

**THE AREA PLAN COMMISSION
OF ST. JOSEPH COUNTY, IN**

AGENDA

Tuesday, November 17, 2015
3:30 p.m.

Fourth-Floor Council Chambers
County-City Building, South Bend, IN

PUBLIC HEARINGS:

1. Rezoning:

- A. A combined public hearing on a proposed ordinance of Dr. Trang Mai DDS to zone from SF2 Single Family & Two Family District to OB Office Buffer District, and seeking the following four variances: 1) from the required 15' minimum front yard setback to 5' for an interior access drive and parking; 2) from the required 15' side residential bufferyard to 5'; 3) from the required foundation landscaping to the existing landscaping; and 4) from the required Type: B Landscaping along the alley to none, property located at 1637 and 1641 Portage Avenue, City of South Bend - [APC# 2759-15](#).
- B. A combined public hearing on a proposed ordinance of DAFIR Realty, LLC to zone from R: Single Family District to C: Commercial District and seeking the following three variances: 1) from the required Type 2: full screening landscaping of side and rear yards abutting residential districts to no landscaping on the rear and no landscaping on the south for the first 200' east of Fir Road, Type 1: open landscaping on the north starting at a point 400' east of Fir Road, and Type 1: open landscaping on the south starting at a point 700' east of Fir Road and continuing along the property that runs parallel to Fir Road; 2) from the required 40 parking spaces to 5; and 3) from the required foundation landscaping to none along the western facades of the storage buildings, property located at 54486 Fir Road, St. Joseph County - [APC# 2760-15](#).

2. Text Amendments

- A. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Common Council of the City of South Bend, Indiana, amending Chapter 21 Zoning of the Municipal Code of the City of South Bend, Indiana by repealing and replacing Article 12 Floodplain Regulations, in order to adopt the most recent Federal and State requirements - [APC# 2761-15](#).
- B. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the St. Joseph County Council of St. Joseph County, Indiana amending Title XV: Land Usage, Chapter 154: Planning and Zoning of the St. Joseph County, Indiana Code of Ordinances, by repealing Sections 154.290 through 154.296 FP: Floodplain Regulations, and adding new Sections 154.290 through 154.297, in order to adopt the most recent Federal and State requirements - [APC# 2762-15](#).
- C. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Roseland, Indiana, amending Title XV Land Usage, Chapter 151 Zoning, of the Code of Ordinances of the Town of Roseland, Indiana, by repealing Sections 151.205 through 151.236 Floodplain regulations, and adding new Sections 151.205 through 151.212 in order to adopt the most recent Federal and State requirements - [APC# 2763-15](#).

- D. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of North Liberty, Indiana, amending Title 8 of the Town of North Liberty Code by repealing and replacing Article 6: Floodplain regulations, in order to adopt the most recent Federal and State requirements - [APC# 2764-15](#).
- E. A proposed ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Lakeville, Indiana, amending Title 8 of the Town of Lakeville code by repealing and replacing Article 6: Floodplain Regulations, in order to adopt the most recent Federal and State requirements - [APC# 2765-15](#).
- F. A proposed Ordinance initiated by the Area Plan Commission of St. Joseph County, Indiana on behalf of the Town Council of the Town of Osceola, Indiana, repealing and replacing Chapter 14 Floodplain Regulations of the Town of Osceola Zoning Ordinance in order to adopt the most recent Federal and State requirements. - [APC# 2766-15](#).

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Miscellaneous:

- A. Alternate Development Standards– Ameriplex at Interstate 80/90, Area C, southeast quadrant of Adams Road and US 31 – [APC #2306-05](#)
- B. Alternate Development Standards– Ignition Park, 85 acres southeast of Sample Street and Prairie Avenue – [APC #2671-13](#)
- C. Findings of Facts for Granting of Variances for property located at 13460 E. McKinley and 56020 Curren Road, St. Joseph County – [APC #2755-15](#).
- D. Findings of Facts for Granting of Variances for property located at 1619 & 1623 Franklin Street, City of South Bend – [APC #2756-15](#).
- E. Findings of Facts for Granting of Variances for property located at 1714 and 1716 South Michigan Street, City of South Bend – [APC #2757-15](#).
- F. Approval of the 2016 Rezoning, Subdivision and Executive Committee meeting [schedules](#).

2. Executive Director’s Report:

3. Minutes and Expenditures:

4. Adjournment:

Staff Report

11/5/2015

APC # 2759-15
Owner: Dr. Trang Mai DDS
Location: 1637 and 1641 Portage Avenue
Jurisdiction: City of South Bend
Public Hearing Date: 11/17/2015

Requested Action:

The petitioner is requesting a zone change from SF2 Single Family & Two Family District to OB Office Buffer District, and seeking 4 variances from the development standards.

Land Uses and Zoning:

- On site: On site is an existing dental office and a vacant lot.
- North: To the north is a single family home zoned SF2 Single Family & Two Family District.
- East: To the east across Portage Avenue are single family and multifamily homes zoned SF2 Single Family & Two Family District and MF2 Urban Corridor Multifamily District.
- South: To the south is a dental clinic zoned OB Office Buffer District; across Kinyon Street is a video rental store zoned LB Local Business District.
- West: To the west across the alley is a single family home zoned SF2 Single Family & Two Family District.

District Uses and Development Standards:

The OB - Office Buffer District is established to promote the development of small scale office, professional, business, governmental and quasi-governmental uses. Since the types of permitted uses in the OB District are typically less commercial in appearance and are architecturally more harmonious with residential structures, this district can serve as a buffer between residential districts and more intense commercial or industrial districts. The OB District may also serve as a gradual and reasonable transition between major thoroughfares and residential districts. The OB District development standards are established to assure small scale developments.

Site Plan Description:

The site plan is part of a larger development that includes an existing dental office (1,232 square feet) with a proposed structural addition of 1,070 square feet. Additional parking and an access drive is proposed on the north, with access to the alley. The required parking for one dentist is 5 spaces. The total number of spaces being provided is 13. The northern portion of the lot, which abuts a residential use, is approximately 3 feet lower in elevation than the adjacent property. It will be separated by a retaining wall and both off-street parking area screening and perimeter landscaping. Site access is off of Kinyon Street, with the on-site traffic pattern directing vehicles out to the alley.

Zoning and Land Use History And Trends:

The property to the south across Kinyon Street was rezoned in 2001 to LB Local Business

District to allow for a video rental store.

Traffic and Transportation Considerations:

Kinyon Street has two lanes; Portage Avenue has two lanes and on-street parking.

Utilities:

This site will continue to be served by municipal sewer and water.

Agency Comments:

County Surveyor recommends approval. City Engineer recommends approval subject to: 1) submittal of a satisfactory drainage plan; 2) the paving of the rear alley from Kinyon Street to the lot's north line; and 3) that no landscaping be installed on the site's west property line which abuts the alley, for line-of-sight concerns. Department of Community Investment offers a favorable recommendation.

Commitments:

The petitioner is not proposing any written commitments.

Criteria to be considered in reviewing rezoning requests, per IC 36-7-4-603:

1. Comprehensive Plan:

Policy Plan:

This petition is consentient with City Plan, South Bend Comprehensive Plan (November 2006): Policy PF 7.1.1: Support the provision of services that effectively meet the changing healthcare needs of residents.

Land Use Plan:

The future land use map identifies this area as medium density residential.

Plan Implementation/Other Plans:

The Portage Avenue Commercial Corridor Revitalization Action Plan (November 1999) identifies this area as a "Shopping Node".

2. Current Conditions and Character:

Portage Avenue between Angela and Kinyon has developed as a local commercial node for the surrounding neighborhood.

3. Most Desirable Use:

The most desirable use is one that buffers the single family residential to the north from the commercial properties to the south and limits any negative impact on surrounding residential properties.

4. Conservation of Property Values:

Based on the fact that the dental office is already existing, surrounding property values should not be adversely affected. The change of elevation between this property and the property to the north, in conjunction with substantial landscaping along the north property line, will significantly limit any light or noise pollution from the office and its clients.

5. Responsible Development And Growth:

It is responsible development and growth to allow this dental office to expand in a limited

manner to better serve the health of neighborhood residents.

Staff Comments:

This is a combined public hearing procedure, which includes a rezoning and 4 variances from the development standards. The Commission will forward the rezoning to the Common Council with or without a recommendation and either approve or deny the variances.

The variances are as follows:

- 1) from the required 15' minimum front yard setback to 5' for an interior access drive and parking;
- 2) from the required 15' side residential bufferyard to 5';
- 3) from the required foundation landscaping to the existing landscaping; and
- 4) from the required Type: B Landscaping along the alley to none.

State statutes and the South Bend Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

The proposed setbacks will allow parking and access on site to meet the demands of the use and will be consistent with what is existing on site.

- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Surrounding property values will not be adversely affected by the building addition or the parking lot due to the change in elevation and landscaping which will serve as a noise and light buffer.

- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Due to the unique configuration of, and the relatively small depth of the site, the strict application of the residential bufferyard setbacks would not allow the dental office to expand.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. Staff recommends approval of variances 1, 2, and 4, however requests that variance #3 be subject to providing foundation landscaping for any new buildings or additions.

Analysis:

This rezoning will allow an existing dental office, which is current split-zoned, to be properly zoned and modified in a way that allows for expansion of an existing use and a more efficient traffic flow for patrons and employees. This rezoning is a natural expansion of a minimally-invasive zoning district which borders a commercial hub to the south.



SOUTH BEND

1 inch = 100 feet
PORTAGE TOWNSHIP

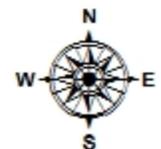




**Rezoning from:
"SF2" SINGLE FAMILY & TWO FAMILY DISTRICT to
"OB" OFFICE BUFFER DISTRICT**

MASTER ZONING KEY

- SOUTH BEND "SF1" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT
- SOUTH BEND "MF1" URBAN CORRIDOR MULTIFAMILY DISTRICT
- SOUTH BEND "OB" OFFICE BUFFER DISTRICT
- SOUTH BEND "MU" MIXED USE DISTRICT
- SOUTH BEND "LB" LOCAL BUSINESS DISTRICT



1 inch = 100 feet

APC # 2759-15

Staff Report

11/5/2015

APC # 2760-15
Owner: DAFIR Realty, LLC
Location: 54486 Fir Road
Jurisdiction: St. Joseph County
Public Hearing Date: 11/17/2015

Requested Action:

The petitioner is requesting a zone change from R: Single Family District to C: Commercial District, and seeking 3 variances from the development standards.

Land Uses and Zoning:

- On site: On site is a vacant lot.
- North: To the north is a single family home zoned R: Single Family District.
- East: To the east across the rail line are single family homes zoned R: Single Family District.
- South: To the south is a church zoned R: Single Family District.
- West: To the west across Fir Road are single family homes zoned R: Single Family District.

District Uses and Development Standards:

The C: Commercial District is established to provide a location for those retail sales and service functions whose operations are typically characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the C: Commercial District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention should be paid to buffering whenever this district is located adjacent to any residential district or residential uses.

Site Plan Description:

The site consists of two parcels totaling approximately 9.7 acres. On site are 10 proposed storage buildings and an office building. The required Type 2: full screening landscaping, which is intended to screen the commercial activities of the site from surrounding residential properties, would only be applied to approximately 375' of the 1758' north property line and approximately 500' of the 1670' south property line. The rest of the north lot would be lined by security fencing. No development plans have been submitted for the southern lot.

Zoning and Land Use History And Trends:

No rezoning history exists for this area.

Traffic and Transportation Considerations:

Fir Road has two lanes.

Utilities:

The site will be served by a future connection to Mishawaka municipal water and on-site septic.

Agency Comments:

County Surveyor recommends approval. County engineer recommends approval, subject to the approval of a drainage and stormwater management plan, and to obtaining an approved driveway permit for access from Fir Road. County Health Department recommends the petition be tabled, since no soil borings have been submitted, and the location of the septic system has not been identified.

Commitments:

The petitioner is not proposing any written commitments.

Criteria to be considered in reviewing rezoning requests, per IC 36-7-4-603:

1. Comprehensive Plan:

Policy Plan:

The petition is not consistent with Comprehensive Plan for South Bend and St. Joseph County, Indiana (April 2002): Goal 2: Objective C: Policy v: Automobile traffic generated from commercial uses should not travel through residential areas.

Land Use Plan:

The future land use map identifies this area for residential and agricultural growth.

Plan Implementation/Other Plans:

No other plans exist for this area.

2. Current Conditions and Character:

Fir Road between Douglas Road and Day Road is characterized by deep residential lots with single family homes. With the exception of a small commercial node at the corner of Fir and Day, the area is strictly residential in nature.

3. Most Desirable Use:

The most desirable use is one that maintains the rural residential character of the area and preserves as much of the natural landscape as possible.

4. Conservation of Property Values:

The value of surrounding properties would likely be negatively impacted by the placement of a commercial district at this location.

5. Responsible Development And Growth:

It is not responsible development and growth to allow this rural property to be spot-zoned for commercial.

Staff Comments:

This is a combined public hearing procedure, which includes a rezoning and 3 variances from the development standards. The Commission will forward the rezoning to the County Council with or without a recommendation and either approve or deny the

variances.

The variances are as follows:

- 1) from the required Type 2: full screening landscaping of side and rear yards abutting residential districts to no landscaping on the rear and no landscaping on the south for the first 200' east of Fir Road, Type 1: open landscaping on the north starting at a point 400' east of Fir Road, and Type 1: open landscaping on the south starting at a point 700' east of Fir Road and continuing along the property that runs parallel to Fir Road;
- 2) from the required 40 parking spaces to 5; and
- 3) from the required foundation landscaping to none along the western facades of the storage buildings.

State statutes and the St. Joseph County Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:

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

Increased traffic to a commercial site located within a residential area may pose safety issues for pedestrians, cyclists, and other motorists.

- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The value of surrounding properties would likely be impacted in a negative manner by the placement of a commercial district at this location.

- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

The strict application of landscape requirements would not pose a practical difficulty for this currently undeveloped site.

The staff notes that the C: Commercial District allows the full range of commercial uses, such as, but not limited to, car lots, gas stations, car wash, gymnasium, shooting range, and retail stores, etc. This site, under the C: Commercial District would be allowed a sign of over 350 square feet in area and 45' in height. Off-premise signs (billboards) would also be allowed on site.

Recommendation:

Based on information available prior to the public hearing, the staff recommends the rezoning petition be sent to the County Council with an unfavorable recommendation. Staff recommends denial of all 3 variances.

