

# **TOWN OF LAPEL, INDIANA**

## **CODE OF ORDINANCES**

**PREPARED BY**

**MADISON COUNTY COUNCIL OF GOVERNMENTS**

**2007**

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## **LAWS GOVERNING THE MUNICIPALITY**

### **CHAPTER 1      IMPLEMENTARY PROVISIONS FOR THE LAPEL CODE**

#### **SECTION**

- 1      Short title
- 2      Repeal of prior ordinances
- 3      (Reserved)
- 4      Impliedly repealed and unconstitutional ordinances
- 5      Construction of code sections
- 6      Preservation of penalties, offenses, rights, and liabilities
- 7      Limitation periods
- 8      Severability
- 9      Effective Date

**SECTION 1-1      SHORT TITLE:** This ordinance is the Code of Laws of the Town of Lapel. It shall be cited as "Lapel Code (x-x-x-x)".  
(82 Code, Ord. No. 9-1982, passed 12/22/82) State Law Reference IC 36-1-5-3

**SECTION 1-2      REPEAL OF PRIOR ORDINANCES:** All ordinances, resolutions, and orders adopted or enacted prior to the enactment of this Code are hereby repealed.  
(82 Code, Ord. No. 9-1982, passed 12/22/82)

**SECTION 1-3      (RESERVED)**

**SECTION 1-4      EFFECT OF REPEAL:** No ordinance, resolution or order declared impliedly repealed, unconstitutional or otherwise invalid by a court of competent jurisdiction shall be deemed validated by its inclusion in this Code, to the extent of its conflict with that determination. State Law Reference IC 36-1-5-1

**SECTION 1-5      CONSTRUCTION OF CODE:**

(a) This Code is a codification of previously existing laws, amendments thereto, and newly enacted laws. Any previously existing law or amendment thereto reenacted by this Code shall continue in operation and effect, as if it had not been repealed by this Code. All rules and regulations adopted under laws reenacted in this Code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this Code.

(b) Any appropriation repealed and reenacted by this Code is continued only

for the period designated in the original enactment of that appropriation.

(c) The numerical order and position of sections in this Code does not resolve a conflict between two (2) or more sections.

(d) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or subsection.

(e) All references within a section of this Code to any section of previously existing laws refer to the numbers in the original enactment.

(f) All references within a section of this Code to any section of previously existing law refer to the new Code numbers assigned to that law.

(g) (i) The numerical prefixes assigned to the various titles, articles, chapters, and sections of this Code, as originally enacted, or as added by amendment, are an integral part of this Code and may be altered only by specific amendment.

(ii) The descriptive headings assigned to the various articles and chapters of this Code, as originally enacted, or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only, and do not affect the meaning, application, or construction of the law they precede.

(iii) Each note following a section of this Code is for reference purposes only, and is not a part of the section.

(h) All references to any section of this Code refer to all subsequent amendments to that section, unless otherwise provided.

('82 Code, Ord. No. 9-1982, passed 12/22/82) State Law Reference IC 1-1-1-5(h)

## **SECTION 1-6      PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES:**

All offenses committed under laws in force prior to the effective date of this Code shall be prosecuted and remain punishable as provided by those laws. This Code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this Code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this Code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, the annexation or disannexation of territory

by the Town, and the election of corporate officers shall remain valid in all respects, as if this Code had not been enacted.

('82 Code, Ord. No. 9-1982, passed 12/22/92) State Law Reference IC 36-31-3-8(a)(10)(B)

**SECTION 1-7      LIMITATION PERIODS:** The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this Code shall not be affected by the repeal and reenactment, but all suits, proceedings, and prosecutions for causes arising or acts committed prior to the effective date of this Code may be commenced and prosecuted with the same effect as if this code had not been enacted.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

**SECTION 1-8      SEVERABILITY:**

(a) If any section of this Code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(b) Except in the case of a section or amendment to this code containing a nonseverability provision, each subsection or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(i) the remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(ii) the remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(c) This section applies to every section of this Code regardless of whether a section is enacted concurrently with or following the enactment of this Code.

('82 Code, Ord. No. 9-1982, 12/22/82) State Law Reference 1-1-1-8

**SECTION 1-9      EFFECTIVE DATE:**

This Code takes effect immediately upon its passage and required publication. The application of a section or amendment may be delayed by its terms.

('82 Code, Ord. No. 9-1982, 12/22/82)

## **SECTION 1-10 LAWS GOVERNING THE MUNICIPALITY:**

The law governing this town is declared to be all law governing the State of Indiana, and this Code.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 1-11 PROCLAMATION OF CODE:**

The Clerk-Treasurer shall proclaim this Code to be in effect upon its passage.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 1-12 CONSTRUCTION OF CODE:**

(a) This Code shall be construed by the following rules unless such construction is plainly repugnant to the legislative intent or context of the provision.

(b) Words and phrases shall be taken in their plain, ordinary, and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(c) Words imputing joint authority to three (3) or more persons shall be construed as imputing authority to a majority of such persons, unless otherwise declared in the section giving such authority.

(d) The word "Board" means the Board of Trustees of the Town of Lapel, Indiana.

(e) The words "Clerk-Treasurer" means the Clerk-Treasurer of the Board of Trustees of the Town of Lapel, Indiana.

(f) The word "highway" includes bridges, roads, and streets unless otherwise expressly provided.

(g) The word "month" means one (1) calendar month, and the word "year" means one (1) calendar year, unless otherwise expressly provided.

(h) The words "Police Department" means the Police Department of the Town

of Lapel, Indiana.

(i) The words "preceding" and "following" referring to sections or subsections in this Code, refer to the sections or subsections next following or next preceding that in which the words occur, unless some other section is designated.

(j) The word "Town" means the Town of Lapel, Indiana.

(k) The words "written" and "in writing" included lithographing, printing, or other modes of representing words and letters. Where the written signature of a person is required, the proper handwriting of that person, or his or her mark, shall be valid for that purpose.

(l) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

('82 Code, Ord. No. 9-1982, passed 12/22/82) IC 1-1-1-5(h)

#### **SECTION 1-13 EFFECT OF REPEAL:**

When a section of this Code is repealed which repealed a former section or law adopted prior to the enactment of this Code, the former section or law is not reviewed unless it so expressly provides. The repeal of any section shall not extinguish or release any forfeiture, liability, or penalty incurred under such section, unless the repealing section so expressly provides. Such section shall remain in force for the purpose of sustaining any proper action or prosecution for the enforcement of such forfeiture, liability, or penalty.

('82 Code, Ord. No. 9-1982, passed 12/22/82) IC 1-1-5-1

#### **SECTION 1-14 NAME DESIGNATIONS:**

Whenever any ordinance or resolution of the Board refers to any board, bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated, or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties, or liabilities placed with that entity are or were transferred to a different entity, then such named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in said ordinance at its effective date or not, means that correctly named entity, or the entity to which such duties, liabilities, powers, and rights were transferred.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 1-15    LEGAL HOLIDAYS:**

The following are legal holidays in the Town:

- (a)    New Year's Day
- (b)    President's Day
- (c)    Good Friday
- (d)    Memorial Day
- (e)    Independence Day
- (f)    Labor Day
- (g)    Thanksgiving Day
- (h)    Christmas Day

When any of these holidays, other than Sunday, falls on Saturday or Sunday, the Board may designate another day for the observance of that holiday. This section shall not affect any action taken by the Board while in regular or special session. Any action taken by the Board on any such holiday shall be valid for all purposes.

All full-time Police Officers are entitled to 1/365 of his/her salary as holiday pay if an officer works on a declared holiday. This payment would be in addition to his/her regular salary.

('82 Code, Ord. No. 9-1982, passed 12/22/82)(Ord. No 8-1994, passed 12/20/94)

## **SECTION 1-16    LAPEL DAY:**

The Board may designate any day as Lapel Day. The citizens of the Town are encouraged to recognize and celebrate the anniversary of the incorporation of the Town. ('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **CHAPTER 2    ADMINISTRATION**

## **SECTION 2-1      GENERAL PROVISIONS**

## **SECTION 2-2      HOME RULE**

## **SECTION 2-3      LICENSING OF RECREATIONAL ESTABLISHMENTS:**

(a) No person shall operate a billiard table, card table, pool table, pinball or electronic game device within the Town prior to applying to the Clerk-Treasurer for a license for the same. The applicant for a license shall state the name of the person to be licensed; his or her residence; whether he or she has been convicted of any felony or misdemeanor; his or her previous occupations for the past five (5) years; the number of tables for billiards, pool, cards, pinball or electronic game devices he or she anticipates installing in the Town and the location of the same. The Clerk-Treasurer shall submit the application to the Board and, upon approval by the Board, the Clerk-Treasurer shall issue a license for the operation of billiard, pool or card tables, pinball, or electronic game devices.

(b) No pool table, billiard table, card table, pinball or electronic game device for which a license to operate is procured, shall be operated in violation of any town law or within 100 yards of an establishment that serves alcoholic beverages, provides adult entertainment or a combination of both. (Ord. 5-1995, passed 5/16/95)

(c) No licensee operating pool or billiard tables, card tables, pinball or electronic game devices shall operate said pool tables, billiard tables, card tables, pinball or electronic game devices in a secret or concealed room or rooms. The room shall be open at all times to the public, and all above listed devices must be visible at all times from the street.

(d) No licensee operating pool tables, billiard tables, card tables, pinball or electronic game devices shall operate said pool tables, billiard tables, card tables, pinball or electronic game devices between the hours of 12:00 a.m. and 9:00 a.m., or at any time on Sunday. The room where the pool tables, billiard tables, card tables, pinball or electronic game devices are located must be emptied of all personnel, including owner or operators, thirty (30) minutes after closing time.

(e) Every licensee who obtains a license to operate or maintain pool tables, billiard tables, card tables, pinball or electronic gaming devices, for the purpose of providing or permitting entertainment to persons under eighteen (18) years of age, must set and abide by a closing time of at least thirty (30) minutes before curfew as defined by State Law and this Code, or as directed by the Town Marshal, or other Madison County or State Police Agencies.



(f) No person shall keep and exhibit to be played upon for hire or gain, any pool table, billiard table, card table, pinball or electronic game device within the Town, without first having obtained a license so to do from the Town as herein provided. Any person violating any provision of this section shall be fined the sum of Ten Dollars (\$10.00). Each and every day any pool table, billiard table, card table, pinball or electronic game device is kept and exhibited to be played upon for hire or gain constitutes a separate offense.

(g) All licenses issued in accordance with this section shall be valid for the period from January 1 to December 31 of the following year. Renewal fees shall be due and payable to the Town on or before December 31 of each year. Persons receiving permits issued after January 1, and prior to July 1, shall pay the full license fee. Persons receiving permits issued on or after July 1 shall pay on-half of the license fee.

(h) License permit fees shall be assessed as follows:

Each pool or billiard table	\$20.00
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Each pinball or other mechanical or electronic device for entertainment	\$20.00
----------------------------------------------------------------------------	---------

Each card table	\$20.00
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(i) Each licensee under this section agrees to allow inspection of his or her premises at any time by the Town Police Department. The failure of said licensee to provide a valid permit for each license category, as set out in (h) of this section shall subject said licensee to immediate revocation of all permits held by said licensee.

(j) A license issued under this section may be revoked upon the conviction of the license holder or maintaining a disorderly, indecent or improper place, permitting gambling of any form or the unlawful possession or sale of alcoholic beverages or controlled substances on the premises. The license holder shall receive a written notice stating that a hearing shall be held no sooner than ten (10) days following the mailing of the notice to determine if the license should be revoked for a violation of this section or as a public nuisance.

(k) The Board may instruct the Town Attorney to bring injunction proceedings to compel the enforcement of this section.

(l) This section does not apply to any benevolent or fraternal organization which owns, keeps and maintains billiard, pool or card tables for use by its own members and not for hire.

('82 Code, Ord. No. 9-1982, passed 12/22/82)  
Home Rule IC 36-1-3-1-et.seq., IC 36-5-1-et.seq.

## **SECTION 2-4 TOWN LEGISLATIVE BODY AND EXECUTIVE**

(a) The Council of the Town deems it to be in the best interest of the Town and the citizens thereof to abolish said legislative district and candidate residency requirements such that all members of the Town Council of the Town be elected at large and

(1) That the legislative body districts heretofore enacted by Lapel Code 36-5-2-4.1 are abolished and repealed and the candidate residency requirements within said legislative body districts are also hereby abolished and repealed.

(2) That all Town Council seats shall be elected at large without the designation of legislative body districts.

(Ord. 5-1990, 10/10/90) Town Election IC 3-10-6, 3-10-7, 36-5-2-5

## **SECTION 2-5 ELECTION OF MEMBERS OF BOARD:**

The Board provides that its members are to be elected at large by the voters of the whole Town.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 2-6 SEAL**

The Board adopts a common seal bearing the words "Town of Lapel, Indiana-- Seal".

('82 Code, Ord. No. 9-1982, passed 12/22/82) IC 3-10-6, 3-10-7, 36-5-2-5`

## **SECTION 2-7 COMPENSATION:**

(a) The Board shall fix the compensation of its Town officers and employees in a Salary Ordinance to be adopted annually.

(b) Vacation and Sick Leave for Full-time Employees

All new employees will be under a probationary period for the first six months of their employment, starting with the first day on the job. During this probationary period the employee will not be entitled to paid vacation benefits or sick leave benefits.

All full-time employees completing the probationary period will be eligible for sick leave benefits, which will be prorated from their hire date.

All eligible employees will receive six (6) paid sick days per calendar year. Sick days are designed and intended to be used for the employee's illness or medical appointments. Absences may be subject to investigation. The Town reserves the right to request a physician statement for sick days. Sick days, if not used, can be carried over to future

years. Sick days will not be paid upon termination of employment.

Time worked reports must be submitted weekly to the Town Hall for all employees that are eligible for either Personal Days, Paid Legal Holidays, Insurance, Paid Vacation, or Sick Leave.

At the anniversary date of employment, the fulltime employee will be eligible for the following vacation schedule:

<b>Completed Years of Employment</b>	<b>Weeks Paid Vacation</b>
One	One
Two thru Four	Two
Five thru Nine	Three
Ten or more	Four

Following the first year of employment additional weeks will be earned on a calendar year basis beginning January 1<sup>st</sup>.

All vacations are mandatory (cannot work and collect pay plus vacation). Vacations **must** be scheduled one (1) week in advance with supervisor. Vacations cannot be held over until the next year.

Unused vacation days will be paid upon termination of employment. Vacation days must be used before unpaid days off are granted.

(c) Police Officers

The work week consists of seven (7) days from Saturday and ending Friday. If a Police Officer works more than 40 hours per week, overtime will be paid. Overtime is calculated by annual salary divided by 260 days divided by 8 hours = hourly pay. Overtime hours x 1 x hourly pay = overtime pay. Overtime must be approved by the Town Marshal and the Town Council.

If a Lapel Police Officer is sent to the Police Academy, and compensated by the Town of Lapel, the Police Officer is required to remain on the department of two (2) years after graduation from the academy. If for some foreseen or unforeseen reason the officer has to leave the department or fails to complete the academy assignment, said officer must repay all training compensation to the Town of Lapel.

(d) Personal Days

All full-time employees are entitled to two (2) personal days per calendar

year. Bereavement days – three (3) per family member, which includes and is limited to the following: wife, husband, children, stepchildren, father, mother, stepfather, stepmother, father-in-law, mother-in-law, brothers, sisters; one (1) day for brother-in law, sister-in law, and grandparents.

(e) Paid Legal Holidays

All full-time employees, except Police Officers, are entitled to the following: New Year's Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving (Thursday and Friday), ½ day Christmas Eve, and Christmas Day.

All full-time Police Officers are entitled to 1/260 of his/her salary as holiday pay if an officer works on a declared holiday. This payment would be in addition to his/her regular salary.

(f) Insurance

The Town of Lapel will pay 100% of the employee's health insurance premium, employees will have to pay dependent coverage, if desired. This benefit is available to full-time employees only. Employees who are eligible to enroll in the group medical program may choose to waive participation in the plan. Only employees covered under another group health plan will be permitted to waive coverage. Employees are required to complete the appropriate form to waive their election and provide verification of other coverage.

**Options**

Health, Life & Vision  
Life Only

**Forms**

Health application  
Health application (check life only, indicate waiver/other coverage)

An optional dental insurance benefit plan is offered to all full-time employees. The premium for the insurance policy is split 50%-50% between the employee and the employer.

(g) Fire/Ambulance

Volunteers for the Fire/Ambulance Department will be paid \$8.00 per run, cancelled or not. Each volunteer will receive \$100/year car allowance payable semi-annually and a \$100/year clothing allowance payable semi- annually. The car and clothing allowance will be prorated in the case of a new firefighter or ambulance volunteer.

Town employees that are volunteer firefighters or ambulance EMT's will be compensated one hour pay for the specific fire/ambulance run. This is applicable during

town office, utility, street department hours as stated in the salary ordinance. Employees must record on their daily time sheet when the fire/ambulance run began and when they returned to their duties as a town employee.

(h) Office Hours and Utility/Street Department Hours

Town Hall office hours are Monday thru Friday, 8:00 a.m. to 5:00 p.m. The Utility/Street Department hours are from 7:00 a.m. to 3:30 p.m. On disconnect day, one utility employee will work from 10:00 a.m. to 6:00 p.m. so that paid disconnected services can be returned to service.

(i) Overtime

Overtime is defined for all full-time employees, except Police Officers, as the hours worked, on a daily basis, over 8 hours. Overtime hours will be paid at 1 ½ x their hourly pay. The payroll clerk will prepare on a weekly basis, a report to the Council illustrating the amount of and who were paid overtime. It will be the job of the department supervisors to limit over-time whenever possible.

(j) Meeting Attendance Payment

Non-council members, that are authorized members of the Planning Commission, Park Board, and Board of Zoning Appeals will be paid \$10 per meeting attended. Disbursement of amounts owed will be semi-annual-July and January.

(k) Education Reimbursement

It is the desire of the Town of Lapel that all employee's gain more education in their specific disciplines. If the employee quits a course, paid by the Town of Lapel, the employee must repay to the town the cost of the course. This would include tuition fees, cost of books and materials, and mileage reimbursements. If the employee completes the course work and attendance requirements, but fails the final test, reimbursement is not required. Retesting is at the discretion of the Council.

(l) Utility Certifications

When a Lapel Utility employee acquires a Class I operators certification for water or wastewater, their salary will be increased by 75 cents per hour. If a Lapel Utility employee receives an initial gas operator's certification, their salary will be increased by 75 cents per hour. When a Lapel Utility employee acquires a Class II operator's certification in water or wastewater, their salary will be increased by 25 cents per hour. The Town of Lapel must receive a copy of the certification notice for each employee.

Continuing education to maintain a utility certification will be paid by the Town of Lapel. If an employee fails to maintain his/her certification, the Town of Lapel reserves the right to reduce the employee's hourly wage. The Council will review certifications in June and December with pay adjustments effective July 1<sup>st</sup> and January 1<sup>st</sup>.

Utility workers shall be paid one and one half (1 2) times the regular rate of pay after forty (40) hours of regular rate per week. DOES THIS STILL APPLY?

('82 Code, Ord. No. 9-1982, passed 12/22/82) (Ord. 8-1994, passed 12/20/94 amending previous Ord.)(Annual Salary Ordinances)(Ord 8-1995, passed 12/20/94), (Ord 9-1996, passed 12/19/95), (Ord. 6-1996, passed 10/15/96),( Ord 9-1997, passed 12/17/96)(Ord. 16-1998, passed 12/98)

**CHECK DATES ON THESE THEY ARE NOT ALL HERE**

(Ord. No. 1-1999, passed 1/21/1999), (Ord No. 1-2000, passed 1/20/2000) (Ord No. 12-2000, passed 12/2000 (Ord No. 11-2001, passed 1/2000 IC 36-5-3-2 (Ord. No. 10-2006 , passed 1/4/2007)

**SECTION 2-8      ASSOCIATION MEMBERSHIP DUES:**

(a)      The Board is authorized to budget and appropriate funds to provide for the payment of membership dues for the Town, its elected and appointed officials, and the members of its boards, councils, departments, or agencies in any local, regional, state or national associations of a civic, educational, or governmental nature which have as their purpose the improvement of municipal operations.

(b)      The Town Board is authorized to budget and appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the Town belongs.

('82 Code, Ord. No. 9-1982, passed 12/22/82) IC 36-5-3-4

**SECTION 2-9      MILEAGE AND PARKING EXPENSES:**

(a)      Mileage rate allowance for employees and officers of the Town of Lapel incurred in connection with business for the Town of Lapel, Indiana, shall be compensated to such employee and officer at the rate of twenty six (\$.26) cents per mile.

(b)      Parking fees incurred by said employees and officers as a result of travel in connection with the Town of Lapel business shall be compensated at the maximum rate of six (\$6.00) dollars per day.

(Resolution 6-1991, passed 5/8/91) IC 36-7-13

## **SECTION 2-10 TOWN MARSHAL:**

(a) The office of Town Marshal is hereby established.

(b) The Marshal is authorized to appoint deputy marshal, subject to Board approval.

('82 Code, Ord. No. 9-1982, passed 12/22/82) IC 36-7-4

## **SECTION 2-11 ECONOMIC DEVELOPMENT**

The Board hereby creates the Town Department of Development. The Department shall be under the control of the Town Economic Development Commission.

Codifer's note: ORDINANCE NO. 5-1980 PROVIDED:

"AN ORDINANCE . . . CREATING THE DEPARTMENT OF DEVELOPMENT  
AND THE . . . ECONOMIC DEVELOPMENT COMMISSION

BE IT ORDAINED by the Board . . .

That the Town Board find that a need exists for the financing of Economic Development and Pollution Control Facilities, as authorized by IC 1971, 18-6-4.5 [now IC 36-7-12-1] as supplemented and amended by Acts 1973, PL. 182 and by Acts 1975, PL. 187.

('82 Code, Ord. No. 9-1982, passed 12/22/92)



## CHAPTER 3 ANIMALS

### **SECTION 3-1      DEFINITIONS:**

In this article the following terms shall be defined in this manner:

- (a)    Animal: Any live, non-human vertebrate creature, domestic or wild.
- (b)    At large: Not under restraint, as defined by this section.
- (c)    Domestic Animal: A domestic animal, as defined by state law, but not a dog used to aid any blind person.
- (d)    Harboring: Permitting any animal to remain or to be fed within any person's enclosure, place of business, residence or any premises controlled by that person for more than three (3) consecutive days.
- (e)    Owner: Any person harboring any animal.
- (f)    Person: A person, as defined by state law.
- (g)    Public nuisance: Any animal which is at large; or which attacks or molests other animals, humans, or passing vehicles; or which damages property; or which disturbs a reasonable person with continuous or excessive noise.
- (h)    Restraint: Confinement within the property of the owner or securing by a lead or leash.
- (i)    Stray: Any animal whose owner cannot be identified following reasonable inquiry.
- (j)    Vicious animal: Any animal constituting an immediate and serious danger to humans or to other animals.  
(‘82 Code, Ord. No. 9-1982, 12/22/82)

### **SECTION 3-2      VACCINATIONS**

(a)    No person shall harbor any cat or dog which is six (6) months or older and which has not been vaccinated against rabies. A rabies vaccination tag issued by a licensed veterinarian, an identification tag stating the name and address of the owner and a dog tag issued by the Madison County Assessor's Office shall be deemed proof of compliance with this section.

(b) Any domestic animal which has bitten a person shall be impounded at the expense of the owner for a period of not less than fourteen (14) days and until the County Health Officer can determine if the animal is rabid. If the animal dies while impounded, a test shall be conducted at the expense of the owner to determine if the animal was rabid. The death of any animal suspected to have been rabid shall be reported to the County Health Officer immediately following the discovery of its death.

(c) Any domestic animal which has been bitten by an animal suspected to be rabid shall be confined for a period of six (6) months at the expense of the owner or shall be destroyed.

(d) No person who knows or suspects that an animal under his or her control is rabid shall allow that animal to leave his or her control except to be taken to the Lapel Animal Clinic or another veterinarian. Any person who knows or suspects that an animal is rabid shall immediately notify the Police Department or the Madison County Health Officer.

('82 Code, Ord. No. 9-1982, passed 12/22/82)(Amended Ord. No. 7-1994, passed 11/22/94) IC 15-2.1-6-7 et. Seq.,

### **SECTION 3-3 RESTRAINT:**

(a) The owner shall exercise due care to prevent his or her animal from becoming a public nuisance. All animals, except cats, shall be kept under restraint. Each female animal in estrus shall be confined to prevent it from mating. Nonetheless the owner may allow mating for planned breeding.

(b) The Police Department shall order the confinement of any animal determined by the Department to be vicious. Any vicious animal shall be confined within a building or secure enclosure by its owner and shall be caged or securely muzzled.

(c) Any animal constituting a public nuisance shall be taken by the Humane Officer or the appropriate law enforcement agency to the Lapel Animal Clinic. The Police Department shall notify the owner not later than two (2) days following the impounding of any animal or, if the owner of the animal is unknown, shall post written notice at the Town Hall. The owner of any animal may reclaim it upon the payment of all costs and charges incurred by the Town for the impounding notice and keeping of the animal. The charges for impounding and keeping the animal shall be in the amounts fixed by the Board. Unclaimed animals after seven (7) days shall become the property of the Town of Lapel and will be placed for adoption or humanely euthanized. Cats and dogs must be neutered before the Lapel Animal Clinic can release them.

(d) Cat owners are required to purchase an annual license at the Lapel Town

Hall.

\$10/year for unneutered cats

\$5/year for neutered cats

All cats will wear a current year collar tag identifying the animal. The Town Hall will maintain records showing tag number, owner(s) name, address of owner, and phone number.

The Lapel Police Department is authorized to live trap cats within the Town of Lapel limits. The Lapel Police Department will follow the guidelines of paragraph (c) when dealing with untagged cats.

IC-15-5-9-13

### **SECTION 3-4 ABUSE OF ANIMALS:**

(a) When the operator of a motor vehicle strikes an animal he or she shall stop at once and render all possible assistance. The operator of the motor vehicle shall immediately report the injury or death of the animal to its owner. If the owner cannot be immediately ascertained and located, the operator of the motor vehicle shall report the incident immediately to the Police Department.

(b) No person shall knowingly expose a poisonous substance, whether mixed with food or not, which can be eaten by any animal. However, a person may expose a common rat or mouse poison, unmixed or mixed with vegetable substances, on his or her property.

('82 Code, Ord. No. 9-1982, passed 12/22/82) IC 35-46-3-7 IC 35-46-3-12

### **SECTION 3-5 PENALTIES:**

This article shall be enforced by the Police Department and appropriate law enforcement agencies. Any person who violates any provision of this article shall be fined a sum of not less than Ten Dollars (\$10.00) nor more than Three Hundred Dollars (\$300.00). Each day a violation continues constitutes a separate offense.

('82 Code, Ord. No. 1982, passed 12/22/82)

#### Prohibiting dogs at Village Fair

Except for the below reference, no dogs shall be allowed in the festival area (festival area being all areas of vendors, displays, and entertainment) during the annual Village Fair held in the month of July, in the Town of Lapel, Madison County, Indiana.

That this ordinance shall not prohibit dogs that assist disabled people or police dogs from being in the festival area.

That this ordinance shall not prohibit dogs that are direct participants in the festival parade.

A person violating this section shall be fined up to \$100.00 for each occurrence.

(Ord. No. 1-2001, passed 2/15/01.)

