debris.
- c. Where interior access roads or driveways intersect with public streets, a turning radius of not less than ten (10) feet shall be provided.
- d. No fence, wall, hedge, tree, shrub, or other sight obstruction shall be located within the turning radius described in Section 7-1503 paragraph c. above to materially impede the view of any street, highway or railroad intersection with an interior access road or driveway.
- e. Interior access roads and driveways shall be designed with sufficient width to provide at all times for the passage of emergency vehicles.
- h. Interior access roads or driveways shall be located a minimum distance of twenty-five (25) feet from the nearest point of intersecting street right-of-way lines. Such locations shall further conform to all requirements of Section 7-500, regarding corner visibility and the New Whiteland Subdivision Control Ordinance.

7-1504. Requirements for Private Driveways - All residential Districts.

- a. All residential driveways shall be designed with sufficient width and length to provide off-street parking space for a minimum of two (2) motor vehicles. The minimum width of such drive-ways shall be fifteen (15) feet.

- b. All residential driveways shall be paved with concrete or improved with compacted aggregate base, and surfaced with an asphaltic pavement, to adequately provide a durable and dust-free surface.
- c. All residential driveways shall be privately maintained (not by governmental agencies) in good condition and free of weeds, dirt, trash and debris.
- d. No fence, wall, hedge, tree, shrub, or other sign obstruction shall be located so as to materially impede the view of any street, highway or railroad intersection with a residential driveway.
- e. Only one (1) Driveway shall be permitted for each Single-Family Dwelling, Mobile Home, or manufactured Home with a maximum width not to exceed twenty feet (20') at the point of intersection with the street right-of-way line.

7-1600. TEMPORARY USES. Subject to conditions, fees, and standards (including Official Schedule of Uses) otherwise required by this ordinance, a temporary use permit may be issued.

- a. To an applicant in the process of building, rebuilding, developing or otherwise constructing within the Districts set out in this Ordinance, to locate a manufactured or mobile home on a building lot during the course of said construction; such permit shall not be issued until after a building permit for the construction has been issued;
- b. To an applicant to use a manufactured or mobile home as a caretaker's quarters or construction office at a job site;

7-1601. Length of Temporary Permit. A temporary use permit may be issued at the discretion of the Plan Commission for a period not to exceed ninety (90) days. The temporary permit may be renewed for additional ninety (90) days periods upon showing of good cause, and with permission of the Plan Commission to do so.

7-1602. Temporary Permit Expiration. At the time the temporary permit expires, the manufactured or mobile home and all appurtenances shall be removed from the property within thirty (30) days.

7-1603. Commercial Tents. A permit shall be required for the erection of any tent proposed to be used for commercial purposes (any use that is non-residential or non-recreational). the applicant for a tent permit shall submit a proposed site plan to the Zoning Administrator for his approval. the erection and securing methods shall be subject to the approval of the Zoning Administrator. No tent shall be erected within twenty-five (25) feet of a street or highway right-of-way. A tent permit shall be good for a maximum time period of thirty (30) days from the date of issuance. Renewal of a tent permit shall be at the discretion of the Plan Commission or its designated representative.

7-1700. STORAGE AND PARKING OF TRAILERS, BOATS, AND COMMERCIAL VEHICLES. Commercial vehicles, boats, and trailers of all types, including travel, camping, hauling, boat, and mobile homes, shall not be parked or stored on any lot occupied by a residential dwelling or on any lot in any residential district except in accordance with the following provisions:

7-1701. Commercial Vehicles. Not more than one commercial vehicle (excluding automobiles) which does not exceed the gross vehicular weight of 10,000 pounds, per family living on the premises, shall be permitted; but in no case shall a commercial vehicle used for hauling explosives, gasoline, chemicals, or liquefied petroleum products be permitted in a residential area.

7-1702. Mobile Homes. A mobile home shall be parked or stored only in a mobile home park, sales lot, or trailer storage area which is in conformity with the ordinances of the Town of New Whiteland, except as provided in Section 814 of this ordinance.

7-1703. Campers, Travel Trailers, and R.V.'s. Not more than one camper, travel trailer, or recreational vehicle, per family living on the premises, shall be permitted, provided that said camper, travel trailer, or recreational vehicle does not exceed thirty-two (32) feet in length or eight (8) feet six (6) inches in width and further provided that said camper, travel trailer or recreational vehicle shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line.

7-1704. Boats and Boat Trailers. Not more than one boat or one boat trailer, per family living on the premises, shall be permitted, provided that said boat or boat trailer shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line.

7-1705. Utility and Hauling Trailers. Not more than one utility or hauling trailer, per family living on the premises, shall be permitted, provided said trailer shall not exceed twelve (12) feet in length or eight (8) feet six (6) inches in width further provided that said trailer shall not be parked or stored more than forty-eight (48) hours unless it is located behind the front yard building line.

7-1800. STORAGE OF LIQUID - PETROLEUM GASES. The use of land or buildings for the commercial, wholesale, or retail storage of liquified petroleum gases shall be in accordance with the regulations of the Liquefied Petroleum Gas Administration of the State of Indiana.

7-1900. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT. In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance

shall be met for each structure as though it were on an individual lot.

7-2000. STRUCTURE TO HAVE ACCESS. Every building hereafter erected or moved shall be on a lot adjacent to either a public or private street, or with legal access to either a private or public street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Article 8 MANUFACTURED HOUSING REGULATIONS

8-100. **MANUFACTURED OR MOBILE HOME COMMUNITY OR PARK DISTRICT (MH)** The purpose of the MH District is to accommodate the housing needs of those residents who prefer manufactured or mobile home living and of those who desire an economic alternative to conventional dwellings. The term mobile home when used in this section shall denote either a manufactured home or a mobile home, both of which are more specifically defined in Section , and the term mobile home park when used in Section of this ordinance shall mean a parcel of land platted for subdivision upon which five (5) or more manufactured or mobile homes are harbored for the purpose of being occupied as principal residences.

8-200. **CONFLICT WITH OTHER APPLICABLE REGULATIONS.** Whenever there is a conflict between the provisions of this section and other sections of this ordinance, the provisions of this section shall prevail.

Subjects not covered by this section shall be regulated by the respective sections found elsewhere in this ordinance.

8-300. **PERMITTED USES.** The following uses and others listed in the Official Schedule of Uses shall be permitted in the MH District. All uses in the MH District shall conform to the MH Development Regulations of Section 8-800 and the MH General requirements of Section 8-900.

8-301. Mobile Dwelling Projects, subject to all development regulations of Section 8-800 including the twenty-five (25) acre minimum project area requirement. Each permitted manufactured or mobile home within a mobile home park shall be limited to one-family use and occupancy.

8-302. Temporary Uses, as regulated in Section 7-1600.

8-303. Accessory Uses, subject to the Accessory Use requirements of Section 7-200.

- a. Manager's office and apartment: Project Maintenance Equipment Storage Facility.
- b. Common Recreation and Service Buildings and Areas, including laundry facilities.
- c. Open Storage Area.
- d. Accessory Parking Areas.
- e. Carports, canopies, covered patios, storage rooms, porches, awnings, swings, and other play structures or equipment, provided the height thereof shall not exceed ten (10) feet

measured from the finished manufactured or mobile home lot grade, and that floors of carports, patios, storage rooms and porches shall be of concrete or other permanent hard surface material.

- f. Wholesale and retail sales of manufactured or mobile homes conducted as a business by dealers or manufactured or mobile home project owners/operators shall be prohibited in the MH District. Except, however, a manufactured or mobile home project owner/operator may display not more than three (3) "model" manufactured or mobile home units on lots in the interior of the project, provided such model units shall not be displayed for sale or removal outside the project; and further provided that no signs relative to the "model" units shall be installed as to be visible to the public outside the project. A model home sign, as regulated in Section 7-1400, shall be permitted for each "model" manufactured or mobile home. Provided further, however, nothing contained herein shall restrict the right of any individual owner of any mobile dwelling unit to sell or lease such unit.