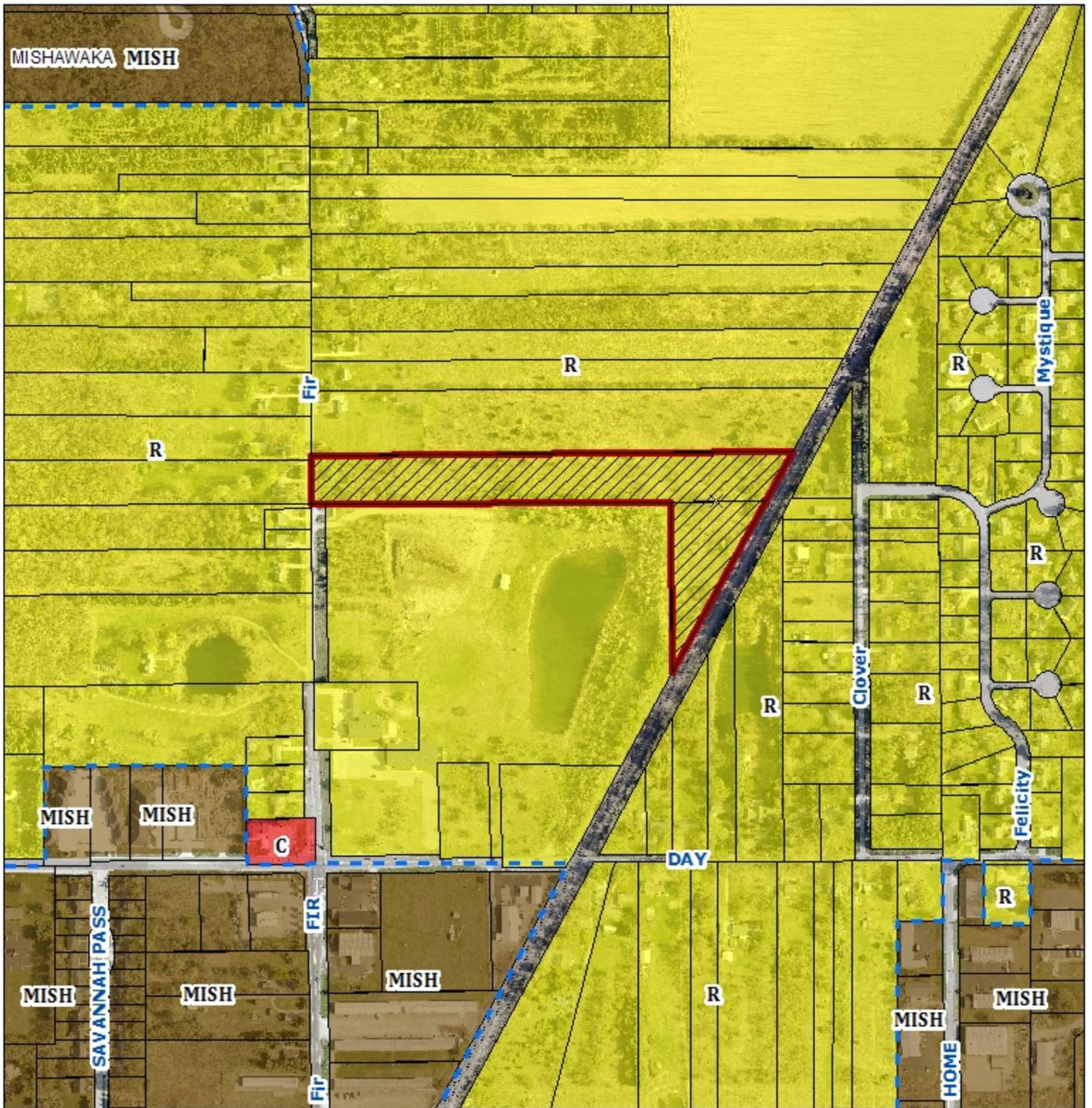
Analysis:

Indiana state statutes identify 5 criteria for which plan commissions and legislative bodies must "pay reasonable regard to", as outlined in IC 36-7-4-603. Of the five criteria, as listed above, this rezoning petition meets none. Rezoning of this property to C: Commercial District would allow uses which would be detrimental to the character of the area, and would not constitute good land-use planning.



1 inch = 500 feet
PENN TOWNSHIP

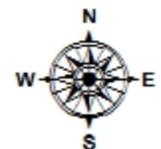




**Rezoning from:
"R" SINGLE FAMILY DISTRICT to
"C" COMMERCIAL DISTRICT**

MASTER ZONING KEY

- COUNTY "R" SINGLE FAMILY DISTRICT
- COUNTY "C" COMMERCIAL DISTRICT
- MISHAWAKA



1 inch = 500 feet

APC # 2760-15

Staff Report

11/5/2015

APC # 2761-15
Owner: APC Initiated
Location: Text Amendment
Jurisdiction: City of South Bend
Public Hearing Date: 11/17/2015

Requested Action:

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter 21, Zoning, Section 21-12, Floodplain Regulations, of the Municipal Code of the City of South Bend, St. Joseph County, Indiana.

Staff Comments:

The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program.

The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA.

It should be noted that this replacement ordinance does not change, or in any other way affect, the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. The FIRM maps, effective as of January 6, 2011, remain in place.

Agency Comments:

Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Common Council with a FAVORABLE recommendation.

Analysis:

This ordinance addresses required changes in the community's floodplain ordinance and is required for continued eligibility in the National Flood Insurance Program.

BILL NO.

ORDINANCE NO. _____

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 21 ZONING OF THE MUNICIPAL CODE OF THE CITY OF SOUTH BEND, INDIANA BY REPEALING AND REPLACING ARTICLE 12 FLOODPLAIN REGULATIONS, IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS.

STATEMENT OF PURPOSE AND INTENT

The purpose of this ordinance is to amend Chapter 21 of the South Bend Municipal Code, Article 12 Floodplain Regulations to reflect changes as required by the Federal Emergency Management Agency (FEMA). This ordinance has been recommended for approval by the Area Plan Commission of St. Joseph County, Indiana, and is substantially equivalent to ordinances being adopted by all other participating political subdivisions of St. Joseph County, Indiana.

The Common Council of the City of South Bend recognizes its duty to enact amendments to the Floodplain Regulations in order to continue to qualify for participation in the National Flood Insurance Program.

The Common Council further recognizes that a study of the flood-prone areas in the City of South Bend, Indiana, has been prepared and published by the Federal Emergency Management Agency, and identifies the floodplains, floodways and floodway fringe areas within the City in conjunction with the National Flood Insurance Program.

NOW, THEREFORE, be it ordained by the Common Council of the City of South Bend, Indiana, as follows:

SECTION I. CHAPTER 21 ZONING, ARTICLE 12 FLOODPLAIN REGULATIONS, of the Municipal Code of the City of South Bend, Indiana, shall be deleted in its entirety.

SECTION II. CHAPTER 21 ZONING, of the Municipal Code of the City of South Bend, Indiana, shall be amended by adding new ARTICLE 12 FLOODPLAIN REGULATIONS to read in its entirety as follows:

ARTICLE 12 FLOODPLAIN REGULATIONS

Section 21-12 Floodplain Regulations

Section 21-12.01. Statutory Authorization, Findings of Fact, Purpose, and Objectives

- (1) **Statutory Authorization.** The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Common Council of City of South Bend, Indiana does hereby adopt the following floodplain management regulations.

- (2) **Findings of Fact.**
 - (A) The flood hazard areas of the City of South Bend, Indiana are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

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

- (3) **Statement of Purpose.** It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - (A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

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

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

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

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

- (F) Make federal flood insurance available for structures and their contents in the City of South Bend, Indiana by fulfilling the requirements of the National Flood Insurance Program.
- (4) Objectives. The objectives of this Article are:
- (A) To protect human life and health;
 - (B) To minimize expenditure of public money for costly flood control projects;
 - (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (D) To minimize prolonged business interruptions;
 - (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains; and
 - (F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

Section 21-12.02. Definitions

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application. In addition to the definitions contained in Article 12 – Definitions, the following definitions shall apply to the Floodplain Regulations of this Chapter.

- (1) **A zone** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30).

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

- (2) **Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.
- (3) **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.
- (4) **Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this Article.
- (5) **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

- (6) **Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year.
- (7) **Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.
- (8) **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.
- (9) **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.
- (10) **Boundary River Floodway** means the floodway of a boundary river.
- (11) **Building** - see "Structure."
- (12) **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
- (13) **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.
- (14) **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- (15) **D Zone** means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.
- (16) **Development** means any man-made change to improved or unimproved real estate including but not limited to:
 - (A) construction, reconstruction, or placement of a structure or any addition to a structure;
 - (B) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
 - (C) installing utilities, erection of walls and fences, construction of roads, or similar projects;

- (D) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (E) mining, dredging, filling, grading, excavation, or drilling operations;
- (F) construction and/or reconstruction of bridges or culverts;
- (G) storage of materials; or
- (H) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

- (17) **Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).
- (18) **Elevation Certificate** is a certified statement that verifies a structure's elevation information.
- (19) **Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
- (20) **Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.
- (21) **Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (22) **FEMA** means the Federal Emergency Management Agency.

- (23) **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- (24) **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.
- (25) **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (26) **Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.
- (27) **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “**Flood**”)
- (28) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See “**Freeboard**”)
- (29) **Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.
- (30) **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (31) **Floodplain management regulations** means this Article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.
- (32) **Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are

capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

- (33) **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
- (34) **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- (35) **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.
- (36) **Fringe** is those portions of the floodplain lying outside the floodway.
- (37) **Hardship** (as related to variances of this Article) means the exceptional hardship that would result from a failure to grant the requested variance. The Area Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- (38) **Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.
- (39) **Historic structures** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (40) **Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.
- (41) **Letter of Final Determination (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new

flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

(A) **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.

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

(C) **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

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

(A) The top of the lowest level of the structure.

(B) The top of the basement floor.

(C) The top of the garage floor, if the garage is the lowest level of the structure.

(D) The top of the first floor of a structure elevated on pilings or pillars.

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

- i. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two (2) openings (in addition to doorways and

windows) in a minimum of two (2) exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

- ii. the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
- ii. such enclosed space shall be usable solely for the parking of vehicles and building access.

- (46) **Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- (47) **Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (48) **Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.
- (49) **Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.
- (50) **National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.
- (51) **National Geodetic Vertical Datum (NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (52) **New construction** means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.
- (53) **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

- (54) **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.
- (55) **North American Vertical Datum of 1988 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.
- (56) **Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
- (57) **One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "**Regulatory Flood**".
- (58) **Physical Map Revision (PMR)** is an official republication of a community's FEMA map to effect changes to base (one-percent (1%) annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.
- (59) **Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- (60) **Recreational vehicle** means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
- (61) **Regular program** means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

- (62) **Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 21-12.03 (2) of this Article. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".
- (63) **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.
- (64) **Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.
- (65) **Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the City of South bend, Indiana subject to inundation by the regulatory flood. The SFHAs of the City of South Bend are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).
- (66) **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (67) **Structure** means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured

home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

- (68) **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (69) **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "**start of construction**" of the improvement. This term includes structures that have incurred "**repetitive loss**" or "**substantial damage**" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "**historic structure**", provided that the alteration will not preclude the structures continued designation as a "**historic structure**".
- (70) **Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.
- (71) **Variance** is a grant of relief from the requirements of this Article, which permits construction in a manner otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship.
- (72) **Violation** means the failure of a structure or other development to be fully compliant with this Article. A structure or other development without the elevation, other certification, or other evidence of compliance required in this Article is presumed to be in violation until such time as that documentation is provided.
- (73) **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- (74) **X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.
- (75) **Zone** means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.
- (76) **Zone A** (see definition for **A zone**).

- (77) **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C).

Section 21-12.03. General Provisions

- (1) **Lands to Which This Floodplain Regulations Article Applies.** This Article shall apply to all SFHAs and known flood prone areas within the jurisdiction of the City of South Bend, Indiana.
- (2) **Basis for Establishing Regulatory Flood Data.** This Article's protection standard is the regulatory flood. The best available regulatory flood data is set forth as follows:
 - (A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of South Bend, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
 - (B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of South Bend, Indiana, delineated as an "**A Zone**" on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
 - (C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

- (D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.
- (3) Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this Article prior to the commencement of any development activities in areas of special flood hazard.
- (4) Compliance. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this Article and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this Article and other applicable regulations.
- (5) Abrogation and Greater Restrictions. This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (6) Discrepancy between Mapped Floodplain and Actual Ground Elevations.
 - (A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
 - (B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
 - (C) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.
- (7) Interpretation. In the interpretation and application of this Article all provisions shall be:
 - (A) Considered as minimum requirements;
 - (B) Liberally construed in favor of the governing body; and,
 - (C) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (8) Warning and Disclaimer of Liability. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on

available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this Article does not create any liability on the part of the City of South Bend, Indiana, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this Article or any administrative decision made lawfully thereunder.

- (9) Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this Article. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance of the City of South Bend, Indiana. All violations shall be punishable by a fine (See Section 21-10 (h) Fines).
 - (A) A separate offense shall be deemed to occur for each day the violation continues to exist.
 - (B) The City of South Bend Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
 - (C) Nothing herein shall prevent the City of South Bend, Indiana from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Section 21-12.04. Administration

- (1) Designation of Administrator. The Common Council of the City of South Bend, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this Article and is herein referred to as the Floodplain Administrator.
- (2) Permit Procedures. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:
 - (A) Application Stage
 - i. A description of the proposed development;
 - ii. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;

- iii. A legal description of the property site;
- iv. A site development plan showing existing and proposed development locations and existing and proposed land grades;
- v. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
- vi. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed; and
- vii. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 21-12.04 (3) (F) for additional information).

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

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

(3) Duties and Responsibilities of the Floodplain Administrator

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

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

- (A) Review all floodplain development permits to assure that the permit requirements of this Article have been satisfied;
- (B) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;
- (C) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 21-12.05 (5) and Section 21-12.05 (7) (A) of this Article, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);
- (D) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit
- (E) Maintain and track permit records involving additions and improvements to residences located in the floodway;
- (F) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- (G) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this Article;
- (H) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- (I) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (J) Review certified plans and specifications for compliance;
- (K) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 21-12.04 (2);

- (L) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section 21-12 (d) (2);
- (M) Stop Work Orders
 - i Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this Article shall immediately cease.
 - ii Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (N) Revocation of Permits
 - i The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the Article, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - ii The Floodplain Administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Article.

