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GENERAL PROVISIONS

§ 150.01 TITLE.

This chapter and all material included herein by reference shall be known as the "Building Code of Paoli, Indiana."
(Ord. 2005-04, passed 8-23-05)

§ 150.02 PURPOSE.

The purpose of this chapter is to protect the life, public safety, health and general welfare of the citizens of Paoli, Indiana, and shall be construed in such a manner as to effectuate this purpose.
(Ord. 2005-04, passed 8-23-05)

§ 150.03 DEFINITIONS.

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

BUILDING COMMISSIONER. Includes all individuals employed by the town who are authorized by the Town Council to represent the ***BUILDING COMMISSIONER.***

CLASS I STRUCTURE. Pursuant to I.C. 22-12-1-4, any part of the following:

(1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

(a) The public.

(b) Three or more tenants.

(c) One or more persons who act as the employees of another.

(2) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (1) above.

(3) Outdoor event equipment.

(4) Any class of buildings or structures that the Commission determines by rules to affect a building or structure described in division (1) above, except buildings or structures described in divisions (6) through (9) below.

(5) Division (1) above includes a structure that contains three or more condominium units (as defined in I.C. 32-25-2-9) or other units that:

(a) Are intended to be or are used or leased by the owner or the unit; and

(b) Are not completely separated from each other by an unimproved space.

(6) Division (1) above does not include a building or structure that:

(a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.

(7) Division (1) above does not include a Class 2 structure.

(8) Division (1) does not include a vehicular bridge.

(9) Division (1) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

(a) The structure; or

(b) Mechanical or electrical equipment located within and affixed to the structure.

(10) Pursuant to I.C. 22-12-1-24, ***STRUCTURE*** includes swimming pool.

CLASS 2 STRUCTURE. Pursuant to I.C. 22-12-1-5, any part of the following:

(1) A townhouse or a building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(2) An outbuilding for a structure described in division (1) above, such as a garage, barn or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(3) Division (1) above does not include a vehicular bridge.

(4) For purposes of division (1) of this definition, ***TOWNHOUSE*** means a single-family dwelling unit constructed in a group of three or more attached units in which each unit:

(a) Extends from foundation to roof;

(b) Is not more than three stories in height;

(c) Is separated from each adjoining unit by:

1. Two one-hour fire-resistence rated walls with exposure from both sides; or

2. A common two-hour fire-resistance rated wall; and

(d) Has open space on at least two sides.

(5) Pursuant to I.C. 22-12-1-24, ***STRUCTURE*** includes swimming pool.

CONSTRUCTION. Pursuant to I.C. 22-12-1-7, any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site.

(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used.

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used.

(4) Work undertaken to alter, remodel, rehabilitate or add to any part of a Class 1 or Class 2 structure.

(5) Work undertaken to relocate any part of a Class 1 for Class 2 structure, except a mobile structure.

INDUSTRIALIZED BUILDING SYSTEM. Pursuant to I.C. 22-12-1-14, any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another

building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

MANUFACTURED HOME. Pursuant to I.C. 22-12-1-16, has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 2003. This definition is as follows: "A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. 5401 *et seq*. and except that such term shall not include any self-propelled recreational vehicle.

MOBILE STRUCTURE. Pursuant to I.C. 22-12-1-17, any part of a fabricated unit that is designed to be:

(1) Towed on its own chassis; and

(2) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure or another structure. The term ***MOBILE STRUCTURE*** includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.

(b) Two or more units that are separately towable but designed to be joined into one integral unit.

PERSON. Pursuant to I.C. 22-12-1-18, an individual, corporation, limited liability company, partnership, unincorporated association or governmental entity.

STRUCTURE. Both Class 1 and Class 2 ***STRUCTURES***, unless specifically stated otherwise.

VEHICULAR BRIDGE. Pursuant to I.C. 22-12-1-26, any bridge that is neither a pedestrian walkway nor a passageway for light vehicles suspended between two or more parts of a building or between two or more buildings.
(Ord. 2005-04, passed 8-23-05)

§ 150.04 SCOPE.

(A) All construction shall be accomplished in compliance with the provisions of this chapter.