8-400. CLASSIFICATION DEFINITIONS. For the purposes of this Zoning Ordinance, manufactured homes and mobile homes shall be classified as follows:

8-401. Manufactured Home Classification:

a. A Type I Manufactured Home shall:

1. have more than nine hundred and fifty (950) square feet of occupied space in a double-section or larger multi-section unit;
2. have a minimum width of twenty-three (23) feet;
3. be placed onto a permanent foundation;
4. utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in Section 8-500;
5. be anchored to the ground, in accordance with the one and two family dwelling code and to the manufacturer's specifications;
6. have wheels, axles, and hitch mechanisms removed;
7. have utilities connected, in accordance with the One and Two Family Dwelling Code and manufacturer's specifications;
8. have siding material of a type customarily used on site constructed residences - see Section 8-600 for approved material list, and;

9. have roofing material of a type customarily used on site constructed residences - see Section 704.6 for approved materials list.
- b. A Type II Manufactured Home shall:
1. have more than seven hundred (700) square feet of occupied space in a single, double, expando, or multi-section unit (including those with add-a-room units);
 2. have a minimum width of twelve (12) feet;
 3. be placed onto a support system, in accordance with installation standards, as specified in Section 8-500;
 4. be enclosed with foundation siding/skirting, in accordance with approved installation standards, as specified in Section 8-500;
 5. be anchored to the ground, in accordance with manufacturer's specifications or the ANSI/NFPA 501 A Installation Standards;
 6. have utilities connected in accordance with manufacturer's specifications or the ANSI/NFPA 501 A Installation Standards;
 7. have siding material of a type customarily used on site constructed residences - see Section 8-600 for approved material list, and;
 8. have roofing material of a type customarily used on site constructed residences - see Section 8-600 for approved material list.

8-500. INSTALLATION STANDARDS.

8-501. Permanent Perimeter Enclosure. Those manufactured homes designated in the Zoning Ordinance as requiring a permanent perimeter enclosure must be set onto an excavated area, with foundations, footings and crawl space or basement walls constructed in accordance with the terms of the One and Two Family Dwelling Code. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

8-502. Foundation Siding/Skirting. All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and back-up framing shall be weather-resistant, non-combustible or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be unaffected

by decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards. The siding shall be ventilated by openings, which shall have a net area of not less than one and one-half (1 1/2) square feet for each twenty-five (25) linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one-half (1/2) inch in any dimension. The underfloor area shall be provided with an eighteen (18) inch by twenty-four (24) inch minimum ducts, or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.

8-503. **Support System.** Type I Manufactured Homes: All Type I Manufactured Home load-bearing foundations shall be installed in conformance with the regulations in the One and Two Family Dwelling Code and with the manufacturer's installation specifications.

8-504. **Support System.** Type II Manufactured Homes: All Type II Manufactured Homes not placed on a permanent foundation, shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANSI/NFPA 501 A 1977 Installation standards.

8-600. **APPROVED MATERIALS LIST FOR TYPE I AND TYPE II MANUFACTURED HOMES**

8-601. The following siding materials are approved for usage on residential Type I and Type II manufactured homes:

- a. residential horizontal aluminum lap siding;
- b. residential horizontal vinyl lap siding;
- c. cedar or other wood siding;
- d. wood grain, weather resistant, press board siding;
- e. brick or stone siding;
- f. other approved siding materials which are aesthetically compatible.

8-602. The following roofing materials are approved for usage on residential design Type I and Type II manufactured homes:

- a. asbestos shingles on a roof pitched according to the design specifications of the shingles;
- b. fiberglass shingles on a roof pitched according to the design specifications of the shingles;

- c. shake shingles on a roof pitched according to the design specifications of the shingles;
- d. asphalt shingles on a roof pitched according to the design specifications of the shingles;
- e. tile materials on a roof pitched according to the design specifications of the materials.

8-700. **MOBILE HOME PARK APPLICATION PROCEDURES.** The applicant for a mobile home park (owner or person with consent of owner) shall file the following documents with the Plan Commission at least fifteen (15) days prior to the public hearing at which the development plans are to be presented for consideration:

- a. Development plans - two copies
- b. Letter of Intent - two copies
- c. Zoning Petition - two copies

8-701. **Public Notification.** The applicant shall provide the Plan Commission with a legal affidavit for proof of one publication of public notice prior to the hearing. If the applicant is petitioning for rezoning of property for mobile home park use, the applicant shall also provide the Plan Commission with proof that all property owners within six hundred feet and/or two properties whichever is greater distance from said property have been given notice of the public hearing and petition. Mail receipts and Proof of Publication Affidavits must be submitted at least two (2) working days prior to the hearing. All costs for public notification shall be borne by the applicant.

8-702. **Preparation of Development Plans.** All development plans for a mobile home park shall contain the following information:

- a. A vicinity key map at an appropriate scale.
- b. Description:
 - 1. Name and address of applicant.
 - 2. Proposed name of such mobile home park.
 - 3. Location by quarter section, township and range, or by other legal descriptions, and city, town, or civil township.
 - 4. Name, address, and seal of registered professional engineer or land surveyor preparing the plan.
 - 5. Scale of the plan, north point, and date.

c. Existing conditions:

1. Boundary line of proposed mobile home park indicated by solid heavy line.
2. Location, width, and names of all existing or prior dedicated streets or public ways abutting or in said area of the proposed mobile home park, railroad and utility rights-of-way, parks, and other public open spaces within said area, and location of permanent buildings or structures.
3. Any existing sewers, water mains, culverts, drainage tile or underground facilities within the area of the proposed mobile home park.
4. Existing zoning of proposed mobile home park and adjacent tracts.
5. Other conditions on the tract such as water courses, marshes, rock outcrop, wood areas, etc.

d. Proposed Conditions:

1. Layout of streets and sidewalks with width thereof, whether dedicated or private street, together with typical cross-section.
2. Layout of any alleys, crosswalks, and easements.
3. The dimensions and number of lots.
4. Land to be set aside for common use of the tenants of the mobile home park.
5. All setback lines.
6. Location of all proposed permanent buildings, storage area, office, and community center.
7. Sanitary sewer system, storm sewer system, off-site drainage system, or similar related items.

8-703. Preparation of Improvement Plan. At the time of filing the development plan, the applicant shall also file two (2) copies of the proposed improvement plans which shall contain the following information:

a. Description:

1. The same information as outlined in Preparation of Development Plan subsections a. thru d. above.

b. Proposed Conditions:

1. Plan and profile sheets of the proposed mobile home park streets, including typical cross-section showing pavement design.
2. Plans for the proposed handling of surface water drainage, including plan and profile sheets of storm sewers, if included in the proposed improvements.

8-704. **Public Hearing.** The Plan Commission shall hold a public hearing prior to granting approval of any mobile home park plans. The applicant shall give at least fifteen (15) days notice prior to such hearing as prescribed in this section. The applicant shall also meet the public notification requirements as prescribed in this section. Either the applicant or his designated representative shall attend the public hearing. Such notification and attendance requirements shall be a condition precedent to the right of the Plan Commission to conduct such hearing. At the hearing, the commission may approve, deny, modify, or take under advisement the plans presented by the applicant. If the plans are modified or denied by the commission, the commission shall promptly notify the applicant of such action, together with the reasons for such modification or denial. The Plan commission may, at its own discretion, require the applicant to submit their development and improvement plans to the Johnson County Drainage Board for approval.

8-800. **MOBILE HOME PARK DEVELOPMENT REGULATIONS.** The design requirements of a mobile home park are as follows:

8-801. **Minimum Area.** Each mobile home park shall contain a minimum of twenty-five (25) acres total area.

8-802. **Maximum Building Height.** All structures and buildings: twenty-five (25) feet.

8-803. **Hazards to Health and Safety.** Conditions of soil, groundwater level, drainage, geologic structures, and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding or severe erosion.

8-804. **Setback of Mobile Home Park.** The minimum setback of a mobile home park exterior boundary where such park abuts a public street right-of-way shall be as shown in Section 812.1 of this ordinance.

8-805. **Access to Public Thoroughfare.** Mobile home parks shall have direct access to an adequate public thoroughfare with a minimum one hundred and fifty (150) foot frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of mobile homes into and out of the park.

8-806. Streets.

- a. Public streets and private interior access roads or driveways shall be provided in accordance with Section 812 and Section 813 and shall also meet the minimum standards for design and construction as required in the New Whiteland Subdivision Control Ordinance.
- b. Private interior access roads (in addition to the requirement of a. above) shall be constructed with curbs and gutters and shall have a minimum width, including curbs and gutters, of:

One-way, no parking	twelve (12) feet
One-way, parking on one side only	twenty (20) feet
Two-way, no parking	twenty (20) feet
Two-way, parking on one side only	twenty-seven (27) feet
Two-way, parking on both sides	thirty-six (36) feet

8-807. Sidewalks. A paved sidewalk shall be installed on both sides of each mobile home park street. The minimum width of such sidewalks shall be (3) feet and the minimum thickness shall be four (4) inches. Sidewalks may abut a curb, but shall not intersect a driveway or street so as to be subjected to vehicular traffic or parking.

