

15.01 Intent: The development review procedures for the use *Town* are intended to provide for the protection of the public health, safety, morals and general welfare of the residential and business citizens of the *Town* by providing for the thorough review of all permit applications and development petitions so that informed decisions regarding such permit applications and development petitions may be rendered while balancing the needs of the development community for the timely review of those permit applications and development petitions.

15.02 Improvement Location Permits

- (A) *Improvement location permit Required.* No building, structure, improvement, sign or use of land may be altered, changed, enlarged, placed, erected or located, unless the building, structure, improvement, sign or use and its location conform to the provisions of this Ordinance and an *improvement location permit* for the alteration, change, placement, erection or location of such building, structure, improvement, sign or use has been issued.
- (B) Duration of *Improvement location permit*.
- (1) An *improvement location permit* shall be valid for a period of one (1) year after date of issuance.
 - (2) The *Zoning Administrator* shall have the power to extend the period of validity of any *improvement location permit* one or more times, provided, however, the total time period of all extension(s) shall not exceed six (6) months.
- (C) Review of *Improvement location permit* Application.
- (1) *Improvement location permits* for Single Family and Two Family Dwellings and Related *Accessory Buildings* or *Structures*.

The *Zoning Administrator* may take up to five (5) business days to study an application for an *improvement location permit*. During such five (5) business day period, the *Zoning Administrator* may consult with other *Staff* or appropriate technical consultants. If, after such five (5) day period, the *Zoning Administrator* has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure or improvement, and the proposed use conform in all respects to the provisions of this Ordinance, the *Zoning Administrator* shall issue the *improvement location permit*.

- (2) *Improvement location permits* for All Multifamily, Commercial, Industrial or *Special Exception Use Buildings, Structures, Improvements* or *Uses*; Signs; and *Accessory Buildings, Structures or Improvements* Related to Multifamily, Commercial, Industrial or *Special Exception Uses*.

The *Zoning Administrator* may take up to fifteen (15) business days to study the application for an *improvement location permit*. During such fifteen (15) day period, the *Zoning Administrator* may consult with other *Staff* or appropriate technical consultants. If, after such fifteen (15) day



period, the *Zoning Administrator* has not requested any additional information or stated any objections in writing to the applicant, and the proposed *building, structure, improvement* or *sign*, and the proposed *use* conform in all respects to the provisions of this Ordinance, the *Zoning Administrator* shall issue the *improvement location permit*.

- (3) *Improvement location permits* for *Buildings, Structures, Improvements, Signs* or *Uses* Authorized by *Variance*.

In addition to the requirements above, an *improvement location permit* for a *building, structure, improvement, sign* or *use* authorized by *variance* shall not be issued until:

- (a) Receipt by the *Zoning Administrator* of written notice from the *Board of Zoning Appeals* that the application therefore has been approved by the *Board of Zoning Appeals*; and,
- (b) A determination by the *Zoning Administrator* that said *improvement location permit* application is in full compliance with the terms of any conditions which may have been imposed by the *Board of Zoning Appeals* and *commitments* which may have been made by the owner.

- (4) *Improvement location permits* for *Buildings, Structures, Improvements, Signs* or *Uses* Authorized by *Special Exception Use*. In addition to the requirements above, an *improvement location permit* for a *building, structure, improvement, sign* or *use* authorized by *special exception use* shall not be issued until:

- (a) Receipt by the *Zoning Administrator* of written notice from the *Council* that the application therefore has been approved by the *Council*; and,
- (b) A determination by the *Zoning Administrator* that said *improvement location permit* application is in full compliance with the terms of any conditions which may have been imposed by the *Council* and *commitments* which may have been made by the owner.