**CHAPTER 4**  
**TRAFFIC & VEHICLES**

#### **SECTION 4-1      MUNICIPAL HIGHWAY SYSTEM:**

The Municipal Highway System is established. It consists of all highways contained in the volume titled "Lapel Road Inventory". Two (2) copies of this volume are on file in the office of the Clerk-Treasurer for public inspection and are incorporated in this section by reference. On or before November 1 of each year, the Board shall compile a list of those highways accepted or vacated by the Town during the past year. A copy of this list shall be sent to the Madison County Council of Governments to assist the Council in promptly obtaining highway assistance funds for the Town.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

#### **SECTION 4-2      TRAFFIC ACCIDENT REPORT FEES:**

The Board fixes a fee of Three Dollars (\$3.00) for furnishing copies of accident reports.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

#### **SECTION 4-3      HIGHWAY SIGNS:**

(a)      The Board, acting within the reasonable exercise of its police power, adopts the following regulations governing certain roads and streets under its jurisdiction:

(b)      All highways listed below are designated as one-way highways. All vehicles thereon shall be moved in one (1) specific direction, as indicated by signs posted upon or at the entrance to these highways or portions of highways.

(1)      The alley between Main Street and the first alley intersection west of Main Street, and being the first alley North of 7th Street, moving easterly.

(2)      On the alley between the Remley Building and Collins Building on Main Street, moving westwardly.

(3)      On the first alley north of Seventh Street, moving westwardly from Main Street to the first alley running north and south.

(4)      Vine Street shall be one-way southbound from 7th Street to Pendleton.

(5)      The alley extending from John Street to Woodward Street for travel from east to west.

(6)      The alley extending from John Street to Pendleton Avenue for travel from west to east.

(7) 9th Street, from Brookside to Pendleton Avenue, shall allow one-way truck and semi-truck traffic, in an Easterly direction.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

(Ord. No. 5-1988, passed 12/14/88)(Ord. 15-1997, passed 12/16/97)

(8) Short Street from Ninth Street to Eighth Street shall be opened and that the exit onto Eighth Street from Short Street will be restricted to left turn only. Right onto Pendleton Avenue shall be prohibited.

(Ord. No. 10-1998, passed 8/31/98)

(9) The street running East and West from Ford Street to Main Street immediately south of the Town Hall of Lapel shall be named Caplinger Street.

(Ord. 2-1996, passed 3/19/96)

(10) The north/south street, being adjacent to the west side of the current Lions Club building, be designated as "Lions Lane."

(Ord. No. 5-2001, passed 7/19/01)

(11) The north/south street designated as Lions Lane shall have a stop sign at the intersection of Fourth Street.

Ord. No. 5-2001, passed 7/19/01)

(12) Clara Street, at the intersection of Sixth Street, shall be designated with stop signs for all north and south traffic traveling across or entering onto Sixth Street.

(Ord. No. 6-2001, passed 7/19/01)

(13) A Deaf Child warning sign be installed at a visible location on Myrtle Drive in the Montgomery Farms Addition in the Town of Lapel, Indiana.

(Ord. No. 7-2001, passed 7/19/01)

(14) There shall be no right hand turn for semi-trucks from County Road 132 to County Road 300 South for all vehicles approaching that intersection traveling in the direction of the southeast. There will be a One Hundred Dollar (\$100) fine for a violation of this ordinance.

(Ord. No. 2-2002, passed 4/4/2002)

(15) The Town of Lapel desires to restrict the transportation of hazardous substances on the Main Street thoroughfare of the Town of Lapel as that thoroughfare represents the downtown business district.

Ord. No. 5-2003, passed 8/21/2003.



(c) The Board hereby designates the following intersections of highways as stop intersections. All vehicles shall stop at one (1) or more of the entrances to a stop intersection as indicated by the signs posted upon or at these intersections to give notice of this traffic regulation.

(1) The following are stop intersections:

**5-way stops**

Central St. and 7th  
Conrad St. and Gwinn St.  
Ford St. and 4th  
Main St. and 4th  
Main St. and 9th  
Erie St. and 5th  
Woodward St. and 11th  
Woodward St. and 9th  
Woodward Avenue and 4th Street  
Brookside Road and Bulldog Avenue

**3-way stops**

Busby and Woodward  
Erie and 4th  
Vine and 11th

**2-way stops**

Brookside and 7th  
Brookside and 8th  
Brookside and 9th  
Brookside and 10th  
Brookside and Pendleton Pike  
Busby and Gwinn  
Central and 5th  
Central and 6th  
Central and 9th  
Central and Pendleton Pike  
Cross and 8th  
Erie and 3rd  
Erie and 5th  
Erie and 7th  
Erie and 8th  
Erie and 9th  
Erie and 10th  
Erie and 11th  
Erie and 12th  
Erie and Pendleton Pike  
Ford and 3rd  
Ford and 4th  
Ford and 8th

Ford and 9th  
Ford and 10th  
Ford and 11th  
Ford and 12th  
Ford and 14th  
Ford and Pendleton Pike  
John and 4th  
John and 5th  
John and 6th  
John and 7th  
John and 9th  
John and 10th  
John and 11th  
John and Pendleton Pike  
Main and 7th  
Main and 8th  
Main and 9th  
Main and 10th  
Main and 11th  
Main and 12th  
Main and 14th  
Main and Main Court  
Main and Pendleton Pike

Pendleton Pike and 4th  
 Pendleton Pike and 5th  
 Pendleton Pike and 7th  
 Pendleton Pike and 8th  
 Pendleton Pike and 9th  
 Pendleton Pike and 10th  
 Pendleton Pike and 11th  
 Pendleton Pike and Vine  
 Pendleton Pike and Walnut  
 Pendleton Pike and Woodward  
 Short and 9th  
 Vine and 5th  
 Vine and 6th  
 Vine and 7th  
 Vine and 9th  
 Vine and 10th  
 Vine and 11th  
 Walnut and 5th  
 Walnut and 6th  
 Walnut and 7th  
 Walnut and 10th  
 Walnut and 11th  
 Woodward and 4th  
 Woodward and 6th  
 Woodward and 7th  
 Woodward and 8th  
 Woodward and 9th  
 Woodward and 10th  
 Woodward and 11th

Hickory Lane at Briar Drive  
 Hickory Lane at Beechwood Drive  
 4th St. going west at intersection of Erie  
 Street and 4th Street.  
 North View Drive at Briar Drive  
 Northview Drive and Bulldog Avenue  
 Montgomery Boulevard at C.R. 300  
 S/Bulldog Avenue  
 Myrtle Lane and Bulldog Avenue  
 Myrtle Drive at Birmingham Boulevard  
 (N & S)  
 Oakmont Drive at Beechwood Drive  
 Oakmont Drive at Briar Drive  
 Tide Court at Myrtle Drive  
 Tiger Court at Myrtle Drive

Removal of the north bound and south  
 bound traffic stop signs on Vine Street  
 at the intersection of 11<sup>th</sup> Street.

### **1-way stops**

Auburn Court at Montgomery  
 Boulevard  
 Birmingham Boulevard at C.R. 940W  
 Brookside Road at the R.R. Track  
 Boxwood Boulevard at Briar Drive  
 Boxwood Boulevard at C.R. 300  
 S/Bulldog Avenue  
 Busby at Conrad  
 Crimson Circle at Montgomery  
 Boulevard

Intersection of a certain alley running north and south between 9th and 7th Streets  
Ord. No. 4, 2002, passed 7/18/202; Ord No. 9, 2003, passed 12/18/2003, Ord. No. 5, 2004,  
passed 8/5/2004, Ord. No. 1-2003. passed 1/2/2003

(d) "Slow-children playing" signs shall be placed

- (1) South of 11th Street;
- (2) On Gwinn Lane; and on
- (3) Woodward Street

(e) Any person violating this section shall be fined an amount not to exceed  
Twenty Five Dollars (\$25.00).

('82 Code, Ord. No. 9-1982, passed 12/22/82)(Ord. No. 5-1984, passed 9/12/84)  
(Ord. No. 3-1990, passed 4/11/90)(Ord. 3-1996, Passed 6/18/96)(Ord. No. 5-1996, passed  
9/24/96)(Ord No. 6-1996, passed 6/18/96)(Ord. No. 5-97, passed June 17, 1997)(Ord. No.  
5-1997, passed 6/17/97)(Ord. No 6-1997, passed 7/22/97) (Ord. No. 12-1997, passed  
9/16/97)(Ord. 15-1997, passed 12/16/97)(Ord. No. 3-1998, passed 4/16/98)

#### **SECTION 4-4 SPEED LIMITS:**

(a) A speed limit of twenty (20) miles per hour be imposed and posted on all  
public thoroughfares, within the corporate limits of the Town, with the exception of  
posted speed limits on State Highway 13.

(b) That a special limit of forty (40) miles per hour with a reduced speed of  
twenty five (25) miles per hour when children are present to be posted at 200 S. starting  
at a point approximately two-tenths (.2) of a mile east of 900W and a reduced speed  
ahead sign, posted approximately four-tenths (.4) of a mile east of 900W in an easterly  
and westerly direction.

(c) Posted speed limit of thirty (30) miles per hour on Bulldog Avenue from  
State Road 13 to Brookside Road in the easterly and westerly direction.

(d) A thirty (30) mile per hour speed limit on Pendleton Avenue to one-tenth  
(.10) of a mile east of Central Avenue and from that point to 300S a forty five (45) miles  
per hour speed limit from 300S on Bulldog Avenue to State Road 13.

(e) The Board has determined by engineering and traffic investigations that  
the proper maximum speed for all highways, parts of highways and urban districts not  
governed by the provisions of the preceding subsection shall be thirty (30) miles per  
hour.

(f) Any person violating this section shall be fined an amount not to exceed Twenty-Five (\$25.00) Dollars.  
(Ord No. 2-1993, passed 6/15/93)

#### **SECTION 4-5 NO PARKING ZONES**

(a) No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or avoid conflict with law or the directions of a police officer or traffic control device in any of the following places where signs have been erected by the Board prohibiting parking:

- (1) On circle at south end of John Street;
- (2) On Main Street; Parking is restored at 631 South Main Street.
- (3) Between 10th and Pendleton Avenue parking shall be limited to one and one-half hours from 7:00 a.m. to 6:00 p.m. on each day of business, excepting Saturday. On Saturday, parking shall be limited to one and one-half hours from the hour of 7:00 a.m. to 9:00 p.m.;
- (4) On the east side of Brookside Road, between Pendleton Avenue and Seventh Avenue;
- (5) On the south side of East 10th Street; between Main Street and Vine Street;
- (6) On the south side of Seventh Street, between Main Street and Pendleton Avenue;
- (7) One-half hour parking limit on the west side of Main Street from the railroad tracks south of the first alley;
- (8) On the west side of Ford Street, beginning at the intersection of Ford Street and Pendleton Avenue and extending a distance of seventy-five (75) feet south of said intersection. No Parking area shall be posted NO PARKING HERE TO CORNER.
- (9) On the east side of Ford Street, beginning at the intersection of Ford Street and Pendleton Avenue, and extending a distance of fifty (50) feet south of said intersection. NO PARKING HERE TO CORNER.
- (10) The public thoroughfare of 7th Street, directly in front of the

Methodist Church shall have two parking spaces designated as "no parking." Specifically, located at the front entrance of the church, on the south side of 7th Street, two spaces each from Clara Street.

No motor bus, auto truck, hack truck or semi-trailer, or other vehicle for hire, shall park on any street within the fire limits of the town longer than to discharge or take on cargo and unless in actual service. No business proprietor, resident, shall authorize said vehicles to park in front of any place of business or residential property in the town except for the purposes authorized by this subsection.

(b) Any person violating this section shall be fined in an amount not to exceed \$25.00 plus court costs.

(c) The Town Street Commissioner may lay out, design and establish street cleaning schedules in such a manner as he or she may deem fit and proper to effect the most efficient highway cleaning program. The Town Street Commissioner may also designate times and hours when highways shall be swept, cleaned or flushed, taking into consideration the times and hours that will least interfere with the use of the highway by the public generally, and particularly in the downtown area.

(d) Signs shall be posted stating the conditions and hours during which time parking is prohibited. The signs and their lettering shall be of sufficient size to be clearly legible. All highways shall be posted with such signs to give notice to the public concerning the scheduled street cleaning, repair or snow removal.

(e) During any period when highways are being repaired, swept, cleaned or snow is being removed by the Street Commissioner and signs are posted, or other notices given to the public to such effect, no vehicle shall be parked or left thereon, or other object be placed so as to obstruct or interfere with said sweeping, cleaning, repair, or snow removal from any public highway or alley. If any vehicle is parked or left standing upon any public highway or alley in violation of the no parking regulation, the Town Marshal may order the removal of the vehicle from the highway, and impound the vehicle. The expense of removal and impoundment shall be paid by the owner. The owner shall not be entitled to recover the vehicle without payment of costs for removal, impoundment and storage. (Ord No. 5-1990 passed 9/26/90)(Ord. No. 1-1993 passed 6/15/93)

(Amended By Ord. No. 5-1993, passed 12/30/93)

(f) A snow emergency shall exist in the Town of Lapel in conjunction to and concurrent to any snow emergency declared by Madison County, Indiana. That during a snow emergency, no motorized vehicle shall be parked on the thoroughfares as marked and designated on Exhibit A which is attached and be a part of this ordinance. Violation for the failure to abide by the no parking designation shall be punishable by

finer as outlined in the existing town ordinance and the vehicle owner shall be subject to towing and storage charges of any vehicle in violation of this ordinance. That in addition to existing fines for parking violations, vehicle owners shall be subject to towing and storage charges for any vehicles removed from such designated street during a snow emergency. That the snow emergency thoroughfare shall be declared snow emergency route and accordingly marked by the Town of Lapel.  
(Ord. No. 6-1999, passed 6/17/1999) (Ord. No. 9-2001, passed 8/16/2001)

#### **SECTION 4-6 ROAD WEIGHT LIMITS:**

(a) No truck or other commercial vehicle with a gross weight of ten thousand (10,000) pounds or more shall be permitted on any Town highway except:

- (1) local delivery trucks,
- (2) owners of trucks or commercial vehicles, in excess of the gross weight, who live within the Town limits, and whose business is outside the Town limits, and then only for ingress or egress, and
- (3) Pendleton Avenue
- (4) any semi trucks over five tons on Ninth Street from State Road 13 to Brookside Road

(b) The Town Street Department shall post notices of this section on all access streets and roads, and designate truck routes for trucks and commercial vehicles with a gross weight over Ten Thousand (10,000) pounds.

(c) Any person violating the provisions of this section shall be fined a sum of not less than Twenty Five Dollars (\$25.00) for each violation.  
(82 Code, Ord. No. 9-1982, passed 12/22/82))Ord. 5-1997, passed 6/17/97)  
(Amended by Ord. No. 5-1989, passed 3/16/89)

(d) A weight limit is imposed, restricting its use for vehicles, not the exceed 13 tons on Bulldog Avenue (300 South between State Road 13 and County Road 950 West)  
(Ord. No. 5-1999, passed 3/8/1999)

#### **1-130 Alternative Transportation**

Alternative Transportation shall be regulated on the right of ways and roadways of the Town of Lapel as follows:

1. That any operator of alternative transportation must have a current and

valid driver's license and comply with local and state ordinances and laws.

2. Operation of such alternative transportation shall be during daylight hours on Town streets, not County roads or State Highways, crossing at intersections only.

3. Any alternative transportation vehicle or device must be inspected on an annual basis. The inspection costs shall be \$40.00 per unit and the inspection shall be conducted by the Lapel Police Department at the Lapel Police Station located at 720 South Ford Street, Lapel, Indiana. The purpose of the inspection will be to determine whether or not the unit is safe and in compliance with all related rules and regulations.

4. The above-described inspections will be conducted on Saturdays to be scheduled in advance by the owners. For the Saturday appointment, the following number should be contacted: (765) 535-4600.

5. The owners must renew the inspection every twelve – (120 months by scheduling the appointment as described above. The lapel Police Department will maintain records of inspection and reserve the right to remove any uninspected or unsafe alternate transportation unit.

6. Any violators of this ordinance shall be brought before the Lapel Safety Board and subject to a fine up to \$500.00 per violation offense.

7. Each alternate transportation unit must be insured and verification of that insurance must be presented at the time of the above referenced inspection.

8. The purpose of this ordinance, alternate transportation is described as any motorized vehicle not requiring to be plated, including but not limited to electric vehicles, golf carts, utility carts excluding quad runners and dirt bikes.

9. Parking will be parallel to and on the right in the same direction as the traffic is designed to flow.

This ordinance shall not supersede any Indiana State law or statute as to transportation. (Ord. No. 5-2003, passed 5/1/2003.)

## **SECTION 4-7 ABANDONED VEHICLES**

## **SECTION 4-8      REMOVAL AND DISPOSAL:**

(a)    Definitions.    The following terms shall be construed in this section as follows:

(1)    "Abandoned vehicle" means abandoned vehicle as defined in IND.CODE 9-9-1.1-2. as amended.

(2)    "Property" means public or private property, as defined by IND.CODE 9-9-1.1-2, as amended, within the Town.

(3)    "Street or highway" shall mean the entire width between the boundary lines of every publicly maintained way when any part thereof is opened to the use of the public for purposes of vehicular traffic.

(4)    "Vehicle" means vehicle as defined in IND CODE 9-9-1.1-2, as amended.

(b)    No person shall store or permit the storage of a junked or abandoned vehicle, or vehicle which is incapable of being operated, on any property within the Town.

No person shall abandon any vehicle within the Town. No person shall leave any vehicle at any place within the Town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

Junked or abandoned vehicles are hereby declared to constitute a nuisance except where located in lawfully operated salvage yards, or yards lawfully operated for storing vehicles legally impounded for disposition as abandoned motor vehicles.

This section shall not apply to commercial garages or repair shops or vehicles undergoing ordinary repair while inside a garage or other building located on property legally zoned for such use under the zoning section of this Code or wholly within a building on said premises.

(c)    Any officer may order any abandoned vehicle removed from property within the Town within ten (10) days after giving written notice as herein provided.

Notice of such order shall be placed upon said vehicle and copies of the notice shall be served upon any adult occupant of the property on which said vehicle is located, and upon the owner of such vehicle where the name of said owner is known.

If no occupant of said property or owner of said vehicle can be found or is known, a copy



of such notice shall be affixed to any building located on said property or if there is no building on said property, such notices may be affixed elsewhere on the property, or on the vehicle, and by posting said notices, the owner and occupant of said property and the owner of said vehicle shall be deemed to have been legally notified of said removal order.

(d) The recorded owner or the occupant of any property on which said abandoned or junked vehicle is stored or located, on the receipt of such written notice, shall, within the time stated in such notice, remove such abandoned vehicle or correct the condition stated in said notice. Should the owner of said property or said abandoned or junked vehicle, after such service, and the lapse of time therein stated, fail, refuse or neglect to remove said vehicle or correct such condition, the officer issuing such notice shall cause an affidavit to be filed in the court having jurisdiction for violation of this section and failure to remove on notice, and shall cause such work to be done as may be required for the preservation of the life, health, comfort and property of the public, including the removal of such vehicle from the premises to a proper storage lot or area legally operated for salvaged vehicles. In such event, both the owner or occupant of said property and the owner of said abandoned vehicle shall be liable for violation of this section for the entire cost and expense incurred by the Town in removal of such vehicle and such costs may be recovered by civil action in addition to the penalty hereinafter provided for violation of this section.

(e) Any person who violates any of the provisions of this section shall be fined in an amount not to exceed One Hundred Dollars (\$100.00). Each day such violation continues after service of notice constitutes a separate offense and shall be punishable as such. As an additional penalty for the violation of this section and failure to remove following notice, the court in which the affidavit is filed may order said abandoned vehicle seized and impounded at a location determined by the Board and disposed of after thirty (30) days by sale or otherwise as determined by said Board. During said thirty (30) days the owner of said vehicle may recover by paying his or her fine and all expenses of said notice, towing, impounding and storage of the vehicle by said Town officials.

(f) The fines fixed by the court under this section and the amount received from the sale of said vehicles and otherwise, shall be set up in a special fund in the Town to pay for the expense of notice, towing, storage, and disposal of said vehicles as herein provided.

Codifier's note:

Ordinance 2-1969 provided:

"AN ORDINANCE DEFINING AND PROHIBITING ABANDONED OR JUNKED

VEHICLES, PROVIDING FOR THE REMOVAL OF ABANDONED OR JUNKED VEHICLES FROM PROPERTY AND FROM STREETS OR HIGHWAYS, PROVIDING FOR IMPOUNDING AND DISPOSAL OF SUCH VEHICLES; ALSO FIXING PENALTIES AND SETTING UP A SPECIAL FUND THEREFORE."

"WHEREAS, in many areas of the Town . . . abandoned or junked vehicles have been permitted to remain on property for long periods of time; and

WHEREAS, said abandoned or junked vehicles are also found along the streets, highways or in other public places in the Town . . . from time to time; and

WHEREAS, the storage of said junked vehicles and/or the abandonment of such vehicles either on property or along the streets, highways or other public places in the Town cause an unsightly appearance to the neighborhood; create, extend and aggravate urban blight; create hazards to the health, safety and welfare of citizens and residents of the community, including property owners, neighbors and children; and

WHEREAS, adequate protection of the public health, safety and welfare requires that such conditions be regulated, abated or prohibited; . . ."  
(82 Code, Ord. No. 9-1982, passed 12/28/82)

**CHAPTER 5**  
**EMPLOYMENT SECURITY**

## **SECTION 5-1      NONDISCRIMINATION POLICY:**

Every contract to which the Town is a party, including franchises granted to public utilities, shall contain a provision requiring the contractor and his or her subcontractors not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to his or her hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of his or her race, religion, color, sex, handicap, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the contract. ('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 5-2      PERSONNEL SEXUAL HARASSMENT POLICY AND PROCEDURES**

It is the policy of the Town of Lapel to maintain a work environment free of inappropriate and disrespectful conduct and communication of a sexual nature. Accordingly, there is hereby declared to be the following anti-sexual harassment policy and procedures:

(a) No official, elected or appointed, department head, supervisor, or other employee of the Town of Lapel shall engage in behavior which would constitute sexual harassment. Further, all department directors, managers, and supervisors are responsible for assuring that all employees, agents and contractors have knowledge of and understand that sexual harassment is against the law and shall not be tolerated.

(b) Any employee who feels that he or she has been a victim of sexual harassment shall be entitled to file a complaint alleging the same pursuant to the procedures detailed herein.

(c) Any employee who violates this law will be subject to disciplinary action pursuant to the progressive discipline policies hereinafter stated.

(d) Sexual harassment includes, but if not limited to:

(1) Unsolicited and unwelcome verbal comments or jokes and physical gestures or actions of a sexual nature toward another employee (for example: touching, patting, pinching, indecent exposure, or profane jokes);

(2) Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters;

(3) The explicit or implicit promise of preferential treatment with regards to an individual's employment in exchange for sexual favors or sexual activity;

and

(4) The use of an employee's or applicant's submission to or rejection of such conduct as the basis of an employment decision, e.g. hiring, firing, promotion, demotion, compensation, benefits, or working conditions;

### **PERSONNEL COMPLAINT PROCEDURE**

It is incumbent upon the Town of Lapel to provide a process by which an employee may seek assistance with a work-related complaint of sexual harassment. A written statement must be prepared explaining what happened. The following is the proper complaint procedure:

- (a) Discuss written complaint with the immediate supervisor, or;
- (b) Discuss the written complaint with a member or members of the Town Board; or discuss the written complaint with the town police chief; and/or discuss the written complaint with the clerk/treasurer.
- (c) Recommendations will be made by the Town Board to resolve the problem within a reasonable period of time. A final decision will be made by the Town Board and given to the employee in writing within five (5) working days of the decision.

### **DISCIPLINARY PROCEDURES FOR SEXUAL HARASSMENT COMPLAINT**

In public agencies it is imperative for employees who serve the public to follow rules and regulations on work performance and personal conduct, to work well with their fellow employees and to do all the things that contribute to their performance and reaching the goals of the Town of Lapel. So long as employee behavior is positive and supportive of organizational goals, all is well. But when employee behavior departs from the norm or the standards set by the Town of Lapel, the need for discipline action arises. Corrective discipline is based on the belief that discipline should serve to correct unsatisfactory behavior. The basic steps that reflect this principle are a written reprimand, suspension without pay, demotion, and termination. However, there are exceptions to these basic steps and they depend on the nature or severity of the infractions.

All disciplinary actions must be in writing. The original must be submitted to the immediate supervisor and a copy of the employee. A suspension, demotion or termination could not occur without the approval of the Town Board.

An employee who initiates any complaint under this procedure shall not be subject to any firing, termination, demotion, decrease in compensation, decrease in benefits, change in

working conditions, or any retribution for the submission of such complaint or written statements.

(Resolution No. 5-1994, passed 5/17/1994)(Resolution No. 10-1996, passed 8/27/96)

### **SECTION 5-3 MEDIA RELATIONS POLICY**

It is the responsibility of every Lapel town employee to help insure that accurate and appropriate information is presented to the media. Therefore, it is requested that contact with the media be approved with the Town Council before any statement is issued. This policy and resolution is solely for the purpose of making certain that there remains accurate and appropriate information conveyed to the media.

(Resolution No. 2-1994, passed 2/15/1994)

### **SECTION 5-4 SUBSTANCE ABUSE POLICY**

#### **PRE-EMPLOYMENT SUBSTANCE SCREENING**

All applicants for full and part-time positions with the Town of Lapel are required to submit to a medical examination prior to their appointment upon the request of the Town. As part of the medical examination, prospective employees will be screened for a range of chemical substances. The chemical substance shall include but not be limited to the following:

- (a) Amphetamine/Methamphetamine (e.g. Speed)
- (b) Benzodiazepines (e.g. Valium, Librium, Dalmane, Ativan)
- (c) Barbiturates (e.g. Amorbarbital, Butabarbital, Pentobarbital, Phenobarbital)
- (d) Cocaine
- (e) Methadone
- (f) Methaqualone (e.g. Quaalude)
- (g) Opiates (e.g. Codeine, Heroin, Morphine)
- (h) Phencyclidine (PCP)
- (i) THC (Marijuana and other cannabinoids)
- (j) Alcohol

All of the above-listed controlled substances are illegal under state and federal law.

At the time of the medical examination, applicants for full and part time employment will be told of the substance or controlled substance and alcohol screening and will be required to sign a consent form. Applicants who refuse to consent to substance screening or who attempt to tamper with the screening samples will not be eligible for

employment with the Town of Lapel.

An applicant whose initial substance screen shows a positive result will have the result confirmed by additional studies. If in the second screen the same sample shows a negative result, the individual will not be disqualified from employment with the Town.

If the second test confirms a positive test result, the applicant will be disqualified from consideration for employment. The applicant will be notified of the positive results from the second screening and be given the opportunity, at the applicant's expense, to have a third screen conducted on the same sample within 72 hours after the applicant is notified of the results of the second screen. If this final screen again confirms a positive test result, the prospective employee will be disqualified from employment.

All screens will be made on the same sample by a firm selected by the Town of Lapel. An applicant whose test shows positive results will have 24 hours after receiving such notification of positive test results to provide verification of a current valid prescription in the applicant's name.

## II. **EMPLOYEE RESPONSIBILITIES**

Employees who have a substance abuse problem are expected to obtain treatment and counseling through the numerous treatment agencies available.

Given the importance of maintaining the work environment without the presence of alcohol and drugs and the opportunities that employees have to address substance dependencies through treatment and counseling programs offered through the various treatment facilities, substance abuse which adversely affects job performance will not be tolerated. This applies to on duty employees as well as employees who are on call. Employees whose on or off duty use of substances impacts job performance will be appropriately disciplined including but not limited to the sanction of termination from employment.