8-808. Off-Street Parking Spaces. Each mobile home space shall be provided with at least two (2) paved off-street parking spaces adjacent thereto, which parking spaces shall have unobstructed access to a mobile home park street.

8-809. Mobile Home Stands. Mobile home stands must be so located within the mobile home space that when occupied by a mobile home, the clear distance between a mobile home and any adjacent mobile home will not be less than twenty-five (25) feet, except end to end clear distance which may not be less than fifteen (15) feet. The clear distance between mobile homes located on spaces which are on a cul-de-sac shall be at least twenty (20) feet. In any case the back side (side opposite the main entrance) of a mobile home shall be no closer than ten (10) feet to the sideline of the mobile home space that it occupies.

8-810. Setback from Permanent Buildings. No mobile home shall be located closer than twenty (20) feet to any permanent building within the mobile home park or closer than fifty (50) feet wherever the project abuts adjoining perimeter property.

8-811. Mobile Home Spaces. Each mobile home park shall provide mobile home spaces, and each such space shall be clearly defined or delineated. Each space shall have an area of not less than three thousand two hundred (3,200) square feet or three (3) times the mobile home living space area, whichever is greater; exclusive of roadways; provided, however, that mobile home parks which, at the time of the adoption of this ordinance, existed lawfully or whose plans were approved with mobile home spaces

that do not comply with any of the foregoing minimum area and width or minimum average widths required, may continue to operate and shall be excused from such existing spaces only.

8-812. **Interior Front Line Setback.** No mobile home shall be located closer than fifteen (15) feet to the curb of any interior street within the project.

8-813. **Storage Sheds.** In order to provide adequate storage facilities on or conveniently near each mobile dwelling side for the storage of outdoor equipment, furniture and tools, and other materials used only seasonally or infrequently, or incapable of convenient storage within the mobile dwellings, a minimum of one-hundred-fifty (150) cubic feet for general storage space per mobile dwelling unit shall be provided on the mobile dwelling lot, or in compounds located within reasonable distance thereof, generally not more than one hundred (100) feet from each mobile dwelling. Each such storage facility shall be constructed and located in conformity with the approved DEVELOPMENT PLAN required by Section 8-700. Provided, however, that the following minimum setbacks are met:

- a. Side yard 3 feet
- b. Rear yard 3 feet
- c. Front yard 10 feet or mobile home setback line, whichever is greater.

Storage sheds shall be free standing and not attached to the mobile home itself. Sheds shall set a minimum of three (3) feet from a mobile home.

8-814. **Patios and Stands.** All mobile dwelling lots shall be improved as follows:

- a. A minimum of fifty (50) square feet of asphaltic or portland cement concrete walkway or patio connecting the mobile dwelling with its off-street parking area shall be provided at the mobile home front door location.
- b. Concrete runners, concrete pillars or a paved stand shall be provided to accommodate each mobile dwelling. An anchoring system shall be provided in accordance with the manufacturers specifications or the ANSI/NFPA A Installation Standards.
- c. Stand shall be defined as the area reserved for the placement of a mobile dwelling, appurtenant structure and any additions thereto, including necessary electrical, plumbing and other utility installations.

8-815. **Skirting of Mobile Homes.** Skirting of mobile homes is required and shall be of fireproof material and of uniform appearance. See Section 8-500 for requirements. Areas enclosed

by such skirting shall be so maintained so as not to provide harborage for rodents or create a fire hazard. Easy access to utility service lines and pipes shall be provided.

8-816. **Utility Line Shut-Off Valve.** Any utility pipes, lines or hoses which serve a mobile home with water, fuel oil, natural gas, or other similar resources shall provide shut-off valves which are easily accessible, either above grade or in a meter pit or box.

8-817. **Minimum Recreational and Open Space Areas.** Developed recreational and common open space areas equal to, at a minimum, eight (8) percent of the total area of the mobile dwelling project shall be required.

- a. Developed recreational areas may include, but shall not be limited to, such facilities as playground, tot lots, swimming pools, shuffleboard courts and common recreational buildings. An imaginative approach to the provision and design of such areas is encouraged. Project recreational needs will depend upon such factors as project site, size and the anticipated age characteristics of the residents. These areas shall be appropriately located within the project with respect to the residents they are designed to serve and with regard to adjacent land uses.
- b. Common open space areas are those areas within the project set-aside for the common use of all project residents. The general design of these areas should demonstrate an awareness of their intended use for passive enjoyment. Utilization of common open space areas may be enhanced by improvements such as walkways, meandering trails, benches, flowers, shrubs and tree plantings, while still maintaining their natural open character.
- c. Other items such as drainage swales may be included as open space if, through proper design, they add favorably to the open space inventory and site development of the project and do not present a health or safety hazard to project residents.

Minimum required yards shall be excluded from the computation of developed recreational and common open space area requirements.

- d. Off-street pedestrian ways and/or bike paths shall be constructed where necessary to provide safe access to recreational and other service areas. Such off-street pathways should be at least three (3) feet wide and paved with an all-weather hard-surfaced material.

8-818. **Minimum Parking Area.**

- a. A minimum of two (2) paved off-street parking spaces shall be required for each mobile dwelling.

- b. One (1) parking space for each one hundred eighty (180) square feet or fraction thereof of gross floor area shall be required for the manager's office (not including storage space), and one (1) parking space for each three hundred (300) square feet or fraction thereof of gross floor area shall be required for any common recreation buildings located within the mobile dwelling project.
- c. Off-street parking facilities shall be provided and maintained in accordance with Section 7-1100.
- d. Off-street parking areas shall not be permitted in any required yard abutting a perimeter public street.

8-819. Screening, Landscaping, Lighting and Grounds Maintenance.

a. Screening:

- 1. Front yards - An ornamental, decorative fence or masonry wall, not more than two and one-half (2 1/2) feet in height if solid, or six (6) feet if open, may be used in conjunction with the required landscaping.
- 2. Side and rear yards - An ornamental, decorative fence or masonry wall may be used in conjunction with the required landscaping. Provided, however, if any portion of a side or rear yard abutting a residential or agricultural district is used for a driveway or off-street parking area, there shall be provided and maintained along the entire length of such lot line to the front setback line, a wall or fence of ornamental block, brick, solid wood fencing, or combination thereof. Said wall or fence shall be at least six (6) feet in height and shall be constructed to such height to restrict any view there-through.

- b. Landscaping: Landscaping of all required perimeter yards shall consist of trees, shrubs, evergreens, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (woods, thickets and/or meadows). There shall be one tree planted at a maximum of every twenty-five (25) feet on center of linear distance along all perimeter yard property lines. Trees may be planted in groups as close as twelve (12) feet on center. Trees shall be deciduous and/or evergreen with a spreading branch habit. A group of shrubs may be substituted for a tree upon approval by the Zoning Administrator and shall be planted five (5) feet or less on center. All trees shall be underplanted with creeping red fescue and/or bluegrass sod or seed, Euonymus Coloratus Fortuni, Vinca Minor, English Ivy or the equivalent thereof.

Groups of prostrate deciduous or evergreen shrubs may be used as ground cover upon approval by the Zoning Administrator.

The size of all required landscape plant materials planted on the site shall be as follows:

1. Deciduous Trees - Two and one-half to three (2 1/2 - 3) inch caliper or larger at one (1) foot above the ground.
2. Evergreen Trees - Five (5) feet in height or larger.
3. Deciduous Shrubs - four to five (4-5) feet in height.
4. Evergreen Shrubs - thirty to thirty-six (30-36) inch spread or larger.

Deciduous shrubs used for hedges shall be planted an average of forty-two (42) inches or less on center. Evergreen trees and shrubs used for hedges shall be planted an average of twenty-four (24) inches on center.

All trees, shrubs and evergreens shall be planted an average of forty-two (42) inches or less on center. Evergreen trees and shrubs used for hedges shall be planted an average of twenty-four (24) inches on center.

The removal from a minimum required front, side or rear yard of any existing deciduous tree over two and one-half (2 1/2) inch caliper or shrub or evergreen tree over five (5) feet in height, must first be approved by the Zoning Administrator.