- (D) *Appeal of Determination*. Any determination by the *Zoning Administrator* concerning the issuance of an *improvement location permit* may be appealed to the *Board of Zoning Appeals* by any party claiming to be adversely affected by that decision.
- (E) *Record of Permits*. A record of all *improvement location permits* shall be kept on file in the Office of the *Zoning Administrator* and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the *building* or land affected and shall be available for public inspection and copying as provided by applicable State law.
- (F) *Amended Improvement Location Permit*. When a builder, developer or owner of any *building, structure, improvement* or *sign* for which an *improvement location permit* has been obtained, for any reason, proposes that the construction of said *building, structure, improvement* or *sign* deviate from the plans filed with the *improvement location permit* application and approved by the *Zoning*



Administrator, the builder, developer or owner shall make application for an amended *Improvement location permit*. The *Zoning Administrator* shall review the application for the Amended *improvement location permit* in accordance with the procedures set forth above to determine compliance of the amended *improvement location permit* application with the provisions of this Ordinance and any other applicable conditions, commitments or restrictions. If such amended *improvement location permit* application is found to be in compliance, the *Zoning Administrator* shall issue an amended *improvement location permit*. Any determination by the *Zoning Administrator* with respect to an amended *improvement location permit* shall be subject to the same appeal rights and procedures as set forth above for an initial application for an *improvement location permit*.

- (G) Revocation in Event of Violation. If the *Zoning Administrator* determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, or condition approval, or that the *improvement location permit* has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the *Zoning Administrator* may revoke said *improvement location permit*. In the event that an *improvement location permit* is revoked, the *Zoning Administrator* shall send written notice of the revocation to the permit applicant.
- (H) Fees. Fees for *improvement location permits* shall be as established by the *Council*.

15.03

Compliance with Other Laws, Ordinances, Rules or Regulations

The issuance of an *improvement location permit* does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules and regulations, as the same may be amended from time to time, before the construction of any *building, structure, improvement* or *sign*, including, but not limited to:

- (A) *Town* building code;
- (B) *Town* Subdivision Control Ordinance;
- (C) Any other applicable federal, state or local law, ordinance, rule or regulation, including, but not limited to:
 - (1) Rule 5 Erosion Control Regulations;
 - (2) Article 12 Floodplain Regulations of this Ordinance;
 - (3) *Driveway* permit regulations for the *Town*; and,
 - (4) State or Federal Environmental Permits.



15.04 Application Form and Plan Requirements

- (A) All *improvement location permit* applications shall comply with the form of application specified by the *Town*. When an *improvement location permit* is required by this Ordinance, additional site plans, landscape plans, lighting plans, *sign* plans and *building* elevations, as described below, may be required to determine compliance with the requirements and proper administration of this Ordinance.
- (B) The *Zoning Administrator* may request any and all other information as may be required for the proper administration of this Ordinance.
- (C) The *Zoning Administrator* may waive or relax any of the site plan, landscape plan, lighting plan, *sign* plan or *building* elevation requirements listed below, as circumstances dictate.
- (D) Site plan requirements for a single family or a two-family dwelling on a platted *lot* shall be as follows:
- (1) North arrow;
 - (2) Address of the *lot*;
 - (3) The actual shape, size and dimensions of the *lot*, at a scale of not more than 1"=100';
 - (4) Legal description of the *lot*;
 - (5) Names, center-lines and *right-of-way* widths of all streets, alleys, thoroughfares, public ways, waterways, or railroad *right-of-ways* abutting or within the *lot*;
 - (6) The location and dimensions of all *buildings*, *structures* or *improvements* currently existing on the *lot*;
 - (7) *Structures* proposed for demolition should be indicated as such;
 - (8) The location, height and dimensions of all proposed *buildings*, *structures* or *improvements*, including fences, sheds, paved areas, storage areas, *parking areas* (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed *buildings*;
 - (9) Location of any proposed or existing *driveway* and its width at the property line. (Any connection to an alley must also be indicated);
 - (10) The distance from *lot* lines for all existing and proposed *buildings*, *structures* or *improvements* (this distance is measured as a line from the point where the *building*, *structure* or *improvement* is closest to the property line. This measurement is taken perpendicular to the property line); and
 - (11) Location of all floodway and floodway fringe areas within the boundaries of the site.