Section 21-12.05. Provisions for Flood Hazard Reduction

(1) General Standards

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

- (A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

- (D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- (F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this Article shall meet the requirements of “new construction” as contained in this Article;
- (J) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
 - i. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;
 - ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;
 - iii. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water;
 - iv. The fill or structure shall not obstruct a drainage way leading to the floodplain;

- v. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water;
- vi. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and,
- vii. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

(2) Specific Standards

In all SFHAs, the following provisions are required:

- (A) In addition to the requirements of Section 21-12 .05 (1), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - i. Construction or placement of any new structure having a floor area greater than 400 square feet;
 - ii. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);
 - iii. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;
 - iv. Installing a travel trailer or recreational vehicle on a site for more than 180 days;
 - v. Installing a manufactured home on a new site or a new manufactured home on an existing site. This Article does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;
 - vi. Reconstruction or repairs made to a repetitive loss structure; and

- vii. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- (B) Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 21-12.05 (2) (D).
- (C) Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 21-12.05 (2) (D). Structures located in all “**A Zones**” may be floodproofed in lieu of being elevated if done in accordance with the following:
- i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 21-12.04 (3) (L).
 - ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (D) Elevated Structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

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

- ii. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - iv. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - v. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - vi. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
 - vii. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.
- (E) Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- i. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
 - ii. The fill shall extend 10 feet beyond the foundation of the structure before sloping below the FPG.
 - iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 - iv. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

- v. The top of the lowest floor including basements shall be at or above the FPG.
 - vi. Fill shall be composed of clean granular or earthen material.
- (F) Standards for Manufactured Homes and Recreational Vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- i. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “**substantial damage**” as a result of a flood:
 - a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 21-12.05 (2) (D).
 - c. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - ii. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - a. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to

automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 21-12.05 (2) (D).

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

iii. Recreational vehicles placed on a site shall either:

- a. be on site for less than 180 days;
- b. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
- c. meet the requirements for “manufactured homes” as stated earlier in this section.

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

- i. Shall not be used for human habitation.
- ii. Shall be constructed of flood resistant materials.
- iii. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- iv. Shall be firmly anchored to prevent flotation.
- v. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- vi. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 21-12.05 (2) (D).

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

(3) Standards for Subdivision Proposals.

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

- (B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;
 - (D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
 - (E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and
 - (F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- (4) **Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
- (5) **Standards for Identified Floodways.**
- (A) Located within SFHAs, established in Section 21-12.03 (2) of this Article, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of

Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

- (B) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 21-12.05 of this Article have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.
 - (C) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
 - (D) For all projects involving channel modifications or fill (including levees) the City of South Bend, Indiana shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
- (6) Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 21-12.05 of this Article have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.
- (7) Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.
- (A) Drainage area upstream of the site is greater than one square mile:
 - i. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

- ii. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
- iii. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 21-12.05 of this Article have been met.

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

- (i) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
- (ii) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 21-12.05 of this Article have been met.

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

- (8) Standards for Flood Prone Areas. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Section 21-12.05.

Section 21-12.06. Variance Procedures

- (1) Designation of Variance and Appeals Board. The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this Article.
- (2) Duties of Variance and Appeals Board. The Board (ABZA) shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this

Article. Any person aggrieved by the decision of the Board (ABZA) may appeal such decision to the St. Joseph County Circuit or Superior Court.

- (3) Variance Procedures. In passing upon such applications, the Board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Article, and:
 - (A) The danger of life and property due to flooding or erosion damage;
 - (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (C) The importance of the services provided by the proposed facility to the community;
 - (D) The necessity of the facility to a waterfront location, where applicable;
 - (E) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (F) The compatibility of the proposed use with existing and anticipated development;
 - (G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (H) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
 - (J) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (4) Conditions for Variances
 - (A) Variances shall only be issued when there is:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship; and,

- iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
 - (B) No variance for a residential use within a floodway subject to Section 21-12.05 (5) or Section 21-12.05 (7) (A) of this Article may be granted.
 - (C) Any variance granted in a floodway subject to Section 21-12.05 (5) or Section 21-12.05 (7) (A) of this Article will require a permit from the Indiana Department of Natural Resources.
 - (D) Variances to the Provisions for Flood Hazard Reduction of Section 21-12.05 (2) of this Article, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 - (E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
 - (G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Section 21-12.06 (5)).
 - (H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Section 21-12.06 (5)).
- (5) Variance Notification. Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:
- (A) The issuance of a variance to construct a structure below flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
 - (B) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the owner in the office of

the St. Joseph County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

- (6) **Historic Structure.** Variances may be issued for the repair or rehabilitation of “**historic structures**” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “**historic structure**” and the variance is the minimum to preserve the historic character and design of the structure.
- (7) **Special Conditions.** Upon the consideration of the factors listed in Section 21-12.06, and the purposes of this Article, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.
- (8) ~~Became Section 21-12.07., below~~
- (9) ~~Removed since it is already in SECTION III, below~~

Section 21-12.07. Severability.

If any section, clause, sentence, or phrase of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article.

SECTION III. This ordinance shall be in full force and effect on the earlier of December 16, 2015, after its passage by the Common Council and approval by the Mayor.

Member, South Bend Common Council

Attest:

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day
of _____, 2015, at _____ o'clock ____ .m.

City Clerk

Approved and signed by me on the _____ day of _____, 2_____, at
o'clock ____ . m.

Mayor, City of South Bend, Indiana

Staff Report

11/5/2015

APC # 2762-15
Owner: APC Initiated
Location: Text Amendment
Jurisdiction: St. Joseph County
Public Hearing Date: 11/17/2015

Requested Action:

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Title XV, Land Usage, Planning And Zoning, Sections 154.290 Through 154.302, FP: Floodplain Regulations, Of Chapter 154 Of The St. Joseph County, Indiana Code, St. Joseph County, Indiana.

Staff Comments:

The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program.

The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA.

It should be noted that this replacement ordinance does not change, or in any other way affect, the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. The FIRM maps, effective as of January 6, 2011, remain in place.

Agency Comments:

Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the County Council with a FAVORABLE recommendation.

Analysis:

This ordinance addresses required changes in the community's floodplain ordinance and is required for continued eligibility in the National Flood Insurance Program.

BILL NO.

ORDINANCE NO. _____

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE ST. JOSEPH COUNTY COUNCIL OF ST. JOSEPH COUNTY, INDIANA AMENDING TITLE XV: LAND USAGE, CHAPTER 154: PLANNING AND ZONING OF THE ST. JOSEPH COUNTY, INDIANA CODE OF ORDINANCES, BY REPEALING SECTIONS 154.290 THROUGH 154.296 FP: FLOODPLAIN REGULATIONS, AND ADDING NEW SECTIONS 154.290 THROUGH 154.297, IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS

WHEREAS, a study of the flood-prone areas in the unincorporated areas of St. Joseph County, Indiana has been prepared and published by the Federal Emergency Management Agency (FEMA), and identifies the floodplains, floodways and floodway fringe areas within St. Joseph County in conjunction with the National Flood Insurance Program; and

WHEREAS, St. Joseph County, Indiana, has previously adopted an ordinance relative to floodplain regulations; and

WHEREAS, the Federal Emergency Management Agency (FEMA) and the department of natural Resources have requested changes to be made to the floodplain ordinance.

NOW, THEREFORE, be it ordained by the County Council of St. Joseph County, Indiana, as follows:

SECTION 1

Title XV, Land Usage, Chapter 154, Planning and Zoning, Sub-Chapter FP: Floodplain Regulations, Sections 154.290 through 154.296 of the St. Joseph County Code, is hereby repealed and replaced in its entirety as follows:

FP: FLOODPLAIN REGULATIONS

154.290 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

(A) *Statutory Authorization.* The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Council of St. Joseph County, Indiana does hereby adopt the following floodplain management regulations.

(B) *Findings of Fact.*

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

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

(C) *Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

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

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

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

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

(6) Make federal flood insurance available for structures and their contents in St. Joseph County, Indiana by fulfilling the requirements of the National Flood Insurance Program.

(D) *Objectives.* The objectives of this ordinance are:

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

154.291 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In addition to the definitions contained in Sub-Chapter Definitions, Section 154.635, the following definitions shall apply to the Floodplain Regulations of this Chapter.

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

(1) **Zone A:** Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

(2) **Zone AE and A1-A30:** Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30).

(3) **Zone AO:** Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one

and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(4) **Zone AH:** Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

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

(6) **Zone A99:** Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

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

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

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

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

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

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

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

Development means any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of bridges or culverts;

(7) storage of materials; or

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

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

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

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

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

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

Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

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

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

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

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

Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

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

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

(1) **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.

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

(3) **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination

concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

Lowest floor means the lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - (a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - (b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - (c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

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

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

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

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

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

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

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.

Physical Map Revision (PMR) is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 154.292 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of St. Joseph County, Indiana subject to inundation by the regulatory flood. The SFHAs of the St. Joseph County, Indiana of South Bend are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

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

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

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

Zone A (see definition for A zone).

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C).

154.292 GENERAL PROVISIONS

(A) *Lands to Which This Ordinance Applies.* This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of St. Joseph County, Indiana.

(B) *Basis for Establishing Regulatory Flood Data.* This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below:

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of St. Joseph County, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of St. Joseph County, Indiana, delineated as an "A Zone" on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

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

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

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

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

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

(F) *Discrepancy between Mapped Floodplain and Actual Ground Elevations.*

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

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

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(G) *Interpretation.* In the interpretation and application of this ordinance all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and,

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

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

(I) *Penalties for Violation.* Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance of St. Joseph County, Indiana. All violations shall be punishable by a fine (See Section 154.999 for a schedule of fines).

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

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

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

154.293 ADMINISTRATION

(A) *Designation of Administrator.* The Common Council of St. Joseph County, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

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

(1) *Application Stage*

- (a) A description of the proposed development;
- (b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- (c) A legal description of the property site;
- (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
- (e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
- (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed; and
- (g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 154.293 (C) (6) for additional information).

(2) *Construction stage.* Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain

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

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

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

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

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 154.294 (E) and Section 154.294 (G) (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit;
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway;
- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of

authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;

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

(10) Review certified plans and specifications for compliance;

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 154.293 (B);

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section 154.293 (B);

(13) Stop Work Orders:

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

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

(14) Revocation of Permits:

(a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

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

154.294 PROVISIONS FOR FLOOD HAZARD REDUCTION

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

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

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

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

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

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

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

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

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

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

(10) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

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

(b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or

structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;

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

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

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

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

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

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

(1) In addition to the requirements of Section 154.294 (A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

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

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

(c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

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

(e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;

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

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

(2) *Residential Structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 154.294 (B) (4).

(3) *Non-Residential Structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 154.294 (B) (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 154.293 (C) (12).

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

(4) *Elevated Structures.*

(a) New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

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

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

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

4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

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

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

7. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.

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

(a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

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

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

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

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

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

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

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

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

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 154.294 (B) (4).

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

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

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

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 154.294 (B) (4).

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

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

1. be on site for less than 180 days;

2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

3. meet the requirements for “manufactured homes” as stated earlier in this section.

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

- (a) Shall not be used for human habitation.
- (b) Shall be constructed of flood resistant materials.
- (c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- (d) Shall be firmly anchored to prevent flotation.
- (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- (f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 154.294 (B) (4).

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

(C) *Standards for Subdivision Proposals.*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

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

(E) *Standards for Identified Floodways.*

(1) Located within SFHAs, established in Section 154.292 (B) of this ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

(2) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 154.294 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

(F) *Standards for Identified Fringe.* If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 154.294 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

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

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

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

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 154.294 of this ordinance have been met.

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

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

(b) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 154.294 of this ordinance have been met.

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

(H) *Standards for Flood Prone Areas.* All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Section 154.294.

154.295 VARIANCE PROCEDURES

(A) *Designation of Variance and Appeals Board.* The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this ordinance.

(B) *Duties of Variance and Appeals Board.* The board (ABZA) shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board (ABZA) may appeal such decision to the St. Joseph County Circuit or Superior Court.

(C) *Variance Procedures.* In passing upon such applications, the board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (1) The danger of life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The importance of the services provided by the proposed facility to the community;
- (4) The necessity of the facility to a waterfront location, where applicable;
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

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

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

(D) *Conditions for Variances*

(1) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and,

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

(2) No variance for a residential use within a floodway subject to Section 154.294 (E) or Section 154.294 (G) (1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to Section 154.294 (E) or Section 154.294 (G) (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of Section 154.294 (B) of this ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

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

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Section 154.295 (E)).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Section 154.295 (E)).

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

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

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

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

(F) *Historic Structure.* Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

(G) *Special Conditions.* Upon the consideration of the factors listed in Section 154.295, and the purposes of this ordinance, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

154.296 SEVERABILITY. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION 2. This ordinance shall be in full force and effect on December ____, 2015, after its enactment and publication as required by law.

Member, St. Joseph County Council

Staff Report

11/5/2015

APC # 2763-15
Owner: APC Initiated
Location: Text Amendment
Jurisdiction: Town of Roseland
Public Hearing Date: 11/17/2015

Requested Action:

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter 10, Zoning, Article 8, Floodplain Regulations of the Town Code of the Town of Roseland, St. Joseph County, Indiana.

Staff Comments:

The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program.

The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA.

It should be noted that this replacement ordinance does not change, or in any other way affect, the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. The FIRM maps, effective as of January 6, 2011, remain in place.

Agency Comments:

Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Town Council with a FAVORABLE recommendation.

Analysis:

This ordinance addresses required changes in the community's floodplain ordinance and is required for continued eligibility in the National Flood Insurance Program.

BILL NO.

ORDINANCE NO. _____

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE TOWN COUNCIL OF THE TOWN OF ROSELAND, INDIANA, AMENDING TITLE XV LAND USAGE, CHAPTER 151 ZONING, OF THE CODE OF ORDINANCES OF THE TOWN OF ROSELAND, INDIANA, BY REPEALING SECTIONS 151.205 THROUGH 151.236 FLOODPLAIN REGULATIONS, AND ADDING NEW SECTIONS 151.205 THROUGH 151.212 IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS.

STATEMENT OF PURPOSE AND INTENT

The purpose of this ordinance is to amend Chapter 151 of the Roseland Town Code, Section 151.205 through 151.236 Floodplain Regulations to reflect changes as required by the Federal Emergency Management Agency (FEMA).

The Town Council of the Town of Roseland recognizes its duty to enact amendments to the Floodplain Regulations in order to continue to qualify for participation in the National Flood Insurance Program.

The Town Council of the Town of Roseland further recognizes that a study of the flood-prone areas in the Town of Roseland, Indiana, has been prepared and published by the Federal Emergency Management Agency, and identifies the floodplains, floodways and floodway fringe areas within the Town in conjunction with the National Flood Insurance Program.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Roseland, Indiana, as follows:

Section 1. That TITLE XV LAND USAGE, CHAPTER 151 ZONING, SECTIONS 151.205 THROUGH 151.236 FLOODPLAIN REGULATIONS, of the Town Code of the Town of Roseland, Indiana, be deleted in its entirety.

Section 2. That TITLE XV LAND USAGE, CHAPTER 151 ZONING, of the Town Code of the Town of Roseland, Indiana be amended by adding the following new SECTIONS 151.205 THROUGH 151.211 FLOODPLAIN REGULATIONS:

FLOODPLAIN REGULATIONS

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

(A) *Statutory Authorization.* The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Roseland, Indiana does hereby adopt the following floodplain management regulations.