All existing trees larger than ten (10) inch caliper at one foot above the ground which are to be preserved shall be maintained without injury and with sufficient area for the root system to breathe. Care, such as providing temporary protective fencing, shall be taken to prevent alteration, compaction, or increased depth of the soil in the root system area during and after construction. Construction shall not be any closer than the dripline (branch tips) of a tree unless approved by the Zoning Administrator.

The Zoning Administrator upon request by the applicant and upon receiving a suitable alternative plan, shall have the power to modify or waive any landscape requirements deemed by the Zoning Administrator to be unfeasible or unreasonably burdensome. Such modification or waiver shall be in writing and shall become a part of the file for the Improvement Location Permit.

c. Lighting:

All access entrances, interior streets and intersections,

dead ends, aspices of curves, open storage areas, walks and passive and active recreation areas shall be provided with lighting devices to adequately illuminate these areas. The lighting devices shall be so located, shielded and directed that they do not glare onto or interfere with internal or external street traffic or property uses. Recommended illumination levels are:

- . Access entrances - 1.0 footcandle
- . Interior streets and open storage - 0.4 footcandle
- . Walkways and passive recreation areas - 0.2 footcandle
- . Active recreation areas - 10.0 footcandles

Lighting devices may be mounted at heights beginning at (or slightly below) ground level to forty-two (42) inches above ground or from ten (10) to thirty (30) feet above ground. Spacing of all lighting devices shall be determined by the height above ground level and maximum footcandles of each device in conjunction with their capacity to adequately illuminate the required area. Maximum spacing distance, at thirty (30) feet maximum height, shall be one hundred fifty (150) feet. All lighting for private streets and roadways shall require the approval of the Zoning Administrator.

d. Grounds Maintenance. The project management shall:

1. Maintain the entire site in a safe, neat and clean condition, free from litter, trash, debris, and junk;
2. Maintain all sidewalks, pedestrian ways, interior streets and roadways, and parking facilities in good repair and reasonably free of dirt, water, ice, and snow;
3. Maintain the landscaping by keeping lawns mowed and all plants properly pruned or replaced when needed, except in natural vegetation areas; and
4. Provide sanitary refuse disposal facilities as required by Rule 410 IAC 6-6 of the Indiana State Board of Health.

8-820. **Maximum Mobile Home Density.** A maximum of five (5) mobile homes and/or manufactured homes per acre shall be permitted. This maximum shall be determined from the gross acreage of the mobile home park.

8-900. **GENERAL REQUIREMENTS FOR MANUFACTURED OR MOBILE HOME COMMUNITIES OR PARKS**

8-901. **Prohibited Uses.** It shall be unlawful for any person to keep, park, store, or maintain any mobile home within the Town's jurisdiction that does not comply with the requirements of this section. It shall be understood that this regulation does not pertain to vehicles classified as "campers" or "recreational vehicles".

8-902. Attachment or Addition. Any action to attach a mobile home to the ground by means of posts, piers, foundations, or otherwise, or to add thereto in any way shall be subject to the requirements of the building code of New Whiteland as well as this ordinance, and if said building code does not permit the addition, said addition shall be prohibited.

8-903. Damaged or Dilapidated Mobile Homes. Wrecked, damaged or dilapidated mobile homes shall not be kept or stored either within or without a mobile home park at any time. The Zoning Administrator shall determine if a mobile home is damaged or dilapidated to a point which makes said mobile home unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home shall be vacated and removed from the premises.

8-904. Storage of Equipment or Materials. No person shall store lawn equipment, lawn chairs, bicycles, toys, utensils, lumber, debris, or any other item outside of any enclosure fully screened from view. It is not the intent of this paragraph to prohibit furniture and recreational equipment designed for outdoor use. The intent is to encourage the use of a garage or storage shed for the storing of items such as those enumerated in this paragraph.

8-905. Prerequisites For Moving Mobile Homes Into Parks. No mobile home shall be moved into any mobile home park until the terms and conditions of the Improvement Location Permit have been fully satisfied and all construction therein completed throughout the entire park area; provided, however, that a staged development plan for a mobile home park may be filed, and if approved by the Plan Commission, the mobile home park may be occupied in accordance with the terms and conditions of that part of the stage of development as set forth in the plan.

8-906. Proper Zoning Required. All mobile home parks shall be located as provided in the Zoning Ordinance of the Town. All proposed mobile home parks must obtain proper zoning (MH-District) through the normal procedures for re-zoning as set forth in the Official Zoning Ordinance.

8-907. Storage Buildings. A storage building shall be provided in each park for inside storage of all equipment and other items used to maintain the park.

8-908. Water Supply.

- a. An adequate supply of pure water for drinking and domestic purposes shall be supplied to all service buildings and to all mobile home spaces within the park to meet the occupancy requirements of the park.
- b. Each mobile home space shall be provided with a cold water tap at least four (4) inches above the ground. Said tap shall have a shut-off valve that meets current plumbing code

requirements.

8-909. Electrical Service. An electrical outlet supplying at least 110-115/220-225 volts, one hundred (100) amperes shall be provided for each mobile home space.

8-910. Fire Protection.

- a. Every mobile home park shall be equipped at all times with a sufficient number of fire hydrants spaced throughout the park. The total number of hydrants and location of hydrants shall be subject to the approval of the New Whiteland Fire Chief, who shall submit his recommendations to the Plan commission.
- b. No open fires shall be permitted at any place within any mobile home park.

8-911. Garbage and Trash. All garbage and trash in each park shall be deposited in metal cans or other suitable containers with tight-fitting covers, with a sufficient supply of said containers for adequate disposal of all such garbage and trash. All receptacles used for storage or collection of garbage shall be kept in a sanitary condition at all times. All garbage and trash in each park shall be collected and disposed of as frequently as is necessary to insure that garbage and trash containers do not overflow or create an odor or otherwise cause a nuisance.

9-912. Sewers and Sewage Disposal. Each mobile home space shall be provided with a sanitary sewer line at least four (4) inches in diameter, which shall be connected to receive the waste from the showers, bath tubs, flush toilets, lavatory and kitchen sinks, and washing machines of the mobile home harbored in such space and having any or all such facilities. The sewer line in each space shall be connected to discharge the mobile home waste into a public sanitary sewer system in compliance with applicable ordinances, or into a privately owned and operated wastewater treatment plant and disposal system, provided said privately owned system is approved by the administrative agency having charge of approvals of such systems. The installation of sanitary sewer main lines and lateral service lines shall meet or exceed the requirements of applicable building codes.

8-913. Compliance with Indiana State Board of Health. Prior to the issuance of any improvement location permits, a manufactured or mobile home park licensee must file with the Plan Commission office a letter from the Indiana State Board of Health, evidencing approval by such board and compliance with the requirements of such board.

8-914. Permits and Inspections Required. An improvement location permit shall be obtained by the licensee for each and every mobile home stand within a mobile home park. The building inspector shall issue such permits, and collect such fees as

established by the New Whiteland Town Council. Said permits shall pertain to the proper installation of (1) the mobile home stand, including any slabs, piers, ribbons, patios, sidewalks, or driveways; (2) utility service connections, including sewer lines, gas lines, fuel lines, water lines, and electrical lines; and (3) presence of building code certification tag on mobile home.

8-915. Occupancy Permit Required. It shall be unlawful for any person to occupy a mobile home within an approved mobile home park prior to the issuance of an occupancy permit by the building inspector. An occupancy permit will be issued only after a proper permit has been obtained and permit requirements have been met.

8-916. Prerequisites for Mobile Home Park Operation. It shall be unlawful for any person to maintain or operate a mobile home park within the Town's jurisdiction unless such person shall first:

- a. Obtain a license therefor from the Indiana State Board of Health;
- b. Submit development plans to the Plan Commission and receive approval of same;
- c. Obtain proper zoning of the property;
- d. Obtain required building permits and construct all improvements according to Town specifications and appropriate building codes.

8-917. Notice of Violation. If at any time a mobile home park is found to be violating any provisions of this ordinance any duly constituted officer or agent of the New Whiteland Plan Commission shall notify the licensee of such condition. Such conditions shall be corrected by the licensee to the satisfaction of the commission within a reasonable time after notification.

8-918. Emergency Situations. Whenever the state or county health officer or the building inspector finds that an emergency exists which requires immediate action to protect the public health, safety, or welfare, he may without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the license issued pursuant to state laws appertaining thereto. Such order shall be in writing, shall be notwithstanding any other provisions of the section, and shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately or be subject to suspension or revocation according to law, and shall be punished in accordance with Section 3-500 of this ordinance.