(B) Pursuant to I.C. 22-13-2-6, this chapter shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4; however, the provisions of this chapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under I.C. 22-15-4.

(C) Pursuant to I.C. 22-13-2-9, this chapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels or regulated lifting devices.
(Ord. 2005-04, passed 8-23-05)

§ 150.05 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this chapter;

(B) Variances granted in accordance with I.C. 22-13-2-11; and

(C) Orders issued under I.C. 22-12-7.
(Ord. 2005-04, passed 8-23-05)

§ 150.06 SEVERABILITY.

Should any provision (section, clause, phrase, word or any other portion) of this chapter be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in adopting this chapter. To this end, the provisions of this chapter are severable.
(Ord. 2005-04, passed 8-23-05)

§ 150.07 EFFECT OF ADOPTION ON PRIOR ORDINANCE.

The expressed or implied repeal of amendment by this chapter of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this chapter. These rights, liabilities and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this chapter had not been adopted.
(Ord. 2005-04, passed 8-23-05)

BUILDING PERMITS

§ 150.15 BUILDING PERMIT REQUIRED.

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.
(Ord. 2005-04, passed 8-23-05)

§ 150.16 APPLICATION FOR BUILDING PERMIT.

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determined to be necessary to locate and contact the applicant;

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished;

(3) A plot plan drawn to scale; provided, however, such plot plan shall not be required in the instance where all such construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines, and shall show streets, curbs and sidewalks, and proposed changes or additions to such streets, curbs and sidewalks;

(4) If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a design release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3; and

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.

(C) The fee for each building permit, to include one site visit by the Building Commissioner for the purpose of issuing the permit, shall be:

(1) Forty dollars for a residential permit;

(2) One hundred dollars, plus any costs incurred by the town, for a business permit; and

(3) Fifty dollars for a mobile home park.

(D) For each successive visit by the Building Commissioner to the building site for the purpose of issuing a building permit, a visit fee of $15 per visit shall apply.

(E) For each subcontractor employed by a general contractor for the purpose of constructing a new building, a subcontractor fee of $15 shall apply.

(F) If any building or structure is constructed by a person who has not obtained a building permit, the fees indicated in divisions (C), (D), and (E) of this section shall be doubled.

(G) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit.

(H) It shall be the sole responsibility of the person required to have a building permit to determine the proper location of all utilities provided by the town that will serve each building for which a permit is required.

(I) In the event that any structure is constructed over a utility line, it shall be the sole responsibility of the person required to have a building permit for the structure to pay the cost of re-routing the utility. (Ord. 2005-04, passed 8-23-05; Am. Ord. 2010-02, passed 3-16-10)

§ 150.17 ISSUANCE OF BUILDING PERMIT.

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including an applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.
(Ord. 2005-04, passed 8-23-05)

§ 150.18 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure shall be issued unless such building or structure was constructed in compliance with the provisions of this chapter. It shall be unlawful to occupy any such building or structure unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.
(Ord. 2005-04, passed 8-23-05)

INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

§ 150.25 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this chapter or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this chapter and the rules of the Fire Prevention and Building Safety Commission.
(Ord. 2005-04, passed 8-23-05)

§ 150.26 INSPECTIONS BY FIRE DEPARTMENT.

(A) The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws.

(B) The Fire Department has independent authority to conduct inspections and take enforcement actions under I.C. 36-8-17.
(Ord. 2005-04, passed 8-23-05)

ENFORCEMENT AND PENALTIES

§ 150.35 WITHHOLD ISSUANCE OF PERMITS.

(A) Whenever a person who is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds) to the Building Commissioner, the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioners is authorized to withhold the issuance of requested permits until such time that the property is brought into conformance with applicable ordinances.
(Ord. 2005-04, passed 8-23-05)

§ 150.36 PERMIT REVOCATION.

The Building Commissioner may revoke a building permit when any of the following are applicable:

(A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact;

(B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures;

(C) There is failure to comply with the provisions of this chapter; or

(D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.
(Ord. 2005-04, passed 8-23-05)

§ 150.37 STOP-WORK ORDER.

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.