Employee responsibilities include but are not necessarily limited to the following:

(a) An employee must not report to work or be subject to duty while his or her ability to perform job duties is impaired due to alcohol or illegal drug use, on or off duty;

(b) Employee shall not possess or use or have the odor of alcohol or illegal drugs on his or her breath during working hours, on breaks, during meal periods, while on town property in an official capacity or while operating any town property in an official capacity or while operating any town vehicle or machinery;

(c) An employee shall not directly or through a third party sell or provide illegal drugs or alcohol to any person or to any other employee while either or both

employees are on duty, or on call;

(d) An employee shall submit immediately to reasonable request for alcohol or drug analysis when requested by a superior, supervisor, department head, board member, or law enforcement officer;

(e) An employee shall notify his or her superior before beginning work, when taking any medication or drugs, prescriptions, or non-prescription which may interfere with the safe and effective performance of duties or operation of town equipment, and provide within 24 hours of request a current valid prescription for any drug medication identified when a drug screen/analysis is positive. This prescription must be in the employee=s name;

### III

#### **SUBSTANCE SCREENING OF CURRENT EMPLOYEES**

Town employees are subject to substance screening if there is a reasonable suspicion that while on duty they are impaired. Impairment is defined as being unable to perform their duties safely and completely due to the use of alcohol and/or controlled substances.

Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee=s ability to perform the function of the job is impaired or so the employee=s ability to perform this job safely is reduced. Observations which constitute a factual basis for determining reasonable suspicion may include but are not limited to the following:

- (a) Odor of alcoholic beverage upon the employee=s breath
- (b) Erratic behavior
- (c) Violent mood swings
- (d) Excessive absenteeism
- (e) Repeated tardiness
- (f) Inability to walk in straight line
- (g) Open and obvious possession of alcohol and/or illegal controlled substances
- (h) Slurred speech
- (i) An accident which is caused by the apparent action or inaction of the employee under circumstances giving rise to a reasonable interference that the accident was caused or was a result of the use of alcohol and/or illegal controlled substances.

A superior, department head, board member, or law enforcement officer, who has reasonable suspicion that an employee is impaired by alcohol or other illegal controlled substances on the job will immediately arrange for a substance screening at the expense



of the Town of Lapel. If such a screening is required after normal business hours, the Town of Lapel will make direct contact with the medical facility that has been designated to perform such screening for the Town. Employees who are scheduled for the substance screening must be transported to the designated medical facility by the Town of Lapel. The testing for substances will be made on a sample provided at the clinic. The procedures for such sample collection and testing will be made based upon the medically accepted procedure developed by the chosen medical facility and in order to insure results of tests, no less than a highly sensitive methodology shall be utilized. Such testing shall be based on medically acceptable testing procedures and shall include, but not necessarily be limited, primarily to test utilizing enzyme amino acid techniques followed by more specific confirmation testing as gas chromatography (GC) or gas chromatography/mass spectrophotometry (GCMS) or other highly sophisticated methods which are acceptable by the medical facility and/or the courts. After the sample is given as outlined above, the Town of Lapel will see to it that the employee is safely transported home. In addition for alcohol testing and testing the facilities at the Lapel Police Department, Madison County Detention Center and Indiana State Police Post, and the use of the intoxilizer 5000 shall be sufficient determination for blood alcohol content provided statutorily approved procedures are followed.

At the testing as outlined above, if the sample provides a negative result, the conclusion will be that the sample contains no alcohol and/or controlled substance. However, if the first screen shows a positive result, and a second screen using a more sophisticated testing technique shows a positive result, then the employee will be assumed to be under the influence of alcohol and/or illegal controlled substances. An employee whose test shows a positive result will have 24 hours after receiving notification of the positive result to provide a bona fide and verified current valid prescription which may have caused the positive result. The prescription must be in the employee=s name.

An employee who does not present himself or herself for testing within one (1) hour after testing is requested as outlined above shall have been deemed to have submitted a positive test.

The discipline for being under the influence of alcohol and/or non-prescribed controlled substances will be the basis for the appropriate employee sanctions including the sanction of termination. The determination will be made based on the basis of the employee=s prior work-related history, previous disciplinary actions, and the prior identification of substance abuse problems. An employee who receives a positive result in substance abuse screening will receive a minimum three (3) days suspension without pay. In addition to the minimum three (3) day suspension, the employee will not be permitted to return to work until the employee obtains, at employee=s expense, a negative test result from a recognized testing facility. The employee will not be compensated for the period of suspension necessary to obtain the above-described negative test result.

Employees who refuse to submit to the substance screening when reasonable suspicion or substance abuse has been identified will be disciplined as outlined above.

#### IV

#### **CONSEQUENCE OF SALE, DISTRIBUTION, OR USE OF ILLEGAL SUBSTANCES**

The sale, distribution , and/or use of illegal substances by an employee, while on duty or during lunch and other breaks or at any time while he or she is on the town=s work site or on the town=s working time, constitutes cause for dismissal. Appropriate law enforcement agencies will be notified of any such sale, distribution, and/or use of illegal substance by employees.

#### V

#### **USE OF MEDICATION PRESCRIPTION DRUGS**

All employees who are using prescription or non-prescription drugs which may in any way impact their job performance must notify their superior. That superior, town board member, or town police officer may require a doctor=s statement if the employee indicates that there is a need to use the prescription drug on extended period of time.

#### VI

#### **CONFIDENTIALLY**

The confidentiality of laboratory reports and test results shall appear in an employee=s confidential file. Reports or test results may be disclosed to the Town Board of Lapel on a strictly need-to-know basis. Disclosures without employee consent may also occur when (1) the information is compelled by law or by judicial administrative process, (2) the information has been placed at issue and there is a formal dispute between the employer and employee, (3) the information is to be used in administering any employee benefit plan, (4) the information is needed by medical personnel.

#### VII

#### **SEVERABILITY**

The provisions of the policy are severable and if any of its resolutions shall be held unconstitutional or otherwise invalid by any court with competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (Resolution 12-1995, passed 10/24/95) Amended 3/18/97(Resolution 1-1998, passed 1/20/98.)

**CHAPTER 6**

**CABLE TELEVISION/TRANSIENT MERCHANTS**

## **SECTION 6-1 CABLE TELEVISION REGULATIONS:**

(a) Definitions. For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) ACT shall mean the Federal Communication Act of 1934, as amended.

(2) ANNUAL GROSS SERVICE RECEIPTS shall mean the total amount of money received during the applicable calendar fees from the sale of those services on the cable system. Gross basic service tier and its cable programming service tier, currently known as "Expanded Basic" service receipts do not include the receipts from Franchise Fees or other telecommunication services.

(3). CABLE SERVICE shall mean the one-way transmission to subscribers of i) video programming, or ii) other programming service, and subscriber interaction, if any which is required for the selection or use of such video programming or other programming service.

(4) CABLE SYSTEM shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not included (A) a facility that services only to retransmit the television signals of 1 or more television broadcast stations; (B) a facility that serves subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Act, except that such facility shall be considered a cable system (other than for purposes of Section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with Section 653 of the Title VI of the Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

(5) COMPANY is any grantee of the rights under this Ordinance and means LongView Cable & Data, LLC or the corporation to be formed by LongView Cable & Data, LLC for the purpose of succeeding to the rights under this Ordinance.

(6) FEDERAL COMMUNICATIONS COMMISSION or FCC shall mean

that Federal Agency constituted by the Communication Act of 1934, as amended.

(7) FRANCHISE shall mean any authorization granted herein to construct, operate and maintain the Cable System.

(8) PERSON is any person, firm, partnership, association, corporation or organization of any kind.

(9) SHALL is mandatory language and MAY is permissive.

(10) SUBSCRIBER shall mean any person who receives any service delivered by the Cable System.

(11) TOWN shall mean the Town of Lapel located in Madison County, Indiana, the Grantor or Rights under this Regulatory Ordinance.

(12) TOWN BOARD is Common Town Board of the Town of Lapel.

(13) USER OF CABLE SYSTEM shall mean a person who utilized the Cable System to produce or to transmit programs or other communications to Subscribers.

(b) Grant of Authority. In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the right is hereby granted by the Town to the Company and its successors and assigns the nonexclusive right to construct, maintain and operate a cable television system including other telecommunication service (ACable System®) in the Town, all in accordance with the laws and regulations of the United States of America, the State of Indiana, and the ordinances and regulations of the Town of Lapel. For this purpose the Town hereby grants to the Company a non-exclusive Franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above, over the under the public highways, streets, alleys, sidewalks, and public rights-of-ways now laid out or dedicated, and all extensions thereof and additions thereto in the Town which are within the area to be served by the Cable System and which have been dedicated for compatible uses, such poles, wires, cable, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the Town of a Cable System for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various telecommunications and other electronic and information services to the public. The right so granted includes the right to use and occupy the public streets, alleys, and public rights-of ways and all manner of easements which have been dedicated for compatible uses, for the purposes herein set forth.

(c) Pole Use. Where the use of poles owned by public utilities is not practicable or satisfactory, and rental agreements cannot be entered into with said public utilities, the Company shall have the right to erect and maintain its own poles, as such may be necessary for the proper construction and maintenance of the television distribution system; provided, however, that the Company shall obtain prior approval from the Town, which such approval shall not be unreasonably withheld, as to the necessity for and location of any new poles to be erected.

Nothing in this subsection shall preclude the Company from contracting with the Town or other utility now or hereafter having pole lines in the Town to provide and maintain the transmission system of the Company.

(d) Installation and Maintenance of Attachments. The Company shall, at its own expense, make and maintain its attachments in safe conditions and in good repair, and in a manner suitable to the utility companies and the Town.

In the maintenance and operation of its Cable System in the streets, alleys and other public places, and in the course of any new construction or additions to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public. Any streets, alleys, sidewalks, or other public places disturbed or damaged in the construction or maintenance of the Cable System shall be promptly repaired to the reasonable satisfaction of the Town by and at the expense of the Company.

(e) Pole Erection and Construction. The Company's transmission and distribution system poles, wires and appurtenances thereon, shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or interfere with new improvements the Town may deem proper to make, or hinder unnecessarily or obstruct the free use of streets, alleys, bridges or other public property. Removal of poles or rearrangement of its facilities to avoid such interference will be at the Company's expense.

(f) Specifications. The Company's poles, cables, wires and appliances, in each and every location, shall be erected and maintained in accordance with (1) such requirements and specifications as the Town shall from time to time prescribe, for all users of the public rights of way (2) requirements and specifications of the National Electrical Safety Code and the National Board of Fire Underwriters, (3) any amendments or revisions of said code or practices and (4) in compliance with any rules or orders now in effect or that may be hereafter be issued by any regulatory agency or other authority having jurisdiction in the State of Indiana.

All installation of equipment shall be of a permanent nature and in accordance with good engineering practice. The Company's service drops shall be installed in a

neat and workmanlike manner, including the house attachments, so as to maximize the best overall appearance of power, telephone and Cable System drops through the air and attached to the buildings. Cable System service drops are to be installed where practicable from the cable away from a pole so as to preserve climbing space on the pole.

In the event a customer discontinues cable service and requests removal of the Company's service drop, such removal shall be accomplished in a neat and workmanlike manner at the Company's expense.

The Company shall grant to the Town, at then market rates, joint use of any and all poles owned by it for any proper municipal purpose acceptable with the Company, insofar as such use may be accomplished without interfering with the free use and enjoyment of the Company's own wires and fixtures; and the Town shall hold the Company harmless from any and all actions, causes of actions or damage by replacing of the Town's wires or appurtenances upon poles of the Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of construction. Any such joint use shall be subject to the terms of a mutually agreeable pole attachment license agreement.

(g) Relocation of Facilities. In the event that at any time during the period of the Ordinance, the Town shall elect to alter or change the grade of any streets, alleys or other public ways, the Company, upon reasonable notice by the Town, shall remove, release and relocate its poles, wires, cables, underground conduits, manholes and other fixtures. Notice to the Company shall be consistent with that notice provided by the Town to the local area utilities.

(h) Tree Trimming. The Company shall have the authority and is hereby required to trim trees (located on public property) upon and overhanging streets, alleys, sidewalks and public places of the Town to prevent the branches of such trees from coming in contact with the wires, cables and distribution system components of the Company, all trimming to be done at the sole expense of the Company.

(i) Damages. The Company shall exercise special precaution to avoid damage to facilities of the Town and of other supported on said poles; and hereby assumes all responsibility for and agrees to indemnify the Town from and against all loss or damage, or claim therefore, resulting from the attachment to such poles of the Company's facilities and from any and all acts or omissions of the Company in connection therewith. The Company shall make an immediate report to the Town of the occurrence of any loss or damage and hereby agrees to pay the cost incurred in making repairs to such facilities of the Town or others.

(j) Insurance. The Company shall indemnify, protect and save harmless the Town from and against losses and physical damage to property, and bodily injury or

death to persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the erection, maintenance, presence, use or removal of all Cable System equipment of any kind or nature whatsoever within the Town, or by any act of the Company, its agents or employees, or in any way arising out of the granting of this franchise. The Company shall carry insurance to protect itself, the utility companies and the town from and against all claims, demands, actions, judgments, costs, expenses, and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Such insurance policy shall specifically provide that the Town shall be named as Additional insured. The amounts of such insurance against liability due to physical damage to property shall be not less than Fifty Thousand Dollars (\$50,000.00) as to any one claim and not less than Two Hundred Thousand Dollars (\$200,000.00) aggregate in any single policy year; and against liability due to bodily injury or to death of persons, not less than One hundred Thousand Dollars (\$100,000.00) as to any one person, and not less than Three Hundred Thousand Dollars (\$300,000.00) as to all such claims arising from any one accident. The Company shall also carry such insurance as it deems necessary to protect it, and the Town from all claims under any workmen's compensation law in effect that may be applicable to the Company. All insurance required by this ordinance shall be and remain in full force and effect for the entire period of this Ordinance. The policies of insurance, or a certified copy or copies thereof, or a certificate of insurance shall be deposited with and kept on file by the Town Clerk of the Town.

(k) Minimum CATV System Service. Subject to and in accordance with the rules and regulations of the Federal Communications Commission, the Company's cable television system shall have at a minimum the capacity to carry a combination of 150 analog/digital channels. Company agrees to make available on the cable television system the high speed Internet access service and digital video service it may elect to offer during the term hereof, if any.

(l) Customer Service. Excluding conditions beyond the control of the Company, the Company will begin working on "service interruptions" promptly and in no event later than 24 business hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

The "appointment window" alternative for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The Company may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.) Company may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.



If a Company representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(m) Rates.

(1) The Company agrees that all rates charged to subscribers to its Cable System Service shall be standard, uniform and reasonable. A copy of the Company's schedule of charges for installation and furnishing of service shall be filed with the Town Clerk not less than thirty (30) days prior to the effective date of such charges.

(2) Upon the date of full execution of this Ordinance, a rate freeze will be implemented for a twelve (12) month period.

(n) Unauthorized Use of Service. Persons receiving Cable System service may not alter, extend or otherwise tamper with the Company's facilities to serve more equipment than being contracted for.

(o) Police Power. The Company shall at all times during the life of this permit be subject to all lawful exercise of the police power of the Town and to such reasonable regulation as the Town shall hereafter by resolution or ordinance provide.

(p) Service Area. The Grantee of any Franchise hereunder shall offer Cable Service to all potential residential subscribers upon request located within one hundred fifty (150) feet of Company's feeder cable where there exists a minimum density of thirty-five (35) single family homes per mile (excluding homes receiving competitor's services(s)). The Company may elect, but has no obligation, to offer Cable Service to areas not meeting the above standard.

(q) Service to Town Buildings and schools. The Company agrees to and shall furnish, without installation charge or monthly service fee, one (1) free expanded basic and high speed Internet connection to the Lapel Town Hall, the Lapel Fire Department and the Lapel Police Department, to any other Town building or buildings designated by the Town Council including the Town's library, and to all public, parochial, elementary, and secondary schools located within the Lapel School District. If the public building is within 300 feet of the Company's cable television system, there shall be no costs of installation to the public building. If the Company's cable television system is in excess of 300 feet from any such designated building, the cost to extend the cable or wire more than 300 feet to the designated building shall be paid by the owner of the designated building if they desire service.

(r) Payment. In consideration of the rights, privileges and permit hereby granted in compensation to the Town for the use of its public places, Company agrees to pay to the Town on later than March 1, for the preceding calendar year, three percent (3%) of the annual gross service receipts from the sale of its basic service tier and its cable programming service tier, currently known as "Expanded Basic" service, of the cable television system.

The term "annual gross basic service receipts" shall mean the total amount of money received during the applicable calendar year by the Company from its subscribers as monthly service fees for its basic tier and cable programming service tier, currently known as "Expanded Basic."

The Company shall file with the Town an annual report of all "Expanded Basic" service revenues with the Town at the time of making the annual compensation payment. The Town may at any reasonable time during normal business hours, and upon prior written reasonable notice, have access to the Company's books and records relating to its basic and "Expanded" service receipts in the Town for Audit purposes. The Town may audit such books and records no more than once annually for the three preceding calendar years.

LongView Cable & Data, LLC agrees to pay the Town of Lapel \$1200 per year for tower rent.

(s) Purpose of Payment. The payments provided for this Ordinance to be made to the Town are in payment by the Company to the Town for the use of the streets and alleys, and additional supervision, maintenance, inspection, regulation, burdens and costs to the Town occasioned by reason of the granting of the rights hereunder.

(t) Underground Facilities. The Company at its own expense shall place its facilities underground in those areas of the Town where all of the utilities are underground.

(u) Approval of Construction. Wherever this Ordinance provision is made for approval of the Company's construction of facilities, such approval shall not be unreasonably withheld and shall be given by the person designated by the Town Board.

(v) Complaint Procedures. The Company shall maintain a local, toll-free or collect call telephone access line which will be available to the citizens of the Town 24 hours per day, 7 days per week for the purpose of receiving subscriber complaints expeditiously and normally within 48 hours. The Town Board may appoint a commission or may designate any officer of the Town with the responsibility of monitoring the Company's operations and in cases where reasonable customer complaints are unsatisfied by the Company's response to the complaints, such

commission or person shall work cooperatively with the Company to address any customer concerns. Upon written request from the Town Board, Company agrees to have a representative attend the Town Board meet to discuss any relevant cable issues.

(w) Service and System Maintenance. The Company shall, at its own expense, at all times maintain and furnish telephone answering service and system maintenance service to subscribers to insure system operation twenty-four (24) hours a day, seven (7) days a week. The Company, in addition to having its telephone listed in the local telephone directory, shall advise each of its subscribers in writing of such telephone number.

(x) Compliance with State and Federal Law.

(1) The Company shall conform to all laws, rules and regulations of the United States and the State of Indiana in the construction and operation of its Cable System; and all rules and regulations of the Federal Communications Commission relating to cable television franchises, as now enacted or subsequently amended, are incorporated herein by reference. The Company shall take such additional action as is necessary to incorporate formally in the terms of this franchise any modifications required by amendments of applicable federal and state laws, rules and regulations governing the contents of cable television franchises within one (1) year of their adoption.

(2) This Ordinance is in full compliance with the rules and regulations of the FCC relating to cable television franchises as now enacted.

(3) Nothing herein shall be construed to prohibit the Company from requesting a waiver of any state or federal rule or regulation, provided that a copy of such request shall be served upon the Town.

(y) Effective Date. This Ordinance shall take effect and be in force, after its passage by the Town Board of Lapel.

(z) Transfer of Franchise. The franchise and rights granted herein shall be in a privilege to be held in personal trust by the Company (i.e., LongView Cable & Data, LLC or the corporation or limited partnership to be formed by LongView Cable & Data, LLC to succeed to the franchise and rights granted herein) and shall not be assigned, transferred, sold or disposed of, without the prior consent of the Town Board expressed by resolution. Such consent shall not be unreasonably withheld provided that the proposed assignee agrees to comply with all the provisions of this Ordinance and is able to provide proof of financial responsibility and other qualifications satisfactory to the Town Board consistent with the rules of the FCC governing transfers. No consent by the Board shall be required for a transfer in trust, mortgage or other instrument of

hypothecation to secure an indebtedness of the Company, or to an assignment by the Company of this Franchise and Company's rights hereunder to any entity controlling, controlled by or under common control with the Company, or to any successor owner of the Cable System. The consent of the Town Board to any sale or other transfer shall not constitute a waiver or release of any of the rights of the Town under this Ordinance.

(aa) Term of Franchise. The Franchise granted the Company herein, shall terminate fifteen (15) years from its effective date. The Company shall have the right to be a party to any proceedings in which its rights, privileges, or interests would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules or regulations. .

(bb) Final Termination of the Franchise. Upon final termination of the franchise, the Company shall remove its cables, wires and equipment from all poles of the Town and all space reserved for the Town's use on poles belonging to others. If not so removed, the Town shall have the right to remove or have its contractor remove them at the risk, cost and expense of the Company and without any liability therefore.

(cc) Penalties. Any violation by the Company, its vendee, lessee or successor, of the material provisions of this Franchise shall be cause for the forfeiture of this Franchise and all rights thereunder, provided that the Town shall first notify the Company in writing of the condition or act on which the violation is charged and the Company shall have thirty (30) days within which to remedy such condition or act; and provided further, that should it be impossible to correct the said violation within thirty (30) days, then the Company shall have a reasonable time to make said corrections. LongView Cable & Data, LLC agrees to notify the Town of Lapel in writing if a violation cannot be rectified within 30 days will advise the town in writing when the violation will be corrected. Failure to pay all monies due from the Company to the Town hereunder after thirty (30) days' written notice by the Town to the Company shall be grounds for revocation of Franchise. .

(dd) General Terms. Failure to enforce or insist upon compliance with any of the terms or conditions of this Ordinance shall not constitute a waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

If any section, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional, such validity shall not affect the validity of the Ordinance and any portions in conflict are hereby repealed.

(ee) Notices. Notices under this Ordinance except as otherwise indicated shall be addressed to the Company by addressing the same to:

[illegible]

and for the Town to:

Town Clerk, Lapel  
Lapel Town Hall  
P.O. Box 999  
Lapel, Indiana 46051

('82 Code, Ord. No. 9-1982, passed 12/22/82)  
(Amended by Ord. No. 2-1987, 6/22/1987) Sale of Franchise to Belisle Communications, Inc., a Delaware Corporation)(Ordinance No. 1-1998, passed 7/16/98) Phoenix Concept Cablevision of Indiana, L.L.C. (Ord. No. 5-04, passed 7/1/2004) LongView Cable & Data, LLC.  
Ord 3-1-2004 – May 6      IC 35-43-5-6

## SECTION 6-2 LICENSES AND TAXES

## SECTION 6-3 TRANSIENT MERCHANTS:

(a) The Town may tax, license, and regulate transient merchants and charge a fee for the transaction of business in the Town and provide for the punishment of violators.

(b) Any transient merchant desiring to engage in, or transacting business in the Town shall file his or her application for a license with the Clerk-Treasurer. The application shall state his or her name, proposed place of business, the kind of business proposed to be conducted and the length of time for which he or she desires to do business, and such other information deemed necessary by the Clerk-Treasurer. The transient merchant shall pay to the Clerk-Treasurer a license fee of Seven Dollars and Fifty Cents (\$7.50) per day for the first ten (10) days, or any part thereof for which application is made, and Three Dollars (\$3.00) per day for each day thereafter. Upon payment of the license fee the transient merchant shall be issued a license to do business at the place described in the application, in the kind of business described therein, for the length of time for which the payment was made to the Clerk-Treasurer. No license shall be good for more than one (1) person, unless such persons are co-partners, nor for more than one (1) place of business.

(c) No transient merchant shall conduct business or attempt to conduct business on any property where a notice reading "no solicitors" or words to that effect is posted.

(d) No transient merchant shall conduct business except during daylight hours.

(e) Any person, either as principal or agent, who engages in any business as a transient merchant without first having obtained a license or who conducts any sale, or sells or exposes for sale, any goods, ware and merchandise contrary to the provision of this section, or advertises, represents or holds forth any sale of goods, wares or merchandise to be conducted contrary to the provisions of this section, shall be fined an amount not to exceed Fifty Dollars (\$50.00) and not less than Three Dollars (\$3.00). ('82 Code, Ord. No. 9-1982, passed 12/22/82)

Transient Merchant Law of Indiana AC 25-37-1

**CHAPTER 7**  
**COURTS AND COURT OFFICERS**

**SECTION 7-1      LOCAL ORDINANCE AND VIOLATION BUREAU  
ESTABLISHMENT AUTHORIZED:**

(a)      An Ordinance Violation Bureau for the Town is established for the purpose of accepting voluntary admissions of ordinance violations of the Town of Lapel, Indiana, where a fine of not more than twenty-five (\$25.00) Dollars be imposed.

(b)      An Ordinance Violation Clerk is established in order to receipt payment of said fines paid to the Ordinance Violation Bureau herein established and that the Clerk-Treasurer of the Town of Lapel, Indiana, is hereby appointed and declared as the said Ordinance Violation Clerk.

(Ord. No. 3-1988, passed 11/9/88)



## **CHAPTER 8**

### **HAZARDOUS MATERIALS**

## **SECTION 8-1      REMOVAL OF WEEDS AND RANK VEGETATION**

The Town of Lapel desires to require the owners of real property in the Town limits of Town of Lapel to maintain their lots by mowing noxious weeds and other vegetation; and Whereas, Indiana Code 36-7-10.1 has set forth requirements regarding ordinances for the mowing of weed and other vegetation and the method for collecting unpaid bills incurred by the Town and Town desires to comply fully with these statutory provisions.

(a)      Owners required to cut:

(1)      Owners of real property located within the corporate limits of the Town of Lapel, Indiana, shall cut and remove weeds and other rank vegetation growing on such property unless such vegetation is part of an established agricultural enterprise and is currently being used for pasture or for production of hay.

(2)      The Lapel Town Council through the Clerk/Treasurer shall be responsible for the administration of this ordinance.

(3)      “Weeds” subject to removal under this ordinance shall be those weeds or grasses which are one (1) foot or longer in length and “other rank vegetation” subject to removal under this ordinance shall be vegetation growing in excessive luxuriance and vigor which is at least one (1) foot in length or more. For the purpose of this ordinance, the term “length” and height” shall be synonymous. A weed or piece of vegetation if standing in one (1) foot or greater in height and same bend or falls over, such that its length continues to be equal to one (10) foot in length or more, is in violation of the terms of this ordinance.

(4)      Any property owner who fails to remove weeds and other rank vegetation as defined in Section A (3) shall be deemed in violation of Section A (1). Notice of violation by the Town Clerk/Treasurer shall be made by First Class U.S. Postal Service to the property owner’s address shown on records of the Madison County Treasurer. One letter within a calendar year shall be deemed sufficient notice for each and every lot, parcel and lands owned by the offender within the corporate limits of the Town in case of the party’s failure to comply with the terms of Section A (1). The Town shall have the right to cut and remove weeds and rank vegetation upon the property owner’s failure to do so within seven (7) days after mailing the notice of violation.

(5)      The Town Clerk/Treasurer shall issue a bill to the property owner at the address shown on the records of the Madison County Treasurer, which bill shall include the administrative costs of \$20.00 plus the actual removal costs incurred by the Town either by using its own employees or an independent contractor. The actual removal costs shall be no less than \$100.00 and shall be shown by the records of

the Town Clerk/Treasurer.

(6) In the event the property owner disputes a notice of violation under Section A (4) or a bill issued under Section A (5), such property owner may file a written appeal with the Town Clerk/Treasurer for rescission or adjustment of such notices or bill within fourteen (14) days after the date of such notice or bill. Should the property owner fail to so appeal in writing within (14) days, said notice and /or billing shall be deemed final and no further appeal shall be permitted.

(7) If the property owner fails to pay a bill under Section A (5) within thirty (30) days, the Town Clerk/Treasurer shall certify to the Madison County Auditor the amount of the bill plus the administrative cost of \$20.00 incurred in the certification. The Madison County Auditor shall place the total amount certified on the tax duplicate for the party affected. The total amount including any accrued interest shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the Town of Lapel as provided in I.C. 36-7-10.1-4.

REPEALER All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

EFFECTIVE DATE this ordinance shall become effective immediately upon passage and publication as provided by law.

(Ord. No. 1-1988, passed 7/13/88, repealed), Ord. No. 7-2006, passed 4/6/2006.