8-919. Responsibility for Violation. The manager or caretaker of a mobile home park shall, with the licensee, be responsible for the violation of any provisions of this section to which licensee is subject.

8-920. Responsibility of Occupants for Violations. The occupants of a mobile home within a park shall, with the persons operating and maintaining said park, be liable for the violation of any provisions of this article, except for such requirements that are only to be complied with expressly by the licensee.

8-1000. DEFINITIONS. As used in Article 8 the following words and phrases shall have the meaning respectively ascribed to them in this section:

ADD-A-ROOM UNIT. A unit of manufactured housing with less occupied space than a manufactured housing section.

ANCHORING SYSTEM. An approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured or mobile home to ground anchors.

ANSI/NFPA 501 A INSTALLATION STANDARDS. Standards for installation of manufactured and mobile homes as adopted and copywrited by the Manufactured Housing Institute and the National Fire Protection Association contained within their publication: "Standard for the Installation of Mobile Homes".

APPROVED. Acceptable to the appropriate authority having jurisdiction, by reason of investigation, accepted principles, or tests by nationally recognized organizations.

FOUNDATION SIDING (SKIRTING). A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials enclosing the entire undercarriage of the manufactured or mobile home.

LICENSEE. The term "Licensee" shall mean any person licensed to operate and maintain a mobile home park under the statutes of the State of Indiana and the regulations of the Indiana State Board of Health.

MANUFACTURED HOME. A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code (1974 USC et. seq.) see Section 704.4

MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODE. Title VI of the 1974 Housing and Community Development Act (Public Law 93-383, U.S.C. 5401 et sequentia), as amended (previously known as the Federal Mobile home Construction and Safety Act), rules and regulations adopted thereunder, which

include information supplied by the home manufacturer, (which has been stamped and approved by a Design Approval Primary Inspection Agency, who is an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the Indiana Administrative Building Council.

MANUFACTURED OR MOBILE HOME COMMUNITY OR PARK. A parcel of land on which five (5) or more manufactured or mobile homes are occupied as residences.

MANUFACTURED OR MOBILE HOME SUBDIVISION. A parcel of land platted for subdivision according to all requirements of the Comprehensive Plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

MOBILE HOME. A transportable structure larger than three hundred and twenty (320) square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction June, 15, 1976.

MOBILE HOME PARK. The term "Mobile Home Park" shall mean any plot of ground upon which five (5) or more manufactured or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

MOBILE HOME SPACE. The term "Mobile Home Space" shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) manufactured or mobile home.

MOBILE HOME STAND. The term "Mobile Home Stand" shall mean that part of an individual manufactured mobile home space which has been reserved for the placement of the manufactured or mobile home, appurtenant structures, or additions.

NON-CONFORMING MOBILE HOME PARK. The term "Non-Conforming Mobile Home Park" shall mean any mobile home park whose plans have been approved and otherwise fully complies with all applicable town ordinances as of the date of adoption of this ordinance.

OCCUPIED SPACE. The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to garages, patios and porches.

ONE AND TWO FAMILY DWELLING CODE, INDIANA. The nationally-recognized model building code prepared by the Council of American Building Officials, adopted by the Indiana Department of Fire and Building Safety as mandated through Public Law 360, Acts of 1971, and, which includes those supplements and amendments promulgated by the Department.

PERIMETER RETAINING WALL. A perimeter non-load bearing

structural system completely enclosing the space between the floor joists of the home and the ground.

PULL OUT UNIT. An expandable manufactured housing unit.

SECTION. A unit of a manufactured home at least twelve (12) body feet in width and thirty (30) body feet in length.

STREET. The term "Street" shall mean a street designed primarily for through traffic and leading directly to an exit or entrance and permitting one-way or two-way traffic.

SUPPORT SYSTEM (FOUNDATION). A combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home; footings being the part of the support system which transmit loads to the soil at or below the surface and the frost line; piers and caps being the part of the support system between the footing and the home, exclusive of plates and shims; plates and shims being the cushion of wood or other approved material, which are used to fill the gap between the top of the pier caps and the frame of the home.

Article 9 PLANNED UNIT DEVELOPMENT (PUD).

9-100. GENERAL PURPOSE. The purpose of this article is to set forth procedures and requirements for the establishment of a Planned Unit Development (PUD) Zoning District within New Whiteland. The intent of this Section is to set guidelines whereby a PUD plan can achieve:

- a. A maximum choice in the types of living environment, occupancy tenure (i.e., cooperatives, individual ownership, condominium, leasing, etc.), types of housing, types of ownership, and community facilities available to existing and potential residents.
- b. Usable open space and recreation areas directly related to the intended users.
- c. Convenience in location of accessory commercial and service areas or supportive industrial areas.
- d. Preservation of natural topographical and geological features with emphasis upon:
 1. Prevention of soil erosion,
 2. Conservation of existing surface and subsurface water,
 3. Preservation of trees and other environmental enhancing features.
- e. A creative and efficient approach to the use of land and related physical development, resulting in a smaller network of utilities and streets and lower housing costs.
- f. An environment of stable character in harmony with the surrounding development.
- g. A more desirable environment than would be possible through the strict application of other Sections of this Ordinance.

9-200. DEFINITIONS:

- a. Planned Unit Development (PUD). PUD is an area of land, controlled by a landowner, to be developed as a single entity for a variety of dwelling units and/or other uses, the plan for which does not correspond in lot size, bulk or types of dwelling, density, lot coverage, and required open space to the regulations established in any one zoning district, created from time to time, under the provisions of the Zoning Ordinance enacted by the Town Council.
- b. Landowner. Landowner shall mean the legal or beneficial owner or owners of all of the land proposed to be included

in a PUD. The holder of an option or contract to purchase, a lessee or other persons having an enforceable proprietary interest in such land shall be deemed to be a landowner for the purposes of this Section.

- c. Plan. Plan shall mean the written and graphic submission for a PUD, including a plat of subdivision; all covenants and articles of incorporation of the homeowner's association relating to use; location and bulk of buildings and other structures; density of development; private streets, ways and parking facilities; common open space, and public facilities.
- d. Common Open Space. Common open space is a parcel or parcels of land or an area of water, or a combination of land and water within the PUD site designed and intended for the use or enjoyment of the occupants. Street right-of-ways, driveways, and parking lots which directly serve dwellings or commercial buildings shall not be counted toward area requirements of common open space. Those directly serving recreational areas may be counted toward common open space area requirements at the discretion of the Plan Commission.
- e. Professional Consultant. Professional Consultant shall mean a person who possesses the knowledge and skills, by reason of education, training, and experience to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental, and design characteristics and implications in order to foster a unified plan for development. He may be, but not necessarily limited to, a registered architect, landscape architect, engineer, planner, or equivalent.
- f. PUD. The abbreviation PUD shall mean planned unit development as defined in Planned Unit Development above.
- g. Gross Land Area. The gross land area of a PUD shall be defined as all areas (whether covered by land or water) contained within the exterior property boundaries of the PUD that are a part of the PUD.

9-300. GENERAL DESIGN REQUIREMENTS.

9-301. Minimum Area Requirements. Planned Unit Development - the minimum area required for PUD zoning shall be a gross land area of ten (10) acres if used for residential zone purposes. Provided, however, no commercial uses shall be permitted in a PUD containing a gross land area less than twenty-five (25) acres. Further provided, however, that no manufacturing uses shall be permitted in a PUD containing a gross land area of less than fifty (50) acres.

9-302. Location of a PUD District. The PUD zoning district may be applicable to any area where the applicant can demonstrate that his proposal will meet the objectives of this

section. After having reviewed the PUD preliminary proposal the Plan Commission shall submit its recommendation to the Town Council.

9-303. Setback Requirements. The location of all structures shall be as shown on the final approved plat. Minimum lot size, front, rear, and side yard lines, and lot width are not regulated specifically by this Section, although the Plan Commission may be guided by standards set elsewhere in this ordinance for comparable conditions and by common good practice. The relationship of buildings to each other, to the local street system, and to open space land shall be consistent with the intent of this Section.