(B) *Findings of Fact.*

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

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

(C) *Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

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

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

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

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

(6) Make federal flood insurance available for structures and their contents in the Town of Roseland, Indiana by fulfilling the requirements of the National Flood Insurance Program.

(D) *Objectives.* The objectives of this ordinance are:

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

§ 151.206 DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In addition to the definitions contained in Section 151.002 Definitions, the following definitions shall apply to the Floodplain Regulations of this Chapter.

(A) **A zone** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30).

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

(B) **Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

(C) **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

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

(E) **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

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

(I) **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

(J) **Boundary River Floodway** means the floodway of a boundary river.

(K) **Building** - see "**Structure.**"

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

(M) **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

(N) **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

(P) **Development** means any man-made change to improved or unimproved real estate including but not limited to:

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

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

(3) installing utilities, erection of walls and fences, construction of roads, or similar projects;

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

(5) mining, dredging, filling, grading, excavation, or drilling operations;

(6) construction and/or reconstruction of bridges or culverts;

(7) storage of materials; or

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

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

(Q) **Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

(R) **Elevation Certificate** is a certified statement that verifies a structure's elevation information.

(S) **Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

(T) **Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

(U) **Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(V) **FEMA** means the Federal Emergency Management Agency.

(W) **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

(X) **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

(Y) **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

(Z) **Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

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

(BB) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See “**Freeboard**”)

(CC) **Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

(DD) **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

(EE) **Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

(GG) **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

(HH) **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

(II) **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

(JJ) **Fringe** is those portions of the floodplain lying outside the floodway.

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

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

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

(NN) **Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

(OO) **Letter of Final Determination (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

(1) **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.

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

(3) **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

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

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

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

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

(b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

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

(SS) **Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(TT) **Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(UU) **Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

(VV) **Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

(WW) **National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

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

(YY) **New construction** means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

(ZZ) **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

(AAA) **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.

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

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

(DDD) **One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “**Regulatory Flood**”.

(EEE) **Physical Map Revision (PMR)** is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

(FFF) **Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or

unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

(GGG) **Recreational vehicle** means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

(III) **Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in 21-12 (c) (2) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

(JJJ) **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

(KKK) **Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(LLL) **Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the Town of Roseland, Indiana subject to inundation by the regulatory flood. The SFHAs of the Town of Roseland are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

(MMM) **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the

installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

(SSS) **Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(TTT) **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(UUU) **X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year

flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

(VVV) **Zone** means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

(WWW) **Zone A** (see definition for **A zone**).

(XXX) **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C).

§ 151.207 GENERAL PROVISIONS.

(A) *Lands to Which This Ordinance Applies.* This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Roseland, Indiana.

(B) *Basis for Establishing Regulatory Flood Data.* This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below:

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Roseland, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Roseland, Indiana, delineated as an "**A Zone**" on the Town of Roseland, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

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

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

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

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

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

(F) *Discrepancy between Mapped Floodplain and Actual Ground Elevations.*

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

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

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(G) *Interpretation.* In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(H) *Warning and Disclaimer of Liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on

rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Roseland, Indiana, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

(I) *Penalties for Violation.* Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance of the Town of Roseland, Indiana. All violations shall be punishable by a fine (See §151.999 PENALTY).

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

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

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

§ 151.208 ADMINISTRATION.

(A) *Designation of Administrator.* The Town Council of the Town of Roseland, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

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

(1) Application Stage.

(a) A description of the proposed development;

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

(c) A legal description of the property site;

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

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

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

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See §151-208 (C) (2) (f) for additional information).

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

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

(C) *Duties and Responsibilities of the Floodplain Administrator.*

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

(2) Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

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

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

(c) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §151.209 (E) and §151.209 (G) (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);

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

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

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

(g) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;

(h) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;

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

(j) Review certified plans and specifications for compliance;

(k) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with §151-208 (B)

(l) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with §151-208 (B);

(m) Stop Work Orders

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

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

(n) Revocation of Permits

1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

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

§ 151.209 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General Standards.*

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

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

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

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

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

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

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

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

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

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

(10) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

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

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

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

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

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

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

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

(B) *Specific Standards.*

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of §151-209 (A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

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

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

(c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

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

(e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;

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

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

(2) Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of §151-209 (B) (4).

(3) Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of §151-209 (B) (4). Structures located in all "**A Zones**" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in §151-208 (C) (2) (1).

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

(4) Elevated Structures.

(a) New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

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

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

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

4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

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

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

7. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.

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

(a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified

Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

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

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

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

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

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

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

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

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

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §151-209 (B) (4).

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

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

1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations

that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §151-209 (B) (4).

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

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

1. be on site for less than 180 days;

2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

3. meet the requirements for “manufactured homes” as stated earlier in this section.

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

(a) Shall not be used for human habitation.

(b) Shall be constructed of flood resistant materials.

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

(d) Shall be firmly anchored to prevent flotation.

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

(f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §151-209 (B) (4).

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

(C) Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres;
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

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

(E) Standards for Identified Floodways.

(1) Located within SFHAs, established in §151-207 (B) of this ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

(2) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in §151-209 (E) of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

(F) Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in §151-209 (E) of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

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

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

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

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in §151-209 (E) of this ordinance have been met.

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

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

(b) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in §151-209 (E) of this ordinance have been met.

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

(H) Standards for Flood Prone Areas. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per §151-209 (E).

§ 151.210 VARIANCE PROCEDURES.

(A) *Designation of Variance and Appeals Board.* The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this ordinance.

(B) *Duties of Variance and Appeals Board.* The board (ABZA) shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board (ABZA) may appeal such decision to the St. Joseph County Circuit or Superior Court.

(C) *Variance Procedures.* In passing upon such applications, the board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

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

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

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

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

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

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

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

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

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

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

(D) *Conditions for Variances.*

(1) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and,

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

(2) No variance for a residential use within a floodway subject to §151-209 (E) or §151-209 (G) (1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to §151-209 (E) or §151-209 (G) (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of §151-209 (B) of this ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

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

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see §151-210 (E)).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see §151-210 (E)).

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

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

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

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

(F) *Historic Structure.* Variances may be issued for the repair or rehabilitation of “**historic structures**” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “**historic structure**” and the variance is the minimum to preserve the historic character and design of the structure.

(G) *Special Conditions.* Upon the consideration of the factors listed in §151-210, and the purposes of this ordinance, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

§ 151.211 SEVERABILITY. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

§151.212 EFFECTIVE DATE. This ordinance shall be in full force and effect on **(FIRM date).**

Section 3. This ordinance shall be in full force and effect on December____, 2015, after its adoption by the Town Council, its publication as required by law, and filing in the office of the Clerk-Treasurer.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF ROSELAND, COUNTY OF ST. JOSEPH, INDIANA, THIS ____ DAY OF _____, 2015, HAVING BEEN PASSED BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Voting Affirmative:

Voting Opposed:

Town Council President

Town Council President

ATTEST:

Robin E. Ackerson, Clerk-Treasurer

Staff Report

11/5/2015

APC # 2764-15
Owner: APC Initiated
Location: Text Amendment
Jurisdiction: Town of North Liberty
Public Hearing Date: 11/17/2015

Requested Action:

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Title 8, Zoning Ordinance, Article 6, Floodplain Regulations, of the Municipal Code of the Town of North Liberty, St. Joseph County, Indiana.

Staff Comments:

The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program.

The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA.

It should be noted that this replacement ordinance does not change, or in any other way affect, the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. The FIRM maps, effective as of January 6, 2011, remain in place.

Agency Comments:

Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Town Council with a FAVORABLE recommendation.

Analysis:

This ordinance addresses required changes in the community's floodplain ordinance and is required for continued eligibility in the National Flood Insurance Program.

ORDINANCE NO. _____

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE TOWN COUNCIL OF THE TOWN OF NORTH LIBERTY, INDIANA, AMENDING TITLE 8 OF THE TOWN OF NORTH LIBERTY CODE BY REPEALING AND REPLACING ARTICLE 6: FLOODPLAIN REGULATIONS, IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS.

STATEMENT OF PURPOSE AND INTENT

The purpose of this ordinance is to replace ARTICLE 6: Floodplain Regulations, of TITLE 8 of the Municipal Code of the Town of North Liberty to reflect changes as required by the Federal Emergency Management Agency (FEMA).

The Town Council of the Town of North Liberty recognizes its duty to enact amendments to the Floodplain Regulations in order to continue to qualify for participation in the National Flood Insurance Program.

The Town Council of the Town of North Liberty further recognizes that a study of the flood-prone areas in the Town of North Liberty, Indiana, has been prepared and published by the Federal Emergency Management Agency, and identifies the floodplains, floodways and floodway fringe areas within the Town in conjunction with the National Flood Insurance Program.

NOW, THEREFORE, be it ordained by the Town Council of the Town of North Liberty, Indiana, as follows:

Section 1. That ARTICLE 6: Floodplain Regulations, of TITLE 8 of the Municipal Code of the Town of North Liberty, Indiana be deleted in its entirety.

Section 2. That TITLE 8 of the Municipal Code of the Town of North Liberty, Indiana be amended by adding the following new ARTICLE 6: FLOODPLAIN REGULATIONS:

ARTICLE 6: FLOODPLAIN REGULATIONS

CHAPTER 1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.

Section 100. Statutory Authorization. The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of North Liberty, Indiana does hereby adopt the following floodplain management regulations.

Section 101. Findings of Fact.

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

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

Section 102. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

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

102.03 Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

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

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

102.06 Make federal flood insurance available for structures and their contents in the Town of North Liberty, Indiana by fulfilling the requirements of the National Flood Insurance Program.

Section 103. Objectives. The objectives of this ordinance are:

103.01 To protect human life and health;

103.02 To minimize expenditure of public money for costly flood control projects;

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

103.04 To minimize prolonged business interruptions;

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

103.06 To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

CHAPTER 2: DEFINITIONS.

Section 100. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In addition to the definitions contained in Section 151.002 Definitions, the following definitions shall apply to the Floodplain Regulations of this Chapter.

100.01 A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

100.01.01 Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

100.01.02 Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30).

100.01.03 Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

100.01.04 Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

100.01.05 Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

100.01.06 Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

100.02 Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

100.03 Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

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

100.05 Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

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

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

100.10 Boundary River Floodway means the floodway of a boundary river.

100.11 Building - see "Structure."

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

101.13 Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

101.14 Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

101.16 Development means any man-made change to improved or unimproved real estate including but not limited to:

- 101.16.01 construction, reconstruction, or placement of a structure or any addition to a structure;
- 101.16.02 installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- 101.16.03 installing utilities, erection of walls and fences, construction of roads, or similar projects;

- 101.16.04 construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- 101.16.05 mining, dredging, filling, grading, excavation, or drilling operations;
- 101.16.06 construction and/or reconstruction of bridges or culverts;
- 101.16.07 storage of materials; or
- 101.16.08 any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

101.17 Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

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

101.19 Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

101.20 Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

101.21 Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

101.22 FEMA means the Federal Emergency Management Agency.

101.23 Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

101.24 Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

101.25 Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

101.26 Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

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

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

101.29 Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

101.30 Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

101.31 Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

101.33 Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

101.34 Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

101.35 Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

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

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

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

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

101.40 Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

101.41 Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

- 101.42.01. Letter of Map Amendment (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.
- 101.42.02. Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- 101.42.03. Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

101.44 Lowest floor means the lowest elevation described among the following:

- 101.44.01 The top of the lowest level of the structure.
- 101.44.02 The top of the basement floor.
- 101.44.03 The top of the garage floor, if the garage is the lowest level of the structure.
- 101.44.04 The top of the first floor of a structure elevated on pilings or pillars.
- 101.44.05 The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - 1. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - 2. the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the

exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

3. such enclosed space shall be usable solely for the parking of vehicles and building access.

101.45 Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

101.46 Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

101.47 Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

101.48 Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

101.49 National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

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

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

101.52 New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

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

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

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

101.56 One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.

101.57 Physical Map Revision (PMR) is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

101.58 Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

101.59 Recreational vehicle means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

101.61 Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in 21-12 (c) (2) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", “One-Percent Annual Chance Flood”, and “100-Year Flood”.

101.62 Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

101.63 Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

101.64 Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the Town of North Liberty, Indiana subject to inundation by the regulatory flood. The SFHAs of the Town of North Liberty are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

101.65 Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

101.67 Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

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

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

101.71 Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

101.72 Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

101.73. X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

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

101.75 Zone A (see definition for A zone).

101.76 Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C).

CHAPTER 3: GENERAL PROVISIONS

Section 100. Lands to Which This Ordinance Applies. This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of North Liberty, Indiana.

Section 200. Basis for Establishing Regulatory Flood Data. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below:

- 200.01 The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of North Liberty, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- 200.02 The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of North Liberty, Indiana, delineated as an "A Zone" on the Town of North Liberty, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- 200.03 In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- 200.04 Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

Section 300. Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

Section 400. Compliance. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section 500. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 600. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

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

Section 700. Interpretation. In the interpretation and application of this ordinance all provisions shall be:

- 700.01 Considered as minimum requirements;
- 700.02 Liberally construed in favor of the governing body; and,
- 700.03 Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 800. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of North Liberty, Indiana, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Section 900. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the

Zoning Ordinance of the Town of North Liberty, Indiana. All violations shall be punishable by a fine (See TITLE 10, ARTICLE 1, Section 4.)

- 900.01 A separate offense shall be deemed to occur for each day the violation continues to exist.
- 900.02 The Town of North Liberty Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- 900.03 Nothing herein shall prevent the Town of North Liberty, Indiana from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

CHAPTER 4: ADMINISTRATION.

Section 100. Designation of Administrator. The Town Council of the Town of North Liberty, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section 200. Permit Procedures. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

200.01. Application Stage.

1. A description of the proposed development;
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
3. A legal description of the property site;
4. A site development plan showing existing and proposed development locations and existing and proposed land grades;
5. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed; and

7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Chapter 4, Section 300.06 for additional information).
- 200.02. Construction stage. Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same (The Floodplain Administrator shall review the floodproofing certification submitted). The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.
- 200.03. Finished Construction. Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the “as-built” lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

Section 300. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

- 300.01. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;
- 300.02. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;
- 300.03. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Chapter 5, Section 500 and 700.01 of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);
- 300.04. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit

- 300.05. Maintain and track permit records involving additions and improvements to residences located in the floodway;
- 300.06. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- 300.07. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;
- 300.08. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- 300.09. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- 300.10. Review certified plans and specifications for compliance;
- 300.11. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Chapter 4, Section 200;
- 300.12. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Chapter 4, Section 200;
- 300.13. Stop Work Orders
 1. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 2. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- 300.14. Revocation of Permits
 1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false

statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

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

CHAPTER 5: PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 100. General Standards. In all SFHAs and known flood prone areas the following provisions are required:

- 100.01 New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- 100.02 Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- 100.03 New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- 100.04 New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 100.05 Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- 100.06 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 100.07 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 100.08 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

- 100.09 Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance;
- 100.10 Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
- 100.10.01 The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;
- 100.10.02 Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;
- 100.10.03 The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water;
- 100.10.04 The fill or structure shall not obstruct a drainage way leading to the floodplain;
- 100.10.05 The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water;
- 100.10.06 The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and,
- 100.10.07 Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

Section 200. Specific Standards. In all SFHAs, the following provisions are required:

- 200.01 In addition to the requirements of Chapter 5, Section 100, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
- 200.01.01 Construction or placement of any new structure having a floor area greater than 400 square feet;
 - 200.01.02 Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);
 - 200.01.03 Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;
 - 200.01.04 Installing a travel trailer or recreational vehicle on a site for more than 180 days;
 - 200.01.05 Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;
 - 200.01.06 Reconstruction or repairs made to a repetitive loss structure; and
 - 200.01.07 Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- 200.02 Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Chapter 5, Section 200.04.
- 200.03 Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Chapter 5, Section 200.04. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- 200.03.01 A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Chapter 4, section 300.12.
- 200.03.02 Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

Section 200.04. Elevated Structures.