## **SECTION 8-2 WASTE DISPOSAL REGULATION:**

(a) For the purposes of this section, the following terms and words have the meanings stated below unless those meanings are inconsistent with the context of their use.

(1) "Garbage" means putrescible wastes resulting from the consumption, cooking, growing, handling, preparation or storage of food.

(2) "Hazardous material" means explosives, pathological wastes, and radioactive chemicals and materials, but is not limited to those items.

(3) "Person" means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any other entity recognized as a person by law.

(4) "Refuse" means all putrescible and non-putrescible solid wastes and includes ashes, dead animals, construction and industrial ashes, rubbish, and street sweepings.

(5) "Rubbish" means all non-putrescible wastes, including ashes, boxes, broken glass, cans, crockery, dirt, grass, metalware, sweepings, weeds, wood, or litter of any kind.

(b) No person shall allow any garbage, hazardous material, refuse or rubbish to accumulate upon any premises within the Town or upon or along the sidewalks, gutters, alleys, or streets immediately abutting any premises.

(c) The owner, occupant or lessee of property within the Town shall dispose of the materials listed in (a) and not to permit the accumulation of such materials.

(d) The superintendent of utilities shall inspect, from time to time, the various lots, parts of lots and parcels of land lying within the Town and the adjacent and abutting alleys, public ways and gutters. If he or she shall find that material has accumulated in violation of this section, then notice of that fact shall be given to the owners, occupants or lessees of such property. These persons shall immediately remove and dispose of the accumulated material.

(e) Any person who violates any provision of this section shall be fined not less than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00). ('82 Code, Ord. No. 9-1982, passed 12/22/82)

(f) The monthly charge for trash disposal and curbside recycling shall be assessed against each business and residential utility customer receiving service, in the amount of \$8.91 per month, to replace the current \$6.25 per month fee per utility customer. (Ord. 7-1997, passed 12/17/96)

## OUTSIDE STORAGE

That on any lot which contains any type of residential or business use, trash, garbage, scrap metal, or waste, shall not be kept or stored outside of an enclosed building. The term "waste" shall include but not be limited to: all discarded household furniture, appliances, building materials, tools, toys, automotive and other mechanical parts, and other household fixtures and equipment or parts thereof which are not in use within the subject's premises. Storage of such items shall be restricted to the area within the principal residential or business building or to an enclosed accessory building such as

garage, shed, or storage building. Exterior storage of such items is forbidden.

Outdoor storage of items not enumerated in the above paragraph, at the location of any type of residential or business use, must be obscured from view by fencing of new materials, screen, or landscaping which obscures the view at all items. The height of the materials stored shall not exceed the height of the fencing of new materials, screening, or landscaping described above. Outdoor storage shall not be permitted in the required front yard, set-back area, or permitted closer to the right-of-way than the front plane of the building nearest the front lot line whichever is the farthest from the right-of-way line.

All commercial dumpsters and similar trash and waste disposal containers shall be screened from public view and adjoining properties by fencing constructed of new materials, screening, or landscaping which is effective in blocking the view at all times.

If a wall surrounding such a dumpster or similar trash and waste disposal container is attached to the principal structure, it shall be constructed of the same building materials and in the same architectural style as the principal structure. No more than one side of the surrounding wall shall be left open. Any fence or wall required shall have a maximum height so that the container stored shall not exceed the eight by the fence, screening, landscaping, or structure.

Any person who violates the provisions of this section shall be fined not less than \$5.00 per day, nor more than \$10.00 per day, up to a total of \$5,000.00.  
(Ord.10-2001,passed 10/18/2001)

**CHAPTER 9**  
**PUBLIC SAFETY**

## **SECTION 9-1      OPEN BURNING RESTRICTIONS:**

"WHEREAS, the Town Council of the Town of Lapel, Indiana, feels it to be in the best interest of the Town of Lapel and the citizens thereof for the Town Council to adopt in its entirety Article 4, Rule 1 of 326 IA. 5-1-1 et seq restricting open burning inside the corporate limits of the Town of Lapel, Indiana."

The provisions of this chapter shall apply to the control of all burning within the Town Limits, as the limits now exist or may here after be established.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAPEL, INDIANA, THAT:

Section 1. Article 4, Rule 1, Burning Regulations of the Air Pollution Control Board of the State of Indiana cited in the Indiana Administrative Code as 326 IA. 5-1-1 et seq, is hereby adopted in its entirety as follows:

### **326 IA. 5-1-1 Scope of Rule**

Section. 1. The requirements of this rule (326 IA. 5-1) establish standards for the open burning of material which would result in emissions of regulated pollutants. This rule (326 IA. 5-1) applies everywhere in the state, except in areas where acts permitted by 326 IA. 5-1-3 or authorized by variance pursuant to 326 IA. 5-1-4 are prohibited by other state or local laws, regulations or ordinances. (Air Pollution Control Board; 326 IA. 5-1-1; filed Mar. 10, 1988, 1:20 p.m.; 11 IR 2419)

### **326 IA. 5-1-2 Prohibition against open burning**

Section 2. No person shall open burn any material except as provided in section 3,4, or 6 of this rule (Air Pollution Control Board; 326 IA. 5-1-2; filed March 10, 1988, 1:20 p.m.; 11 IR 2419; filed Jan. 6, 1989, 3:30 p.m.; 12 IR 1126)

### **326 IA. 5-1-3 Exemptions**

Section 3. (a) The following types of fires are permitted:

- (1) Fires celebrating Twelfth Night Ceremonies.
- (2) Fires celebrating school pep rallies.
- (3) Fires celebrating scouting activities.
- (4) Fires used for recreational and cooking purposes, i.e., camp

fires.

(5) Only agricultural zoned property is allowed to burn wood products derived from the following farm maintenance operations:

(a) Burning of fence rows and fields or materials derived therefrom.

(b) Burning of natural growth derived from clearing a drainage ditch.

(c) Burning of limbs and prunings, but only if so diseased or infected as to present a contamination problem

(7) Waste oil burning: where the waste oil has been collected in a properly constructed and located pit as prescribed in 310 IA. 7-1-37(A) of the Division of Oil and Gas, Department of Natural Resources. Each oil pit may be burned once every two (2) months and all the oil must be completely burned within thirty (30) minutes after ignition.

(8) Department of Natural Resources burning: in order to facilitate "prescribed" burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, and natural area management.

(9) United States Department of the Interior burning: in order to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore.

(b) All exemptions under subsection (a) of this section shall be subject to the following:

(1) Only wood products shall be burned unless otherwise stated above.

(2) Fires shall be attended at all times until completely extinguished.

(3) If fires create an (SIC) nuisance or a fire hazard, they shall be extinguished.

(4) All residential, farm and waste oil burning shall occur during daylight hours during which the fires may be replenished, but only in a manner that nearly all of the burning material is consumed by sunset.



(5) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.

(6) All leaf burning is prohibited.

(Air Pollution Control Board; 326 IA. 5-1-3; filed March 10, 1988, 1:20 p.m.: 11 AR 2419

Cited in: 326 IA. 5-1-1; 326 IA. 5-1-2; 326 IA. 5-1-4.

#### 326 IA. 5-1-4 Variances

Section 4 (a) Burning with prior approval of the Fire Chief or the Chief's designated agent may be authorized for the following:

(1) Emergency burning of spilled petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire hazard or water pollution problem.

(2) Burning of refuse consisting of material resulting from a natural disaster.

(3) Burning for the purpose of fire training.

(4) Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of the land.

(5) Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is impossible.

(b) Burning not exempted by 326 IA. 5-1-3 may be permitted with prior receipt of a variance application and approval of the commissioner or the commissioner's designated agent. (Air Pollution Control Board; 326 IA. 5-1-4; filed Mar. 10, 1988, 1:20 p.m.: 11 IR 2420). Cited in: 326 IA. 5-1-1; 326 IA. 5-1-2. (Air Pollution Board: 326 AIC 5-1-8; files Jan. 6, 1989, 3:30 p.m.: 12 IR 1127).

#### 326 IA. 5-1-5 Liability for fire.

Section 5. Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing air pollution may not refute liability for violation of this rule (236 IA. 5-1) on the basis that said fire was set by

vandals, accidental, or an act of God. (Air Pollution Control Board; 326 IA. 5-1-5; files March 10, 1988, 1:20 p.m.: 11 IR 2420).

#### 326 IA. 5-1-6 Air curtain destructors; approval; fee

Section 6 (a) An owner or operator of an air curtain destructor shall submit an application to the department to obtain a letter of approval from the commissioner prior to its installation or operation at a new site. The owner or operator shall not operate the air curtain destructor site at all times for verification by the department.

(b) Upon application for a letter of approval, an owner or operator shall pay a fee of fifty dollars (\$50.00) to the department. Fees paid by mail shall be paid by check or money order and shall be made out to: Indiana Department of Environmental Management. (Air Pollution Control Board; 326 IA. 5-1-6: filed Jan. 6, 1989, 3:30 p.m.: 12 IR 1126) Cited in: 326 IA. 5-1-2.

#### 326 IA. 5-1-7 Air curtain destructors; approval conditions.

Section 7 (a) In order to obtain an air curtain destructor letter of approval, the owner or operator shall ensure that installation and operation of such air curtain destructor will comply with subdivisions (1) through (10) as follows. Burning shall be terminated immediately at any air curtain destructor site which does not comply with this section.

(1) Only wood products shall be burned, except for minimal amounts of uncontaminated petroleum products which may be used for ignition. Merchantable wood products shall not be burned.

(2) Burning shall not be conducted during unfavorable meteorological conditions such as high winds or air stagnation.

(3) The air curtain destructor shall not be operated prior to one (1) hour after sunrise and combustion shall be complete by sunset.

(4) An air curtain destructor site shall be located no less than five hundred (500) feet from any private residence, public roadway, power line, pipeline, fuel storage area or business.

(5) An air curtain destructor site shall not be located at a landfill or transfer station as defined in 329 IA. 1.5.

(6) An air curtain destructor shall not be permanently located at any site.

(7) An air curtain destructor shall be attended at all times while burning and until combustion is complete. Adequate firefighting equipment shall be maintained at an air curtain destructor site at all times during operation.

(8) Burning shall not create or contribute to an air pollution problem, a nuisance or a fire hazard.

(9) An air curtain destructor shall be maintained and operated according to the manufacturer's recommendations.

(10) The owner or operator shall provide notification in advance to the local fire department and the local health department of the dates and times that the air curtain destructor will be in operation.

(b) An air curtain destructor letter of approval shall be valid for no longer than one (1) year.

(c) The commissioner may add conditions to an air curtain destructor letter of approval as necessary to prevent a public nuisance or protect the public health. (Air Pollution control Board; 326 IA. 5-1-7; filed Jan. 6, 1989, 3:30 p.m.; 12 IR 1127). Cited in: 326 IA. 5-1-8.

#### 326 IA. 5-1-8 Air curtain destructors; approval revocation

Section 8. The commissioner may, upon good cause, revoke an air curtain destructor letter of approval if the owner or operator:

(1) violates any requirement of section 7(a)(1) through 7(a)(10) of this rule;

(2) violates any condition added to the letter of approval under section 7(c) of this rule;

(3) violates any other state or local rule or ordinance pertaining to the installation or operation of air curtain destructors;

(4) falsifies information on an application for a letter of approval;  
or

(5) operates an air curtain destructor in a manner which is hazardous to the public health.

(Air Pollution Board; 326 IA. 5-1-8; filed Jan. 6, 1989, 3:30 p.m.: 12 IR 1127)

Section 2. Such burning as is permissible by this Ordinance and state regulations shall be done only within the hours of 9:00 a.m. to 5:00 p.m. each day.

Section 3. When the Town Marshall or his deputies has reason to believe that a person(s) may be in violation of this Ordinance he may issue a citation to such person(s) for such violation.

Section 4. Whoever violates any of the provisions of this Ordinance shall be fined not less than fifty (\$50.00) dollars no more than five hundred (\$500.00) dollars payable through the Ordinance Violation Bureau of the Town of Lapel, Indiana.

Each day's violation shall constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person(s) shall continue or permit any such violation to exist.

Section 5. All persons owning, operating or in charge or control of any equipment or premises who shall cause, suffer, allow, permit or participate in any violation of this Ordinance shall be individually and collectively liable for any penalties imposed by this Ordinance. This liability shall include any person(s) who shall refuse to comply with or who shall assist in violation of any provisions of this Ordinance. (Ord. No. 5-1999, Amendment passed 2/18/1999.)

## SECTION 9-2 NOISE CONTROL ORDINANCE

“WHEREAS, the Town Council of Lapel, Madison County, Indiana, feels it in the best interest of the Town of Lapel and the citizens thereof for the Town Council to adopt a noise control ordinance.

NOW, THEREFORE, be it ordained by the town council of the Town of Lapel, Indiana, that:

Section 1 The provisions of this chapter shall apply to the control of all noise within the town limits, as the limits now exist or may hereafter by established.

### Section 2 DEFINITIONS

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

“Motor Vehicle”

Any vehicle powered by a mechanical engine and designed to be given or used on

any public or private property. Such definition shall include but not be limited to: automobiles, vans, trucks, motorcycles, motor scooter, dune buggies, snowmobiles, all terrain vehicles, go-carts, minibikes, and trail bikes.

“Person”

Any individual, association, partnership, joint venture, or corporation which includes any officer, employee, department, agency, or instrumentality thereof.

Section 3 LOUD AND UNNECESSARY NOISE PROHIBITED

(A) It shall be a violation of this chapter for a person to make any loud, raucous improper, unreasonable, offensive or unusual noise, or disorder, which disturbs, injures, or endangers the comfort, health, peace or safety of others within the town, or to permit such noise, or disorder to be made in or about his/her house or premises and the same is hereby declared to be a public nuisance.

(B) Further, it shall be the duty of every owner, occupant, manager, and agent of the any property, structure, vehicles, or business in the town to prevent persons using property under their control from violation of this chapter.

Section 4 ENUMERATION OF CERTAIN PROHIBITED ACTS; EXEMPTIONS.

(A) Prohibited acts. The following acts, uses, or noises, among others, subject to specific exemptions, are declared to be loud, raucous, or disturbing noises in violation of this chapter. Such enumeration shall not be deemed to be exclusive:

(1) Using, operating, or permitting to be played, used, or operated any machine or device for the producing or reproducing of sound in such manner as to disturb peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, or property on which such machine or device is operated and who is a voluntary listener.

(2) Using, operating or permitting the use or operation of any machine, instrument, or device capable of producing or reproducing of sound which is cast upon other properties, including the public right-of-way for the purpose of commercial advertising or to attract attention to any activity, performance, sale, place or structure.

(3) Using, operating, or permitting the use or operation of any machine, instrument, or device capable of producing or reproducing any sound on any public transportation vehicle.

(4) Using, operating, or permitting to be played, used, or operated any

machine or device for the producing or reproducing of sound on any public right-of-way adjacent to any school, institution of higher learning, or church, while the same are in use, or adjacent to any medical facility which unreasonably interferes with the working of such institution, or which unduly disturbs patients in the medical facility.

(B) Prohibited noise. No person shall play, use, or permit to be played, used , or operated any machine or device for the producing or reproducing of sound, if it is in or on any of the following:

(1) Any public property, including any public right-of-way, highway, building, sidewalk, park, or thoroughfare, if the sound generated is audible at a distance of 30-feet from its source.

(2) Any motor vehicle on a public right-of-way, highway, or public space, if the sound generated is audible at a distance of 30-feet from the device producing the sound.

(C). Exemptions. The following shall be exempted from the provisions of this chapter:

(1) Sound emitted from sirens of authorized emergency vehicles.

(2) Lawn mowers, garden tractors, and similar home power tools when properly muffled, between the hours of 7:00 a.m. and 8:00 p.m.

(3) Burglar alarms or other warning devices when properly installed on publicly or privately owned property, provided that the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.

(4) Celebrations on legal holidays.

(5) Permitted parades or festivals.

(6) Attendant noise connected with the actual performance of athletic or sporting events and practices related to them.

(7) The emission of sound for the purposes of alerting persons to the existence of an emergency or for the performance of emergency work.

(8) Sounds associated with the normal conduct of a legally established non-transient business within the normal range appropriate for such use.

(9) In the case of motor vehicles, where the noise is the result of a

defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven calendar days.

#### Section 5. PENALTY

Whoever violates the provision of this chapter shall upon conviction thereof be fined a sum of not less than \$100 for the first offense, a sum of not less than \$200 for the second offense, and a sum of not less than \$500 nor more than \$1,000 for any additional offenses. A separate offence shall be deemed committed on each day that violation occurs or continues.

(Ord. No. 3-1999, passed 1/21/1999)

#### **SECTION 9-3 DISCHARGE OF FIREARMS:**

(a) No person shall discharge a firearm, pellet gun, or B-B gun within or into the Town except:

(1) by any authorized law enforcement officer in pursuit of his or her duty; or

(2) by any person who has reason to believe that he or she shall suffer an imminent injury to his or her person or property and as a consequence discharges the firearm, pellet gun or B-B gun in self-defense.

(b) Any person violating the provisions of this section shall be fined a sum not to exceed Twenty-Five Dollars (\$25.00) for each offense.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

#### **SECTION 9-4 POLICE RESERVE OFFICERS**

(a) The Board may appoint reserve police officers of the Town. The number of police reserves appointed shall not be more than ten (10) at an one time, with the specific number to be fixed by the Board.

(b) The individuals appointed as reserve officers, their conditions and compensation for employment shall be fixed by the Board.

(c) The reserve officers shall be under the direct supervision of the Chief of the Police Department who shall issue written regulations governing the jurisdiction of the police reserves and their duties. All such regulations shall be approved by the Board.

#### **SECTION 9-5 AMBULANCE ATTENDANT COMPENSATION:**

(a) Volunteers for the Fire and Ambulance Department will be paid Seven Dollars (\$7.00) per run canceled or not. No more than three (3) attendants shall be compensated for any one (1) run.

(b) Compensation due under this section shall be paid semi-annually each year.

(c) Each volunteer will receive a \$100/year car allowance per year car allowance payable semi-annually and a \$100/year clothing allowance payable semi-annually. The car and clothing allowance will be prorated in the case of a new firefighter or ambulance volunteer.

(d) Town employees that are volunteer firefighters or ambulance EMT's will be compensated one hour pay for the specific fire/ambulance run. This is applicable during town office, utility, street department hours as stated in the salary ordinance. Employees must record on their daily time sheet when the fire/ambulance run began and when they returned to their duties as a town employee.

(e) The ambulance fees for persons residing within the corporate limits of the Town of Lapel, Indiana, for ambulance service with personnel and equipment of the Lapel ambulance service be increased to the rate of two hundred twenty (\$225.00) dollars per ambulance run together with additional charges for supplies used for each such ambulance run.

(f) Ambulance fees for persons residing outside the corporate limits of the Town of Lapel, Indiana, be increased to the rate of two hundred seventy five (\$275.00) dollars per ambulance run together with additional charges for supplies used for each such ambulance run.

Ambulance fees for persons residing outside the limits of Madison County, Indiana, shall be charged a rate of \$325.00 per ambulance run together with additional charges for supplies used for each such ambulance run.

(g) Firemen and EMT personnel and immediate family members (spouse and unmarried children residing with such firemen and EMT personnel) shall be charged the total sum of one hundred twenty five (\$125.00) dollars per ambulance run for such ambulance service provided to said firemen, EMT personnel or their immediate family.

(h) Fifty (\$50.00) dollars of each such ambulance service fee including the ambulance service fee charged to firemen, EMT personnel and their immediate families is hereby allocated to the Ambulance Replacement Fund.



(i) Paramedic assisted ambulance fees for persons residing within the corporate limits of the Town of Lapel, persons residing outside of the corporate limits of the Town of Lapel, and persons residing outside the limits of Madison County, Indiana, shall be charged a rate of \$300 per ambulance run together with additional charges for supplies used for each such ambulance run.

(j) Loaded mileage charge shall be the sum of six dollars (\$6.00) per loaded mile charged by the Lapel ambulance service.

(Amend. Ord. No. 8-1994, passed 12/20/1994) (Ord. No. 13-2005, passed ??????)  
Amendment to Ord. 12, 2001, passed 12/6/01, Ordinance 7-2003, passed 11/20/2003,  
Ord. No. 8, passed 5/4/2006

## **SECTION 9-6 VOLUNTEER FIRE COMPANIES COMPENSATION:**

Section I That the compensation for each Fireman of the Town of Lapel, Indiana, shall be five dollars (\$5.00) for each regular meeting attended.

Section II That the compensation for each fireman of the Town of Lapel, Indiana shall be five dollars (\$5.00) for each training meeting attended.

Section III That the compensation for each fireman of the Town of Lapel, Indiana, shall be five dollars (\$5.00) for each fire run attended, canceled or not.

Section IV That the compensation for the Fire Chief, Assistant Chiefs and Secretary-Treasurer for the Town of Lapel, Indiana, shall be five dollars (\$5.00) for each regular meeting, training meeting and fire run.

Section V Each volunteer will receive a \$100 per year car allowance payable semi-annually and a \$100 clothing allowance payable semi-annually. The car and clothing allowance will be prorated in the case of a new firefighter or ambulance volunteer.

Said compensation shall be paid semi-annually in January and July of each year.  
(Ord. No. 1-1989, passed 3/16/89) (Amend. Ord. No. 8-1994, passed 12/20/1994)  
(Ord No. 9-1996, passed 12/19/95), Ord No. 9, 1997, passed 12/17/96).

## **SECTION 9-7      TOWNSHIP FIRE PROTECTION:**

The Board may enter into contracts for providing fire protection for townships contiguous to and adjoining the Town. The contracts shall in no way diminish the fire protection provided to the residents and taxpayers of the Town. The consideration for such contracts shall be in amounts determined by the Board.

Codifer's note:

### **ORDINANCE NUMBER 7-1964 PROVIDED:**

"An Ordinance authorizing contracts for providing fire protection for townships in and around the Town . . .

WHEREAS, the Town . . . has and maintains its own fire equipment; and

WHEREAS, the same is operated by a volunteer fire department in the Town

WHEREAS, Burns' Indiana Statutes, Section 65-501, et sequel (now IC 36-8-13-1), authorized said Town to contract for providing fire protection for townships without such fire protection: \*\*\*"  
(82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 9-8      LAPEL-STONY CREEK TOWNSHIP FIRE PROTECTION BOARD**

There is hereby created a five (5) member board to be known as the Lapel-Stony Creek Township Fire Protection Board. Membership on the fire protection board shall be as follows:

(a) Two (2) members shall be appointed from among the members of the Lapel Town Council. Their term of office shall coincide with their term of office as a member of the Town Council.

(b) Two (2) members shall be appointed from among the members of the Stony Creek Township Advisory Board. Their term of office shall also coincide with their term of office on the Township board.

(c) The fifth member of the fire protection board shall be selected by agreement of the other four (4) members. This member shall be a resident of the TOWN OR TOWNSHIP, but may not be a member of the volunteer fire department. This member shall serve four (4) year term commencing on January 1 for the year of his or her initial appointment, and he or she shall continue to serve until such time as their term expires and a successor has

been appointed. In the event that the members from the TOWN and TOWNSHIP cannot agree on the appointment of the fifth member of the fire protection board, the appointment shall be made by the then Frankton Lapel Community School Corporation Superintendent.

(d) Removal. Any Fire Board Member may be removed at any time only for cause upon specific written charges filed against him or her. The charges shall be filed with and heard by the appointing body, unless the appointing body is bringing the charges. If the appointing body is bringing the charges, the Town Board and the Stony Creek Township Advisory Board shall appoint a hearing officer to hear the charges and determine if the Fire Board Member should be removed. The party to hear the charges shall fix a date for a public hearing and give the charged Fire Board Member and the Public notice, at least ten (10) days in advance of the hearing. At the hearing the charged Fire Board Member is entitled to presents evidence and argument and to be represented by counsel.

## **SECTION II MEETINGS, DUTIES AND OFFICERS OF FIRE BOARD**

The fire protection board shall meet at least once each month. Officers shall be elected at the first meeting held in January of each year. The fire protection board shall determine their regular meeting dates and adopt rules of procedure within sixty (60) days of their first meeting. All meeting of the Fire Board shall be conducted in accord with "The Indiana Open Door Law" as the same now exists or shall be amended.

### **Officers.**

President. The Fire Board shall elect from among its members a President to preside over all meetings of the Board and to perform other duties generally associated with the office of president of any governmental organization.

Secretary/Treasurer. The Fire Board shall elect from among its members a Secretary/Treasurer who shall keep minutes of the meetings of the Board and to perform other duties generally associated with the office of secretary of any governmental organization. This officer shall also serve as the Treasurer and shall perform the duties that are generally associated with said office. By this description of the two offices together in one individual, this is not meant to imply that the Fire Board cannot at a time in the future choose to create a separate office of Treasurer. Should the Fire Board decide to create the said separate office, a resolution at a regular meeting would be sufficient to create this separation of the offices and to create the separate office of "Treasurer".

## **SECTION III JURISDICTION**

The fire protection board shall be responsible for administering fire protection and emergency ambulance services for the Town of Lapel, Indiana and Stony Creek Township, Madison County, Indiana. They shall also have authority to contract with other jurisdictions and provide mutual aid services.

## **SECTION VI POWERS AND DUTIES**

(a) The board shall have full authority to supervise and administer the operation of the Lapel-Stony Creek Township Volunteer Fire Department

(b) The board shall also have the authority to contract with the volunteer fire fighting companies and/or other governmental entities to provide fire fighting and emergency medical services to the residents of the TOWN and TOWNSHIP.

(c) Subject to applicable laws concerning the appropriation and disbursement of funds by the TOWN and TOWNSHIP fiscal officers, the board shall have authority to purchase fire fighting and ambulance equipment, supplies and apparatus for the TOWN and TOWNSHIP, and provide the facilities to store and maintain such equipment.

(d) The fire protection board shall have full authority to separate the fire protection services from the ambulance service, and establish rates for such services. The fire protection board is authorized to receive funds for the fire and ambulance services, to budget and appropriate monies independently for each service.

## **SECTION V BUDGET**

The fire protection board shall annually prepare a budget to meet the expenses incurred in the operation and maintenance of all fire and medical emergency services in the TOWN and TOWNSHIP. The board shall submit its proposed budget to the TOWN and TOWNSHIP not later than June 30<sup>th</sup> of each year. The budget must be approved by the fiscal bodies of the TOWN and TOWNSHIP, and the Department of Local Government Finance.

## **SECTION VI INDEBTEDNESS INCURRED BEFORE ESTABLISHMENT OF BOARD**

Any indebtedness incurred for fire protection and emergency ambulance services prior to the establishment of the fire protection board shall be paid by the entity (TOWN or TOWNSHIP) which incurred the said debt liability.

## **SECTION VII RECEIPTS, DISBURSEMENTS, BILLING AND ACCOUNTING**

The Fire Protection Board Secretary/Treasurer shall be responsible for receipts, disbursements, and accounting of all monies of the Fire Board. The Fire Protection Board Secretary/Treasurer shall maintain a separate account for the financing of activities carried out under this agreement. Upon approval of a budget, each fiscal body shall appropriate funds to pay its portion as herein noted of the approved budget and shall thereafter deliver such funds to the Fire Protection Board Treasurer for deposit in the Fire Protection Board Account. The portion of each fiscal body's obligation shall be paid to the Fire Protection Board each month following procedure. Unilateral Termination. Either party may unilaterally terminate this agreement, upon written notice to the other, no less than three hundred days from the proposed adoptive date of this resolution, by resolution

duly passed and adopted by an affirmative vote of two-thirds of the members of its fiscal body and by withdrawing party giving written notice as set out hereinabove of the adoption of such resolution to the fiscal body of the non-withdrawing party. Thereafter, this contract shall automatically renew for additionally twelve (12) month periods commencing January 1<sup>st</sup> of each successive calendar year, unless the TOWN of TOWNSHIP gives written notice not less than three hundred (300) Days from the expiration of such term.