- (E) Site plan requirements for any *use* not listed above shall be as follows:
- (1) Site plan requirements of sub-Section (D)(1) through (D)(11), above;
 - (2) Proposed name of the development;
 - (3) Area map or sketch to indicate the location of the *lot*;
 - (4) The number of dwelling units (if applicable) of existing and proposed *buildings* or *structures*;
 - (5) The current and proposed *use* to be made of all *buildings*, *structures*, *improvements* or lands within the *lot* (e.g. parking area, loading area, residence, office, outdoor storage);
 - (6) Locational Engineering information regarding all utilities to provide service to the *buildings* or *structures* on the *lot*;
 - (7) The location and dimensions of all *off-street parking* and loading areas and facilities;
 - (8) The location, size and dimension of all fences, walls or other screening and buffering devices;
 - (9) Site data summary (a text summary in table format) describing existing and proposed: square footage of *buildings*; required parking; required loading; maximum *building* height; accommodation of drainage, sanitary sewer, water and other utility services; lighting; and landscaping;
 - (10) The seal of the registered professional engineer or architect responsible for the site plan;
 - (11) *Building Elevations*:
 - (a) Elevations for each facade of the *building*;
 - (b) Specification or sample of the type and color of *building* materials to be used for all wall, window, roof and other architectural features; and
 - (c) Any other information requested in writing by the *Zoning Administrator*.
 - (12) *Sign Plan*:
 - (a) Location and distance from all *lot* lines of all existing and proposed freestanding *signs* (if applicable) on the site;
 - (b) Location and size of all existing and proposed *building sign(s)*;
 - (c) Illumination details for all proposed *signs*;
 - (d) Elevation of proposed *signs* including size, materials and color, as required; and



- (e) Any other information requested in writing by the *Zoning Administrator*, including but not limited to the requirements of sub-sections (D)(1) through (D) (11) and (E)(1) through (E)(10).

(13) Landscape Plan:

- (a) The location of any existing or proposed freestanding *signs*;
- (b) Outline of all existing or proposed *Buildings* or *structures*, including parking areas and loading areas;
- (c) Boundary lines of the site;
- (d) All existing elevations and proposed land contour lines having at least two (2) foot intervals;
- (e) Proposed sidewalk, walkway or alternate plan for pedestrian ways;
- (f) Size, species and spacing (on center) of all proposed trees, landscaping and ground cover;
- (g) Location of existing trees in required *yards*, indicating type and size of trees and whether such trees are to be removed or preserved;
- (h) Description of methods to preserve trees without injury and with sufficient area for the root system to sustain the tree;
- (i) Description of protective care and physical restraint barriers at the drip line to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction; and
- (j) Any other information requested in writing by the *Zoning Administrator*, including but not limited to the requirements of sub-sections (D)(1) through (D)(11) and (E)(1) through (E)(10).

(14) Lighting Plan.

- (a) Boundary lines of the site including all dimensions of the site.
- (b) Outline of *Buildings*, *structures* and other improvements (e.g., parking areas, loading areas, interior access drives, etc.) on the lot and the location of all outdoor light fixtures.
- (c) A description of the outdoor light fixtures, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings or photometric report, which indicate:
 - (d) the outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
 - (e) mounting height of freestanding outdoor light fixtures;
 - (f) wattage proposed for each outdoor light fixture;



- (g) If architectural *building* lighting is proposed, indicate the location, type and intensity of lighting on each *building* façade; and
- (h) Any other information requested in writing by the *Zoning Administrator*, including but not limited to the requirements of sub-sections (D)(1) through (D)(11) and (E)(1) through (E)(10).