9-304. Intensity of Land Use. Because land is used more efficiently in a PUD, improved environmental quality can often be produced with a greater number of dwelling units per gross acre than usually permitted in a traditionally zoned district. The Plan Commission shall determine in each case the appropriate land use and dwelling unit density for individual projects or sections thereof. However, the following guidelines shall be adhered to:

a. Residential Densities:

1. Overall - the maximum residential density for the overall project shall be five (5) units per acre; computed by comparing the total number of dwelling units to the gross land area of the project.
2. Sections - the maximum residential density for any particular section shall be fifteen (15) units per acre; computed by comparing the number of dwelling units within a particular section to the gross land area of that particular section.

b. Land Use Ratios:

1. Professional Research, Office or General Business - Commercial or business uses may occupy up to a maximum of twenty percent (20%) of the gross land area.
2. Manufacturing - Industrial uses may occupy up to a maximum of ten percent (10%) of the gross land area.
3. Residential - The remainder of the area shall be devoted to residential uses, providing that open space accompanies this land utilization at the rate of twelve (12) acres for every three hundred (300) dwelling units.

9-305. Common Property. Common Property in a PUD is a parcel of parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants. When common property exists, the ownership of such common property may be either public or private. When common property exists, satisfactory arrangements shall be made for the

improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and recreational and open spaces. The landowner shall provide for and establish an organization for the ownership and maintenance of any private common open space, and such organization shall not be dissolved nor shall it dispose of any common open space.

9-306. Permitted Uses. All uses within an area zoned as a PUD District are determined by the provisions of this Section and the approved plan of the project concerned.

- a. Residential Uses - Residential Uses may be of a variety of types. In developing a balanced community, the use of a variety of housing types shall be deemed in keeping with this article.
- b. Commercial, Service, Other Non-Residential Uses - Commercial, industrial and other non-residential uses may be included in a PUD subject to approval by the Plan Commission. Such uses, their locations, and commercial area designs shall be compatible with the residential uses. This Section encourages a mixture of non-residential uses in a PUD as supportive economic development to the PUD specifically, and to the Town in general.

9-307. Conflict of Restrictions. Wherever there is a conflict or difference between the provisions of this Section and those of the other Sections of this ordinance, the provisions of this Section shall prevail. Subjects not covered by this Section shall be governed by the respective provisions found elsewhere in this Ordinance unless otherwise approved by the Plan Commission.

9-308. Non-residential Use Compatibility. Commercial, business, or industrial uses shall be reviewed by the Plan Commission to determine the following:

- a. That the uses permitted are necessary or desirable and are appropriate with respect to the purpose of this PUD Section.
- b. That the uses are not of such nature or so located as to exercise a detrimental influence on the PUD nor on the surrounding neighborhood.
- c. That the areas and uses are planned as an integral part of the PUD.
- d. That the uses are located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard.
- e. No commercial or industrial uses shall be allowed in a combination PUD unless the size of the PUD meets or exceeds the area requirements set out in Section 901.2. subsection 1.

9-309. Utilities. All utilities, including communication and electrical systems, shall be placed underground within the limits of a PUD. Appurtenances to these systems may be accepted.

9-310. Streets. The design and designation of all streets, public or private, shall be subject to the approval of the Plan Commission. Minimum pavement construction and dimension standards shall be as set forth in the New Whiteland Subdivision Control Ordinance. Because of the nature of a PUD and the intent of this Section, the overall shape and dimension of the street right-of-way shall be at the discretion of the Plan Commission.

9-311. Homeowners Association. There shall be an established Home Owners Association and its by-laws and other similar deed restrictions which provide for the control and maintenance of all common areas, recreation facilities, or open spaces shall meet with the approval of the Plan Commission. If any open space or recreational facility is to be used solely by the residents of the PUD, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.

9-312. Commercial/Industrial Design. The plan of the project shall provide for the integrated and harmonious design of buildings in commercial and industrial areas and such parcels shall be developed in parklike surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas, and other features from the adjoining and surrounding residential areas.

9-400. APPLICATION AND APPROVAL PROCEDURES. Whenever a PUD is proposed, before a permit for the erection for a permanent building in such PUD shall be granted, and before a subdivision plat of any part thereof may be filed in the office of the Plan Commission, the developer or his authorized agent shall apply and secure approval of such PUD in accordance with this Section. Review of the project shall take place in four (4) phases. At the culmination of each phase, the applicant must receive the necessary approvals from the appropriate body (New Whiteland Plan Commission or Town Council) prior to proceeding into subsequent review phases. Lack of sufficient or continuous progress as defined herein, either through or between phases, may lead to nullification of all approvals by the New Whiteland Plan Commission and Town Council. Approval of any one phase does not guarantee approval of any subsequent phases.

PHASE I - CONCEPT APPROVAL:

9-401. Concept Plan. In order to allow the Plan Commission and the developer to reach an understanding on basic design requirements prior to detailed design, the applicant shall submit:

- a. A legal description of the metes and bounds of the parcel.

- b. An area map showing adjacent property owners and existing uses within six hundred (600) feet of the proposed PUD parcel.

- c. A sketch plan approximately to scale, though it need not be to the precision of a finished engineering drawing; and it should show the following:
 - 1. The existing topographical features of the site;
 - 2. General map of the watershed in which the project is to be located;
 - 3. Location of the various uses and their areas in acres;
 - 4. The general outlines of the interior roadway system and all existing right-of-way and easements whether public or private;
 - 5. Delineation of the various residential and non-residential areas, indication for each area, its general extent, size, and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling unit type;
 - 6. Calculation of the residential density in dwelling units per gross acre including interior roadways;
 - 7. The interior open space system;
 - 8. Where portions of the site are subject to flooding, the map shall indicate extent and frequency;
 - 9. Principal ties to the community at large with respect to transportation, water supply, and sewage disposal;
 - 10. General description of the availability of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and how these facilities are affected by these proposals;
 - 11. Evidence that the proposed PUD is compatible with the goals of the Town's official Comprehensive Plan;
 - 12. General statement as to how common open space is to be owned and maintained;
 - 13. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan shall show the intended total project.

14. The application shall certify that a professional consultant is being utilized in the planning procedures. Said consultant shall be involved in the application procedures.
- d. The Plan Commission shall review the concept plan and its related documents at a public hearing and shall render a written report to the Town Council and to the applicant within fifteen (15) days of the public hearing. The Plan commission may call upon other public or private consultants to provide a sound review of the proposal. The Plan Commission may require preliminary approval from other county or state agencies. The Commission or consultants need only concern themselves with general conceptual merit, and in no way shall commit any future acceptance or rejection of detailed design elements required in subsequent phases of plan review. The written report shall include the following:
 1. Whether the proposal meets the intent and objectives of this PUD Section;
 2. Whether the proposal is conceptually sound in that it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the developed elements;
 3. Whether there are adequate services and utilities available or proposed to be made available in the construction of the project.
 - e. The Town Council shall review the proposed conceptual PUD plan within forty-five (45) days of receipt of recommendations from the Plan Commission.
 - f. If the Town Council shall grant by formal resolution approval of the proposed PUD conceptual plan, then the applicant may proceed to Phase II.

PHASE II - PRELIMINARY PLAT APPROVAL & REZONING PETITION:

9-402. Simultaneous Platting & Zoning. After having received approval of the proposed PUD conceptual plan, the applicant may then proceed to Phase II of the approval process. In Phase II the applicant shall present the preliminary site plan (plat) for Plan Commission Review, and may simultaneously petition for PUD zoning of the total parcel. It should be emphasized that although the platting procedures may be initiated simultaneously and progress concurrently, final zoning approval shall be subject to final plan approval, and shall not occur until after final plan approval (to allow the "Master Plan" to be made a part of the Zoning Ordinance).

9-403. Application Filing and Public Notification. Application for preliminary plat approval shall be submitted to the New Whiteland Plan Commission. The proposed preliminary plat and any supportive documents shall be filed with Plan Commission Office at least fifteen (15) days in advance of the public hearing at which the proposed plat is to be reviewed. The applicant shall meet all Plan Commission public hearing requirements as set out in Section 4-102 of this ordinance.

9-404. Contents of Preliminary Plat. The preliminary plat shall be filed in three (3) copies and include the following information prepared by a professional consultant:

- a. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within three hundred (300) feet of the applicant's property.
- b. A topographic map of the entire area showing contour intervals of not more than two (2) feet of elevation shall be provided.
- c. A preliminary site plan including the following information:
 1. Title of drawing, name of project, name and address of applicant, name and address of professional consultant.
 2. The land use plan identifying the type, location, quantity, design, floor area, and density of specific sections and the project in total.
 3. North point, scale and date.
 4. Existing and proposed water courses.
 5. Street layout and design.
 6. The open space plan and planned sites for schools, recreation areas, community centers, and other public improvements where applicable.
 7. Location of all existing or proposed site and off-site improvements, including drains, ditches, culverts, retaining walls, and fences; descriptions and location of method of sewage disposal and water supply; location and size of all signs (street name and traffic control); location and design of street and parking lighting; and the amount of building area proposed for non-residential uses, if any.
 8. A plan for phasing the construction of the project, showing the geographical coverage of future plats, their approximate sequence of development, and the tentative timetable for development. It is the intent

of this Section that the tempo and sequence of development in a PUD be such that land uses which provide only moderate local revenues, yet require large municipal and school service costs, are scheduled simultaneously with those that provide larger local revenues yet which are not as costly to service.