## **SECTION X PROVISION FOR TERMINATION IN THE EVENT OF CREATION OF FIRE PROTECTION DISTRICT**

In the event that the parties to this agreement shall create a Fire Protection District (taxing entity) this agreement can be unilaterally terminated without following the provisions of the Section IX herein above to allow for the transfer of the authority to the Fire Protection District from said Fire Protection Board.

Ord. No 11-2006, Passed 12-21-2006

### **9-9 FIRE, AMBULANCE, POLICE KEY BOXES**

Whereas, the Town Council has received a request from the Lapel Fire/Ambulance Department to provide an ordinance requiring the placement of key boxes for Fire, Ambulance and Police Department use; and

Whereas, the Town Council deems it desirous to minimize property damage that can result from forced entry in an emergency; and

Whereas, the use of key lock boxes provides better access to buildings by the Fire/Ambulance and Police Departments for the purpose of protecting lives and property;

Now Therefore, be it ordained by the Town Council of the Town of Lapel;

Application:

- (1) Any property within the Town that is protected by an automatic fire alarm system and/or a fire suppression system;
- (2) Any new or remodeled non-residential structure;
- (3) Any multi-family structure with a common, locked entrance;

Contents:

The key box shall contain;

- (1) Keys to locked points of ingress whether on the interior or exterior of such buildings;

- (2) Keys to locked mechanical equipment rooms;
- (3) Keys to locked electrical rooms;
- (4) Keys to elevator controls;
- (5) Keys to other areas as directed by the Fire Chief and Town Marshal;
- (6) Any other devices needed for access to above locations, including key cards or codes;
- (7) All keys, key cards, key codes, etc. shall be labeled to indicate what specific location within the building they unlock.

#### Installation

Key Box shall be approved by the Fire Chief and Town Marshall as to location of installation and type.

This ordinance shall be in full force from and after its passage and approval according to law.

Ord. No. 9-2006, passed July 20, 2006

**CHAPTER 10**  
**JUVENILE LAW**

## **SECTION 10-1 DELINQUENCY-HALLOWEEN CURFEW:**

(a) The Board determines that the curfew time established by IND.CODE 31-6-5-2 (a) and (b) is later than reasonable for public safety during the conditions existing in the Town between October 15 and November 1 of each year and hereby advances the curfew time within its jurisdiction by one (1) hour during that period.

('82 Code, Ord. No. 9-1982, passed 12/22/82)

## **SECTION 10-2 PARK DEPARTMENT**

(a) The Board hereby establishes the Department of Parks and Recreation composed of the Board of Parks and Recreation, a superintendent, and such other personnel as the Board shall determine.

(b) The Park Board may establish rules governing the use of property under its jurisdiction. These rules shall be posted in appropriate places to give adequate notice of their provisions. Any person violating any of these rules shall be fined an amount not greater than One Hundred Dollars (\$100.00).

(c) The Lapel Town Council agrees to the following ordinance pertaining to the operation of the municipal parks – Memorial Park and Woodward Park.

(1) No alcoholic drinks are allowed in the parks

(2) No motorized vehicles allowed in the parks

(3) No overnight parking

(4) Park hours are from 6 a.m. to 11 p.m.

(5) The town streets, Conrad Drive, Kerr Road, and Busby Road, that end at the property line of Woodward park are a special situation. Vehicles cannot block these three streets where the street meets the park property line. Vehicle parking is restricted to the designated parking areas for each municipal park.

('82 Code, Ord. No 9-1982, passed 12/22/82), Ord. No. 12, passed July 7, 2005



**CHAPTER 11**  
**PUBLIC UTILITIES**

## **PUBLIC WORKS**

### **SECTION 11-1 MUNICIPAL GAS WORKS:**

(a) The following rates and charges are established for the use of and the service rendered by the Town gas distribution and services system:

#### Base Rates

##### General Rate

<u>All Services including space heating</u>	<u>Rates</u>
First 0.5 MCF	\$15.4635
Next 4.5 MCF	7.5961
Next 5.0 MCF	6.8647
Over 10.0 MCF	6.4824

Minimum monthly billing will be \$4.65 up to 0.3 MCF, and the rate adjustment for the above rates shall be on the basis of a rate tracking factor, occasioned solely by changes in cost of purchased gas and accomplished quarterly.

(Ord. 2-1997, passed 4/15/97)(Ord. 3-1997, passed 4/15/97)(Ord. 5-1998, passed 6/18/98), Ord. No. 9-2000, passed 7/20/00

Gas Tap Fee                      \$495.00 (approved by Public Service Commission)  
(Ord. No. 6-1995; passed 7/18/95)

(a) All bills shall be due and payable within 17 days of the date of mailing. Bills unpaid eighteen days following beginning of collection period shall include a collection charge of 10% on the first \$3.00 of unpaid billing and 3% on the balance of unpaid billing in excess of \$3.00.

(b) Written disconnection notice will allow 14 days, from the date of mailing, for disconnection of services. The reconnection charge is increased to \$20.00 per utility service upon the payment in full of the delinquent bill. The town will continue the practice of entering into separate agreements with customers of the Lapel Municipal Gas System, Water System, and Sewage System for repayment of delinquent bills in an attempt to avoid the disconnection of such services.

(Resolution 1-1992, passed 5/19/92)

(1) It will be the policy of the Town of Lapel to assess a \$20.00 service charge, to utility customers, who present payment by check and that check is returned due to non-sufficient funds (NSF) or such check is presented on a closed account. Notification of assessment, by the town, of the \$20.00 service charge, will be submitted in writing and due and payable in 30 days upon written notification to the customer. (Resolution 3-1994, passed 3/15/94)

(2) Disconnection

1. If property is a rental property, notify the property owner of impending disconnection to verify whether the utilities are to be left on in the owners name or disconnected.

2. If property has been sold, verify when new owner will be in to make meter deposits. If no deposits are received, the utilities will be disconnected until the new owner makes meter deposits.

3. If rental property and property owner requests utilities be left on in property owner=s name, the new tenant will not be billed until all meter deposits have been paid. If no deposits are received, utility bills will remain in the property owner=s name.

(Resolution 10-1997, passed 8-19-97)

(3) Seasonal shut off/reconnect fee for gas is \$20.00  
(Ord. 6-1998, passed 6/18/98)

(c) When deemed necessary by the Board, all grain elevators and private individual using natural gas to dry grain, all business establishments, churches, post offices, libraries, schools and other public buildings shall be notified by certified mail and all other natural gas consumers notified by publication in two (2) local newspapers of the following natural gas curtailments:

(1) All outside natural gas lights shall be turned off.

(2) Thermostats for room heating shall be set no higher than Sixty-Eight degrees Fahrenheit (68EF).

(3) All portable natural gas space heaters that are used in conjunction with a furnace or stationary large space heater shall be disconnected.

(4) All business establishments, churches, post offices, libraries, schools, and other public buildings shall reduce thermostat settings to no higher than Fifty Five degrees Fahrenheit (55EF) after business hours or when building is not occupied.

(5) Use of natural gas by any grain elevator or private individual to dry grain shall be curtailed upon twenty-four (24) hour notice by telephone or letter from the Town Gas Company Superintendent.

(6) Customers shall close off all unused portions of buildings and homes to conserve the natural gas supply.

(d) No person or persons other than authorized personnel employed by the town shall disconnect, connect, alter, regulate, adjust, or tamper with, any water, gas or sewage utility line or service line, meter, or facility used for the distribution of water, gas and sewage by the Town.

(e) No interruption, adjustment or alteration of such utility service lines as defined in (c) shall be permitted other than as authorized in this section except in the case of emergency, and for the immediate protection and safety and well-being of persons or property in imminent peril. The Clerk-Treasurer shall be notified immediately in the case of emergency and of any resulting interruption, connection or disconnection of utility lines and services.

(f) Any person who violates the provisions of this section shall be fined an amount of not less than Twenty-five Dollars (\$25.00), nor more than Fifty Dollars (\$50.00).

('82 Code, Ord. No. 9-1982, passed 12/22/82) (Res. No. 1-1992, passed 5/19/92)

Codifer's note:

ORDINANCE NO. -1996 PROVIDED:

BE IT ORDAINED by the Town of Lapel, Madison County Indiana:

Pursuant to I.C. 8-1.5-3-9.1, the Town of Lapel of Madison County, Indiana, hereby removes the regulation of its municipal supplied utilities from the Indiana Utility Regulatory Commission.

That all notice provisions of I.C. 8-1.5-3-9.1 have been fulfilled and this ordinance shall take effect 60 days after this date of adoption unless a petition is received, pursuant to I.C. 8-1.5-3-9.1(d).

ORDINANCE NO. 3-1982 PROVIDED:

"AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE  
USE OF AND SERVICES RENDERED BY THE MUNICIPAL GAS  
SYSTEM . . .

WHEREAS, the Board . . . has considered and investigated the financial condition of the . . . Utility and

WHEREAS, the Board now finds that the existing rates and charges for the use of and services rendered by the Utility are too low and insufficient to enable the Town to produce revenues sufficient to properly operate the Utility and maintain the Utility in a sound physical and financial condition to render adequate and efficient service; that increased revenues will improve the services rendered by the Utility and make the same of greater value to the Town and its inhabitants; and that the existing rates and charges should be increased; and,

WHEREAS, the Board now determines that the rates and charges for the use of and services rendered by the utility should be sufficient to include a reasonable return on the Utility plant and should include an amount sufficient to compensate the Town for taxes which would be due and collected by the Town if the Utility property were privately owned; now therefore, \*\*\*"

\*\*\*

#### ORDINANCE NO. 6-1975 PROVIDED:

"AN ORDINANCE ESTABLISHING CURTAILMENT REGULATIONS TO CONSUMERS  
OF NATURAL GAS PURCHASED FROM THE . . . MUNICIPAL GAS COMPANY.

WHEREAS, Panhandle Eastern Pipe Line Company, has notified the Lapel Municipal Gas Company of natural gas curtailment for the future and,

WHEREAS, penalties for use of gas in excess of these curtailments would create a hardship for the Lapel Municipal Gas Company, \*\*\*"

#### **SECTION 11-2    INSPECTIONS:**

The Town, through its employees and agents, shall be given authority to conduct inspections for code violations, fire code compliance, and zoning ordinance compliances of non-residential business properties. Such inspection shall be conducted upon application for utility services by non-residential business properties and prior to such utility connections.

(Res. No. 1-1993, passed 1/19/93)

#### **SECTION 11-3    CUMULATIVE CAPITAL IMPROVEMENT FUND:**

(a) The Board hereby creates the Cumulative Capital Improvement Fund.

(b) All distributions received from the Cumulative Capital Improvement Fund of the Indiana Cigarette Tax Fund shall be deposited in the Cumulative Capital Improvement Fund.

(c) An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Town of Lapel Cumulative Capital Improvement Fund.

(d) The maximum rate of levy under (c) will not exceed \$.10 per \$100 of Assessed Valuation.

(e) The Town of Lapel Cumulative Capital Improvement Fund is re-established until 2004.

(f) The funds accumulated in the Town of Lapel Cumulative Capital Improvement could be used for purposes disclosed in IC 36-9-16-2 and IC 36-9-16-3.

(g) Funds accumulated in the Town of Lapel Cumulative Capital Improvement Fund may be spent for purposes other than the purposes stated in Section (f) if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Lapel Town Council issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the fund.

(h) This re-establishment takes effect upon approval of the State Board of Tax Commissioners.

(i) No disbursements shall be made from the Fund for the salaries of any employees or public officials except for expenses directly chargeable to the improvements listed in (f).

('83 Code, Ord. No. 9-1982, passed 12/22/92) (Amend. Ord. No. 5-1994, passed 7/19/94)

#### **SECTION 11-4 MUNICIPAL SEWAGE WORKS:**

The Board of Trustees of the Town of Lapel, Indiana enters into a contract with the Public Service Company of Indiana, Inc. for electric energy for power and light for operating a municipal WATER PUMPING AND SEWAGE DISPOSAL system. (Ord 4 1984, passed 7/25/84)

Codifer's note:

ORDINANCE NO. 22-1978 PROVIDED:

"An ordinance establishing a schedule of rates and charges to be collected by the Town of Lapel from the owners of property served by the sewage works of said Town and other matters connected therewith.

WHEREAS, the Board . . . has heretofore approved plans, specifications and estimates and determined to establish, construct, equip, own, operate and maintain the sewage works provided for therein, and a sewage treatment plant under and pursuant to Chapter 284 of the Acts of the General Assembly of the State of Indiana for the year 1967, [IND. CODE 36-9-22-2] and all acts supplemental thereto, and

WHEREAS, the Town is the recipient of a grant from the U.S. Environmental Protection Agency and the State of Indiana; and

WHEREAS, the Town will sell revenue bonds to fund that portion of the cost of the sewage works not covered by grants; and

WHEREAS, it is necessary to establish a schedule of rates and charges to produce sufficient revenue to pay expenses of maintenance and operation to pay the principal and interest on outstanding revenue bonds, and to provide funds for necessary replacements and improvements to the sewage works, all in a manner in accordance with guidelines of the U.S. Environmental Protection Agency; now therefore

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LAPEL, INDIANA:

\*\*\*"

ORDINANCE NO. 5-1978 PROVIDED:

"An ordinance providing for the establishment of an industrial cost recovery system, to recover from industrial users of the sewage treatment plant that portion of the federal grant, allocable to industrial users, for the construction of the Lapel Municipal Sewage Treatment Plant.

WHEREAS, the Town . . . has received a federal grant for the construction of waste treatment facilities which is identified by the U.S. Environmental Protection Agency as Project Number C-180556; and

WHEREAS, in order to comply with special grant conditions under Public Law 92-500, [33 U.S.C. 1251 et. seq.] which requires the Town to recover from industrial users of the waste treatment facilities, that portion of the grant amount allocable to the treatment of industrial wastes; and

WHEREAS, the Town must establish a system of industrial cost recovery based upon federal guidelines; now therefore,

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LAPEL, INDIANA:

\*\*\*\*"

(a) Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

(1) "Amounts for reconstruction and expansion" shall mean those amounts which represent a minimum of Eighty percent (80%) of the amount retained by the Town, together with interest earned thereon. These amounts shall be used solely for reconstruction and expansion of waste treatment facilities which must be approved by the U.S. Environmental Protection Agency. The remaining Twenty percent (20%) of retained amounts may be used at the discretion of the Town.

(2) "Biochemical oxygen demand" (BOD) shall mean the quantity of oxygen expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty degrees centigrade (20E C).

(3) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning three (3) feet outside the building wall.

(4) "Building drain - sanitary" -- A building drain which conveys sanitary or industrial sewage only.

(5) "Building drain - storm " -- A building drain which conveys storm water or other clearwater drainage, but no wastewater.

(6) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, and is identical to a house connection.

(7) "Building sewer - sanitary" -- A building sewer which conveys sanitary or industrial sewage only.

(8) "Building sewer - storm" -- A building sewer which conveys



stormwater or other clearwater drainage, but no sanitary or industrial sewage.

(9) "Collector sewer" shall mean a sewer whose primary purpose is to collect wastewaters from individual point source discharges.

(10) "Combined sewage" shall mean wastes including sanitary sewage, industrial sewage, stormwater, infiltration and inflow carried to the water system facilities by a combined sewer.

(11) "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.

(12) "Commercial User" shall mean any establishment listed in the Office of Management Budget's Standard Industrial Classification Manual, 1972 edition, as amended.

(13) "Compatible pollutant" shall mean biochemical oxygen demand, suspended solids, ph, and decal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of eighty (80) percent or greater. Minor incidental removals in the order of ten (10) to thirty (30) percent are not considered substantial. Examples of the additional pollutants which may be considered compatible include:

- (a) chemical oxygen demand,
- (b) total organic carbon,
- (c) phosphorus and phosphorus compounds,
- (d) nitrogen and nitrogen compounds, and
- (e) fats, oils, and greases of animal or vegetable origin,

except as prohibited where these materials would interfere with the operation of the treatment works.

(14) "Debt service costs" shall mean the average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.

(15) "Easement" shall mean an acquired legal right for the specific use of land owned by others.

(16) "Excessive strength surcharges" shall mean an additional charge which is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage".

(17) "Fecal coliform" shall mean any of a number of organisms

common to the intestinal tract of man and animals, whose presence in sanitary sewer is an indicator of pollution.

(18) "Federal grant amounts" shall mean that portion of the total construction costs for Project Number c-180556 which was sponsored by the U.S. Environmental Protection Agency.

(19) "Floatable oil" shall mean oil, fat, or grease in a physical state, such that will separate by gravity from wastewater by treatment in a pretreatment facility approved by the Town.

(20) "Force main" shall mean a pipe in which wastewater is carried under pressure.

(21) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(22) "Governmental Use" shall mean any Federal, State, or local governmental user of the waste water treatment works.

(23) "Incompatible pollutant" shall mean any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.

(24) "Industrial Classification Manual" (1972 Edition) involved in a commercial enterprise, business or service which, based on a determination by the Town, discharges primary segregated domestic wastes or wastes from sanitary conveniences.

(25) "Industrial sewage" shall mean a combination of liquid and water carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment. This shall include the wastes from pretreatment facilities and polluted cooling water.

(26) "Industrial user" shall mean

(1) any non-governmental, non-residential user of the Town's sewage works which discharges more than the equivalent of Twenty Five Thousand (25,000) gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under on of the following divisions:

Division A - Agriculture, Forestry and Fishing  
Division B - Mining  
Division D - Manufacturing

Division E - Transportation, Communications, Electric, Gas and Sanitary  
Division I - Services

The Town will exclude domestic wastes or discharges from sanitary conveniences in determining the amount of a user's discharge for purposes of industrial cost recovery.

After applying the sanitary waste exclusion above, discharge in the above divisions that have a volume exceeding Twenty Five Thousand (25,000) gpd or the weight of biochemical oxygen demand (BOD) or suspended solids (S.S) equivalent to that weight found in Twenty Five Thousand (25,000) gpd of sanitary waste are considered industrial users. Sanitary waste shall have the same meaning as normal domestic waste defined in (40) of this subsection.

(2) Any non-governmental user of the Town's sewage works which discharges waste-water to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage or treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(27) "Industrial wastes" shall mean the wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.

(28) "Infiltration" shall mean the water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include and is distinguished from inflow.

(29) "Infiltration/Inflow" shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

(30) "Inflow" shall mean the water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.

(31) "Inspector" shall mean the person or persons duly authorized

by the Board to inspect and approve the installation of building sewers and their connection to the public sewer system.

(32) "Institutional User" shall mean any establishment listed in the "SICM" involved in a social, charitable, religious, and/or educational function which, based on a determination by the Town, discharges primarily segregated domestic wastes from sanitary conveniences.

(33) "Interceptor sewer" shall mean a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.

(34) "Major contributing industry" shall mean an industry that:

(a) has a flow of Fifty Thousand (50,000) gallons or more per average work day;

(b) has a flow greater than five (5%) percent of the flow carried by the municipal system receiving the waste;

(c) has in its waste a toxic pollutants in toxic amounts as defined in standards issued under 33 U.S.C. 1251 et. seq., as amended;

(d) has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from that treatment works.

(35) "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(36) "Non-industrial users" shall mean any user of the Town's sewage works not included in the definition of Industrial User.

(37) "Normal domestic sewage" for the purpose of determining surcharges shall mean wastewater or sewage having an average daily concentration as follows:

BOD not more than 160 mg/l  
S.S. not more than 186 mg/l

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes.

(38) "Normal domestic wastes" shall mean wastes which do not exceed 160 milligrams per liter of fluid, or a suspended solid strength in excess of

186 milligrams per liter of fluid.

(39) "NPDES Permit" shall mean a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to 33 U.S.C. 1251, et. seq., as amended.

(40) "Operation and maintenance costs" include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State and local requirements. These costs include replacement.

(41) "other service charges" shall mean tap charges, connection charges, area charges, and other identifiable charges, other than User Charges, debt service charges and excessive strength surcharges.

(42) "Payment to U.S. Treasury" shall mean that portion of the recovered amounts that must be returned to the United States Treasury on an annual basis. The annual payments to the United States Treasury shall amount to Fifty (50) percent of the annual recovered amounts, together with interest earned thereon.

(43) "Person" shall mean any individual, firm, company, association, society, corporation or group discharging any wastewater to WWTW.

(44) "pH" shall mean the reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution.

(45) "Pretreatment" shall mean the treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.

(46) "Private sewer" shall mean a sewer which is not owned by a public authority.

(47) "Project Number C-180556" is defined as a separate and distinct construction project for construction of the Town Municipal Sewage Works which was sponsored by the U.S. Environmental Protection Agency under the provisions of 33 U.S.C. 1251, et. seq., as amended. This project does not include past or future construction, equipment or other services not included under the specific project number and the approved plans, specifications and approved change orders for the project which are available for inspection in the Town Hall, and are incorporated herein by reference.

(48) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (2) inch in any dimension.

(49) "Public sewer" shall mean a sewer which is owned and controlled by the public authority consisting of a collector sewer, interceptor sewer, force main and pumping station.

(50) "Pumping station" shall mean a station positioned in the public sewer system at which wastewater is pumped to a higher level.

(51) "Recovered amounts" shall mean the annual payments from industrial users for their share of the federal grant allocable to the cost of treating industrial waste, which is determined by dividing the amount of the total federal grant, allocable to the treatment of industrial waste, by the recovery period.

(52) "Recovery period" shall mean the industrial cost recovery period, which is hereby defined as a period of thirty (30) years.

(53) "Replacement costs" shall mean the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(54) "Residential User" shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, etc.

(55) "Retained amount" shall mean that portion of the recovered amounts retained by the Town. The retained amounts shall be equal to Fifty percent (50%) of the recovered amounts, together with interest earned thereon.

(56) "Sanitary sewage" shall mean the combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.

(57) "Sanitary sewer" shall mean a sewer which carries sanitary and industrial wastes, and to which storm, surface, and ground water are not intentionally admitted.

(58) "Segregated domestic wastes" shall mean wastes from non-residential sources, resulting from normal domestic activities and measurable and set apart from industrial trade or process discharges.

(59) "Sewage" shall mean the combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, including polluted cooling water, sanitary sewage, industrial sewage, and combined sewage.

(60) "Sewage works" shall mean the structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

(61) "Sewer" shall mean a pipe or conduit for carrying sewage.

(62) "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than ten (10) minutes more than three (3) times the average twenty-four (24) hours concentration or flows during normal operation and shall adversely affect the collection system.

(63) "Standard methods" shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, The American Water Works Association and the Water Pollution Control Federation.

(64) "Storm sewer" shall mean a sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

(65) "Superintendent" shall mean the Superintendent of the Town sewage works or his or her authorized deputy, agent or representative.

(66) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering.

(67) "Total solids" shall mean the sum of suspended and dissolved solids.

(68) "Toxic amount" shall mean concentrations of any pollutant of combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to 33 U.S.C. 1251, et. seq., as amended.

(69) "Unpolluted water is water of quality equal to or better than

the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and water system facilities provided.

(70) "User Charge" shall mean a charge levied on users of the water system works for the cost of operation and maintenance of such works pursuant to 33 U.S.C. 1251, et.seq., as amended.

(71) "User class" shall mean the division of water system customers by source, function, waste characteristics, and process or discharge similarities i.e., residential, commercial, industrial, institutional, and governmental in the User Charge System and as industrial and non-industrial in the Industrial Cost Recovery System.

(72) "Volatile organic matter" shall mean the material in the sewage solids transformed to gases or vapors when heated at Five Hundred Fifty degrees centigrade (550 C) for fifteen (15) to twenty (20) minutes.

(73) "Watercourse" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

(b) Prohibited Activity:

(1) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement, garbage or other objectionable waste.

(2) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, stormwater, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water, or unpolluted industrial process water. The Town shall require the removal of unpolluted waters from any wastewater collection or treatment facility if such removal is cost-effective and is in the best interest of all users of these facilities.

(3) Stormwater, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use such sewers, however, without the specific permission of the Town. No new connection shall be made unless there is capacity available in all downstream sewers, lift stations, force mains, and the sewage treatment plant including capacity for BOD and suspended solids.

(4) No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the



Town, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this section and the NPDES Permit.

(5) No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this section and the NPDES Permit.

(6) Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(7) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the town and abutting any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the Town, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this section, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

(c) Private Sewage Disposal System:

(1) Where a public sanitary or combined sewer is not available under the provisions of (b)(8) the building sewer shall be connected to a private sewer disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of Twenty-Five Dollars (\$25.00) shall be paid to the Town at the time the application is filed.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent.

(4) The type, capacities, location, and layout of a private sewage

disposal system shall comply with all recommendations of the State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in (c)(4), a direction connection shall be made to the public sewer in compliance with this section, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(6) The owner shall operate and maintain the private sewer disposal facilities in a sanitary manner at all times, at no expense to the Town.

(7) When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(d) Building Sewers

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk-Treasurer.

(2) There shall be two (2) classes of building sewer permits:

(a) for residential and commercial service, and

(b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of Ten Dollars (\$10.00) for a residential or commercial building sewer permit and Twenty-Five Dollars (\$25.00) for an industrial building sewer permit shall be paid to the Clerk-treasurer at the time the application is filed.

(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) A separate and independent building sewer shall be provided

for every building. Except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the said Inspector, to meet all requirements of this section.

(6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, place of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of this code or other applicable Town rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of this code or other applicable Town rules and regulations, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(10) The applicant of the building sewer permit shall notify the said Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the said Inspector or his or her representative.

(11) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

(e) Improper Discharges into System:

(1) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(c) Any waters or wastes having a pH lower than five and one half (5.5) , or having other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(2) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes, if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than sixty five (65) degrees centigrade.

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-

two (32) and one hundred fifty (150) degrees Fahrenheit/ (0 and 65) degrees C.

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting and excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(f) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

(h) Any waters or wastes having a pH in excess of nine and one half (9.5).

(i) Materials which exert or cause:

(i) Unusual concentrations of inert suspended solids such as, but not limited to, Fullers earth, lime slurries, and lime residues or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.

(ii) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.

(iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(iv) Unusual volume of flow or concentration of wastes constituting "slugs" as defined in this section.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(3) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in (e)(4) of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(a) Require new industries or industries with significant increase in discharges to submit information on wastewater characteristics and obtain prior approval for discharges.

(b) Reject the wastes in whole or in part for any reason deemed appropriate by the Town.

(c) Require pretreatment of such wastes to within the limits of normal sewage as defined.

(d) Require control or flow equalization of such wastes so as to avoid any "slug" loads or excessive loads that may be harmful to the treatment works, or

(e) Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating such wastes.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws.

(4) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(5) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly

and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(6) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards of life, limb, and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.

(7) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern, at such rates as are compatible with the rate subsection.

(f) Pretreatment of industrial wastes from major contributing industries prior to discharge to the treatment works is required and is subject to the Rules and Regulations adopted by the United States Environmental Protection Agency (USEPA) and published in the Federal Register on November 8, 1973 (40 CFR Part 128), and "Federal Guidelines Establishing Test Procedures for Analysis of Pollutants" published in the Federal Register on October 16, 1973 (40CFR Part 136), in addition to any more stringent requirements established by the Town, and any subsequent State or Federal Guidelines, Rules and Regulations.

(g) Plans, specifications, and any other pertinent information relating to pretreatment or control facilities shall be submitted for approval of the Town and no construction of such facilities shall be commenced until approval in writing, is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the Town to determine that such facilities are being operated in conformance with applicable Federal, State and local laws and permits. The owner shall maintain operating records and shall

submit to the Town a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities and for comparison against Town monitoring records.

(h) Unpolluted water from air conditioners, cooling, condensing systems or swimming pools, shall be discharged to a storm sewer where it is available, or to a combined sewer approved by the Town. Where a storm sewer is not available, discharge may be to a natural outlet approved by the Town and by the State. Where a storm sewer, combined sewer, or natural sewer is not available, such unpolluted water may be discharged to a sanitary sewer pending written approval by the Town.