15.05 Zoning Ordinance Amendment Procedures

- (A) Text Amendments. The procedures and requirements for the preparation and consideration of proposal to amend or partially repeal the provisions of this Ordinance shall be as follows:
 - (1) Text of Zoning Ordinance. The *Council* may, from time to time, upon its own motion or upon the petition of the *Area Plan Commission*, amend or partially repeal the text of this Ordinance in accordance with the provisions of Indiana Code 36-7-4-602, et seq.
 - (2) *Town Council* Action. In the case of a proposal to amend or partially repeal the text of this Ordinance, or in the case of a zone map change, the *Council* may act upon such amendment only after a report has been presented by the *Area Plan Commission* after public notice and hearing in accordance with the provisions of Indiana Code 36-7-4-604, et seq.
 - (3) *Town Council* May Initiate Proposal. The *Council* may initiate and also require the *Area Plan Commission* to prepare a proposal to amend or partially repeal the text of this Ordinance; or, consider and recommend a proposal for zone map change, and submit such amendment to a public hearing by the *Area Plan Commission* within sixty (60) days after formal written request by the *Council*.
 - (4) Review Procedure and Time Limits. The procedure for the referral of a proposed amendment to the *Area Plan Commission* and the time limits for action by the *Area Plan Commission* and the *Council* shall be as set forth in Indiana Code 36-7-4-607, et seq.
- (B) Zone Map Amendments (a/k/a rezoning petitions). The procedures and requirements for the preparation and consideration of proposal to amend zone maps shall be as follows:
 - (1) Zone Map Change. Proposals to change the zone maps, whether by incorporating an additional map or by amending or deleting a map, incorporated by reference into this Ordinance may be initiated by the *Council*, the *Area Plan Commission*, or by a petition of the owners of property of at least fifty (50) percent of the area involved in the petition in accordance with the provisions of Indiana Code 36-7-4-602, et seq;



- (2) Filing of Proposal. A proposal for zone map change (a/k/a rezoning petition) shall be filed in the office of the *Area Plan Commission*. The proposal shall be on forms substantially as provided by the *Town* and available from the *Area Plan Commission*;
- (3) Referral to *Area Plan Commission*. The *Council* shall refer a proposal for zone map change to the *Area Plan Commission* for public hearing and recommendation;
- (4) Supplemental Plans. Depending on the nature of the proposal, the *Executive Director* shall have the authority to request the submission of other supplemental information including but not limited to *building* elevations, sign plans, landscape plans, lighting plans or traffic studies. If requested, such additional *building* elevations, sign plans, landscape plans or lighting plans shall conform to the requirements set forth in Section 15.04 Application Form and Plan Requirements, above;
- (5) Certification. After public hearing, the *Area Plan Commission* shall certify the proposal with:
 - (a) A favorable recommendation;
 - (b) An unfavorable recommendation; or,
 - (c) No recommendation;
- (6) Commitments. The certification of a proposal by the *Area Plan Commission* to the *Council* may include written *commitments* as set forth in sub-Section 14.02 (D) Commitments. Such *commitments* may include limitations upon certain uses; requirements for specific *building* or parking area setback, or screening; requirements for specific site design features or project amenities; or, requirements that development conform with site plans, *building* elevations, *sign* plans, landscape plans or lighting plans which were submitted in connection with the proposal; and
- (7) The *Council* may adopt or reject the proposal for zone map change, as certified.

15.06 Variance and Special Exception Use Procedures

The procedures and requirements for the preparation and consideration of petition for a *variance* of development standards or a *special exception use* shall be as follows:

- (A) Petitions. Petitions for a variance of development standards or for a *special exception use* shall be filed in office of the St. Joseph County / City of South Bend Building Department. The proposal shall be on the form provided, available from the office of the St. Joseph County / City of South Bend Building Department.



- (B) *Town Referral.* Each petition for a variance of *development standards* or for a *special exception use* shall include a letter from the *Town* describing the nature of the *variance* or *special exception use* required.
- (C) *Required Plans.* Each petition for a variance of *development standards* or for a *special exception use* shall be accompanied by a Site Plan which conforms to the requirements set forth in Section 15.04 Application Forms and Plan Requirements, above.
- (D) *Supplemental Plans.* Depending on the nature of the petition, the *Zoning Administrator* shall have the authority to request the submission of plans of operation, traffic studies, radio frequency studies, or other supplemental information including but not limited to *building* elevations, *sign* plans, landscape plans or lighting plans. If requested, such additional *building* elevations, *sign* plans, landscape plans or lighting plans shall conform to the requirements set forth in Section 15.04 Application Forms and Plan Requirements, above.
- (E) *Variance of Development Standards.* The *Board of Zoning Appeals*, at a public hearing, shall hear and determine all *variances* of *development standards*.
- (F) *Special Exception Uses.* Upon receipt of a petition for a *Special Exception Use*, the St. Joseph County / City of South Bend Building Department shall forward a copy of the petition to the *Town*. The *Board of Zoning Appeals*, at a public hearing, shall hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the *Council* on all *special exception uses*. The *Council* shall approve or disapprove all petitions for *special exception uses* within sixty (60) days after the *Board of Zoning Appeals* makes its recommendation. If the *Council* does not vote to deny the petition for a *special exception use* within sixty (60) days, the petition is approved.