- 200.04.01 New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.
- 200.04.02 Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must either meet the following minimum criteria:
1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
7. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.

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

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

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

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

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Chapter 5, Section 200.04.
3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

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

1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures Chapter 5, Section 200.04.
3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

200.06.03 Recreational vehicles placed on a site shall either:

1. be on site for less than 180 days;
2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick

disconnect type utilities and security devices, and has no permanently attached additions); or

3. meet the requirements for “manufactured homes” as stated earlier in this section.

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

200.07.01 Shall not be used for human habitation.

200.07.02 Shall be constructed of flood resistant materials.

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

200.07.04 Shall be firmly anchored to prevent flotation.

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

200.07.06 Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §151-209 (B) (4).

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

300. Standards for Subdivision Proposals.

300.01 All subdivision proposals shall be consistent with the need to minimize flood damage;

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

300.03 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

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

300.05 All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and

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

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

500. Standards for Identified Floodways.

500.01 Located within SFHAs, established in Chapter 3, Section 200 of this ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

500.02 No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Chapter 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway

issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

600. Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Chapter 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

700. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

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

1. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
2. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
3. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Chapter 5 of this ordinance have been met.

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

1. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
2. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Chapter 5 of this ordinance have been met.
3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

800. Standards for Flood Prone Areas. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Chapter 5.

CHAPTER 6: VARIANCE PROCEDURES.

Section 100. Designation of Variance and Appeals Board. The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this ordinance.

Section 200. Duties of Variance and Appeals Board. The board (ABZA) shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board (ABZA) may appeal such decision to the St. Joseph County Circuit or Superior Court.

Section 300. Variance Procedures. In passing upon such applications, the board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- 300.01 The danger of life and property due to flooding or erosion damage;
- 300.02 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 300.03 The importance of the services provided by the proposed facility to the community;
- 300.04 The necessity of the facility to a waterfront location, where applicable;

- 300.05 The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- 300.06 The compatibility of the proposed use with existing and anticipated development;
- 300.07 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 300.08 The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 300.09 The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- 300.10 The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Section 400. Conditions for Variances.

- 400.01 Variances shall only be issued when there is:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship; and,
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- 400.02 No variance for a residential use within a floodway subject to Chapter 5, Section 500 or Chapter 5, Section 700.01 of this ordinance may be granted.
- 400.03 Any variance granted in a floodway subject to Chapter 5, Section 500 or Chapter 5, Section 700.01 of this ordinance will require a permit from the Indiana Department of Natural Resources.
- 400.04 Variances to the Provisions for Flood Hazard Reduction of Chapter 5, Section B of this ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

- 400.05 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 400.06 Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- 400.07 Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Chapter 6, Section 500).
- 400.08 The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Chapter 6, Section 500).

Section 500. Variance Notification.

- 500.01 Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
 2. Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the owner in the office of the St. Joseph County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- 500.02 The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

Section 600. Historic Structure. Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

Section 700. Special Conditions. Upon the consideration of the factors listed in Chapter 6, and the purposes of this ordinance, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Section 800. Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 900. Effective Date. This ordinance shall be in full force and effect on (FIRM date).

Section 3. This ordinance shall be in full force and effect on December____, 2015, after its adoption by the Town Council, its publication as required by law, and filing in the office of the Clerk-Treasurer.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF NORTH LIBERTY, COUNTY OF ST. JOSEPH, INDIANA, THIS ____ DAY OF _____, 2015, HAVING BEEN PASSED BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Voting Affirmative:

Voting Opposed:

Town Council President

Town Council President

ATTEST:

Vicki L. Kitchen, Clerk-Treasurer

Staff Report

11/5/2015

APC # 2765-15
Owner: APC Initiated
Location: Text Amendment
Jurisdiction: Town of Lakeville
Public Hearing Date: 11/17/2015

Requested Action:

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Title 8, Zoning Ordinance, Article 6, Floodplain Regulations of the Municipal Code of the Town of Lakeville, St. Joseph County, Indiana.

Staff Comments:

The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program.

The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA.

It should be noted that this replacement ordinance does not change, or in any other way affect, the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. The FIRM maps, effective as of January 6, 2011, remain in place.

Agency Comments:

Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Town Council with a FAVORABLE recommendation.

Analysis:

This ordinance addresses required changes in the community's floodplain ordinance and is required for continued eligibility in the National Flood Insurance Program.

ORDINANCE NO. _____

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE TOWN COUNCIL OF THE TOWN OF LAKEVILLE, INDIANA, AMENDNG TITLE 8 OF THE TOWN OF LAKEVILLE CODE BY REPEALING AND REPLACING ARTICLE 6: FLOODPLAIN REGULATIONS, IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS.

STATEMENT OF PURPOSE AND INTENT

The purpose of this ordinance is to replace ARTICLE 6: Floodplain Regulations, of TITLE 8 of the Municipal Code of the Town of Lakeville to reflect changes as required by the Federal Emergency Management Agency (FEMA).

The Town Council of the Town of Lakeville recognizes its duty to enact amendments to the Floodplain Regulations in order to continue to qualify for participation in the National Flood Insurance Program.

The Town Council of the Town of Lakeville further recognizes that a study of the flood-prone areas in the Town of Lakeville, Indiana, has been prepared and published by the Federal Emergency Management Agency, and identifies the floodplains, floodways and floodway fringe areas within the Town in conjunction with the National Flood Insurance Program.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Lakeville, Indiana, as follows:

Section 1. That ARTICLE 6: Floodplain Regulations, of TITLE 8 of the Municipal Code of the Town of Lakeville, Indiana be deleted in its entirety.

Section 2. That TITLE 8 of the Municipal Code of the Town of Lakeville, Indiana be amended by adding the following new ARTICLE 6: FLOODPLAIN REGULATIONS:

ARTICLE 6: FLOODPLAIN REGULATIONS

CHAPTER 1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.

Section 100. Statutory Authorization. The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Lakeville, Indiana does hereby adopt the following floodplain management regulations.

Section 101. Findings of Fact.

- 101.01 The flood hazard areas of the Town of Lakeville, Indiana are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 101.02 These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

Section 102. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 102.01 Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
- 102.02 Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 102.03 Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- 102.04 Control filling, grading, dredging, and other development which may increase erosion or flood damage;
- 102.05 Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,

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

Section 103. Objectives. The objectives of this ordinance are:

103.01 To protect human life and health;

103.02 To minimize expenditure of public money for costly flood control projects;

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

103.04 To minimize prolonged business interruptions;

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

103.06 To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

CHAPTER 2: DEFINITIONS.

Section 100. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In addition to the definitions contained in Section 151.002 Definitions, the following definitions shall apply to the Floodplain Regulations of this Chapter.

100.01 A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

100.01.01 Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

100.01.02 Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30).

100.01.03 Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

100.01.04 Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

100.01.05 Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

100.01.06 Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

100.02 Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

100.03 Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

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

100.05 Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

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

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

100.10 Boundary River Floodway means the floodway of a boundary river.

100.11 Building - see "Structure."

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

101.13 Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

101.14 Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

101.16 Development means any man-made change to improved or unimproved real estate including but not limited to:

- 101.16.01 construction, reconstruction, or placement of a structure or any addition to a structure;
- 101.16.02 installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- 101.16.03 installing utilities, erection of walls and fences, construction of roads, or similar projects;

- 101.16.04 construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- 101.16.05 mining, dredging, filling, grading, excavation, or drilling operations;
- 101.16.06 construction and/or reconstruction of bridges or culverts;
- 101.16.07 storage of materials; or
- 101.16.08 any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

101.17 Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

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

101.19 Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

101.20 Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

101.21 Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

101.22 FEMA means the Federal Emergency Management Agency.

101.23 Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

101.24 Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

101.25 Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

101.26 Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

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

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

101.29 Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

101.30 Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

101.31 Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

101.33 Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

101.34 Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

101.35 Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

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

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

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

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

101.40 Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

101.41 Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

- 101.42.01. Letter of Map Amendment (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.
- 101.42.02. Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- 101.42.03. Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

101.44 Lowest floor means the lowest elevation described among the following:

- 101.44.01 The top of the lowest level of the structure.
- 101.44.02 The top of the basement floor.
- 101.44.03 The top of the garage floor, if the garage is the lowest level of the structure.
- 101.44.04 The top of the first floor of a structure elevated on pilings or pillars.
- 101.44.05 The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - 1. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - 2. the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the

exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

3. such enclosed space shall be usable solely for the parking of vehicles and building access.

101.45 Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

101.46 Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

101.47 Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

101.48 Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

101.49 National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

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

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

101.52 New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

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

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

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

101.56 One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

101.57 Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

101.58 Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

101.59 Recreational vehicle means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

101.61 Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in 21-12 (c) (2) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

101.62 Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

101.63 Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

101.64 Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the Town of Lakeville, Indiana subject to inundation by the regulatory flood. The SFHAs of the Town of Lakeville are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

101.65 Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

101.67 Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

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

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

101.71 Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

101.72 Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

101.73. X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

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

101.75 Zone A (see definition for A zone).

101.76 Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C).

CHAPTER 3: GENERAL PROVISIONS

Section 100. Lands to Which This Ordinance Applies. This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Lakeville, Indiana.

Section 200. Basis for Establishing Regulatory Flood Data. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below:

- 200.01 The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Lakeville, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- 200.02 The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Lakeville, Indiana, delineated as an "A Zone" on the Town of Lakeville, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- 200.03 In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- 200.04 Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

Section 300. Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

Section 400. Compliance. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section 500. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 600. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

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

Section 700. Interpretation. In the interpretation and application of this ordinance all provisions shall be:

- 700.01 Considered as minimum requirements;
- 700.02 Liberally construed in favor of the governing body; and,
- 700.03 Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 800. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Lakeville, Indiana, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Section 900. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the

Zoning Ordinance of the Town of Lakeville, Indiana. All violations shall be punishable by a fine (See TITLE 10, ARTICLE 1, Section 4.)

- 900.01 A separate offense shall be deemed to occur for each day the violation continues to exist.
- 900.02 The Town of Lakeville Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- 900.03 Nothing herein shall prevent the Town of Lakeville, Indiana from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

CHAPTER 4: ADMINISTRATION.

Section 100. Designation of Administrator. The Town Council of the Town of Lakeville, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section 200. Permit Procedures. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- 200.01. Application Stage.
 - 1. A description of the proposed development;
 - 2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
 - 3. A legal description of the property site;
 - 4. A site development plan showing existing and proposed development locations and existing and proposed land grades;
 - 5. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
 - 6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed; and

7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Chapter 4, Section 300.06 for additional information).
- 200.02. Construction stage. Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same (The Floodplain Administrator shall review the floodproofing certification submitted). The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.
- 200.03. Finished Construction. Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the “as-built” lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

Section 300. Duties and Responsibilities of the Floodplain Administrator. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

- 300.01. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;
- 300.02. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;
- 300.03. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Chapter 5, Section 500 and 700.01 of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);
- 300.04. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit

- 300.05. Maintain and track permit records involving additions and improvements to residences located in the floodway;
- 300.06. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- 300.07. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;
- 300.08. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- 300.09. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- 300.10. Review certified plans and specifications for compliance;
- 300.11. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Chapter 4, Section 200;
- 300.12. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Chapter 4, Section 200;
- 300.13. Stop Work Orders
 1. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 2. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- 300.14. Revocation of Permits
 1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false

statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

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

CHAPTER 5: PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 100. General Standards. In all SFHAs and known flood prone areas the following provisions are required:

- 100.01 New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- 100.02 Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- 100.03 New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- 100.04 New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 100.05 Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- 100.06 New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 100.07 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 100.08 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

- 100.09 Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance;
- 100.10 Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
- 100.10.01 The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;
- 100.10.02 Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;
- 100.10.03 The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water;
- 100.10.04 The fill or structure shall not obstruct a drainage way leading to the floodplain;
- 100.10.05 The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water;
- 100.10.06 The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and,
- 100.10.07 Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

Section 200. Specific Standards. In all SFHAs, the following provisions are required:

- 200.01 In addition to the requirements of Chapter 5, Section 100, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
- 200.01.01 Construction or placement of any new structure having a floor area greater than 400 square feet;
 - 200.01.02 Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);
 - 200.01.03 Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;
 - 200.01.04 Installing a travel trailer or recreational vehicle on a site for more than 180 days;
 - 200.01.05 Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;
 - 200.01.06 Reconstruction or repairs made to a repetitive loss structure; and
 - 200.01.07 Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- 200.02 Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Chapter 5, Section 200.04.
- 200.03 Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Chapter 5, Section 200.04. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- 200.03.01 A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Chapter 4, section 300.12.
- 200.03.02 Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

Section 200.04. Elevated Structures.

- 200.04.01 New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.
- 200.04.02 Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must either meet the following minimum criteria:
1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
7. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.

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

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

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

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

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Chapter 5, Section 200.04.
3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

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

1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures Chapter 5, Section 200.04.
3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

200.06.03 Recreational vehicles placed on a site shall either:

1. be on site for less than 180 days;
2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick

disconnect type utilities and security devices, and has no permanently attached additions); or

3. meet the requirements for “manufactured homes” as stated earlier in this section.

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

200.07.01 Shall not be used for human habitation.

200.07.02 Shall be constructed of flood resistant materials.

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

200.07.04 Shall be firmly anchored to prevent flotation.

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

200.07.06 Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in §151-209 (B) (4).

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

300. Standards for Subdivision Proposals.

300.01 All subdivision proposals shall be consistent with the need to minimize flood damage;

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

300.03 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

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

300.05 All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and

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

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

500. Standards for Identified Floodways.

500.01 Located within SFHAs, established in Chapter 3, Section 200 of this ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

500.02 No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Chapter 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway

issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

600. Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Chapter 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

700. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

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

1. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
2. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
3. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Chapter 5 of this ordinance have been met.

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

1. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
2. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Chapter 5 of this ordinance have been met.
3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

800. Standards for Flood Prone Areas. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Chapter 5.

CHAPTER 6: VARIANCE PROCEDURES.

Section 100. Designation of Variance and Appeals Board. The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this ordinance.