(i) Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pretreated for removal of pollutants and the resultant clearer water shall be discharge in accordance with (h).

(j) The Town may require users of the treatment works, other than residential users, to supply pertinent information on wastewater flows characteristics. Such measurements, tests, and analysis shall be made at the user's expense. If made by the Town an appropriate charge may be assessed to the user at the option of the Town.

(k)

(1) The owner of any property serviced by a building sewer carrying industrial wastes or other non-residential wastewater may be required by the Town to install a suitable structure together with such necessary meters and other appurtenances in the building to facilitate observation, sampling, and measurement of the wastes. Such structures, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Town. The structures shall be installed by the owner at his expense and shall be maintained by him as to be safe and accessible at all times.

(2) Agents of the Town, the state water Pollution Control Agencies, and the U.S. Environmental Protection Agency shall be permitted to enter all properties for purposes of inspection, observation, measurement, sampling and testing.

(l) The strength of wastewaters shall be determined, for periodic establishment of charges provided for in the rate subsection, from samples taken at the aforementioned structure at any period of time and of such duration and in such manner as the Town may elect, or, at any place mutually agreed upon between the user and the Town. Appropriate charges for sampling and analysis may be assessed to the user at the option of the Town. The results of routine sampling and analysis by the user may also be used, for determination of charges



after verification by the Town.

(m) All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this section shall be determined in accordance with latest edition of "Standard Methods", except for applications for the NPDES Permits and reports thereof which shall be conducted in accordance with rules and regulations adopted by the USEPA, published in the Federal Register October 16, 1973 (38 CFR 20758), and any subsequent revisions subject to approval by the Town.

(n) Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors or traps will not be required for private living quarters or dwelling units. All interceptors or traps shall be of a type and capacity approved by the Town and shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding extreme changes in temperatures and shall be of substantial construction, be gas tight, water tight, and equipped with easily removable covers. Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(o) Users of the treatment works shall immediately notify the Town of any unusual flows or wastes that are discharged accidentally or otherwise to the sewer system.

(p) All provisions of this section and limits set herein shall comply with any applicable State and/or Federal Requirements now or subsequently in effect.

(q) No unauthorized person shall maliciously, willfully or negligently break, damage, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works.

(r)

(1) The Superintendent, Inspector and other duly authorized Town employees bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this section. The Superintendent or his or her representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(a) The Town, through its employees and agents, shall be given authority to conduct inspections for code violations, fire code compliance, and zoning ordinance compliance of non-residential business properties. Such inspections shall be conducted upon application for utility services by non-residential business properties and prior to such utility connection.  
(Res. No. 1-1993, passed 1/19/93)

(2) While performing the necessary work on private properties referred to in (r)(1) above, the Superintendent or duly authorized Town employees shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Town employees. The Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in subsection (e).

(3) The Superintendent and other duly authorized Town employees bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(s) In order to comply with federal regulations, in the case of federal grant assistance for the construction of waste treatment works, where it has been determined that "industrial users" as defined in (a), above, or as amended by appropriate federal regulations, are required to reimburse a portion of the federal grant amount allocable to the capital cost of constructing facilities for the treatment of "industrial wastes", rates and charges shall be collected from each industrial user connected to the Town sewage works or who otherwise discharges sewage, water or liquids, either directly or indirectly, into the Town waste treatment system, which charges shall be payable in an amount determinable as follows:

(1) The industrial cost recovery charges for the treatment of industrial wastes shall be based upon the volume of sewage flow billed to industrial users, as determined in accordance with appropriate provisions for determining billed flow included in the subsection on rates and the total strength and character of industrial wastes which is introduced into the waste treatment system. The strength and character of industrial wastes shall be measured at the industrial user's expense as provided in the subsection on rates and furnished to

the Town. The owner or industrial user shall furnish a central sampling point available to the Town at all times. If a measurement of the strength and character of industrial wastes is not provided to the Town on a timely basis, the measurement of the strength and character of industrial wastes shall be determined by the Town on the basis of a sample to be taken by the Town for the purpose of appropriate billing. The industrial cost recovery rates for the treatment of wastes shall be as follows:

### MEASUREMENT

- (a) Treatment Plant:
- |                                                                                                         |                       |
|---------------------------------------------------------------------------------------------------------|-----------------------|
| Monthly volume flow, which includes normal domestic wastes (BOD 160 mg/1 and suspended solids 186 mg/1) | \$ .17 per 1,000 Gal. |
| Monthly pounds of BOD in excess of 160 mg/1                                                             | \$ .03 per pound      |
| Monthly pounds of suspended solids in excess of 186 mg/1                                                | \$ .03 per pound      |

- (b) Sewer collection system:

(1) The industrial cost recovery charges applicable to Project C-180556 shall be recovered from present or future industrial users who will be connected to that segment of the collection system directly served by the sewer additions identified with Project C-180556.

(2) Measurement and rate:

Monthly volume flow, which includes normal domestic wastes (BOD 160 mg/1 and suspended solids	186 mg/1).	\$ .11 per 1,000
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(2) If an "industrial user" can and does show to the satisfaction of the Town that a portion of the total monthly billed sewage flow is from sanitary conveniences, then the flow and pollutant loadings to which the industrial cost recovery charge is applied shall be determined on the basis of net flow and pollutant loadings excluding sanitary conveniences.

(3) The industrial cost recovery charges for treatment services shall be prepared and billed quarterly.

(t) The Town shall determine which users are subject to paying the industrial cost recovery charges, in the following manner:

(1) The Town shall require appropriate employees of the sewage works to review billing records and prepare a list of all potential industrial users, as identified in each of the divisions listed in (a)(26) above.

(2) The list of all potential industrial users shall be analyzed on the basis of data available at the Sewage Works billing office i.e. type of business, volume charges, excessive loading charges, estimated number of employees, etc. for the purpose of developing preliminary lists of probable "industrial" and probable "non-industrial" users.

(3) The Town shall conduct an immediate survey of all probable "industrial" users in order to substantiate the validity of classifying a particular user as an "industrial" user. Each user initially classified as an industrial user shall be notified of their classification.

(4) After completing the survey of all probable "industrial" users, the Town shall review the list of probable "non-industrial" users to determine if the initial classification of any of these users should be reconsidered. Individual users shall be contacted in order to determine the proper classification.

(5) After an industrial user has been notified of his or her classification, the user may request reconsideration by furnishing data and measurements acceptable to the Town for the determination of sewage discharges. The Town shall have the right to measure and determine the strength and content of all sewage and waste discharges, either directly or indirectly, into the Town's sanitary sewage system, in such manner and by such method as it may deem practicable in the light of the conditions and attending circumstances of each case in order to determine the proper user classification.

(6) Within a reasonable period of time following completion of the sewage works construction project, the Town shall complete the initial classification of all industrial users. During the first calendar year of operation, subsequent to completion of the construction project, and annually thereafter, the Town will review, classify and reclassify all users as either industrial or non-industrial users based upon measurements and data obtained by the Town or furnished by individual users. Normally, each user will retain his or her classification until the next succeeding classification period. However, if there is a substantial change in the strength, volume, or delivery flow rate characteristics introduced into the treatment works by an individual user then the classification of that user may be reviewed and established during the year in the light of the conditions and circumstances of each case.

(7) The rates computed in (s)(1) above, would result in total recovery of the federal grant amount if all users were subject to the industrial cost recovery requirement, and provided that the treatment plant was operated at capacity during the cost recovery period. Therefore, these rates will insure that each industrial user will pay only that portion of the federal grant amount applicable to the costs of the treatment facilities actually utilized to treat industrial wastes, as determined by each industrial user's flow and pollutant loadings.

(u) The Town shall account for all industrial cost recovery payments in the following manner:

(1) All revenues derived from the industrial cost recovery rates and charges shall be segregated and kept in a special fund, separate and apart from all other funds of the Town. The special fund shall be designated the "Sewage Works Industrial Cost Recovery Fund" and payment of said amount into said fund shall be deemed a reasonable expense of operation of the sewage works for the purpose of computing net operating revenue.

(2) Within forty-five (45) days following the end of the first calendar year after completion of construction of the sewage facilities and annually thereafter, the town shall return fifty percent (50%) of the amounts recovered through the industrial cost recovery charges, together with any interest earned thereon, to the U.S. Treasury. The remaining fifty percent (50%) retained by the Town shall be invested in authorized obligations of the U.S. Government or any agency thereof.

(3) Eighty percent (80%) of the funds retained by the Town in the "Sewage Works Industrial Cost Recovery Fund" or authorized investments and the interest earned thereon, shall be expended only for the purpose of eligible costs of expansion or reconstruction of the treatment works. All such expansion or reconstruction programs must be approved by the U.S. Environmental Protection Agency prior to commitment or expenditure of the retained funds. The remaining twenty percent (20%) of the funds retained by the Town may be utilized for any authorized use associated with the sewage works.

(v) Upon request from the U.S. Environmental Protection Agency, the Town shall require each industrial user to permit representatives of the U.S. Environmental Protection Agency to review appropriate industrial sewage records for the purpose of independently verifying the flow and characteristics of industrial wastes which are introduced in to the treatment works. No waste introduced into the waste treatment system shall interfere with the operation or performance of the sewage treatment works.

(w)

(1) The industrial cost recovery rates and charges shall be prepared, billed and collected in the manner provided for in this section.

(2) The industrial cost recovery charges for treatment services shall be prepared and billed quarterly.

(x) Every person whose premises are served by said sewage works shall be charged for the services provided. These charges are established for each user class, as definition order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance, including replacement, of the treatment works. User charges shall be uniform within each user class.

(1) User charges are subject to the rules and regulations adopted by the United States Environmental Protection Agency, published in the Federal Register August 21, 1973 (38 CFR 22523) and on February 11, 1974 (39 CFR 5252), as subsequently amended. Replacement costs, which are recovered through the system of user charges, shall be based upon the expected service life of the sewage works plant and equipment.

(2) The various classes of users of that treatment works for the purpose of this section, shall be as follows:

- Class I -1. Residential
- 2. Commercial
- 3. Governmental
- 4. Institutional
- 5. Wholesale residential
- 6. Industrial

(y) The quantity of water discharged into the sanitary sewerage system and obtained from sources other than the utility that serves the Town shall be determined by the Town in such manner as the Town shall reasonably elect, and the sewage service shall be billed at the above appropriate rates. The Town may make proper allowances in determining these wage bills for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the Town not to enter the sanitary sewerage system.

(1) If a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the sanitary sewerage system, either directly or indirectly, is not a user of water supplied by the Town water utility, and the water used thereon or therein is not measured by a water

meter, or is measured by a water meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town. The owner or other interested party shall at his or her expense, install and maintain meters, wires, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town to determine the sewage discharge and the rates charged under this section.

(2) If a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the sanitary sewerage system, either directly or indirectly, is a user of water supplied by the Town water utility and in addition, is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town. The owner or other interested parties shall, at his or her expense, install and maintain meters, wires, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town to determine the sewage discharge and the rates charged under this section.

(3) If two (2) or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water or other liquids into the sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.

(4) The billing for sewage service for residences and/or domestic users for the months of June through September inclusive shall be based upon the water usage for the previous months of December, January, February, and March. If the water usage for said previous months is greater than the water usage for said summer months, then the billing for sewage services shall be computed on the actual water used in the month for which the sewage service bill is being rendered. Domestic and/or residential sewage service as applicable to the sprinkling rate shall apply to each lot, parcel of real estate or building which is occupied and used as a single family residence. The sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. If a portion of the premises shall be used for commercial or industrial purposes, the owner may separate the water service so that the residential portion of the premises is served through a separate meter. In such cases the water usage as registered by the water meter serving such portion of the premises used for residential purposes shall qualify under the sprinkling rate.

(5) If a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the sanitary sewerage

system, either directly or indirectly, and uses water in excess of Fifteen Thousand (15,000) gallons per month, and it can be shown to the satisfaction of the Town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his or her expense, install and maintain meters, wires, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

(z) The Town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The Town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewage system, in such manner and by such method as the Town may deem practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the Town at all times.

(1) Normal sewage domestic waste strength should not exceed a biochemical oxygen demand of One Hundred and Sixty (160) milligrams per liter of fluid or suspended solids in excess of One Hundred and Eighty-Six (186) milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis.

(a) Rate Surcharge Based Upon Suspended Solids

There shall be an additional charge of nine (9) cents per pound of suspended solids for suspended solids received in excess of One Hundred and Eighty-Six (186) milligrams per liter of fluid.

(b) Rate Surcharge Based Upon BOD

There shall be an additional charge of ten (10) cents per pound of biochemical oxygen demand for BOD received in excess of One Hundred and Sixty (160) milligrams per liter of fluid.

(2) The determination of Suspended Solids and Five (5) day Biochemical Oxygen Demand contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes", as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and in conformance with "Guidelines Establishing Test Procedures for Analysis of Pollutants," Regulation CFR Part 136, published in the Federal Register on October 16, 1973, as subsequently amended.

(aa) The owner of any lot, parcel of real estate or building connecting to



the sewage works shall, prior to being permitted to make a connection, pay a connection charge in the amount of Nine Hundred and forty-five Dollars (\$945.00) for each connection. The Board now finds such a connection charge to be a reasonable and equitable pro rata cost of construction of a local or lateral sewer adequate to serve the property so connecting, and the cost of providing a connection to the sewer, excavation, backfilling, pavement replacement and installation of a sewer line from the sewer to the property line.  
(Ord. 9-1997, passed 8/19/97)

(bb) Such rates and charges shall be prepared, billed and collected by the Town in the manner provided by this section.

(1) The rates and charges for all users shall be prepared and billed monthly.

(2) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein requested. The owner's of properties occupied by a tenant or tenants, shall have the right to examine the Town collection records to determine if bills have been paid by the tenant or tenants. Such examinations shall be made at the office at which said records are kept and during regular business hours.

(3) All rates or charges shall be due seventeen (17) days after the date of mailing of the bill. all rates and charges not paid when due are delinquent. A penalty of ten per cent (10%) of the amount of the rates or charges shall be attached to all delinquent charges.

(cc) The Town shall compile a study each year within a reasonable period of time following the normal accounting period. The study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluent from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the waste treatment systems.

The study shall be conducted by Town officers or employees or by a firm of certified public accountants, or a firm of consulting engineers with experience in conducting such studies, or by any combination of officers, employees, certified public accountants, or engineers which the Town shall determine to be best under the circumstances.

(dd)

(1) The Town shall make and enforce the by-laws and regulations it deems necessary for the safe, economical and efficient management of the Town's sewage system, pumping stations and sewage treatment works, for the construction and use of house sewers and connections to the sewage system, and for the regulation, collections, rebating and refunding of rates and charges.

(2) The Town may prohibit dumping of wastes into the sewage system which it deems harmful to the operation of the sewage treatment works, or may require pretreatment of wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) permit issued to the sewage works.

(ee)

(1) Any person violating any provision of this section except subsection (q) shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for its satisfactory correction. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in (ee)(1) shall be fined an amount not exceeding Five Hundred Dollars (\$500.00) for each violation. Each day any violation continues beyond the time limited shall be deemed a separate offense.

(3) Any person violating any of the provisions of this section including subsection (q) shall be liable to the Town for any expense, loss, or damage resulting from the violation.

(ff) The Board establishes the following rates and charges based upon the use of water supply for the waterworks system:

(1) Treatment rate -- User charge shall be Two Dollars and Forty Cents (\$2.40) per one thousand (1,000) gallons of usage.

(2) Sewer Rate Schedule -- Monthly

Base Rate

5/8 to 3/4 inch

\$ 18.50

1 inch meter	25.35
1 2 inch meter	39.60
2 inch meter	139.30
3 inch meter	315.05
4 inch meter	555.65
Sewer Tap Fee is \$945.00 (Ord. No. 2-1978)(Ord. 6-1995, passed 7/18/95)	

Metered Rates Per Month

Per 1,000 Gallons

First 2,000 gallons	\$5.75
Next 4,000 gallons	5.22
Next 9,000 gallons	4.44
Next 15,000 gallons	4.03
Next 30,000 gallons	2.91

Minimum Charge Per Month

Each user shall pay the minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates:

<u>Size of Main</u>	<u>Gallons Allowed for Minimum</u>	<u>Rate Per Month</u>
5/8 - 3/4 inch meter	2,000	\$11.50
1 - inch meter	3,117	17.34
1 - 1/4 inch meter	5,325	28.87
1 - 2 inch meter	7,736	40.36
2 - inch meter	9,009	46.21
3 - inch meter	11,509	57.70
4 - inch meter	19,624	92.43
6 - inch meter	33,433	144.30

(3) New Service Tap Charge

The tap charge shall be \$690.00 for connections requiring a meter less than one inch in size. For taps requiring a one inch or larger meter, the charge shall be the actual expense of labor, materials and equipment required for the utility to make the connection. (Ord 6-1995, passed 7/18/95)

(4) Fire Protection Service

Utility Maintained

Public Hydrant Rental - per Hydrant	\$259.93
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Private Hydrant Rental – per Hydrant                      \$259.93

The foregoing rates and charges shall become effective with the May, 2000, billing period, and shall be reflected on the customer bills due and payable in June, 2000.

This Ordinance shall be in full force and effect from and after its passage and adoption. Except as hereby amended and revised, the Prior Ordinance shall remain in full force and effect.

Ord. 5-2000, passed 5/11/2000

Utility Maintained

Automatic sprinkler service connection - per annum ( in areas maintained by utility)	
1 inch connection	\$ 7.50
2 inch connection	30.15
3 inch connection	67.75
4 inch connection	120.45
6 inch connection	271.00

(5) Disconnect Notice and Reconnect Charges

A written disconnection notice shall be sent to allow 14 days from the date of mailing, for disconnection of services. The reconnection charge is \$20.00 per utility service upon the payment in full of the delinquent bill, for that particular service, by the customer. The Town will continue the practice of entering into separate agreements with customers of the Lapel Municipal Gas System, Water System, and Sewage System for repayment of delinquent bills in an attempt to avoid the disconnection of such services.

(a) It will be the policy of the Town of Lapel to assess a \$20.00 service charge, to utility customers, who present payment by check and that check is returned due to non-sufficient funds (NSF) or such check is presented on a closed account. Notification of assessment, by the town, of the \$20.00 service charge, will be submitted in writing and due and payable in 30 days upon written notification to the customer.

(b) Disconnect Procedures

(1) If property is a rental property, notify the property owner of impending disconnection to verify whether the utilities are to be left on in the owners name or disconnected.

(2) If property has been sold, verify when new owner will be in to make meter deposits. If no deposits are received, the utilities will be disconnected until the new owner makes meter deposits.

(3) If rental property and property owner requests utilities be left on in property owner=s name, the new tenant will not be billed until all meter deposits have been paid. If no deposits are received, utility bills will remain in the property owner=s name.

(c) Seasonal shut-off/reconnect fee for the utilities of water and gas shall be in the following amounts:

(1) Shut-off/reconnect of water \$20.00

(2) Shut-off/reconnect of gas \$20.00

(3) Shut-off/reconnect of gas and water \$25.00

(Ord. 6-1998, passed 6/18/98)

(6) Collection and Deferred Payment Charges

Any user of the sewer system whose building or connected sewer is located outside the town shall pay the above rate unless otherwise determined by the Board. All bills for water service not paid within 17 days from the date of mailing. Bills unpaid eighteen days following beginning of collection period shall include a collection fee of 10% on the first \$3.00 and 3% on the excess over \$3.00.

(7) Temporary Users

Water furnished to temporary users, such as contractors, etc., shall be charged on the basis of the metered gallon rates hereinbefore set forth as estimated and established by the waterworks superintendent.

(gg) Rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the town=s sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the town=s sanitary sewerage system. There shall be individual water meters for each and every lot and each and every user. These rates and charges including User charges, debt service costs, excessive strength surcharges and other service charges which rates and charges shall be payable as provided and shall be in an amount determined according to the as follows procedures:

(1) That certain monthly base rates and charges to customers of the Lapel Sewer Company shall be established according to the size of water meters servicing said customers, which said monthly base rates and charges shall

hereafter be levied in accordance with the following scale:

a.	5/8 X 3/4 inch	\$18.50
b.	1 inch	25.35
c.	1-1/2 inch	39.60
d.	2 inch	139.30
e.	3 inch	315.05
f.	4 inch	555.65

(2) That sewage treatment charges shall be levied at the rate of \$5.85 per 1,000 gallons of water usage.

(3) That sewage treatment charges for all unmetered residential structures shall be charged a flat rate of \$47.75 per month which shall assume a usage of 5,000 gallons of water per month.

(4) That hereafter be established a separate charge to customers of the Lapel Municipal Sewer Company which shall hereafter be termed Excessive Surcharge which shall be established as follows:

a. Biochemical Oxygen Demand (in excess of 160 milligrams per liter) \$0.57 per pound.

b. Suspended Solids (in excess of 160 milligrams per liter) \$0.51 per pound.

(Ord. 8-1997, passed 8/19/97) (Ord. No . 3-2000, passed 5/11/2000) (Ord. No. 10-2005, passed Date

(5) The foregoing rates and charges contained in new Sections 1 through 4 of the prior ordinance shall become effective with the billing period of May, 2000, and shall be reflected on the customer bills due and payable in June, 2000.

(6) This Ordinance shall be in full force and effect from and after its passage and adoption. Except as hereby amended and revised, the Prior Ordinance shall remain in full force and effect.

(7) a. Beginning with the calendar month of October 2004 (and to be reflected in November billing) and continuing until the month in which

sanitary sewer service is available in the Fishersburg Service Area, pursuant to Indiana Code 36-9-23-27, customers in the Fishersburg Service Area shall pay a monthly interim rate of \$10.00 to cover interest costs on the indebtedness incurred to bring sanitary sewer service to the Fishersburg Service Area and to pay other expenses incurred by the Town prior to service availability.

b. Beginning with the calendar month in which sewer service becomes available to the Fishersburg Service Area (and to be reflected in the billing in the immediately succeeding month), the monthly rate for sewer utility service for customers in the Fishersburg Service Area shall be \$51.25.  
( Ord. 10-2005, passed Date

c. Customers in the Fishersburg Service Area that are not receiving service from the Town's municipal water utility shall be required to make a deposit prior to receiving service from the sewer utility in an amount equal to the estimated average payment due from such customer for a two (2) month period (based upon the rate provided for in Section 7(b) hereof) as provided for an subject to the terms of Indiana Code 36-9-23-28.

d. The Town reserves the right to discontinue service to any customer in the Fishersburg Service Area who has an unpaid bill of more than sixty (60) days by any lawful means. In the event of any such discontinuance of service, the customer must pay a reconnection fee of \$275 in order to have service restored.

e. The Town reserves all other rights and remedies provided for under Indiana law to ensure the timely payment of the monthly rate established in this Section 7 with respect to the Fishersburg Service Area. Customers in the Fishersburg Service Area shall be subject to a late fee of 10% for unpaid sewer bills in the same manner as other customers of the sewer utility of the Town.

f. The Clerk-Treasurer is authorized to require a service agreement to be entered into prior to providing service to any property in the Fishersburg Service Area between the Town and the owner of the property to be served establishing the obligations of such owner to (i) pay for sewer utility service and (ii) comply with any use regulations of the sewer utility of the Town."

This Ordinance shall be in full force and effect from and after its passage and adoption. Except as hereby amended and revised, the Prior Ordinance shall remain in full force and effect.

Ord. No 9-2004, passed 9/16/2004

(hh) The rights and obligations of the town concerning the issuance of water system bonds under the authority of ordinances adopted prior to the

enactment of this code, including Ordinances W1-59, W2-59, and W2-60 are in no way impaired by the adoption of this Code.

('82 Code, Ord. No. 9-1982, passed 12/22/82) (Ord. No 6-1984, passed 9/12/84), (Ord. No. 1-1986, passed 12/10/86), (Ord. No. 2-1990, passed 12/28/90), Res. 1-1992, passed 5/19/92), (Res. No. 1-1993, passed 1/19/93)(Ord 6-1995, passed 7/18/95) (Ord. 6-1998, passed 6/18/98)

## SEWER RECONSTRUCTION & REPAIR

In conjunction with the reconstruction and repair of the current sanitary sewer system and the need for future routine maintenance, improvement or elimination of deteriorated sewer pipes, structures and the need to eliminate or reduce extraneous infiltration or inflows, it may be necessary to abandon existing sewer pipes and install, construct, realign or otherwise replace those sewers with new material and structures. The new sewer installation shall include, where applicable, new realigned or rehabilitated service lines for the reconnection of the present user along the sewer routes.

The Town of Lapel Sewer Utility representative shall inspect existing sewer lateral, and the home owner/property owner shall make the lateral accessible for the town inspector. That inspection along with other methods employed by the Town of Lapel shall determine the accessibility of that lateral sewer for the continued use or its removal and replacement by the home owner/land owner with acceptable materials as described and specified in the Town's Sewer Use Ordinance.

The owner shall be notified by the Town when appropriate to disconnect an existing sewer lateral and install the new sewer lateral to the provided connection. This connection shall be completed within 90 days of the notice, so as not to delay the use of the new sewer system or cause any discharge of sanitary waste to disconnected main sanitary sewers or to sewers which may have been converted to other uses.

Should the owner fail to complete the new lateral connection within the 90 day period, then the Town may impose a fine of \$40.00 per day for each and every day that the owner fails to install the new system beyond the 90-day allocated period.

If the owner fails to connect to the new sewer lateral, within the 90-day period after the required notice, the Town shall be required to cap the existing lateral. That the cap of the existing lateral will take place ten (10) days after the expiration of the above reference 90-day period. That the cap will require the disconnection of any existing water service.

That the \$40.00-per-day fine will continue to be imposed against the owner,



for each and every day that the owner fails to install the new system beyond the 90-day allocated period.

In addition, the owner shall be required to pay the sewer tap fee, which tap fee schedule is currently in place by ordinance, representing the additional expense to the Town for the cap of the owner's existing sewer lateral. That the cap fee will be in addition to the \$40.00 –per-day fine that is referenced above.

That the purpose of this ordinance is to satisfy the requirement for the completion of the sewer project as dictated by the Indiana Department of Environmental Management in conjunction with the rehabilitation of existing sewer service lines.

That all terms and condition of Ordinance No.9, 1999, shall remain in full force and effect.

The owner shall notify the Town when the new lateral is ready to be inspected, and the town inspector shall have access to the replaced line for the purpose of inspection, prior to the lateral being covered and/or backfilled, and prior to its connection to the town sewer. Failure to have the owner's new lateral sewer inspected by the Town of Lapel shall be cause for its being uncovered inspected, and recovered at the owner's expense.

Ord. No. 9-1999, passed 10/19/1999. Ord. No. 2-2001, passed 3/15/2001

In conjunction with the construction of the sanitary sewer system in Fishersburg, Madison County, Indiana.

The Town of Lapel Sewer Utility representative shall inspect the newly constructed sewer lateral, and the home owner/property owners shall make the lateral accessible for the town inspector. The sewer later shall be installed with acceptable materials as described and specified in the Town's Sewer Use Ordinance.

The owner shall be notified by the Town when it is appropriate to install the new sewer lateral to the provided connection. This connection shall be completed within 90 days of the notice, so as not to delay the use of the new sewer system.

Should the owner fail to complete the new lateral connection within the 90-day period, then the Town may impose a fine of \$40.00 per day for each and every day that the owner fails to install the new system beyond the 90-day allocated period.

The owner shall notify the Town when the new lateral is ready to be inspected, and the town inspector shall have access to the line for the purpose of inspection, prior to the lateral being covered and/or backfilled, and prior to its

connection to the town sewer. Failure to have the owner's new lateral sewer inspected by the Town of Lapel shall be cause for its being uncovered, inspected and recovered at the owner's expense. The lateral inspection cost to the Fishersburg homeowner will be \$30.00  
(Ord 7-2005, passed 2/3/2005)

## **SECTION 11-5 MUNICIPAL WATER - WATER MAINS**

1. **DESCRIPTION:** The Contractor shall furnish and install all piping and fittings required for the water main system as shown on the plans. Work shall include but not be limited to both mains, service connections and related appurtenances.