(B) The stop-work order shall:

(1) Be in writing.

(2) State with specificity the construction to which it is applicable and the reason for its issuance.

(3) Be posted on the property in a conspicuous place.

(4) If practicable, be given to:

(a) The person doing the construction; and

(b) The owner of the property or the owner's agent.

(5) The stop-work order shall state the conditions under which construction may be resumed.

(C) The Building Commissioner may issue a stop-work order if:

(1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this chapter or any state law pertaining to safety during construction;

(2) Construction is occurring in violation of this chapter or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation; or

(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this chapter.
(Ord. 2005-04, passed 8-23-05)

§ 150.38 CIVIL ACTION.

Pursuant to I.C. 36-1-6-4, the town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this chapter.
(Ord. 2005-04, passed 8-23-05)

§ 150.39 MONETARY PENALTY.

Any person violating any provision of this chapter may be subject to a fine in any sum not exceeding $2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this chapter.
(Ord. 2005-04, passed 8-23-05)

§ 150.40 RIGHT OF APPEAL.

Any person aggrieved by an order issued under this chapter shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) *Appeal to the Fire Prevention and Building Safety Commission.*

(1) A person aggrieved by an order issued under this chapter may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the town that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, or a fire-safety or building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this chapter.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) *Appeal to an established local administrative body or court.* Pursuant to I.C. 36-1-6-9, the town does now establish by this chapter the Paoli Town Council to hear appeals of orders issued under this chapter. A person aggrieved by an order issued hereunder may petition for review with the Paoli Town Council.
(Ord. 2005-04, passed 8-23-05)

MINIMUM CONSTRUCTION STANDARDS

§ 150.50 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to I.C. 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of I.A.C. 675 are hereby incorporated by reference in this code and shall include any later amendments to those rules.

(1) *Article 13 - Building Codes.*

(a) Fire and Building Safety Standards; and

(b) Indiana Building Code;

(2) Article 14 - Indiana Residential Code;

(3) Article 16 - Indiana Plumbing Code;

(4) Article 17 - Indiana Electrical Code;

(5) Article 18 - Indiana Mechanical Code;

(6) Article 19 - Indiana Energy Conservation Code;

(7) Article 20 - Indiana Swimming Pool Code;

(8) Article 22 - Indiana Fire Code;

(9) Article 24 - Migrant Day Care Nursery Fire Safety Code; and

(10) Article 25 - Indiana Fuel Gas Code.

(B) As required by I.C. 36-1-5-4, two copies of the above building rules incorporated by reference are on file in the Office of the Clerk for the legislative body for public inspection.

(C) The Building Commission and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this chapter. Pursuant to I.C. 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.
(Ord. 2005-04, passed 8-23-05)

§ 150.51 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

(A) Pursuant to I.C. 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, *Safety Code for Elevators and Escalators* published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016;

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, *Safety Code for Elevators and Escalators* published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016;

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), *Safety Standard for Platform and Stairway Chair Lifts*, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(4) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), *Safety Standard for Platform and Stairway Chair Lifts*, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; and

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), *Safety Standard for Platform and Stairway Chair Lifts*, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) As required by I.C. 36-1-5-4, two copies of the above lifting device standards incorporated by reference are on file in the Office of the Clerk for the legislative body for public inspection.
(Ord. 2005-04, passed 8-23-05)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS

§ 151.01 STATUTORY AUTHORIZATION.

The Indiana Legislature has in I.C. 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 Paoli (the "Town of Paoli") does hereby adopt the following floodplain management regulations.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.02 FINDINGS OF FACT.

(A) The flood hazard areas of the town 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-proofed, or otherwise unprotected from flood damages.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter 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 federally subsidized flood insurance available for structures and their contents in the town by fulfilling the requirements of the National Flood Insurance Program.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.04 OBJECTIVES.

The objectives of this chapter 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

A ZONE. 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.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). 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). 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. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or AB 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. The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the 1% annual chance flood.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between the Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See ***STRUCTURE.***

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). 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.

DEVELOPMENT.

(1) 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, and the like;

(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.

(2) ***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. 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. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. 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. 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. 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. The Federal Emergency Management Agency.