Section 200. Duties of Variance and Appeals Board. The board (ABZA) shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board (ABZA) may appeal such decision to the St. Joseph County Circuit or Superior Court.

Section 300. Variance Procedures. In passing upon such applications, the board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- 300.01 The danger of life and property due to flooding or erosion damage;
- 300.02 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 300.03 The importance of the services provided by the proposed facility to the community;
- 300.04 The necessity of the facility to a waterfront location, where applicable;

- 300.05 The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- 300.06 The compatibility of the proposed use with existing and anticipated development;
- 300.07 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 300.08 The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 300.09 The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- 300.10 The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Section 400. Conditions for Variances.

- 400.01 Variances shall only be issued when there is:
 - 1. A showing of good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship; and,
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- 400.02 No variance for a residential use within a floodway subject to Chapter 5, Section 500 or Chapter 5, Section 700.01 of this ordinance may be granted.
- 400.03 Any variance granted in a floodway subject to Chapter 5, Section 500 or Chapter 5, Section 700.01 of this ordinance will require a permit from the Indiana Department of Natural Resources.
- 400.04 Variances to the Provisions for Flood Hazard Reduction of Chapter 5, Section B of this ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

- 400.05 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 400.06 Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- 400.07 Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Chapter 6, Section 500).
- 400.08 The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Chapter 6, Section 500).

Section 500. Variance Notification.

- 500.01 Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
 2. Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the owner in the office of the St. Joseph County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- 500.02 The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

Section 600. Historic Structure. Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

Section 700. Special Conditions. Upon the consideration of the factors listed in Chapter 6, and the purposes of this ordinance, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Section 800. Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 900. Effective Date. This ordinance shall be in full force and effect on (FIRM date).

Section 3. This ordinance shall be in full force and effect on December____, 2015, after its adoption by the Town Council, its publication as required by law, and filing in the office of the Clerk-Treasurer.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LAKEVILLE,
COUNTY OF ST. JOSEPH, INDIANA, THIS ____ DAY OF _____, 2015,
HAVING BEEN PASSED BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Voting Affirmative:

Voting Opposed:

Town Council President

Town Council President

ATTEST:

Cindy McQueen, Clerk-Treasurer

Staff Report

11/5/2015

APC # 2766-15
Owner: APC Initiated
Location: Text Amendment
Jurisdiction: Town of Osceola
Public Hearing Date: 11/17/2015

Requested Action:

An Ordinance initiated by the Area Plan Commission of St. Joseph County, amending Chapter IV, District Regulations, Section 4.80 Floodplain Regulations, of the Zoning Ordinance of the Town of Osceola, St. Joseph County, Indiana.

Staff Comments:

The Federal Emergency Management Agency (FEMA) has made a number of changes to the Model Floodplain Ordinance, and has requested that communities that participate in the National Flood Insurance Program adopt the changes. The Department of Natural Resources is coordinating that effort for Indiana communities. A new floodplain ordinance must be adopted by December 16, 2015 in order for communities to remain in compliance with the National Flood Insurance Program.

The primary purpose of this replacement ordinance is to specifically include within identified Special Flood Hazard Areas (SFHA's) and other flood prone areas insured by the Federal Emergency Management Agency (FEMA), those locations identified on the St. Joseph County Flood Insurance Rate Map dated January 6, 2011 and on any future updates, amendments or revisions prepared by FEMA.

It should be noted that this replacement ordinance does not change, or in any other way affect, the existing penalties. The substantive changes consist solely in adding and deleting certain definitions, rephrasing and clarifying some language, and most importantly, incorporating FEMA's Flood Insurance Rate Map of January 6, 2011 and assuring that all updates amendments and revisions prepared by FEMA shall be included within designated floodplain areas. All changes are per recommendation of either FEMA or IDEM, so there was little discretion in drafting. The FIRM maps, effective as of January 6, 2011, remain in place.

Agency Comments:

Chuck Bulot, Floodplain Administrator, has reviewed the changes and recommends approval. As of the date of this Report, the Department of Natural Resources is still reviewing the ordinance for conformity to the model floodplain ordinance.

Recommendation:

Based on information available prior to the public hearing, the staff recommends that the petition be sent to the Town Council with a FAVORABLE recommendation.

Analysis:

This ordinance addresses required changes in the community's floodplain ordinance and is required for continued eligibility in the National Flood Insurance Program.

BILL NO.

ORDINANCE NO. _____

AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE TOWN COUNCIL OF THE TOWN OF OSCEOLA, INDIANA, REPEALING AND REPLACING CHAPTER 14 FLOODPLAIN REGULATIONS OF THE TOWN OF OSCEOLA ZONING ORDINANCE IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS.

STATEMENT OF PURPOSE AND INTENT

The purpose of this ordinance is to amend Chapter 14 Floodplain Regulations of the Town of Osceola Zoning Ordinance, to reflect changes as required by the Federal Emergency Management Agency (FEMA).

The Town Council of the Town of Osceola recognizes its duty to enact amendments to the Floodplain Regulations in order to continue to qualify for participation in the National Flood Insurance Program.

The Town Council of the Town of Osceola further recognizes that a study of the flood-prone areas in the Town of Osceola, Indiana, has been prepared and published by the Federal Emergency Management Agency, and identifies the floodplains, floodways and floodway fringe areas within the Town in conjunction with the National Flood Insurance Program.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Osceola, Indiana, as follows:

Section 1. That CHAPTER 14 FLOODPLAIN REGULATIONS, of the Town of Osceola, Indiana Zoning Ordinance be deleted in its entirety.

Section 2. That a new CHAPTER 14 FLOODPLAIN REGULATIONS of the Town of Osceola, Indiana Zoning Ordinance be added as follows:

CHAPTER 14

FLOODPLAIN REGULATIONS

Section 14.01 Statutory Authorization, Findings of Fact, Purpose, and Objectives.

A. Statutory Authorization. The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Osceola, Indiana does hereby adopt the following floodplain management regulations.

B. Findings of Fact.

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

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

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

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

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

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging, and other development which may increase erosion or flood damage;

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

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

D. Objectives. The objectives of this ordinance are:

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

Section 14.02 Prohibition on New Construction in the Floodplain.

A. Notwithstanding any other requirements in this Section, no new primary use *structure* in any zoning district, shall be permitted in any area designated as a *floodplain* by FEMA.

B. Existing primary structures located in an area designated as a *floodplain* may be expanded only under the specific requirements of this Section.

C. New and existing *accessory structures* located in an area designated as a *floodplain* may be built and/or expanded only under the specific requirements of this Section.

Section 14.03 Definitions.

A. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In addition to the definitions contained in Chapter 19 Definitions, the following definitions shall apply to the Floodplain Regulations of this Chapter.

1. "A zone" means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

a. Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

b. Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30).

c. Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

d. Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

e. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

f. Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

2. “Accessory structure” (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

3. “Addition” (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

4. “Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this ordinance.

5. “Area of shallow flooding” means a designated AO or AH Zone on the community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and

indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

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

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

10. "Boundary River Floodway" means the floodway of a boundary river.

11. "Building" - see "Structure."

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

13. "Community Rating System (CRS)" means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

14. "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

16. "Development" means any man-made change to improved or unimproved real estate including but not limited to:

a. construction, reconstruction, or placement of a structure or any addition to a structure;

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

- c. installing utilities, erection of walls and fences, construction of roads, or similar projects;
- d. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- e. mining, dredging, filling, grading, excavation, or drilling operations;
- f. construction and/or reconstruction of bridges or culverts;
- g. storage of materials; or
- h. any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

17. "Elevated structure" means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

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

19. "Emergency Program" means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

20. "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

21. "Expansion" to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

22. "FEMA" means the Federal Emergency Management Agency.

23. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

24. “Flood Boundary and Floodway Map (FBFM)” means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

25. “Flood Insurance Rate Map (FIRM)” means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

26. “Flood Insurance Study (FIS)” is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

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

28. “Flood Protection Grade (FPG)” is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See “Freeboard”)

29. “Floodplain” means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

30. “Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

31. “Floodplain management regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

33. “Floodproofing certificate” is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

34. “Floodway” is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

35. “Freeboard” means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

36. “Fringe” is those portions of the floodplain lying outside the floodway.

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

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

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

40. “Increased Cost of Compliance (ICC)” means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

41. “Letter of Final Determination (LFD)” means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

42. “Letter of Map Change (LOMC)” is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They

include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

a. “Letter of Map Amendment (LOMA)” means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.

b. “Letter of Map Revision (LOMR)” means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

c. “Letter of Map Revision Based on Fill (LOMR-F)” means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA’s determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

43. “Lowest adjacent grade” means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

44. “Lowest floor” means the lowest elevation described among the following:

- a. The top of the lowest level of the structure.
- b. The top of the basement floor.
- c. The top of the garage floor, if the garage is the lowest level of the structure.
- d. The top of the first floor of a structure elevated on pilings or pillars.
- e. The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - i. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - ii. the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - iii. such enclosed space shall be usable solely for the parking of vehicles and building access.

45. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

46. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

47. “Market value” means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

48. “Mitigation” means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

49. “National Flood Insurance Program (NFIP)” is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

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

51. “New construction” means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

52. “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.

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

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

55. “Obstruction” includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction

and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

56. “One-percent annual chance flood” is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.

57. “Physical Map Revision (PMR)” is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

58. “Public safety and nuisance” means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

59. “Recreational vehicle” means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

61. “Regulatory flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 14.03 B. of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", “One-Percent Annual Chance Flood”, and “100-Year Flood”.

62. “Repetitive loss” means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

63. “Section 1316” is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

64. “Special Flood Hazard Area (SFHA)” means those lands within the jurisdiction of the Town of Osceola, Indiana subject to inundation by the regulatory flood. The SFHAs of the Town of Osceola are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

65. “Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

67. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

69. “Suspension” means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

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

71. “Violation” means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

72. “Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

73. “X zone” means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

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

75. “Zone A” (see definition for A zone).

76. “Zone B, C, and X” means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C).

Section 14.04 General Provisions.

A. Lands to Which This Ordinance Applies. This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Osceola, Indiana.

B. Basis for Establishing Regulatory Flood Data. This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below:

1. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Osceola, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

2. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Osceola, Indiana, delineated as an "A Zone" on the Town of Osceola, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

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

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

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

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

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

F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

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

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

3. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and

the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

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

I. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance of the Town of Osceola, Indiana. All violations shall be punishable by a fine not exceeding \$100.

1. A separate offense shall be deemed to occur for each day the violation continues to exist.
2. The Town of Osceola Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
3. Nothing herein shall prevent the Town of Osceola, Indiana from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Section 14.05 Administration.

A. Designation of Administrator. The Town Council of the Town of Osceola, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

B. Permit Procedures. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development

activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

1. Application Stage.

- a. A description of the proposed development;
- b. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- c. A legal description of the property site;
- d. A site development plan showing existing and proposed development locations and existing and proposed land grades;
- e. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
- f. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed; and
- g. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. See Section 14.05 C. 2. f. for additional information).

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

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

C. Duties and Responsibilities of the Floodplain Administrator.

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

2. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

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

b. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;

c. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 14.06 E. and Section 14.06 G. 1. of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);

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

e. Maintain and track permit records involving additions and improvements to residences located in the floodway;

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

g. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance;

h. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;

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

j. Review certified plans and specifications for compliance;

k. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with §151-208 (B)

1. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with §151-208 (B);

m. Stop Work Orders

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

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

n. Revocation of Permits

i. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

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

Section 14.06 Provisions for Flood Hazard Reduction.

A. General Standards.

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

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

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

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

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

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

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

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

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

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

10. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

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

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

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

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

e. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water;

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

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

B. Specific Standards.

In all SFHAs, the following provisions are required:

1. In addition to the requirements of Section 14.06 A., all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

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

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

c. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

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

e. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage;

f. Reconstruction or repairs made to a repetitive loss structure; and

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

2. Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 14.06 B. 4.

3. Non-Residential Structures. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood

elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 14.06 B. 4. Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:

a. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 14.05 C. 2. 1.

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

4. Elevated Structures.

a. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

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

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

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

iv. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

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

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

vii. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.

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

a. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

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

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

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

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

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

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

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

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

ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry

and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 14.06 B. 4.

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

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

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

ii. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 14.06 B. 4.

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

c. Recreational vehicles placed on a site shall either:

i. be on site for less than 180 days;

ii. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

iii. meet the requirements for “manufactured homes” as stated earlier in this section.

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

a. Shall not be used for human habitation.

b. Shall be constructed of flood resistant materials.

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

d. Shall be firmly anchored to prevent flotation.

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

f. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 14.06 B. 4.

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

C. Standards for Subdivision Proposals.

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

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

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

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

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

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

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

E. Standards for Identified Floodways.

1. Located within SFHAs, established in Section 14.04 B. of this ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of

Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

2. No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 14.06 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

F. Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 14.06 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

G. Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

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

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

b. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

c. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 14.06 of this ordinance have been met.

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

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

b. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 14.06 of this ordinance have been met.

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

H. Standards for Flood Prone Areas. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Section 14.06.

Section 14.07 Variance Procedures.

A. Designation of Variance and Appeals Board. The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this ordinance.

B. Duties of Variance and Appeals Board. The board (ABZA) shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the

Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board (ABZA) may appeal such decision to the St. Joseph County Circuit or Superior Court.

C. Variance Procedures. In passing upon such applications, the board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. The danger of life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The importance of the services provided by the proposed facility to the community;
4. The necessity of the facility to a waterfront location, where applicable;
5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
6. The compatibility of the proposed use with existing and anticipated development;
7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

D. Conditions for Variances.

1. Variances shall only be issued when there is:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and,

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

2. No variance for a residential use within a floodway subject Section 14.06 E. or Section 14.06 G. 1. of this ordinance may be granted.

3. Any variance granted in a floodway subject to Section 14.06 E. or Section 14.06 G. 1. of this ordinance will require a permit from the Indiana Department of Natural Resources.

4. Variances to the Provisions for Flood Hazard Reduction of Section 14.06 B. of this ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

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

7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Section 14.07 E.).

8. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Section 14.07 E.).

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

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

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

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

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

G. Special Conditions. Upon the consideration of the factors listed in Section 14.07 and the purposes of this ordinance, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Section 14.08 Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 14.09 Effective Date. This ordinance shall be in full force and effect on **(FIRM date)**.

Section 3. This ordinance shall be in full force and effect on December____, 2015, after its adoption by the Town Council, its publication as required by law, and filing in the office of the Clerk-Treasurer.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF OSCEOLA, COUNTY OF ST. JOSEPH, INDIANA, THIS ____ DAY OF _____, 2015, HAVING BEEN PASSED BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED.