2. **GENERAL:**

A. Safety

For the security and safety of person in and adjacent to trenches or construction operations, the AManual of Accident Prevention in Construction published by the Associated General Contractors of America and the safety regulations of the appropriate state or local agency shall be followed when specifically applicable or by similarity of operation or as necessary for adequate protection.

B. Handling

Pipe fittings and accessories shall be loaded and unloaded by lifting with hoists or skidding so as to avoid shock or damage. Under no circumstances shall such materials be dropped. Pipe handled on skidways shall not be skidded or rolled against other pipe.

C. Protection of Trees

Special care shall be taken to avoid damage to trees and their root systems. Machine excavation shall not be used when, in the opinion of the Engineer, it would endanger the tree. In general, when the line of trench falls within the limits of the limb spread, headers are required across the trench to protect the tree. The operation of all equipment (particularly when employing booms), the storage of materials, and deposition of excavation shall be conducted in the manner which will not injure trees, trunks, branches, or their roots unless such trees are designated for removal.

D. Dewatering

Should water be encountered, the Contractor shall furnish and

operate suitable pumping equipment of such capacity adequate to dewater the trench. The trench shall be sufficiently dewatered so that the laying and joining of the pipe is made in the dry. The Contractor shall convey all trench water to a natural drainage channel or storm sewer without causing any property damage.

E. Noise and Dust Control

The Contractor's construction activities shall be conducted so as to eliminate all unnecessary noise, dust and odors. The use of oil for dust control shall not be permitted.

F. All materials provided shall be manufactured similar to other materials in this system where the utility has preference.

G. The Contractor shall be responsible to determine the conditions of all easements and permits and comply with those terms.

3. **SHOP DRAWINGS**

Shop drawings shall be submitted to the Engineer for approval. Drawings shall include pie material type and certification, compaction methods, hydrants, valves and granular backfill material analysis. Fabrication and installation shall be in accordance with the approved shop drawings.

4. **STANDARDS**

The standards in this section are abbreviated as follows:

- A. American Water Works Association (AWWA)
- B. American Society for Testing and Materials (ASTM)
- C. American Standards Association (ASA)
- D. Commercial Standards (CS)
- E. National Sanitation Foundation (NSF)
- F. American National Standards Institute (ANSI)

5. **RELATED WORK**

A. Pavement and Street Repair shall be in accordance with Section 2500, APavement Drives and Walkways@.

B. Grading and Seeding shall be in accordance with Section 2400, ALandscaping@.

C. Highway crossings shall be in accordance with Section 17250, AWater Mains, Special Construction@.

## 6. MATERIALS

A. Granular Backfill and Bedding Stone - Where granular backfill is required, it shall meet the material requirements of AB Borrow@ as defined in Section 211.02 of the Indiana Department of Transportation Standard Specifications. Granular backfill shall be paid as a separate item as shown on the bid schedule.

B. Where pipe bedding is required, it shall be provided as shown in the typical trench details in the drawings and as required by these specifications. All bedding shall be coarse aggregate Size No. 9 or 11 as defined by Indiana Department of Transportation Section 903.02. In lieu of No. 9 or 11 stone bedding, Contractor may use AB@ Borrow. The cost of pipe bedding shall be included in the cost of the pipe pay item.

C. Connections - Connections to different water pipe materials shall be as shown on the plans or with adaptors or couplings approved by the Engineer.

D. Fittings for all types of pipe shall be ductile iron of the mechanical joint type in accordance with ANSI specification A21.10. To be class 250 and cement lined. Contractor shall use tie rod joint restraints in addition to concrete kicker blocking. Fittings shall be manufactured by Clow, Tyler or Mueller.

E. Wedge valves shall be Waterous (AFC 2500) and shall conform to AEEA C-509, latest issue. Wedge shall be ductile iron, fully encapsulated in synthetic rubber. Synthetic rubber shall be molded in place and bonded to the wedge; mechanical fasteners are not allowed. Stem shall be sealed by at least two O-rings; contained within the stuffing box (grooving of stem for o-rings is not allowed). All stem seals shall be replaceable with the valve wide open and while subjected to full rated pressure. Valve body and bonnet shall be coated inside and out, with fusion-bonded epoxy. Bonnet and body and stuffing box bolts and nuts shall be type 18-8 stainless steel and must be installed by the manufacturer. Wedge valves shall have a full ten (10) year money back warranty.

Valves shall have a 3 piece, round type, adjustable, cast iron road box with 5-1/4" shaft, with Awater@ cast in the lid. Boxes to be for normal 4.5' cover, but shall be as required to suite each particular setting depth. Road boxes shall be manufactured by Tyler.

F. Tapping Valves - Tapping valve to be equal to equipment specified for wedge valves. Valves to be Waterous. Sleeves shall be Waterous with mechanical joints. Class of pipe and O.D. of mains to be tapped is uncertain. Contractor to furnish sleeves as required to suite the conditions found in the field.

G. Hydrants - Shall be Waterous Pacer Model WB-67). Hydrant details to be as follows:

Shall conform to AWWA C-502 AStandard for Dry-Barrel Fire Hydrants@. Shall be of the traffic model design. Main valve opening shall be a minimum of 5-1/4". The bronze valve seat shall thread into a bronze sub-seat. The all bronze drain plunger shall be positively operated by main operating rod. A stop nut shall be used to provide a positive limit to the travel of main rod. Shall have a two piece operating nut for durability and low maintenance. Nozzle section shall have 360 degree rotation capability by loosening four bolts.

Nozzles to be mechanically attached with ductile iron retainer and sealed with O-ring. Barrel shall be of ductile iron with a minimum inside diameter of 7-1/4". Shoe and lower valve washer shall be coated, inside and out, with fusion-bonded epoxy. Shoe shall be attached to lower barrel with stainless steel bolts and nuts. Shoe shall have a flat bottom, ribbed back and strapping lugs. Design shall allow for plugging of drains without excavating. Nozzle threads shall match Town of Lapel Fire Department specifications.

H. Service Meters - Meter 3/4" in size shall be furnished and installed by the Town. All meters over 3/4" shall be furnished and installed by Contractor. Each residence shall have its own meter and corporation cock.

I. Meter Pits & Vaults - For meters 3/4" through 1", the box shall be 20" diameter. Meter pits and vaults for meters over 1" in size shall be shown in attached details.

J. Meter Box Covers - For 3/4" through 1" meters, box cover shall be C-32T Ford or Tyler, with cast iron lids for 20" diameter box and having a small operating nut. It shall be standard weight construction.

K. Corporation Cocks - Cocks to be pack joint and of bronze construction. Sizes 3/4" and 1" to suite service size.

L. Curb Stop

1. For all services greater than 1", provide a curb stop at the main. Stops to be bronze and ball with Buna-N rubber Ao@ rings. Connections to be for pack joints. Any service greater than 1" see meter pit details.

2. Furnish 5 1/4" cast iron valve box for 48" setting by Tyler.

M. Service Tubing

1. Customer service tubing from the main to the meter and from the meter into the shut off valve inside the utility room shall be seamless type CTS200 P.E. Tubing in conformance with ASTM Specification D1248 and D2737.
2. Tubing for single service 3/4" meters shall be 3/4" size, unless noted otherwise on the meter pit detail.
3. Tubing for double service meter setting shall be 1" size unless noted otherwise.

**7. INSTALLATION**

A. Trench Excavation - trenches for water pipe shall be excavated to the widths as shown on the plan details and the pipe shall have a minimum of 4'-6" cover unless otherwise noted on the drawings. If rock is encountered, the cover may be reduced but shall not be less than 3'-6". Water services (3/4" and 1") shall have 4 feet cover. Excavation work and pipe installation shall include the necessary clearing, grubbing and preparation of the site; removal and disposal of all debris; excavation and trenching as required; the handling storage, transportation and disposal of all excavated materials; all necessary sheeting, shoring and protection work; preparation of subgrades; pumping and dewatering as necessary or required; protection of adjacent property; backfilling; pipe embedment; laying of pipe; construction of fills and embankments; surfacing and grading; and other appurtenant work.

Contractor shall do all excavation necessary for and incidental to the proper completion of work called for by the drawings and specifications. He shall furnish all labor, materials, tools and equipment necessary for the work contemplated. Power shovel or excavation machine may be used, and care shall be taken at all times to keep said machine out of electric or telephone lines passing across or along the site of the work.

The maximum cross sectional area which shall be allowed for trenches is shown in the typical trench details in the plans. Unless permitted by the Engineer, the excavation shall not be continued below the depth indicated by the trench details and the profile drawings. All excavations shall be leveled off at the exact depths required to insure that bedding for pipe and other structures may be placed on the specified thickness of bedding. Should the Contractor excavate below the depth indicated without being so authorized by the Engineer, he shall at his own expense, fill such excavated spaces with appropriate bedding material and shall bear the cost of all extra labor and materials required for such filling.

Unless permitted by the Engineer, no trench shall be excavated more than one hundred feet (100') in advance of the end of the built water main.

B. Unstable Material - It is the intent of these specifications that all pipe shall have a stable foundation. Any materials encountered at the bottom of the trench which are not stable and cannot be made so, shall be removed as directed by the Engineer and replaced with crushed stone bedding material.

C. Sheeting - Wherever necessary, the sides of the trenches and excavations shall be firmly supported by suitable sheeting, planking and bracing. The Contractor will be held accountable and responsible for the sufficiency of all sheeting and bracing used, and for all damage to persons or property resulting from the improper quality, strength, placing and maintaining or removing of the same. This includes damage to trees, sidewalks, and other property in the excavation area, as well as on private grounds. In no case shall sheeting be removed until the trench backfill has breached within two feet (2') of the top of the trench, except that lower course of sheeting may be removed from a double sheeting trench. Excavation shall, in no case, be carried below the bottom edge of the sheeting.

When ordered by the Engineer, or as necessary, the sheeting shall be left in place for the protection of pipes, buildings, streets and other structures. If sheeting is left, all cavities between the sheeting and the trench wall shall be backfilled with the same material used to backfill the trench. The backfill for these activities shall be solidly tamped in place to insure all cavities are filled and shall be subject to the Engineer's approval.

A box or movable sheeting, which is drawn by power equipment may be used. Again, the Contractor will be held accountable and responsible for all damages as stated above.

D. Existing Structures - All existing structures, such as piles, fences, sewer, gas, water or other pipes, wires, conduit, manholes, railroad tracks and buildings shall be protected, supported and maintained from damage during construction. Proper installation of all timbers, cables or concrete for support shall be the responsibility of the Contractor, but may be subject to the Engineer's approval. Any damages to such existing structures, while excavating or backfilling a trench or any other excavation, shall be thoroughly repaired by the Contractor at no expense to the Owner. Some structures or utilities may be removed and replaced by the Contractor at no expense to the Owner, if written permission of the structure's or utility's owner is first obtained. Repairs or replacement shall be completed on a prompt and timely basis. As noted in the drawings, the Contractor shall have the responsibility of locating existing underground structures to protect them from damage. Excavating of the trench

shall proceed at a pace and with enough caution to insure this protection. Also, water mains shall be provided protection from sewers by providing the minimum clearances as noted in the drawings as follows: 10 feet horizontally or 18" vertically with sewer joints as far as possible from water main joints.

All excavated material shall be piled in a manner that will not endanger the work and will avoid obstructing sidewalks and driveways. Hydrants under pressure, valve pit covers, valve boxes, curb stop boxes, fire and police call boxes, or other utility controls shall be left unobstructed and accessible while construction progresses. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural water courses shall not be obstructed.

E. Street Closures - No drive, road or street shall be blocked except when the contractor is actually working, and such drives, roads and or streets shall be opened to use as soon as ordered by the Engineer, but such opening or using of the street shall not be held as acceptable for any part of the work. Every alternate street crossing shall be kept open for the use of the public at all times. Street cut permits are required prior to excavating a street.

F. Rock Excavation

1. Definition - Rock excavation without blasting; or the use of modern power shovel of no less than one cubic yard capacity, properly used, having adequate power and in good running condition; or the use of other equivalent powered equipment.

2. Trench - Where rock is encountered in the trench, the Contractor shall open the trench to the full depth for at least fifty feet (50') in advance of the pipe. Full depth shall be as indicated by the typical trench details and the sewer profile sheets of the plans. The depth shall allow for the specified amount of bedding to be placed continuously under the pipe. No rocks shall be allowed to protrude into the bedding material.

3. Use of Explosives - where rock must be removed with explosives, the blasting operations must be executed in strict accordance with existing laws, ordinances and regulations.

Unless existing laws require more stringent procedures, the following specifications shall be used for all blasting operations. For trench excavations, the rock shall be stripped in all sections of not less than fifty feet (50') in length. All pipe laid in rock trenches shall be covered with at least twelve inches (12") of suitable backfill immediately after laying. The end of the last pipe, together with as much of the barrel as cannot be conveniently covered, shall be protected with sand bags to prevent flying debris from damaging sections of pipe



already installed.

The site of any blast shall be covered with heavy timbers, mat or other devices to prevent flying rock or earth from damaging adjoining property. Any blasting within five feet (5') of a water or gas main or electrical conduit shall be done with light charges of explosives, and the utmost care shall be used to avoid disturbing such utilities.

Sufficient warning shall be given to all persons in the vicinity of the work before blasting. Also, at least two men with red flags shall be advantageous stationed to warn approaching persons that a blast is about to occur. Finally, the Engineer or his representative shall be notified before each blast occurs to insure that all precautions are taken. Also, the Engineer or his representative may revoke or change the number and size of charges to be set or change the time a blast may occur.

Solid ledge rock may be removed by use of air operated jackhammers or by use of air/hydraulic operated backhoe attached power chisel.

#### G. Pipe Bedding and Installation

1. Common Method of Bedding Pipe - The common method of pipe bedding may be utilized when water lines are not located within roadway limits, sidewalk areas and driveways unless otherwise directed by the Engineer.

The common method of bedding shall consist of installation of the pipe directly, on a firm trench bottom. Bell holes shall be excavated so the pipe will be uniformly supported along its entire length.

2. Bedding Under Roadways, Sidewalk Areas, and Driveways- Unless otherwise authorized by the Engineer, all bedding under or within 2 feet of any roadway, driveway, shoulder or sidewalk shall be bedding stone material as specified in Section 6B.

After preparation of trench bottom, a pipe bed shall be prepared using bedding stone as shown on the drawings. The bedding stone shall be spread over the full width of the trench and carefully placed around the pipe.

After installation of the pipe, bedding stone shall be placed around the pipe and to a point 3" above the top of the pipe. Voids around and under the pipe shall be filled to prevent settlement and to provide fill support for the pipe.

3. Laying Pipe - Pipe shall be laid with bell ends facing in the direction of laying. Pipe ends shall be cleared of dirt and debris before the connection is made. Whenever pipe laying operations are not in progress, a

watertight plug or bulkhead shall be provided to protect the entrance from foreign material. Deflection of pipe joints shall not exceed the recommendation of the manufacturer.

The cutting of pipe for installing valves or fittings shall be done in a neat, workmanlike manner without damage to the piping or lining. The end shall be smooth and at right angles to the axis of the pipe. Flame cutting of pipe by means of an oxyacetylene torch shall not be permitted.

When the project consists of laying new mains which will be connected into existing mains, there may be necessary interruptions to the water service to customers. The Contractor shall plan ahead and arrange his work so that any such interruptions are kept to a minimum. Where possible, these instances shall be scheduled during the time periods of less water usage. The Contractor shall notify the Utility Superintendent of necessary shutdowns at least 24 hours in advance of the work.

H. 1. Trench Backfill - Backfill shall be subject to the approval of the Engineer and shall be free of sticks, wood scrap, frozen materials, sod and other deleterious material. Backfill within the limits of a roadway shall be AB@ Borrow material as specified in Part 6 of this Section.

2. Common Method

The common method of backfilling trenches may be utilized when water lines are not located within roadway limits, sidewalk areas and driveways unless otherwise directed by the Engineer.

The common method of backfilling shall consist of reusing existing excavated materials for the remainder of the trench as approved by the Engineer and mounded above finished grade to allow for settlement until final grading and restoration is accomplished. Rock with maximum dimension smaller than 2 inches may be used in the trench backfill above an elevation 12 inches over the top of the pipe, except that the top 4 inches of backfill shall contain no stone or object large than 1 inch maximum dimension.

3. Backfill Under Roadway, Sidewalk Areas, and Driveways

Unless otherwise authorized by the Engineer, all backfill under or within 2 feet of any roadway, driveway, shoulder or sidewalk shall be AGranular Backfill@ material as described in Section 6B.

The method of backfilling under a roadway shall consist of placing granular backfill (AB@ Borrow) in maximum 8" layers, loose measurement, and then each layer shall be mechanically compacted to required density. The method

of granular backfill (AB@ Borrow) installation shall be as defined in Section 211.03, 211.04 and 211.05 of the Indiana Department of Transportation Standard Specifications, latest edition. All backfill shall be compacted to 95% of maximum density by AModified Proctor Method@. If open cut inspection show the existing soil to be equal to granular backfill (AB@ Borrow) as determined by the Engineer, then the existing soil may be substituted and the Engineer will delete this item.

#### I. Valves

1. Valves shall be set vertically and bedded solidly on trench bottom. Flanged valves shall be securely bolted utilizing red rubber or asbestos gaskets and high strength cast iron bolts and nuts.

2. Valve boxes shall be set squarely over the wrench nut and vertical. Leave valve box flush with finish grade and re-adjust as necessary to reconform with surface until final settlement or paving is complete.

3. All valves shall be buried and have road boxes unless otherwise specified.

#### J. Fire Hydrants

1. Fire hydrants shall be rigidly blocked and braced against thrust. Contractor shall back up hydrant base with concrete and support base as detailed on the plans. Hydrants are required to have rods with Aduc lugs@ and a thrust block. Grip rings can be used instead of Aduc lugs@.

2. A generous envelope of washed, coarse gravel around the drain ports of the hydrants shall be provided to sure barrel drainage of the hydrants. Gravel to be a minimum 2 feet diameter and to 6 inches above ports.

3. Set ground line mark on hydrant 2 inches minimum and 4 inches maximum above finish grade. All hydrants shall have one prime coat and two field coats of a suitable exterior machinery enamel of color used in this system. Prime coat shall be touched-up prior to application of finish coat.

#### K. Tapping Valves

1. Tapping valve connections to existing mains shall be made at the locations shown on the plans. Exact location of existing mains are somewhat in doubt in some areas; therefore, some variation of valve locations from plans may be required. Contractor shall be required to locate tapping valve on the main at the best location at the time of installation, and no extra payment will be allowed for any such relocating. Tapping valves and sleeve installations or Acrosstaps@ shall be made in accordance with the detail on the plans.

2. Tapping valves shall be installed and tap made in accordance with manufacturer=s recommended procedures and good practice. Valve shall be securely supported in vertical position during tapping operations. Tamp fill thoroughly around and under valve after installation. Installation shall be checked for leaks before backfilling.

L. Inserting Valves

1. At location shown on the plans, the Contractor shall furnish and install an inserting type valve, as specified, in the existing m mains. The valve shall be located where directed by the Engineer.

2. The main shall be excavated and then thoroughly cleaned off on the outside before installing the valve body. Final wash shall be with chlorinated water (50 PPM) to sterilize the pipe.

3. After installing the valve, earth material shall be thoroughly compacted under and around the body before backfilling.

4. The valve shall be fitted with a standard road box as specified for standard gate valves.

M. Service Connections - At locations shown on the plans or where designated by the Engineer or Owner, the Contractor shall furnish all materials and labor to connect water services to mains. Any piping or fittings required to make the connection and provide service shall be furnished by the Contractor. Meter pits and settings shall be installed plumb and true according to good construction practices.

8. **STERILIZATION AND TESTING**

A. Sterilization

1. Under this section, Contractor shall fill and sterilize all new mains, services, leads and appurtenances constructed under this contract.

2. This work shall be done in accordance with all applicable provisions of AWWA Standard C-600-64, AInstallation of Cast Iron Water Mains.@

B. Filing the Mains

1. The new system shall be slowly filled with water from the utility distribution system. Where pressure is insufficient to raise water into mains at higher elevation, Contractor shall furnish booster pumping equipment to

complete the filling and flushing to the Utility Superintendent and Engineer=s satisfaction.

2. All air shall be expelled from the mains as they are filled. Air valves and hydrants at high purpose. Where permanent vents are not provided, Contractor shall install corporation cocks at high points to assure removal of air. Such cocks shall be left in place and location noted by dimension ties on the field record set of drawings.

#### C. Disinfection

1. Sterilization of mains shall be accomplished by the use of chlorine solution fed into the main at a point of entry during the main filling operation.

#### D. Requirement of Chlorination

1. Before being placed in service, all new mains and repaired portions of, or extensions to, existing mains shall be chlorinated so that a chlorine residual of not less than 25 PPM remains in the water after 24 hours standing in the pipe.

2. A chlorine gas-water or hypochlorite mixture shall be applied by means of a solution-feed chlorinating device. Chlorinating devices for feeding solutions of chlorine gas must provide means of preventing the backflow or water into the chlorine cylinder.

3. The preferred point of application of chlorinating agent is ahead of the beginning of the pipeline extension or any valve section of it and through a corporation stop inserted by the Contractor, in the tope of the pipe. The water injector for delivering the chlorine bearing water into the pipe should be supplied from a tap on the pressure side of the gate valve controlling the flow into the pipeline extension.

4. Water from the existing distribution system or other source of supply shall be controlled so as to flow slowly into the newly laid pipeline during the application of chlorine. The rate of chlorine mixture flow shall be in such proportion to the rate of water entering the pipe that the chlorine dose applied to the water entering the newly laid pipe shall produce at least 25 PPM after 24 hours standing.

5. Treated water shall be retained in the pipe long enough to destroy all nonspore-forming bacteria. This period should be at least 24 hours and should produce no less than 25 Ppm at the extreme end of the line at the end of the retention period.

6. If the circumstances are such that a shorter retention period must be used, the chlorine concentration shall be increased accordingly.

7. In the process of chlorinating newly laid pipe, all valves or other appurtenances shall be operated while the pipeline is filled with the chlorinating agent.

8. Following chlorination, all treated water shall be thoroughly flushed from the newly laid pipeline at its extremities until the replacement water throughout its length shall, up test, be proved comparable in quality to the water served the public from the existing water supply system and approved by the Indiana Department of Environmental Management. This satisfactory quality of water delivered by the new main should continue for a period of at least two full days as demonstrated by laboratory examination of samples taken from a tap located and installed in such way as to prevent outside contamination.

9. Before system is placed in use, the Contractor shall obtain, from new mains two successive water samples 24 hours apart, and have them tested for bacteria content by the Indiana Department of Environmental Management. Samples shall be drawn in accordance with the Board's procedures. Copies of submittals shall be provided to Engineer or Water Operator. The Water Operator of the Lapel Water Company shall observe all samplings.

10. If samples do not prove satisfactory, the system shall be rechlorinated and resampled until safe water is approved.

11. The system shall be left filled with satisfactory water before final approval by the Water Operator and the Engineer will be made.

#### E. Testing the Main

1. Under this section, the Contractor shall perform a combination pressure and leakage test on the new mains after they have been filled with water as previously specified. This work shall be done after all of the main is backfilled. The Water Operator of the Lapel Water Company shall observe all pressure testing.

2. The test procedure shall be as herein specified and in accordance with applicable provisions of AWWA Standard C-600-64.

3. The mains shall be subjected to a test pressure of 150 PSI in the reach of main being tested. The duration of each test shall be at least one hour. If the pressure does not decrease during the test period, then the leakage

test is not required. Each valved section of pipe shall be so tested.

4. A test pressure shall be developed by a pump, connections, test gauges, and all unnecessary apparatus, to be furnished by the Contractor.

5. A leakage test under pressure shall be made after the main has been filled and if the pressure test fails. The test shall be carried out in the following manner:

a. Record time and line pressure (Example: 60 PSI 10:00 A.M.) (See P.W.U. - Form #P.T. 1-22-79).

b. Pump water into new main line until pressure reaches 105 PSI, record time and reading of gauge (Example: 150 PSI - 10:05 A.M.).

c. After pressure has reached 150 PSI, stop pumping.

d. For an hour, remain at the site and not if any changes are made to the pressure gauges or equipment. None should be made by anyone. Test void if adjustments are made, with the exception of tightening fittings to prevent loss of pressure on test equipment provided.

e. At the end of one hour, open valve to gauge and record time and pressure reading (Example: 140 PSI-11:05 A.M.)

f. Using a pre-measured amount of water (container should measure pints and gallons), proceed to pump line pressure back-up to 150 PSI.

g. Record timeline pressure, and amount of water used to pump line pressure back up to 150 PSI (Example: 10:10 A.M. - 150 PSI - 1 gallon loss).

h. Leave line alone for another hour.

i. At the end of the second hour, again record the time and line pressure (Example: 12:05 P.M. - 135 PSI).

j. Using a pre-measured amount of water (container should measure pints and gallons), proceed to pump line pressure back up to 150 PSI.

k. Record time, line pressure, and amount of water used to pump line back up to 150 PSI (Example: 12:10 P.M. - 150 PSI - 1.5 gallon loss).

A line is considered satisfactory if it meets the following specifications:

Reference AWWA Spec - #C600-64

Leakage Test: Apply 150 PSI # pressure for two (2) hours.

Allowable Leakage:

1.1 gal/hr. allowed for 6 in. pipe per 1,000 ft. of pipe.

1.47 gal/hr. allowed for 8 in. pipe per 1,000 ft. of pipe.

1.84 gal/hr allowed for 10 in. pipe per 1,000 ft. of pipe.

2.20 gal/hr allowed for 12 in. pipe per 1,000 ft of pipe.

6. If the leakage from a test section shall be greater than permitted under these specification, the Contractor, at his own expense, shall locate and repair the defective joints or other defects. The leakage test shall then be repeated until no defects or evidence of leakage are found. All material for this work shall be at the Contractor=s expense.

F. Granular Backfill - The Contractor shall employ a soils testing laboratory, approved by the Engineer to determine the moisture-dry density relationship of the materials to be compacted in accordance with ASTM D 1557. The approved soils testing laboratory shall make field moisture and density tests to verify the degree of compaction being obtained. Tests shall be made at least once for every 250 cubic yards, or fraction thereof, of compacted material. Tests shall be made at locations selected by the Engineer under paved areas. Two copies of all test reports shall be sent directly to the Engineer.



## DEVELOPERS AND NEW USERS OF THE SEWAGE FACILITIES – CONTRIBUTION REQUIREMENTS

Whereas the Town of Lapel operates and maintains a water system and collection system and whereas the town has and will expend public monies for improvement of the water system and collection system for the benefit of future customers to the system, and Whereas the Town wants to be fair to the present and future users of the system now therefore the Town hereby adopts the following ordinance:

### Definitions.

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

**Application Fee:** A fee charged at the time application for sewage service is made, which is non-refundable and which represents the cost to the town of processing such application.

**Availability: Charge** A payment which shall be required for the privilege of connecting a service line or lateral sewer from a residence, commercial user or tract of ground into the town's local sewers or interceptor as a capital contribution for the availability of service, present or future.

**Connection Charge:** A payment required to cover the cost to inspect the connection of a service line to the local sewer. This payment shall be charged and paid at the time the application for connection is made. This charge applies to the single family residence and all equivalent dwelling units. i.e., residential, commercial, industrial, et. Seq.

**Developer:** Any person, individual, corporation or entity engaged in developing a property, tract of ground or improving a lot or group of lots or structures thereon for the use of occupancy, owning or selling the property to be connected or served by the sewage facilities.