- d. The Plan Commission may require, if all or part of the gross land area of the PUD has moderate to high susceptibility to flooding, a transparent overlay showing all soils, areas, and their classifications; as well as those areas susceptible to flooding, or moderately or highly susceptible to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and tree coverage.
- e. The Plan Commission may further require, if the proposed PUD is within close proximity to an airport, a transparent overlay showing aircraft patterns, approach patterns, and seasonal wind directions. Areas of possible noise or odor pollution on or off-site shall be indicated.

9-405. Factors for Consideration. The Plan Commission's review of a preliminary site plan shall include, but not be limited to, the following considerations:

- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, signs, and traffic controls.
- b. Adequacy and arrangement of pedestrian traffic access and circulation; separation of pedestrian from vehicular traffic; and pedestrian convenience.
- c. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
- d. Location, size, and placement of buildings, lighting and signs.
- e. Type and arrangement of landscape features.
- f. Adequacy, location, and size of storm water and sanitary waste disposal facilities.
- g. Adequacy of structures or roadways in areas with moderate to high susceptibility to flooding, ponding, or erosion.
- h. Conformance with other specific requirements of the Town Council which may have been stated in the PUD conceptual resolution or PUD zoning ordinance.
- i. In its review, the Plan Commission may consult with the town engineer, other departments or officials, as well as with the representatives of Federal and State agencies such as

the Soil Conservation Services, Indiana State Board of Health, or Department of Natural Resources. The Plan Commission may also require such additional provisions and conditions that appear necessary for the public health, safety, and general welfare.

- j. That property adjacent to the proposed development will not be adversely affected.

9-406. Action on Preliminary Plat Plan. Within thirty (30) days of the public hearing at which the preliminary plat is submitted for approval, the Plan Commission shall act on it. If no decision is made within said thirty (30) day period, the preliminary plat plan shall be considered conditionally approved. The Plan Commission's actions shall be in the form of a written statement to the applicant stating whether or not the preliminary plat plan is conditionally approved. A copy of the appropriate minutes of the Plan Commission shall be sufficient report.

The Plan Commission's statement may include recommendations as to desirable revisions to be incorporated into the final plat plan, of which conformance with shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the zoning proceedings.

If the preliminary plat plan is disapproved, the Plan Commission's statement shall contain the reasons for such findings. In such a case the Plan Commission may recommend further study of the plat plan and re-submission of the preliminary plat plan to the Plan Commission after it has been revised.

9-407. Town Council Review. After having received Plan Commission approval of the preliminary plat plan, the applicant may then submit his proposed re-zoning ordinance to the Town Council along with the approval recommendations of the Plan Commission.

PHASE III - MASTER PLAN AND FINAL ZONING APPROVAL

9-408. Application for Final Master Plan Approval. After receiving the conditional approval from the Plan Commission on a preliminary plan and approval for all necessary permits and curb cuts from town, state, and county officials, the applicant may prepare his final detailed Master Plan and submit it to the Plan Commission for final approval.

The final detailed master Plan shall conform substantially to the preliminary plat plan that has received conditional approval. It should incorporate any revisions or other features that may have been recommended by the Plan Commission and/or the Town Council during plan concept and preliminary plat plan review procedures.

9-409. Scope of Final Platting Procedures. Because of the uniqueness of a PUD compared to conventional zoning and development, the following items shall be primary considerations related to the final platting of the development:

- a. PUD is to be developed as a total project with all area being in harmony and continuity with each other. Once the project has begun actual construction, its completion, in the form originally planned and approved, should be guaranteed in as much as it reasonably can.
- b. At the same time, PUD is usually of sufficient size so as to make it impractical, both physically and financially, to develop without a phased and sequenced plan. Thus, some degree of flexibility should be provided to allow such phasing of the project.

9-410. Master Plan to Accompany or Precede Final Plat. In the spirit and intentions of Section 9-409, above, after having received approval of the proposed Master Plan, the applicant shall:

- a. Provide the Plan Commission with three (3) copies of the final "Master Plan" of the PUD. Said "Master Plan" shall show the precise exterior boundaries of the project, as well as the precise boundary lines of each section or phase within the PUD. Each section or phase shall have a specific zoning designation shown on the Master Plan that conforms to current zoning designations of the Town of New Whiteland. At least one of such copies shall be on reproducible mylar or equivalent. Subsequent final plats of various individual phases or sections shall substantially conform to the "Master Plan". Said plan shall also contain a statement of the good faith intent of the applicant to carry out the proposed development in accordance with the "Master Plan".
- b. The "Master Plan" shall further contain a statement of recommendation from the Plan Commission to the Town Council that said plan, in conjunction with any other documents or requirements made a part of the project during the review process, should be a part of the zoning ordinance for the specific PUD. The statement shall bear the signatures of the Chairman of the Plan Commission and the Zoning Administrator.
- c. Said "Master Plan" when approved by the Town Council shall become a part of the Zoning Ordinance for the PUD. The Master Plan shall contain a statement of approval by the Town Council and shall bear the same signatures as required on the zoning ordinance. The "Master Plan" shall be recorded with the Johnson County Recorder.

PHASE IV - FINAL PLATS:

The preliminary plats and final plats for individual sections or phases shall be approved and signed by the Plan Commission Chairman and Recording Secretary in the same manner as prescribed in the New Whiteland Subdivision Control Ordinance (including requirements for "Content of Plat"). The Town Council does not participate in the review or approval of preliminary plats, final plats, or building permits.

9-500. SUPPLEMENTAL REGULATIONS.

9-501. Proceedings. All proceedings brought under this section shall be subject to the rules of procedure of the Plan Commission, where not inconsistent with the procedure otherwise stated herein, except that notice by publication shall be sufficient notice for proceedings related solely to approval and modification of preliminary plat plans and final plat plan.

9-502. Modification. In the exercise of its continuing jurisdiction, the Plan Commission may, from time to time, modify the approved final plat plan in a manner consistent with the approved preliminary plat plan to allow for changed circumstances and conditions unforeseen at the time of the original approval. This paragraph does not apply to zoning designations.

9-503. Request for Changes. If, in the site development, it becomes apparent that certain elements of the plan as it has been approved by the Town of New Whiteland are not feasible and in need of significant modification, the applicant shall then present his solution to the Plan Commission. The Plan Commission shall then determine whether or not the modified plan is still in keeping with the intent of the Master Plan and zoning ordinance of that specific PUD. If a negative decision is reached, the site plan shall be considered as disapproved. The applicant may then produce another site plan solution. If an affirmative decision is reached, the Plan Commission shall so notify the Town Council, stating all of the particulars of the matter and the reasons for its recommendations for approval, whichever the case may be. This paragraph does not apply to zoning designations.

9-504. Expiration of Approval. Approval by the Plan Commission shall expire after a period of five (5) years from the approval of the PUD's Master Plan unless the development is fifty-one percent (51%) completed in terms of public improvements such as power, gas, water, and sanitary sewers, in which latter instance an extension of time may be granted by the Plan Commission not to exceed five (5) successive periods of two (2) years each.

9-505. Abandonment. Upon abandonment of a development authorized under this Section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Master Plan for twenty-four (24) months or upon expiration of the approval as prescribed in Section 901.4,

subsection 4 above,) the Plan Commission shall initiate an amendment to the zoning ordinance so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which it deems appropriate.

9-506. Recording. All approved final plat plans and modifications thereof shall be recorded in the appropriate plat books in the offices of the Johnson County Recorder within two (2) years after approval by the Plan Commission.

9-507. Re-Zoning Limitations. The Plan Commission shall not initiate any amendments to the zoning ordinance concerning property involved in a PUD before completion of development so long as development is in conformity with the approved Master Plan and final approved plat plans, and is proceeding in accordance with the time requirements. Re-zoning may, however, be initiated by consent of the property owner. In such a case, the regular procedures for re-zoning property shall be conformed to.