FLOOD. 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). 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). 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. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See ***FLOOD***).

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA. (see ***FREEBOARD***).

FLOODPLAIN. 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. 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. This chapter 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). 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. 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. 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. 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. Those portions of the floodplain lying outside the floodway.

HARDSHIP (As related to variances of this chapter). The exceptional hardship that would result from a failure to grant the requested variance. The Town Council of the Town of Paoli 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. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURES. 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). 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). 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). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of

Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

LETTER OF MAP AMENDMENT (LOMA). An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A ***LOMA*** is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). 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. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. 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; and

(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 square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one 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. 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. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. 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. 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). 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. A vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. 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. 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. The floodway of any river or stream other than a boundary river.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AS ADOPTED IN 1993. 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. The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See ***REGULATORY FLOOD.***

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (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.

PUBLIC SAFETY AND NUISANCE. 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. A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred (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. 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. The flood having a 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 § 151.07. The ***REGULATORY FLOOD*** is also known by the term "Base Flood", "1% Annual Chance Flood", and "100-Year Flood".

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeds 25% of the market value of the structure before the damage occurred.

SECTION 1316. 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). Those lands within the jurisdiction of the town subject to inundation by the regulatory flood. The ***SFHAs*** of the Town of Paoli are generally identified as such on the Orange County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 19, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, Al-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. 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. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% 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. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations requited for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this chapter, which permits construction in a mariner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

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

WATERCOURSE. 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. 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% 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%.

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

ZONE A. See definition for *A ZONE.*

ZONE B, C, AND X. 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).
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Paoli.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the town shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Orange County, Indiana and Incorporated Areas and the corresponding Flood

Insurance Rate Map dated May 19, 2014 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 town, delineated as an "A Zone" on the Orange County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 19, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(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 ivatercourse 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.09 COMPLIANCE.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.11 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.12 INTERPRETATION.

In the interpretation and application of this chapter 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.13 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter 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 chapter does not create any liability on the part of the Town of Paoli, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

ADMINISTRATION

§ 151.25 DESIGNATION OF ADMINISTRATOR.

The Town Council of the Town of Paoli hereby appoints the Clerk-Treasurer, to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator. (Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.26 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.*

(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 planned 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.

(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 § 151.27(B)(6) for additional information).

(B) *Construction stage.*

(1) Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. (The Floodplain Administrator shall review the lowest floor elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(2) 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 direction 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 which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter 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 §§ 151.44 and 151.46(A), and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

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

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

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

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

(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 § 151.26.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 151.26.

(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 chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her 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 chapter, 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 chapter.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 151.40 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 chapter shall meet the requirements of "new construction" as contained in this chapter.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.41 SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required:

(A) In addition to the requirements of § 151.40, 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:

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

(2) 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).

(3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

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

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

(6) Reconstruction or repairs made to a repetitive loss structure.

(7) 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 division (D) of this section.

(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 division (D) of this section. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(1) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in § 151.27(B)(12).

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

(D) *Elevated structures.*

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

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

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

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

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

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

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

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

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

(1) 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.

(2) The fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.

(3) 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 three horizontal to one vertical.

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

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

(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:

(1) 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 division (D) of this section.

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

(2) 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 division (D) of this section.

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

(3) 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:

(1) Shall not be used for human habitation;

(2) Shall be constructed of flood resistant materials;

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

(4) Shall be firmly anchored to prevent flotation;

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

(6) 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 division (D) of this section.

(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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.42 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 50 lots or five acres.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.43 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.44 STANDARDS FOR IDENTIFIED FLOODWAYS.

(A) Located within SFHAs, established in § 151.07, 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 I.C. 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. (I.C. 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(B) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in §§ 151.40 through 151.47 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 affect is defined as an increase in the elevation of the regulatory flood of at least fifteenhundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses. For all projects involving channel modifications or fill (including levees) the town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 C.F.R. § 65.12.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.45 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 §§ 151.40 through 151.47 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.46 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.*

(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 (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance 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 §§ 151.40 through 151.47 have been met.

(B) *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 1% 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 §§ 151.40 through 151.47 have been met.