Voting Affirmative:

Voting Opposed:

Town Council President

Town Council President

ATTEST:

Denese Thornburg, Clerk-Treasurer

Staff Report

11/4/2015

APC # 2306-05
Owner: Waggoner's Dairy Farm, Inc., et al
Location: Ameriplex at Interstate 80/90 (Formerly Portage Prairie)
Jurisdiction: City of South Bend

Requested Action:

The petitioner is requesting approval of alternate development standards for signs and landscaping.

Zoning and Land Use History And Trends:

The Portage Prairie PUD was originally heard by the Area Plan Commission in March 2005. In April 2008, alternate development standards for signs were approved by the Commission. In October 2012, alternate development standards for signs and landscaping were approved by the Commission. In 2014, alternate development standards for outdoor storage and renaming of the PUD to AmeriPlex at Interstate 80/90 were approved.

Staff Comments:

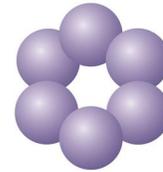
The AmeriPlex at Interstate 80/90 PUD ordinance provides the developer the opportunity to submit alternate development standards for approval by the Area Plan Commission. The alternate development standards being proposed by the developer include the following:

- Provisions to allow a lot without street frontage to have the ability to place a monument sign in a signage easement on an adjacent parcel;
- Perimeter yard planting will no longer be required for sections of a front yard that face the rear of an existing building or in side yards where the equivalent is already installed by the adjacent property owner;
- Disturbed areas located behind a building are allowed to use ground cover, stone, or mulch in lieu of sod or hydroseed;
- 100% coverage of Irrigation systems are only required for plantings between the front building and concrete curb of the street;
- Maintenance of landscape areas within the site development's boundary shall be maintained by the individual site development (formerly the responsibility of AmeriPlex at Interstate 80/90); and
- Additional plant materials were added to the approved list.

Recommendation:

Staff recommends approval of the proposed alternate development standards. The proposed standards are consistent with the intent and design of the original PUD while allowing flexibility and adapting to current design standards.

AMERIPLEX AT INTERSTATE 80/90
PLANNED UNIT DEVELOPMENT



AMERIPLEX
 AT INTERSTATE 80/90

APPROVED AMENDMENTS

FORMALLY KNOWN AS:

”PORTAGE PRAIRIE PLANNED UNIT DEVELOPMENT”

Original PUD Document (10 pages) Approved by the City of South Bend Common Council on May 10, 2005, and revised on September 26, 2012, January 29, 2014, and October 20, 2015 for Plan Commission consideration.

Section Number	Section Name	Approved Date	Approved By
3 (e)	EXHIBIT B Area C - Southeast Quadrant Signage Requirements (4 pages)	10-16-12	Area Plan Commission
3 (e)	EXHIBIT C Area C - Southeast Quadrant Landscape Requirements (6 pages)	10-16-12	Area Plan Commission
3 (f)	EXHIBIT D Area C – Southeast Quadrant Outdoor Storage Requirements (1 page)	02-18-14	Area Plan Commission
All	PUD NAME CHANGE Change to: AmeriPlex at Interstate 80/90 (all pages)	02-18-14	Area Plan Commission
	EXHIBIT B Area C – Southeast Quadrant Signage Requirements (4 pages)		
	EXHIBIT C Area C - Southeast Quadrant Landscape Requirements (6 pages)		

EXHIBIT B

AREA C – SOUTHEAST QUADRANT

SIGNAGE REQUIREMENTS

September 26, 2012
Revised October 20, 2015



Area C – Southeast Quadrant: Industrial, Commercial / Hotel, Office / Flex

Goals:

1. Create a sign plan that incorporate the needs and goals of the developer, the occupants, businesses and tenants within the development, the City of South Bend and St Joseph County and compliment the neighboring developments within the Airport Economic Development.
2. Ensure continuity and maintain aesthetic integrity of the overall development by establishing sign restrictions, rules and guidelines for use, construction and visual appeal.
3. Provide the developer, occupants or businesses that will develop and operate within the development and the City/County to have a common set of sign guidelines that will help streamline the process of permits and reduce the instances of variance appeals.

Sign Types:

- Main Identification Highway Signs (MHS)
- Secondary Monument Signs for Name of Development (SMS)
- Monument Signs for Each Building (MS)
- Building Signs for Each Tenant or Occupant (TS)
- Directional, Wayfinding & Traffic Signs (DS)
- Outdoor Display Area Signs (ODS)

Main ID Highway Signs (MHS):

The AmeriPlex development will have two highway oriented signs fronting the north and south ends along the US 31 Highway. The proposed signs will be similar to height standards for CB zoned districts with a maximum height not to exceed 50 feet overall height. The setback needs to be close to the highway and property line; therefore, the signs shall be set five (5) feet from the property line. At this setback, the sign will be approximately 75 feet or more from the highway. The proposed signs shall contain the AmeriPlex at Interstate 80/90 development name. The signs will contain decorative features that will be used throughout the development including the stained glass element and prairie style fabricated structural steel supports.

The signs will also contain masonry in the bases. These signs will be internally illuminated and will have landscape around them.

Secondary MID Development Signs (SMS):

There are places of entry into the development where secondary signs could be placed that would contain the same information as the MHS but much smaller. They would simply compliment the highway signs and serve as reference points for those coming to the development to know where the access and exit points are located. There may be up to four of these signs all internally illuminated with each sign being between 10' to 20' over all height depending on each sign's specific location and environment.

Monument Signs (MS):

Every building within with development will have a monument sign with either the name of the building occupant if a single user, or the name of the building if a multi-tenant use. These signs would be freestanding and double sided and would be constructed to compliment the SMS using similar materials and colors and design features. Each sign would be 8' to 12' in length and 6' to 8' in height. The signs will be illuminated internally or with spotlights in the landscape area around them.

For a lot with no street frontage, a monument sign may be located in a signage easement on an adjacent parcel with no minimum separation requirements from adjacent monument signs.

Tenant/Building Signs (TS):

Building signs will have a consistent look that is controlled by the developer allowing each tenant a sign on their front façade. Tenants in buildings that are 150,000 square feet or larger may have a façade sign up to 75 square feet in addition to a corporate logo, in size placed on their front façade area, tenants in buildings between 50,000 and 149,000 square feet may place signs on their front façade that are no larger than 50 square feet in addition to a corporate logo, and tenants in buildings that are smaller than 50,000 square feet can have signs on their front façade up to 25 square feet, in addition to a corporate logo.

All signs on each building will be consistent in style of construction, materials and colors to be determined by the developer. All signs will affix the same way on each building and will incorporate the same mounting method to be determined by the AmeriPlex Architectural Committee (AAC)

No raceways or box signs or projecting signs allowed and no signs shall extend beyond the roofline. The signs will be illuminated using external sources of light; spotlights, building mounted lights, etc.

AREA C – SOUTHEAST QUADRANT SIGNAGE REQUIREMENTS

All building sign designs must be submitted to the developer for approval prior to installation.

All signs must have concealed fasteners or exposed used stainless or non-corrosive materials. All penetrations of the building structure shall be neatly sealed and watertight. Color and finish of attachments and sealants must match the adjacent exterior finishes and are subject to the approval of the AAC.

Way Finding, Directional and Traffic Signs (DS):

Throughout the development there will be standard traffic signs as well as specific directional and way finding signs at intersections, to designate street names and to convey driving instructions including the option to place enter and exit signs at access points to specific buildings. All signs will be metal and no larger than 8 square feet for access point signs and shall be installed at standard heights that meet driving and traffic safety regulations. The signs will be non-illuminated with reflective vinyl graphics.

Outdoor Display Area Signs (ODS):

- Outdoor Display Area Signs will be limited to banner signs
- Banners must be mounted to the light poles with upper/lower horizontal supports
- Banners shall not exceed three feet in width by eight feet in height (3 ft. x 8 ft.)
- All banners shall be of the same dimensions, shall be oriented on the side of the light pole facing toward the outdoor display area, and shall be placed at the same relative location on all light poles.
- No light pole to contain more than one (1) banner sign
- Outdoor display area banner signs may announce the name of the development

Misc. Signs:

Each tenant will be required to have a small plaque style identification sign next to the back door of the building. These signs will all be the same look, color, style, materials, size and construction using an aluminum frame with aluminum insert panel. The signs will be 16"x24" in size.

Window vinyl will be allowed on the glass doors of the main entrance to each business.

Awnings:

- Blend with architecture
- Accent building, not to be dominant features
- Metal construction with fabric, metal or polycarbonate
- 10% of area can be used for graphic, logo or information
- 1 primary color with up to 2 accent colors
- non-internally illuminated (can illuminate them externally)

Signs not permitted:

- No neon signs other than neon used in individual channel letters for retail and commercial buildings. No exposed neon for signs, letters or accent lighting.
- No portable signs.
- No manual changeable letter signs other than for a theater and in this case only opaque backgrounds where only the letters light up at night.
- No painted signs directly applied to flat building surfaces.
- No sign company logos, decals or information on signs.

Additional:

- UL or product labels to be placed on top of sign components.
- Disconnect switches must be on signs that are illuminated.

EXHIBIT C

AREA C – SOUTHEAST QUADRANT

LANDSCAPE REQUIREMENTS

September 26, 2012
Revised October 20, 2015



Area C – Southeast Quadrant: Industrial, Commercial / Hotel, Office / Flex

Introduction:

Landscape planting is required for all building sites in the AmeriPlex Development. Landscape areas will be defined as all improved or disturbed areas that do not have pavement and or structures present. Plantings shall be informal at the site perimeter, and may become more formal closer to the buildings and parking areas. Each individual site development shall be subject to the following landscape requirements:

A. General Landscape Requirements

- 1) Planting areas including lawn shall have a minimum of 6” planting soil (1/3 top soil, 1/3 subsoil, and 1/3 peat).
- 2) Landscape beds shall have a minimum of 3” shredded bark mulch.
- 3) Landscape beds shall have a clearly defined edge by either natural or steel edging.
- 4) A time release fertilizer pack and a pre-emergent herbicide shall be used in all beds at time of installation.
- 5) Upon written request by an applicant, AmeriPlex shall have the authority to approve an alternate landscape plan provided that the total amount of plant materials remains proportional to the base requirements below.

B. Roadside Landscape Easement Planting Requirements

Where a site development fronts a road, such development shall be required to install and maintain street trees and landscape beds within the Landscape Easement and adjacent to the road. To help provide consistency from one site to another, the following requirements have been established.

- 1) One deciduous shade tree shall be planted adjacent to the road every 40’ on center where applicable. Trees shall be located within the public right of way subject to the approval of the City of South Bend Engineering Department. Trees shall be planted no closer than 5’ to the back of curb.

- 2) In addition to shade trees, three landscape beds shall be installed per every 750 lineal feet of road frontage. Landscape beds shall adhere to the following guidelines:
 - a. Landscape beds shall be spaced evenly across the road frontage
 - b. Landscape beds shall maintain a minimum of 850 square foot area and a maximum of 1,650 square foot area
 - c. Landscape beds shall provide a minimum of 36 square feet per each tree and every two shrubs or ornamental grasses
 - d. Planting shall consist of a combination of perennials, shrubs, evergreen trees, and under-story trees
 - e. Plantings shall consist of a minimum of two trees and maximum of three trees per landscape bed
 - f. Plantings shall consist of a maximum of two evergreen trees per landscape bed
 - g. Trees within the same bed shall have varying sizes at time of installation

C. Vehicular Entry Drive Planting Requirements

If there is no Roadside Easement Landscape Bed located within five feet to where a vehicular drive enters a site development, such development shall be required to install and maintain landscape beds at a minimum of one side of the entry drive. Entry drive plantings shall adhere to the following guidelines:

- 1) Landscape beds shall maintain a minimum of 300 square feet area
- 2) Plantings shall consist of a combination of perennials and low lying evergreen shrubs
- 3) Perennial plantings shall cover a minimum of 60% and low lying evergreen shrubs shall cover a maximum of 40% of the bed area

D. Off-Street Parking Lot Planting Requirements

In parking lot areas, the installation and maintenance of adjacent landscape beds and trees within parking lot islands shall be required. Parking lot planting areas shall adhere to the following guidelines:

- 1) Parking Lot Islands
 - a. One interior landscape island for every 15 parking spaces
 - b. Each required interior landscape island shall contain a minimum of one shade tree or one under-story tree.

- 2) In addition to parking lot islands, landscape beds shall be installed adjacent to parking areas fronting a public right-of-way or private road.
 - a. A minimum of 1,000 square feet and a maximum of 1,600 square feet of planting area shall be installed per every 250 lineal feet of parking frontage.
 - b. One landscape bed may be planted continuously along the length of the parking lot or multiple beds may be massed as long as beds are distributed along the length of the parking frontage.
 - c. Plantings shall consist of a combination of ground cover, perennials, and shrubs.
 - d. Planting trees within the landscape beds is allowed but not required.

E. Foundation Yard Planting Requirements

Building foundations that front a public right-of-way or private road shall be required to install and maintain foundation yard landscape beds. Foundation yard landscape beds shall adhere to the following guidelines:

- 1) The following ratio should be used when calculating the minimum area of foundation yard landscape beds:

3 square feet of planting area per $\frac{1}{2}$ the total lineal footage façade length

For example: a building facade that has a length of 200 lineal feet would be required to install a minimum planting area of 300 square feet along that side of the building. Calculation: 100 ($\frac{1}{2}$ the total lineal feet façade) $\times 3 = 300$ square feet.
- 2) Landscape beds need not be uniform in shape or contiguous to length of the building. They can be massed at focal points of the building, such as storefront areas, etc., as long as the required amount of square footage is landscaped.
- 3) Plantings shall consist of ground cover, perennials, shrubs, trees, or a combination.

F. Perimeter Yard Planting Requirements

- 1) All site developments shall be required to install and maintain front and side yard tree plantings and shall adhere to the following guidelines:
 - a. A minimum of one shade tree for every 60' of applicable lot line or 1 under-story tree for every 50' of applicable lot line.

- b. Such trees may be evenly spaced or grouped together, provided however, in no case shall spacing between trees exceed 90' for shade trees and 75' for under-story trees.
- c. Front yard perimeter planting will not be required if the distance between the edge of the front yard parking and the right of way is less than or equal to 100'.
- d. Perimeter yard planting is not required for sections of front yards that face the rear of an existing building.
- e. Perimeter yard planting is not required for side yards where the adjacent side yard has existing perimeter plantings, or where existing trees are located that are at a minimum equivalent to the requirements of this section.

2) Perimeter yard planting is not required for rear yards.

G. Lawn Planting Requirements

All site developments shall be required to install and maintain grass turf in areas improved/disturbed during construction. Lawn planting shall consist of sod or hydroseed and shall be installed with a blend of 68% perennial rye and 32% Kentucky Blue.

For disturbed areas located behind proposed buildings, ground cover, stone, or mulch is acceptable in lieu of sod or hydroseed.