9-508. Official Zoning Map Amended. Upon final passage of the PUD zoning ordinance by the Town Council the specific area rezoned shall be shown on the official zoning map of the Town as a PUD district. Reference shall be made on the map to the number, title and date of passage of said ordinance, as well as the approved Master Plan of the PUD and any other supportive documents designated by the Town Council shall constitute the zoning regulations for that specific PUD. ANY matters not specifically addressed by said ordinance shall be governed by the New Whiteland Zoning Ordinance and New Whiteland Subdivision Control Ordinance.

9-600. INDUSTRIAL PARKS. An "Industrial Park" shall be defined as a planned Industrial Subdivision comprising a single parcel of land, having not less than four hundred (400) feet of continuous frontage on a public street and developed according to a general overall plan to provide serviced sites for uses permitted in the applicable Manufacturing Zoning District--including manufacturing, processing, assembly plants, distribution, wholesalers, warehouses and/or related industrial uses and accessory facilities therefore and as set out in the Official Schedule of Uses.

9-601. Permitted Uses. An "Industrial Park" as so defined in this ordinance, shall be permitted in any Manufacturing District by Special Exception permit (granted by the Board of Zoning Appeals in accordance with Section 4-400) provided:

All development standards and performance standards of the Manufacturing District and the New Whiteland Subdivision Control Ordinance shall be met, except as specifically modified by the grant of Special Exception permit. (The specific exceptions requested shall be stated on the application for Special

Exception Permit and indicated on the site plan for the proposed Industrial Park).

9-602. Application Procedures. The petitioner shall submit with the application for Special Exception Permit (filed with the Zoning Administrator) a general site plan of the proposed Industrial Park. The site plan shall be a scaled drawing of the development plan of the Industrial Park, and shall have indicated (on the plan or written reference) exceptions or deviations, as follows (from the standard regulations and requirements of the Manufacturing Zone District or Districts comprising said Industrial Park and the New Whiteland Subdivision Control Ordinance).

9-603. Exceptions. Exceptions which may be authorized by grant of Special Exception Permit for an Industrial Park shall include but not be limited to:

- a. Front Setback and Frontage on a Public Street - Sites for uses within the industrial Park may front upon and be serviced by private interior access roads provided:
 1. Each such site shall have front yard and setback (from the interior access road) of adequate depth in relation to building height, width and area; and
 2. The Industrial Park shall have at least four hundred (400) feet of frontage on a public street and that a front yard and setback (in accordance with the Manufacturing Zoning District's standard requirements) shall be provided along all public streets abutting the periphery of the Industrial Park.
- b. Side Yard and Setback - The total of the required side yards and setbacks may be provided entirely on one side or divided in any proportion between the two sides; provided, however, that the sides of any two buildings shall be separated by a minimum of twenty (20) feet unless abutting.
- c. Deceleration Lane - No deceleration lane shall be required within the Industrial Park provided the streets or private interior access roads are of sufficient width and number of lanes that continuous movement of through traffic is not impeded.

9-604. Development Requirements. All development and use of the area included in the Industrial Park shall be in accordance with all requirements of the applicable Manufacturing Zoning District(s), as modified by the grant of Special Exception permit, conditions thereof and site plan therefore (as approved and granted by the Board of Zoning Appeals in accordance with Section 4-400). Such conditions and site plan shall be a part of and incorporated in the grant of Special Exception Permit by said Board.

9-605. Industrial Park Design Objectives.

- a. That all special treatment and handling of street patterns, and arrangement of grouping of buildings, off-street parking and loading, accessory uses, etc., shall result in a superior land development scheme which accomplishes the objectives and carries out the spirit of the applicable comprehensive plan and zoning ordinance;
- b. To create and maintain desirable, efficient, and economical use of land with high aesthetic value, attractiveness and compatibility of land use;
- c. To permit reasonable deviation from standard zoning district requirements where necessary due to special size or shape of site(s) or character of condition of topography and terrain or other special conditions;
- d. To permit adequate private interior access roads to serve industrial sites and uses within such Industrial Park;
- e. To provide sufficient and adequate access, parking, and loading areas for all uses and structures therein;
- f. To provide adequate traffic control and street plan integration with existing and planned street.
- g. To provide adequate sanitation, drainage and public utilities servicing the Industrial Park; and
- h. To allocate adequate sites for all uses proposed -- the design, character, grade, location, and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of New Whiteland, Indiana.

Article 10 FLOOD HAZARD DISTRICT (FH)

10-100. PURPOSE. Flood hazard zoning has been created to protect the public health and to reduce the financial burdens which may be imposed on the community, its governmental units and its citizens as a result of improper use of lands which are subject to periodic flooding. Construction or development of the flood hazard areas of the Town of New Whiteland could result in the potential loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community these lands are to be reserved for suitable open space uses that do not require structures or fill.

10-200 DEFINITIONS. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Development - Any man-made change to improved or unimproved real estate including, but not limited to, buildings, and other structures, mining, dredging, filling, grading, paving, excavation or drilling operation.

Flood Plain - Means any flood plain, floodway or floodway fringe district or combination thereof as illustrated on the Flood Boundary and Floodway map as prepared by the Federal Insurance Administration.

Natural Resources - Means the Indiana Natural Resources Commission.

Regulatory Flood - Means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a one-hundred year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. This flood is equivalent to a flood having the probability of occurrence of one percent in any given year.

Structure - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes, and other similar items.

10-300. BASIS FOR ESTABLISHING FLOOD HAZARD DISTRICTS. The Flood Hazard Districts (areas subject to inundation by the regulatory flood) as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of New Whiteland dated February 16, 1982, with the accompanying Flood Insurance Rate

Maps and Flood Boundary-Floodway Maps" along with any subsequent revisions to the text or maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file in the office of the Recording Secretary, of the Plan Commission.

10-400. DESIGNATION AND DUTIES OF THE COMMISSION. The Plan commission or its designated representative for the town of New Whiteland is appointed to review all development and subdivision proposals within the Flood Hazard Districts to insure compliance.

10-500. USES IN FLOOD HAZARD DISTRICT. Uses Permitted

- a. All buildings, structures, construction grading and deposits that are essential to the operation of public works such as bridges, water and sewer facilities, utility sub-stations, power and telephone line supports, transmission towers and other service structures.
- b. Non-damageable or low damage potential uses, such as agriculture, parking lots, park and recreation areas, signs, and similar uses.
- c. All buildings and structures permitted in the Flood Hazard district shall be subject to the regulations of said district and provided that:
 1. The ground upon which such building or structure is to be located and an area twenty feet beyond the limits of such building or structure shall prior to or at the time of construction, be raised to an elevation of not less than one (1) foot above the designated flood elevation and the first floor elevation shall be not less than three (3) feet above the designated flood elevation.
 2. Buildings for uses other than residential, where permitted in a Flood Hazard Zone, may be constructed without reference to paragraph a. above, provided they are floodproof to prevent damage and if the plans for such buildings have been approved by Natural Resources.
 3. All development applications located in the Flood Hazard District will require the review and approval by natural Resources prior to the issuance of an Improvement Location Permit. The Plan Commission or its designated representative shall forward all applications along with plans and specifications to Natural Resources for review and comment.
 4. All improvement location permits shall be issued upon the condition that no occupancy permit will be issued and no occupancy will be permitted until the applicant furnishes: A certification from a registered professional engineer or land surveyor stating that the

elevation of the structure and the site meet the requirements of this ordinance, or certification of plan approval from Natural Resources as provided in subsections c.2. and c.3. above.

10-600. NONCONFORMING USES. Any building, structure or use of land in the Flood Hazard District which is not in conformance with this ordinance constitutes a non-conforming use. All applications to repair, extend, or enlarge a non-conforming use shall be forwarded to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any improvement location permit.

10-700. DETERMINATION OF FLOOD ELEVATION. The official flood elevation shall be that maximum elevation recommended by Natural Resources, concurrent with the date of interpretation, and shall therefore be variable in accordance with the flood control measures as are being constructed from time to time to reduce the flood threat in the future.

10-800. VARIANCES. Applications for variances within a Flood Hazard District shall be forwarded to natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any improvement location permit.

10-900. NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS. The Plan Commission or its designated representative, during its review of improvement location permits, shall assure that all NFIP regulations pertaining to State and Federal permits, subdivision review, mobile home tie down standards, utility construction, record keeping (including lowest floor elevations), and water course alteration and maintenance have been met.

10-1000. DISCLAIMER. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the community, Natural Resources, or the State of Indiana for any damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.