(C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.47 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 applicable standards as required per §§ 151.40 through 151.47.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

VARIANCE PROCEDURES

§ 151.60 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Town Council of the Town of Paoli shall hear and decide appeals and requests for variances from requirements of this chapter.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.61 DUTIES OF VARIANCE AND APPEALS BOARD.

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal such decision to the Orange County Circuit Court.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.62 VARIANCE PROCEDURES.

In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, 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 to the facility of 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.63 CONDITIONS FOR VARIANCES.

(A) 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.

(B) No variance for a residential use within a floodway subject to §§ 151.44 or 151.46(A) may be granted.

(C) Any variance granted in a floodway subject to §§ 151.44 or 151.46(A) will require a permit from the Indiana Department of Natural Resources.

(D) Variances to the provisions for flood hazard reduction of § 151.41, 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 § 151.64).

(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 § 151.64).
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.64 VARIANCE NOTIFICATION.

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

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

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

(B) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.65 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.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.66 SPECIAL CONDITIONS.

Upon the consideration of the factors listed in this subchapter, and the purposes of this chapter, the Town Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

§ 151.99 PENALTY.

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 chapter. All violations shall be considered a common nuisance and shall be punishable by a fine not exceeding $2,500.

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

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

(C) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.
(Ord. 2014-04, passed 3-18-14; Am. Ord. 2014-14, passed 5-7-14)

CHAPTER 152: UNSAFE BUILDINGS

Section

152.01 State law adopted by reference
152.02 Definitions

§ 152.01 STATE LAW ADOPTED BY REFERENCE.

The state law for enforcement of building standards contained in I.C. 36-7-9 is hereby adopted by reference and made a part of this code.
(Ord. 1998-7, passed 8-19-98)
Statutory reference:
Adoption of I.C. 36-7-9 by ordinance, see I.C. 36-7-9-3

§ 152.02 DEFINITIONS.

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

ENFORCEMENT AUTHORITY. The Building Inspector of the town.

HEARING AUTHORITY. The Town Council.

SUBSTANTIAL PROPERTY INTEREST. Any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. In a consolidated town, the interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

(1) Recorded in the office of the County Recorder; or

(2) The subject of a written information that is received by the Division of Code Enforcement and includes the name and address of the holder of the interest described.
(Ord. 1998-7, passed 8-19-98)

CHAPTER 153: HOUSING AND LAND DEVELOPMENT REQUIREMENTS

Section

153.01 Definitions
153.02 Street right-of-way and grading
153.03 Street pavement requirements and costs
153.04 Costs for laying sewer lines and water lines

§ 153.01 DEFINITIONS.

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

BUILDING. A roofed structure for the shelter, support, enclosure or protection of persons, animals or property.

DWELLING. A building or part of a building that is used primarily as a place of abode, including a mobile home.

HOUSING DEVELOPMENT. A parcel, tract or area of land owned by any person or persons, firm or corporation, the owner of which shall sell five or more lots for the purpose of constructing five or more dwellings or other structures thereof, or shall construct five or more dwellings or other structures thereon for the purpose of selling the same.

LOT. A parcel, tract or area of land accessible by means of a street or place, abutting upon a street or place.

UNDEVELOPED AREAS. Areas and tracts of land within the corporate limits of the town in which no streets have been opened, in order to give access thereto for the purpose of laying out lots and the construction of dwellings and other structures as herein defined.
(Ord. 2003-03, passed 5-6-03; Am. Ord. 2007-5, passed 9-4-07; Am. Ord. 2008-05, passed 10-7-08)

§ 153.02 STREET RIGHT-OF-WAY AND GRADING.

In all housing projects or developments for the construction of houses and other structures as herein defined, within the corporate limits of the town in areas presently undeveloped, a right-of-way of 50 feet

shall be established for each street that may be opened in a development, in the event that no street has heretofore been opened therein. Each new street shall be graded and provided storm sewerage, installed per town specifications. An on-site inspection is to be conducted by the Town Superintendent and the Town Council. All street preparation shall be at the expense of the owner of the land or the owner of the land adjacent to such street should the same have been dedicated but not opened.
(Ord. 2003-03, passed 5-6-03; Am. Ord. 2008-05, passed 10-7-08)

§ 153.03 STREET PAVEMENT REQUIREMENTS AND COSTS.