H. Annual Flowers

Although not required, site developments are encouraged to incorporate annual flowers/bulbs into their individual landscape plans for spring and early summer color.

I. Irrigation

All site developments shall be required to provide irrigation for permanent turf and planting bed areas. The irrigation system shall be a fully automatic system and use water that will not cause rust staining on pavement or buildings.

At a minimum, 100% coverage shall be provided for all plantings between the front building façade and concrete curb of the street.

J. Roadside Landscape Easement Installation & Maintenance

Where a site development fronts a road or uses an access easement along a road, such development shall be responsible for maintaining grass turf, landscaping beds, trees, and irrigation system for landscape easements located immediately adjacent to streets and interior roads within the site development's boundary. Individual site development shall repair/restore grass turf, landscaping beds, trees, and irrigation system to their original, if not better condition, in the event these areas are disturbed or damaged during construction activities relating to the individual site development. Individual parcels are also responsible for planting requirements listed in Section B.

K. Required Soil Erosion Measures During Construction

During construction, all site developments shall install and maintain soil erosion measures in accordance with the latest City of South Bend MS4 Requirements, State of Indiana "Rule 5", and the Indiana Stormwater Quality Manual in order to prevent sediment from washing onto adjacent properties and into public/private drainage systems. Soil erosion measures generally include, but are not limited to, construction access to one or two access points constructed of a temporary aggregate ingress/egress pad, silt fencing, inlet protection, and temporary seeding.

L. Plant Material Size and Spacing at Time of Installation

All required plant material shall comply with the following minimum plant material size and spacing at time of installation:

MINIMUM PLANT MATERIAL SIZE AND SPACING AT TIME OF INSTALLATION		
Plant Category	Minimum Size	Spacing
Shade Tree	2 1/2" CAL*	
Under-Story Tree (Ornamental)	6' HT and 1 1/2" CAL*	
Evergreen Tree	6' HT	
Shrubs	24" HT	24" - 48" O.C.
Perennials	1 GAL	
Ground Cover	Cell or Plug	

* Caliper shall be measured at 6" above the ground

* Height shall be measured from the top of root ball or container

M. Approved Plant Material List

All plant material shall be selected from the following approved list.

- 1) Evergreen Trees
 - a. Colorado Spruce
 - b. Douglas Fir
 - c. Norway Spruce
 - d. Pine
 - e. Eastern Hemlock
 - f. Arborvitae
- 2) Under-Story Trees (Ornamental)
 - a. Serviceberry
 - b. River Birch
 - c. Dogwood
 - d. Hawthorn
 - e. Ivory Silk Tree Lilac
 - f. Red Bud
 - g. Sunburst Locust
 - h. Fringetree
- 3) Shade Trees
 - a. Green Mountain Sugar Maple
 - b. Swamp White Oak
 - c. Skyline Honeylocust
 - d. Red Sunset Maple
 - e. Kentucky Coffeetree
 - f. Hackberry
 - g. American Basswood
 - h. American Planetree
 - i. Black Gum
- 4) Shrubs
 - a. Nearly Wild Rose
 - b. Knockout Rose
 - c. Annabelle Hydrangea
 - d. Limelight Hydrangea
 - e. Viburnum
 - f. Dogwood
 - g. Gold Tip Juniper
 - h. Andorra Juniper
 - i. Compact Pfitzer Juniper
 - j. Old Gold Juniper
 - k. Clethra
 - l. Chokeberry
- 5) Perennials
 - a. Scabiosa Butterfly Blue
 - b. Lady's Mantle
 - c. Catmint Blue Wonder
 - d. Catmint Walkers Low
 - e. Hosta
 - f. Coreopsis
 - g. Purple Cone Flower
 - h. Salvia May Knight
 - i. Shasta Daisy
 - j. Russian Sage
 - k. Black-Eyed Susan
 - l. Lavender
 - m. Purple Gayfeather
 - n. Hamelin Fountain Grass
 - o. Big Bluestem
 - p. Little Bluestem
 - q. Switch Grass
 - r. Indiangrass
 - s. Evergold Sedge
 - t. Elijah Blue
 - u. Feather Reed
- 6) Ground Covers
 - a. Lilyturf
 - b. Sedum Tekaridake
 - c. Bowles Myrtle
 - d. Dragon's Blood Sedum
 - e. Coralbells
 - f. Bearberry

Staff Report

11/5/2015

APC # 2671-13
Owner: City of South Bend Redevelopment Commission
Location: Ignition Park
Jurisdiction: City of South Bend

Requested Action:

The petitioner is requesting approval for alternate development standards for signs.

Zoning and Land Use History And Trends:

Ignition Park PUD was originally heard by the Area Plan Commission in 2010. In 2013, a new petition was approved that added the site at the northeast corner and removed a lot at the southwest corner, creating the current configuration of the Ignition Park PUD.

Staff Comments:

The Ignition Park PUD Ordinance provides the developer the opportunity to submit alternate development standards for approval by the Area Plan Commission. The alternate development standards being proposed by the developer include the following:

- Updating the terminology from monument sign to freestanding sign, where applicable;
- Increasing the maximum height of an Ignition Park Campus Freestanding sign from 8' to 25';
- Adding a provision that allows freestanding identification signs the ability to be located on an adjacent lot provided they share a common drive;
- Adding a provision that will allow 3-dimensional works of art to be included with the approval of the Architectural Review Board and the Board of Public Works.

Recommendation:

Staff recommends approval of the proposed alternate development standards. The proposed standards are consistent with the intent and design of the original PUD and provide the ability to continue the branding and marketing image created for the industrial park.

(8) Signs

NOTE: *As Ignition Park is developed, a comprehensive sign package may be developed and be presented to the Area Plan Commission for approval. Approval of such a comprehensive sign package by the Area Plan Commission would supersede the following sign regulations.*

(A) Ignition Park Campus Signs

Ignition Park Campus Signs shall provide identification to the entire Ignition Park and not to identify any individual use or occupant within Ignition Park.

- i. Type of Signs – Ignition Park Campus Signs may be either:
 - a. Signs on Ornamental, Decorative Fence or Masonry Wall – One (1) sign may be incorporated into an ornamental, decorative fence or masonry wall located on each side of any shared street road cut into Ignition Park or at any corner of the Ignition Park PUD; or,
 - b. **Freestanding** Signs – One (1) **freestanding** sign may be located at each shared street road cut into Ignition Park or at each corner of the Ignition Park PUD.
- ii. Height and Area:
 - a. An Ignition Park Campus Sign located on ornamental, decorative fence or masonry wall shall not exceed ten (10) feet in height. The total wall area shall not be limited, however the portion of the wall devoted to Ignition Park Campus Sign surface area shall not exceed sixty-four (64) square feet in area.
 - b. Ignition Park Campus **Freestanding** Signs shall not exceed **twenty-five (25)** feet in height or one-hundred and twenty-eight (128) square feet in area.
- iii. Setback – All portions of an Ignition Park Campus Sign, whether on an ornamental, decorative fence or masonry wall or a freestanding monument sign, shall be setback a minimum of ten (10) feet from the right-of-way of Sample / Prairie / Cotter / Kendall / Lafayette / Ignition Drive South or a minimum of five (5) feet from the right-of-way of Franklin / Garst / Stull / Broadway.
- iv. Separation – No freestanding sign for any individual use or lot within Ignition Park shall be located within fifty (50) feet of an Ignition Park Campus Sign.

(B) Freestanding Identification Signs – Freestanding identification signs shall be limited to monument signs as regulated in Section 21-07.03 (d) of the

South Bend Zoning Ordinance for the OB – Office Buffer District.

Freestanding Identification Signs may be located within a sign easement of an adjacent lot provided the business it is identifying shares a common drive.

- (C) Freestanding Tenant Directory Signs - One (1) pylon sign per lot not to exceed six (6) feet in height or eighteen (18) square feet in area, to identify the use or uses within the building.
- (D) Building Signs – each building shall be permitted the following:
 - i. Building Identification Signs – Building identification signs shall be limited to wall signs as regulated in Section 21-07.03 (d) for the OB – Office Buffer District and O - Office District. In addition, awning signs or canopy signs may be permitted subject to the provision of Section 21-07.03 (d) (4) (D).
- (E) Incidental / Directional / Wayfinding Signs – freestanding incidental / directional / wayfinding signs shall be permitted at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to a: particular use within Ignition Park; a customer or employee parking area; or, a delivery or loading area). Such incidental / directional / wayfinding signs shall:
 - i. not exceed two (2) square feet devoted to any particular per use or location;
 - ii. may contain up to five (5) uses or locations for combined maximum sign area of up to ten (10) square feet per sign for signs identifying more than one use or location;
 - iii. not be located less than two (2) feet back from the back of curb / edge of pavement from any interior access drives;
 - iv. not be located further than ten (10) feet from the back of curb / edge of pavement of an interior access drive; and,
 - v. comply with the regulations of Section 21-01.01 – Clear Sight Area Requirements of the South Bend Zoning Ordinance.
- (F) Works of Art – Three (3) dimensional works of art shall not be counted as signage, provided such artwork is approved by the Architectural Review Board and the Board of Public Works.

FINDINGS OF FACT

APC# 2755-15
RBS Properties, LLC
13460 E. McKinley and 56020 Currant Road
St. Joseph County

On Tuesday, October 20, 2015 the Area Plan Commission **approved** the following variances from the Development Standards of the St. Joseph County Zoning Ordinance:

1. from the required minimum front yard of 15' for parking to 5' along Currant Road and McKinley Road for lots 217, 218, and 219;
2. from the required foundation landscaping to none along the north and east facades of the existing building; and
3. from the required off-street parking area screening to none along the north, west, and south property lines.

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

The landscape variances will not be injurious to the public. The 5' setback will provide a buffer that will allow for any required landscaping and prevent vehicles from encroaching on the right-of-way.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The variances for parking screening and foundation landscaping will not affect the value of surrounding commercial properties. The residential properties to the south will not have line-of-sight to the areas where the landscaping will be absent. This area is already commercial in nature.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

Since the site will be used for outdoor display of motor vehicles, strict application of the landscape and setback regulations would block the visibility of cars from the road and require foundation landscaping on the portions of the building where improvements already exist.

The Minutes of the October 20, 2015 meeting of the Area Plan Commission are hereby incorporated by reference herein.

Adopted by the Area Plan Commission of St. Joseph County, Indiana, this 17th day of November, 2015.

Karl King, President
Area Plan Commission of
St. Joseph County, Indiana

ATTEST:

Lawrence P. Magliozzi, Secretary

FINDINGS OF FACT

APC# 2756-15
Eggers Real Estate, LLC
1619 & 1623 Franklin Street
South Bend

On Tuesday, October 20, 2015 the Area Plan Commission **approved** the following variances from the Development Standards of the St. Joseph County Zoning Ordinance:

1. from the required 50' side residential bufferyard to 10'; and
2. from the required 50' rear residential bufferyard to 10',

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

The proposed setbacks are consistent with the LI Light Industrial District. This development will remove an abandoned house and a vacant lot from the neighborhood.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The value of the adjacent industrial properties will not be affected by the addition on an industrial building. The value of the surrounding residential properties will not be adversely affected due to the substantial screening that will be installed.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

The strict application of the residential bufferyard setbacks would not allow this site to develop as any type of industrial use.

The Minutes of the October 20, 2015 meeting of the Area Plan Commission are hereby incorporated by reference herein.

Adopted by the Area Plan Commission of St. Joseph County, Indiana, this 17th day of November, 2015.

Karl King, President
Area Plan Commission of
St. Joseph County, Indiana

ATTEST:

Lawrence P. Magliozzi, Secretary

FINDINGS OF FACT

APC# 2757 c-15
Joseph T. Taylor, Sr.
1714 & 1716 South Michigan Street
South Bend

On Tuesday, October 20, 2015 the Area Plan Commission **approved** the following variances from the Development Standards of the St. Joseph County Zoning Ordinance:

1. from the required foundation landscaping to none.

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

The absence of foundation landscaping will be consistent with the rest of the businesses along Michigan Street.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Perimeter landscaping and parking screening are being added, which will enhance the area.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

Since the building is built up to the sidewalk, there is not adequate spacing to install landscaping without modifying the existing structure.

The Minutes of the October 20, 2015 meeting of the Area Plan Commission are hereby incorporated by reference herein.

Adopted by the Area Plan Commission of St. Joseph County, Indiana, this 17th day of November, 2015.

Karl King, President
Area Plan Commission of
St. Joseph County, Indiana

ATTEST:

Lawrence P. Magliozzi, Secretary

2016 AREA PLAN COMMISSION MEETING DATES

REGULAR MEETINGS OF THE AREA PLAN COMMISSION – 3:30 P.M. **Council Chambers, 4th Floor of the County City Building**

January 19, 2016	Tuesday
February 16, 2016	Tuesday
March 15, 2016	Tuesday
April 19, 2016	Tuesday
May 17, 2016	Tuesday
June 21, 2016	Tuesday
July 19, 2016	Tuesday
August 16, 2016	Tuesday
September 20, 2016	Tuesday
October 18, 2016	Tuesday
November 15, 2016	Tuesday
December 20, 2016	Tuesday

EXECUTIVE COMMITTEE MEETING DATES – 3:30 P.M. **Commission Office, 11th Floor County City Building**

January 7, 2016	Thursday	July 7, 2016	Thursday
January 21, 2016	Thursday	July 21, 2016	Thursday
February 4, 2016	Thursday	August 4, 2016	Thursday
February 18, 2016	Thursday	August 18, 2016	Thursday
March 3, 2016	Thursday	September 1, 2016	Thursday
March 17, 2016	Thursday	September 15, 2016	Thursday
April 7, 2016	Thursday	October 6, 2016	Thursday
April 21, 2016	Thursday	October 20, 2016	Thursday
May 5, 2016	Thursday	November 3, 2016	Thursday
May 19, 2016	Thursday	November 17, 2016	Thursday
June 2, 2016	Thursday	December 1, 2016	Thursday
June 16, 2016	Thursday	December 15, 2016	Thursday

PLAT COMMITTEE HEARING DATES – 8:30 A.M. **Commission Office, 11th Floor County City Building**

January 7, 2016	Thursday	July 7, 2016	Thursday
January 21, 2016	Thursday	July 21, 2016	Thursday
February 4, 2016	Thursday	August 4, 2016	Thursday
February 18, 2016	Thursday	August 18, 2016	Thursday
March 3, 2016	Thursday	September 1, 2016	Thursday
March 17, 2016	Thursday	September 15, 2016	Thursday
April 7, 2016	Thursday	October 6, 2016	Thursday
April 21, 2016	Thursday	October 20, 2016	Thursday
May 5, 2016	Thursday	November 3, 2016	Thursday
May 19, 2016	Thursday	November 17, 2016	Thursday
June 2, 2016	Thursday	December 1, 2016	Thursday
June 16, 2016	Thursday	December 15, 2016	Thursday