15.07 Modification or Termination of Commitments

In those instances where a property owner wishes to request that *commitments* which were entered into in connection with a *development plan* approval, zone map change, PUD District Ordinance, secondary approval of a PUD, modification of permitted uses or *development requirements* of a PUD, *variance*, or a *special exception use*, be modified or terminated, such request for modification or termination shall comply with the following requirements:

- (A) *Form of Filing.* Such request shall be filed as a "Petition for Modification or Termination of Commitments" with the body which permitted or required the *commitments* (i.e., the *Area Plan Commission* or the *Board of Zoning Appeals*).
 - (1) In the case of a modification or termination of *commitments* permitted or required by the *Area Plan Commission*, such petition shall be on forms provided by the Office of the *Area Plan Commission*.



- (2) In the case of a modification or termination of *commitments* permitted or required by the *Board of Zoning Appeals*, such petitions shall be on forms provided by the St. Joseph County / City of South Bend Building Department.
- (B) Public Hearing and Notice. Each request for modification or termination of *commitments* shall be determined after a public hearing. The notification requirements and other procedural requirements for conducting the public hearing on a modification or termination of *commitments* shall be the same as for the initial public hearing at which the *commitments* were originally permitted or required.
- (C) Reasons for Modification or Termination. The petitioner or property owner shall be responsible for presenting convincing evidence to the *Area Plan Commission* or the *Board of Zoning Appeals* as to the reasons, need or justification for the proposed modification or termination of *commitments*.

15.08 Combined Hearing Procedure

- (A) The *Area Plan Commission* may designate a hearing examiner or committee of the commission to conduct a combined hearing relative to developments that require more than one hearing under this title.
- (B) The decision to use this procedure shall be made by the applicant.
- (C) In conducting a combined hearing, the hearing examiner or committee of the *Area Plan Commission* may exercise the following:
 - (1) The powers of the *Area Plan Commission* in making recommendations to the *Council* on rezoning petitions and text amendments under the I.C. 36-7-4-600 series.
 - (2) The powers of the Plat Committee in approving or denying subdivision plats under the I.C. 36-7-4-700 series.
 - (3) The powers of the *Board of Zoning Appeals* to grant *variances* and make recommendations on *special exception uses* under the I.C. 36-7-4-900 series.
 - (4) The powers of the *Executive Director*, hearing examiner or committee of the *Area Plan Commission* as it concerns the approval of Development Plans under the I.C. 36-7-4-3-1400 series.
- (D) Decisions of the hearing examiner or committee of the *Area Plan Commission* under the combined hearing procedure may be excepted or appealed as follows:
 - (1) Decisions made in relation to the powers granted under Section 15.08 (C)(1), above, may be appealed to the *Area Plan Commission* not later than five days after the date the decision is made.



- (2) Decisions made in relation to the powers granted under Section 15.08 (C)(2), above, may be appealed to the *Area Plan Commission* not later than five (5) days after the date the decision is made.
- (3) Decisions made in relation to the powers granted under Section 15.08 (C)(3), above, may be appealed to the *Area Plan Commission* not later than five (5) days after the date the decision is made.
- (E) The *Area Plan Commission* shall make rules governing the hearing of cases under the combined hearing procedure. The rules may not require a petitioner or an applicant to use the combined hearing procedure.