(A) All such streets shall be paved as follows: a 12-inch road base of #63's, four inches of #9's hot mix for base, and two inches of finished hot mix.

(B) Street width is to be 20 feet with curb apron. The curb apron will be two feet wide, back to be 12 inches high in back and six inches high on front. The cost of paving of such streets shall be borne wholly and solely by the owners of the land over, along, across and upon which such streets shall be laid out. In the case such streets shall have been previously dedicated but unopened, paving shall be at the sole cost of the abutting land owner on each side thereof, each abutting land owner paying one-half of the costs of the paving adjacent to their lands as aforesaid. Curbs and gutters and curb aprons shall be constructed by the land owner or the land owner adjacent to the street, as aforesaid, at the sole expense of the land owner, the same to be constructed of the land owner, the same to be constructed in accordance with the plans and specifications therefor provided by the town, and subject to the approval of the Town Council.

(C) A performance bond in the amount of 100% of the estimated construction cost shall be posted with the town before any construction activities may occur. The value of such bond shall be established by the Town Council. This bond may be in the form of a certified check, passbook account, insurance surety or other means deemed appropriate by the Town Council.
(Ord. 2003-03, passed 5-6-03; Am. Ord. 2008-05, passed 10-7-08)

§ 153.04 COSTS FOR LAYING SEWER LINES AND WATER LINES.

The land owner of any street opened up in a new housing development in the town, as herein defined, or the land owners abutting on such street, in the event that the same shall have been previously dedicated but not opened, shall cause the laying of all sewer lines and water lines through and under such street prior to the paving at the sole expense of the land owner. This shall be subject to the approval of the Town Council.
(Ord. 2003-03, passed 5-6-03; Am. Ord. 2008-05, passed 10-7-08)

CHAPTER 154: VACANT AND ABANDONED STRUCTURES

Section

154.01 Adoption of state law
154.02 Definitions
154.03 Adoption of chapter; rules and procedures
154.04 Administration and enforcement; court costs and attorney's fees
154.05 Vacant or abandoned structure; notice and order to abate
154.06 Civil penalties on owners; exceptions; limits

§ 154.01 ADOPTION OF STATE LAW.

Pursuant to I.C. 36-7-36-7, the town hereby adopts by ordinance I.C. 36-7-36, titled Abatement of Vacant Structures and Abandoned Structures. The town further adopts amendments thereto, as set forth by ordinance.
(Ord. 2012-06, passed 5-7-12; Am. Ord. passed 6-19-12)

§ 154.02 DEFINITIONS.

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

ABANDONED STRUCTURE. Any of the following:

(1) Commercial real property or a vacant structure on commercial real property that is used or was previously used for industrial or commercial purposes, and:

(a) That the owner of the property or structure has declared in writing to be abandoned; or

(b) For which the owner of the property or structure has been given a written order by an enforcement authority to rehabilitate or demolish, and the owner:

1. Has not applied for a permit to rehabilitate or demolish the property or structure; or

2. Applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within 30 days after the date the permit was granted.

(2) Real property that has not been used for a legal purpose for at least six consecutive months and:

(a) In the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six consecutive months;

(b) On which at least one installment of property taxes is delinquent; or

(c) That has been declared a public nuisance by a hearing authority.

(3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(4) Vacant real property on which a municipal lien has remained unpaid for at least one year.

ENFORCEMENT AUTHORITY. Has the meaning set forth in I.C. 36-7-9-2. The *ENFORCEMENT AUTHORITY* for the town is the Town Council.

HEARING AUTHORITY. Has the meaning set forth in I.C. 36-7-9-2.

OWNER. A person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser.

VACANT REAL PROPERTY. Real property that is not being occupied by an owner, tenant, or others authorized by the owner.

VACANT STRUCTURE. A structure or building that is not being occupied by an owner, tenant, or others authorized by the owner.
(Ord. 2012-06, passed 5-7-12; Am. Ord. passed 6-19-12)
Statutory reference:
Similar provisions, I.C. 36-7-36-1 through 36-7-36-6

§ 154.03 ADOPTION OF CHAPTER; RULES AND PROCEDURES.

The legislative body of the town:

(A) May adopt I.C. 36-7-36 by ordinance; and

(B) If the legislative body adopts I.C. 36-7-36 by ordinance, shall adopt rules and procedures for its enforcement.
(Ord. 2012-06, passed 5-7-12; Am. Ord. passed 6-19-12)
Statutory reference:
Similar provisions, I.C. 36-7-36-7

§ 154.04 ADMINISTRATION AND ENFORCEMENT; COURT COSTS AND ATTORNEY'S FEES.

(A) An enforcement authority may administer and enforce this chapter in conjunction with any enforcement or civil action under I.C. 32-30-6, I.C. 32-30-7, I.C. 32-30-8, I.C. 36-1-6, or I.C. 36-7-9.

(B) Under all enforcement and civil actions designated under division (A), the enforcement authority is entitled to recover court costs and attorney's fees.
(Ord. 2012-06, passed 5-7-12; Am. Ord. passed 6-19-12)
Statutory reference:
Similar provisions, I.C. 36-7-36-8

§ 154.05 VACANT OR ABANDONED STRUCTURE; NOTICE AND ORDER TO ABATE.

(A) If an enforcement authority determines that a vacant structure or an abandoned structure exists, an abatement notice and order may be sent to the owner that directs the owner to:

(1) Abate the vacant structure or abandoned structure by cleaning and securing or boarding up the vacant structure or abandoned structure and the premises upon which it is located; and

(2) Erect fences, barriers, berms, or other suitable means to discourage:

(a) Access to the vacant structure or abandoned structure; and

(b) Illegal dumping or littering on the premises upon which the vacant structure or abandoned structure exists.

(B) Notices given hereunder shall be given by the Town Attorney.

(C) Pursuant to I.C. 36-7-36-7(2), the abatement notices sent by the Town Attorney for the town to the owner of a vacant or abandoned property pursuant to this chapter shall state that the owner has

30 days to abate the vacant or abandoned structure, and, if the property is not abated within 30 days of the date of the notice, civil penalties will be applied pursuant to this chapter.
(Ord. 2012-06, passed 5-7-12; Am. Ord. passed 6-19-12)
Statutory reference:
Similar provisions, I.C. 36-7-36-9

§ 154.06 CIVIL PENALTIES ON OWNERS; EXCEPTIONS; LIMITS.

(A) An owner of a property that remains a vacant structure or an abandoned structure for at least 30 consecutive calendar days may be liable for a civil penalty in the amount of $500 per vacant structure or abandoned structure, not to exceed $5,000 per structure per year, unless:

(1) Documentation has been filed and approved by the enforcement authority that indicates the owner's intent to eliminate the vacant structure or abandoned structure status of the property;

(2) The owner is current on all property taxes and special assessments; and

(3) At least one of the following applies:

(a) The structure is the subject of a valid building permit for repair or rehabilitation and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation of the structure as defined in the enforcement order.

(b) The structure is:

1. Maintained in compliance with this chapter; and

2. Actively being offered for sale, lease, or rent.

(c) The owner can demonstrate that the owner made a diligent and good faith effort to implement actions approved by the enforcement authority.

(B) (1) If the structure continues to remain a vacant structure beyond the initial 30 days described in division (A) and the owner does not meet any of the exceptions set forth in this section, the enforcement authority may continue to assess penalties each year on each structure in the following amounts:

(a) One thousand dollars for the second 30 calendar day period each structure remains a vacant structure or an abandoned structure.

(b) One thousand five hundred dollars for the third 30 calendar day period each structure remains a vacant structure or an abandoned structure.

(c) Two thousand dollars for the fourth and each subsequent 30 calendar day period thereafter each structure remains a vacant structure or an abandoned structure.

(2) A civil penalty under this division may not exceed $5,000 per structure per year.
(Ord. 2012-06, passed 5-7-12; Am. Ord. passed 6-19-12)
Statutory reference:
Similar provisions, I.C. 36-7-36-10