**Equivalent Dwelling Unit (EDU):** The single family resident situated upon a single lot, and also the sewage contribution from that residence being 300 gallons per day.

Equivalent Dwelling Unit Revenue: That monthly revenue charged the resident based upon the then current schedule of rates and charges.

Interceptor Sewer: The sanitary sewer, usually located within the streets, alley or easements, which normally receives the sewage from the local sewers. This sewer usually conveys the sewage to the treatment plant or point of ultimate disposal.

Lateral Sewer: The sanitary sewer, usually located with the street, alley or easements, which normally receives the sewage from the local sewers. Service lines are not excluded from connecting directly to this sewer.

Local Sewer: The sanitary sewer, eight inches minimum, usually located within the street, alley or easements, which receives the sewage from the individual service lines.

Over sizing Costs: The costs of over sizing sewers or the sewage treatment plant or other facilities in anticipation of the need to serve future customers.

Ratio of Equivalent Dwelling Unit Revenue: That monthly revenue charged a user or customer, or the sewage facility, divided by the Equivalent Dwelling Unit Revenue.

Service Area: That area to be served by the town sewage treatment plant and collection sewers. Such area will usually include the drainage area permitting the use of gravity sewers, and certain adjacent areas that may be readily pumped into such sewers.

Service Lateral: A branch, from the local or collecting sewer, between that sewer and the property line of the intended user. Usually installed by the developer or in certain cases the lot owner or user.

Service Line: The sewer line, six inches minimum, installed between the residence or structure for the purpose of conveying the sewage discharge to the service lateral on the local or collecting sewer. This line is installed by the individual owner or builder.

Expansion and Connection Policy.

- A. All local and lateral sewers to be connected directly or indirectly into the town's sewer facility or collection system shall, at the owners or developer's expense, be designed, constructed and installed by the owner or developer to the town's specifications. The new sewers shall be located in such streets, alleys, right-of way, and easements as are approved by the town.

- B. All interceptor sewers shall be designed and built by the town. They shall be funded by a combination of the above defined charges, plus the use of state and federal funds, if available.
- C. The sewage treatment plant expansions shall be designed and built by the town. The expansions shall be funded by a combination of the above defined charges, plus the use of state and federal funds, if available.
- D. No sewer collection facilities shall be extended, nor shall any connections be made to the town's sewage treatment facility unless and until such area to which facilities will be extended is within the town limits, or has agreed to be annexed to the town or has agreed not to remonstrate against such annexation.
- E. Prior to the commencement of construction of any sewer, the Indiana Department of Environmental Management's approval shall be furnished to the town.
- F. Prior to the commencement of construction of any sewer or collection facility, the plans shall be approved in writing by the Town Engineer.

#### Contributions; Method of Payments and Reimbursement

- A. Contributions and Charges: When the town's sewage facilities are capable of serving an area of property within two miles of the town, and such area or property is to be connected, contributions and charges on behalf of the unconnected property shall be required as follows for the application situation:
  - 1. Application: An application for connection shall be submitted on a form approved by the town.
  - 2. Availability Charge: A charge of \$2,000 per EDU, based upon the use proposed for said property. The equivalent number of dwelling units in the case of users of units other than single family residences, shall be determined in accordance with the following table. The number of equivalent units for situations not covered by the table will be determined by the Town Council. Notwithstanding any other provisions contained herein to the contrary, the town may contract with the owner or developer for an additional availability charge for treatment plant capacity to be collected in advance by the town for purposes of expanding the capacity of the sewage treatment plant to meet such owner's or developer's needs.
    - a. Ratio of sewer usage of single family residence to other types

of uses. A single family residence is equivalent to 300 gallons per day.

Type of Service	Ratio
Single family residence	1.0
Two family residence	1.8
Multi-family and apartments – per unit	.7
Mobile homes and parks – per unit	.8
Motels and hotels – per unit (Restaurant, see below)	.4
Service clubs and churches – per 200 members Or fraction hereof:	
Without kitchen	1.0
With kitchen	2.0
Office buildings – per 1,000 square feet	.25
Health service offices	.6
Personal care – per chair	.4
Restaurant – per seat	.1
Food drive in – per car space	.2
Food and club retail service – per employee	.2
Laundry – per washer	1.3
Car wash – per bay	2.0
Automatic car wash	Set by Town Council
Service station	1.5
Retail sales and service – each three employees or fraction thereof	1.0
Manufacturing or warehouses	1.0
Sanitary use only, eight employees	
Manufacturing – other use	Set by Town Council

Bars and cocktail lounges – per seat without restaurant	.05
Bowling alley – per alley	.40
Bowling alley with bar – per alley	2.0
Dentist office – per chair	1.4
Physician’s office – per examining room	.6
Schools with gym and cafeteria – per student	.06
Without gym and cafeteria – per student	.04
Speculative commercial industrial – per acre As base, actual when building permit received	1.0
Other uses	As determined by Town Council

- B. Method of Payment. The availability charges, where applicable, shall be paid in cash at the time so designated by the Town. This will usually be either at the time of the application for a construction permit or at the time of application for a building permit.

#### 50.40 Connection Charge

It is the intention of this sub-chapter that there will be an application for a service line connection to the local sewers. The application is to be submitted by the individual builder, lot owner or customer at the time of application for a building permit.

At this time there will not be any charge for this application.

(Ord. No. 3, passed 3/20/2003.)

CHAPTER 12

CIVIL RIGHTS

## **SECTION 12-1 FAIR HOUSING ORDINANCE**

WHEREAS, in accordance with the Civil Rights Act of 1968, as amended, the Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1, et. Seq., the following provision are necessary and appropriate to prevent discrimination in the area of housing because of race, color, religion, sex, handicap, familial status or national origin:

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE TOWN OF LAPEL, INDIANA, AS FOLLOWS:**

### **Policy Statement**

It shall be the policy of the Town of Lapel to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9-.5-1 et. Seq.

### **Definitions**

The definitions set forth in this Section shall apply throughout this Ordinance:

- A. “Dwelling” means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families (I.C. 22-9.5-2-8).
- B. “Family” includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (H) of this Section.
- C. “Person (I.C. 22-9-5-2-11) includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United State Code, receivers, and fiduciaries.

D. “to Rent” (I.C. 22-9.5-2-213), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

E. “Discriminatory Housing Practice” means an act that is unlawful under Sections 4,5,6,7 or 8 of this Ordinance or I.C. 22-9.5-5.

F. “Handicap” means, with respect to a person:

1. a physical or mental impairment which substantially limits one or more of such person’s major life activities.

2. a record of having such an impairment, or

3. being regarded as having such an impairment,

4. an impairment described or defined pursuant to the federal Americans with Disability Act of 1990.

5. any other impairment defined under I.C. 22-9.5-22-10.

The term “handicap” shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code (I.C. 22-9.5-2-10(b); nor does the term “handicap” include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c).

G. “Aggrieved Person” includes any person who (I.C. 22-9.5-2-2):

1. claims to have been injured by a discriminatory housing practice; or

2. believes that such person will be injured by a discriminatory housing practice that is about to occur.

H. “Familial Status” means one or more individuals who have not attained the age of 18 years being domiciled with:

1. a parent or another person having legal custody of such individual or the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

I. “Commission” (I.C. 22-9.5-2-3) means the Indiana Civil Rights



Commission created pursuant to I.C. 22-9-1-4, et. Seq.

J. “Complainant” (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9-1-4, et. Seq.

#### Unlawful Practice

Subject to the provisions of subsection (B) of this Section, Section 9 of this Ordinance and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of Indiana Code and in Section 4 of this Ordinance shall apply to:

A. All dwellings except as exempted by subsection (B) and Title 22-9.5-3 of Indiana Code.

B. Other than the provisions of subsection (c) of this Section, nothing in Section 4 shall apply to:

1. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single family house shall be excepted from application of this section only if such house is sold or rented:

a. without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and

b. without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4 (C) of this Ordinance, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

2. rooms or units in dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

C. For the purposes of subsection (B), a person shall be deemed to be in the business of selling or renting dwellings if:

1. he has, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

2. he has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

3. he is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.

4. Discrimination in the Sale or Rental of Housing

As made applicable by Section 3 and except as exempted by Section 3(b) and 9, it shall be unlawful:

A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex handicap, familial status or national origin.

C. To make, print, or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

D. To represent to any person because of race, color, religion, sex handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

- F. 1. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:
- a. that buyer or renter;
  - b. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  - c. any person associated with that person.
3. For purposes of this subsection, discrimination includes:
- a. a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
  - b. a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
  - c. in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, failure to design and construct those dwellings in such a manner that:
    - i. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
    - ii. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
    - iii. all premises within such dwellings contain the following features of adaptive design:
      - iv. An accessible route into and through the dwelling;
      - v. light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
      - vi. reinforcements in bath rooms such that an individual in a wheelchair

can maneuver about the space.

4. Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard of Buildings and Facilities providing accessibility an usability for physically handicapped people (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of paragraph (3) c (iii).

5. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

## Section 5 Discrimination in Residential Real Estate-Related Transactions

A. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

B. As used in this section, the term “residential real estate-related transaction” means any of the following:

1. The making or purchasing of loans or providing other financial assistance:

a. for purchased, construction, improving, repairing, or maintaining a dwelling; or

b. secured by residential real estate.

2. The selling, brokering, or appraising of residential real property.

C. Nothing in this ordinance prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

## Section 6 Discrimination in the Provision of Brokerage Service

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership,

or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

## Section 7 Interference, Coercion, or Intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 3,4,5 or 6 of this ordinance.

## Section 8 Prevention of Intimidation in Fair Housing Cases

Whoever, whether or not acting under color or law, by force or treat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

A. any person because of his race, color, religion, sex handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting swellings; or

B. any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

1. participating, without discrimination on account of race, color, religion, sex handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 15(A); or

2. affording another person or class of persons opportunity or protection so to participate; or

C. any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organization so facilities described in subsection (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more the \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

## Section 9 Exemptions

A. Exemptions defined or set forth under Title 22-9-.5-3 e.t. seq. of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under subsections (B) and C of this Section.

B. Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religion organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental of occupancy of such lodging to its members or from giving preference to its members.

C. 1. Nothing in this ordinance regarding familial status shall apply with respect to housing for older persons.

2. As used in this Section, "housing for older persons" means housing:

a. provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program) or;

b. intended for, and solely occupied by, person 62 years of age or older; or

c. intended and operated for occupancy by at least one person 55 years of age or older per unit.

## Section 10 Administrative Enforcement of Ordinance

A. The authority and responsibility for properly administering this Ordinance and referral of complaints hereunder to the Commissioner as set forth in subsection (B) hereof shall be vested in the Chief Elected Official of the Town of Lapel, Indiana.

B. Notwithstanding the provisions of I.C. 22-9.5-5-8, the Town of Lapel,

Indiana , because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Ordinance, herein elects to refer all formal complaints or violation of the articles of this Ordinance by complainants to the Indiana Civil Rights Commission for administrative enforcement action s pursuant to Title 22-8.5-6y of Indiana Code and the Chief Elected Official of the Town of Lapel, Indiana, shall refer all said complaints to the Commission as provided for under subsection A of this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code.

C. All executive department and agencies of the Town of Lapel, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

D. The Chief Elected Official of the Town of Lapel, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

#### Section 11 Separability of Provisions

If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Ordinance and the application for its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Ord. No. 2, 2000, passed 3/29/2000)

## **TABLE OF SPECIAL ORDINANCES AND RESOLUTIONS**

### **TABLE**

<b>I.</b>	<b>AGREEMENTS</b>
<b>II.</b>	<b>ANNEXATIONS</b>
<b>III.</b>	<b>VACATIONS AND NAMING STREET</b>
<b>IV.</b>	<b>CREATION OF SPECIAL FUNDS</b>
<b>V.</b>	<b>INDIANA DEPARTMENT OF TRANSPORTATION REQUIREMENTS FOR STATE HIGHWAY 13</b>
<b>VI.</b>	<b>SUPPLEMENTS</b>
<b>VII.</b>	<b>ZONING</b>
<b>VIII.</b>	<b>SPECIAL ORDINANCES &amp; RESOLUTIONS</b>



**TABLE I: AGREEMENTS**

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
Res. 7-1985	9/11/85	Agreement to be included in Madison County rural transit jurisdiction.
Res. 3-1990	7/11/90	15' easement granted by Jeffrey and Cynthia Hollon to Town of Lapel for utilities -- entire south portion of 3.4 acres at intersection of S.R. 32 and Main Street.
11-1995	9/19/95	Approved the execution of the HELP Program Master Equipment Lease Agreement with the Indiana Bond Bank
5-1996	5/21/96	Accepting dedication Brookside Addition, including, but not limited to, streets and utilities, as streets and utilities of the Town of Lapel.
Ord 7-1996	12/17/96	Trash disposal and curbside recycling charge \$8.91 per month

**TABLE II: ANNEXATIONS**

<b>Ord. No.</b>	<b>Date Passed</b>	<b>Description</b>
6-1990	11/14/90	Annexing certain property of the West-half of the Southwest Quarter of Section 27 Township 19 North, Range 6 East and the centerline of former St. Rd. 132.
1-1991	2/13/91	Annexing 30.838 acres, part of Southeast Quarter of the Southeast Quarter of Section 28, Township 19 North, Range 6 East.
2-1991	2/13/91	Annexing a part of the Northwest Quarter of the Northeast Quarter of Section 28, Township 19 North, Range 6 East and containing .93 of an acre.
3-1991	2/27/91	Annexing a part of the Southwest Quarter of the Southwest Quarter of Section 27, Township 19 North, Range 6 East, and containing 16.047 acres.
		Annexing a part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 19 North, Range 6 East, containing 0.181 of an acre.
		Annexing a part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 19 North, Range 6 East, containing 0.282 of an acre.
5-19-92	7/21/92	Annexing property of Martha Valeda Woodward, being a part of the West Half of the Southwest Quarter of Section 27, Township 19 North, Range 6 East, containing 1.438 acres.
2-1994	5/17/94	Commencing at the Southwest corner of the East half of the Southeast Quarter of Section 21, Township 19 North, Range 6 East, Running thence North 332.5 feet to the Southwest corner of a tract of land heretofore conveyed by seller to one Edward Brant and wife, thence East 358.6 feet thence South 3332.5 feet, thence West 358.6 feet to the place of beginning

containing approximately (three) 3 acres more or less.

6-1994

9/15/94

Beginning at a point on the North line of the Northeast Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, said point being North 89 degrees 22 minutes 35 seconds East (assumed bearing) 348.97 feet from a point marking the Northwest corner of the said Quarter-Quarter section; thence containing North 89 degrees 22 minutes 35 seconds East along the North line of the said Quarter-Quarter section a distance of 656.68 feet to a point being South 89 degrees 22 minutes 35 seconds West 330.00 feet from a point marking the Northeast corner of the said Quarter-Quarter Section; thence South 00 degrees 15 minutes 17 seconds West on a line parallel with the East line of the Northeast Quarter of said Section 33 a distance of 1,327.21 feet to a point on the South line of the North Half of the said Quarter Section; thence South 89 degrees 26 minutes 39 seconds West along the South line of the North Half of the said Quarter Section a distance of 656.67 feet; thence North 00 degrees 15 minutes 17 seconds East a distance of 1,326.43 feet to the point of beginning.

Being a part of the Northeast Quarter of the Northeast Quarter of Section 3 Township 19 North, Range 6 East, and containing 20.00 acres, more or less. Beginning at a point marking the Northwest corner of the Northeast Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, and running thence North 89 degrees 22 minutes 35 seconds East (assumed bearing) along the North line of the said Quarter-Quarter Section a distance of 348.97 feet; thence South 00 degrees 15 minutes 17 seconds West a distance of 1,326.43 feet to a point on the South line of the North Half of the Northeast Quarter of said Section 33; thence continuing South 89 degrees 26 minutes 39 seconds West along the South line of the North Half of the said Quarter Section a distance of 655.91 feet; thence North 00 degrees 10 minutes 46 seconds East a distance of 1,328.14 feet to a point on the North line of the Northwest Quarter of the Northeast Quarter of said Section 33; thence North 89 degrees 50 minutes 32 seconds East along the North line of the said Quarter-Quarter Section a distance of 308.60 feet to the point of

beginning.

Being a part of the Northeast Quarter of the Northeast Quarter and containing 10.609 acres, more or less, and being a part of the Northeast Quarter and containing 9.391 acres, more or less, and containing in all 20.00 acres, more or less, all in Section 33 Township 19 North, Range 6 East.

2-1995	3/21/95	A part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 19 North, Range 6 East and containing 7.666 acres, more or less.
3-1995	3/21/95	Twenty rods off the entire North side of the Northwest Quarter of the Northwest Quarter of Section 27, Township 19 North, Range 6 East, containing ten (10) acres, more or less.
5-1996	4/14/96	Annexing the North half of the Northeast Quarter of Section 33, Township 19 North, Range 6 East excepting therefrom the East 20 rods in width thereof containing 70 acres, more or less in Stony Creek Township and further excepting Tract A and Tract B described as follows: Annexing a part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, and containing 20.00 acres, more or less. Subject to legal rights-of-way. Also annexing a part of the Northeast quarter of the Northeast Quarter and containing 10.609 acres, more or less, and being a Part of the Northwest Quarter of the Northeast Quarter and containing 9.391 acres more or less, and containing in all 20.0 acres, more or less all in Section 33, Township 19 North, Range 6 East. And Annexing a part of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, and containing 1.00 of an acres, more of less. Subject to legal rights -of-way.
3-2002	7/18/02	<p>Part of the Northwest Quarter of Section 28, Township 19 North, Range 6 East, in Madison County, Indiana more particularly described as follows:</p> <p>Commencing at the southeast corner of said Quarter Section; thence North 00 degrees 47 minutes 43 seconds West 714.70 feet to the intersection of the east line of</p>

said Northwest Quarter with the center line of State Road 13 as referenced in the State Right of way plans per Project No. RS-4648 (Line BrA); thence North 52 degrees 59 minutes 13 seconds West along said line, 244.10 feet; thence North 37 degrees 00 minutes 47 seconds East, 25.00 feet to the intersection of west right of way line of 11<sup>th</sup> Street with the north right of way line of State Road 13 as established by the State Right of Way plans per Project No. RS-4648; thence North 52 degrees 59 minutes 13 seconds West, 102.99 feet to the point of beginning; thence continuing North 52 degrees 59 minutes 13 seconds West along the north right of way line of said State Road 13, 200.01 feet; thence North 37 degrees 00 minutes 47 seconds East, 300.00 feet; thence North 52 degrees 59 minutes 13 seconds West parallel with the north right of way line of State road 13, 113.84 feet; thence North 37 degrees 00 minutes 06 seconds East, parallel with the west straight o f way line of 11<sup>th</sup> Street, 230.09 feet; thence South 52 degrees 59 minutes 54 seconds East, 303.62 feet; thence South 37 degrees 00 minutes 06 seconds West parallel with the west right o f way line of 11<sup>th</sup> Street, 47.65 feet; thence South 52 degrees 59 minutes 54 seconds East, parallel with the north right of way line of State Road 13, 110.23 feet to the west of right of way line of 11 Street; thence South 37 degrees 00 minutes 06 seconds West along said west line, 92.35 feet; thence North 52 degrees 59 minutes 54 seconds West, parallel with the north line of said State Road 13, 100.00 feet; thence South 37 degrees 00 minutes 06 seconds West parallel with the west line of 11<sup>th</sup> Street, 120.15 feet to the point of beginning, containing 1.21 acres, more or less.

Being a part of the Northwest Quarter of Section 28, Township 19 North, Range 6 East, in Madison County, Indiana, Lots 29-32, and part of Lots 33 – 35 in Earle S. Cascadden's Addition to the Town of Lapel.

11-2005      7/7/2005

All of that part of the East half of the Southwest Quarter of Sesction22, Township 19 North, Range 6 East, lying south of the public highway formerly known as the Anderson and Fishersburg Turnpike now State Road 32, containing 64 acres, more or less.

Also all of that part of 69 acres off the East side of the

West half of the Southwest Quarter of said Section 22, Township 19 North, Range 6 East, lying South of the public highway formerly known as the Anderson and Fishersburg Turnpike now State Road 32, containing 35 acres, more or less.

Also beginning at a point on the North line of the Northeast Quarter of the Northeast Quarter of Section 28, Township 19 North, Range 6 East, said point being North 89 degrees, 17 minutes and 19 seconds East 761.06 feet from the Northwest corner of said Northeast quarter of the Northeast quarter, and running thence North 89 degrees, 17 minutes and 19 seconds East 575.68 feet to the northeast corner of said Northeast quarter of this Northeast quarter, thence South 00 degrees, 07 minutes and 52 seconds East 503.71 feet along the East line of said Northeast Quarter of the Northeast Quarter, thence South 90 degrees and 00 West 270.65 feet to the Northwest corner of lot #3105 in the Meadows, Section Four, a Subdivision in the Town of Lapel, Indiana, the plat of which is recorded in Plat Book 15, page 31 in the Office of the Recorder of Madison County, Indiana, thence South 00 degrees and 00 minutes 54.59 feet, thence South 90 degrees and 00 minutes West 160 feet to the Northwest corner of Lot #109 in said Subdivision, thence South 00 degrees and 00 minutes 25 feet, thence South 90 degrees and 00 minutes West 197.14 feet, thence North 00 degrees and 00 minutes 110 feet, thence South 90 degrees and 00 minutes West 7 feet, thence North 00 degrees and 00 minutes West 7 feet, thence North 00 degrees and 00 minutes 340 feet, thence North 90 degrees and 00 minutes East 58 feet, thence North 00 degrees and 00 minutes 126.14 feet to the point of beginning

Being a part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 19 North, Range 6 East and containing 7.666 acres, more or less.

Including the eastern boundary of the right of way commonly known as County Road 900 West.  
Subject to easements and restrictions of record visible unrecorded easements.

3-2006            2-2-2006            Part of the South half of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, in Stony Creek Township, Madison County, Indiana, being more particularly described as follows:

Commencing at a point on the North line of the South half of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, said point being 326 feet West of the Northeast corner of the South half of the Northeast Quarter of said Section 33, thence South on a line parallel to the East line of said Section 33, a distance of 1337 feet to a point on the South line of the Northeast Quarter of said Section 33, thence West on and along the South line of the Northeast Quarter of said Section 33, a distance of 2341.5 feet to the Southwest corner of the Northeast Quarter of said Section 33, thence North on and along the West line of the Northeast Quarter of said Section 33, a distance of 1341.5 feet to the Northwest corner of the South half of the Northeast Quarter of said Section 33, thence East on and along the North line of the South half of the Northeast Quarter of said Section 33, a distance of 2341.5 feet to the lace of beginning and containing 71.90 acres, more or less. Subject to legal highways.

5-2006            2-2-2006            A portion of the Southwest Quarter of the Southeast Quarter and the East half of the Northwest Quarter of the Southeast Quarter, both in Section 33, Township 19 North, Range 6 East, Madison County, Indiana, more particularly described as follows:

Beginning at the Northeast corner of a property to Jim Galloway Forms, Inc., Warranty Deed dated March 24, 1993, also being the Northeast corner of the East half of the Northwest Quarter of said Southeast Quarter, thence South along said deed line, also being the East line of the

East half of the Northwest Quarter of said Southeast Quarter and the East line of the Southwest Quarter of said Southeast Quarter, a distance 1,995 feet; thence West, parallel with the North line of the Southwest Quarter of said Southeast Quarter, a distance of 665 feet; thence North, parallel with the East line of the Southwest Quarter of said Southeast Quarter, a distance of 665 feet to the Southwest corner of the East half of the Northwest Quarter of said Southeast Quarter; thence North along said deed line, also being the West line of the East half of the Northwest Quarter of said Southeast Quarter, a distance of 1,330 feet to the Northwest corner of the East half of the Northwest Quarter of said Southeast Quarter; thence East along deed line, also being the North line of the East half of the Northwest Quarter of said Southeast Quarter, a distance of 665 feet to the point of beginning.

5-2006

2-2-2006

A portion of the Southwest Quarter of the Southeast Quarter, and the Southeast Quarter of the Southwest Quarter, both in Section 33, Township 19 North, Range 6 East and a portion of the Northeast Quarter of Section 4, Township 18 North, Range 6 East, all in Madison County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the Northeast Quarter of said Section 4, said point also being on the South line of the Southwest Quarter of the Southeast Quarter of said Section 33; thence West along the deed line of a property to Jim Galloway Farms, Inc., Warranty Deed dated March 24, 1993, also being the South line of the Southwest Quarter of said Southeast Quarter and the South line of the Southeast Quarter of the Southwest Quarter of said Section 33, a distance of 1,447 feet to the Southwest corner of the Southeast Quarter of said Southwest Quarter; thence North along said deed line, also being the West line of the Southeast Quarter or of said Southwest Quarter, a distance of 1,331 feet to the Northwest corner



of the Southeast Quarter of said Southwest Quarter; thence East along said deed line, also being the North line of the Southeast Quarter of said Southwest Quarter and the North line of the Southwest Quarter of said Southeast Quarter, a distance of 1,995 feet; thence South, parallel with the East line of the Southwest Quarter of said Southeast Quarter, a distance of 665 feet; thence East, parallel with the North line of the Southwest Quarter of said Southeast Quarter, a distance of 665 feet to a point on the East line of said deed, also being a point on the East line of the Southwest Quarter of said Southeast Quarter; thence South along said deed line, also being the East line of the Southwest Quarter of said Southeast Quarter, a distance of 665 feet to the Southeast corner of the Southwest Quarter of said Southeast Quarter, said point also being on the North line of the Northeast Quarter of said Section 4; thence South, parallel with the East line of said Northeast Quarter, a distance of 1,057 feet; thence West, parallel with the North line of said Northeast Quarter, a distance of 714 feet; thence South 89 degrees, 43 minutes, 45 seconds West a distance of 500 feet to a point on the West line of said deed, also being a point on the West line of said Northeast Quarter; thence North along said deed line, also being the West line of said Northeast Quarter, a distance of 1,050 feet to the point of beginning. Also: The entire width of the right-of way of CR 400 S that is contiguous with above-described real estate. Subject to all legal easements and rights-of-way.

6-2006

2-2-2006

A portion of the Northeast Quarter and the North half of the North half of the Southeast Quarter of Section 4, Township 18 North, Range 6 East, Madison County, Indiana, more particularly described as follows:

Beginning at the southern most Northeast corner of a property to Jim Galloway Farms, Inc., Warranty Deed dated March 24, 1993, also being the Northeast corner of said Northeast

Quarter; thence the following five (5) courses along the lines of said property after a portion was sold to Gregg Horstmeyer 1☉South along said deed line, also being the East line of said Northeast Quarter and the East line of said Southeast Quarter, a distance of 3,058 feet; (2) North 89 degrees, 52 minutes, 30 seconds West a distance of 1,823.6 feet; (3☉ North 00 degrees, 06 minutes, 30 seconds East a distance of 970 feet; 4☉ South 89 degrees, 50 minutes, 40 seconds West a distance of 354.3 feet; 5☉ North 00 degrees, 38 minutes, 40 seconds West a distance of 985 feet; thence East, parallel with the North line of said Northeast Quarter, a distance of 714 feet; thence North, parallel with the East line of said Northeast Quarter, a distance of 1,057 feet to a point on the North line of said Northeast Quarter; thence East along said deed line, also being the North line of said Northeast Quarter, a distance of 1,452 feet to the point of beginning. Also: The entire width of the right-of-way of CR 3400 S and State Road 13 that is contiguous with the above-described real estate. Subject to all legal easements and rights-of-way.

**ANNEXATION POLICY** for Ordinances # 3, 4, 5, 6. The annexed territory is located in Stony Creek Township, Madison County, Indiana. There is one residence within the proposed territory. There are two public road in the interior of the tract being annexed; C.R. 400 South and C.R. 950 West. A portion of the tract to be annexed adjoins S.R. 13. All adjacent roads are included in these annexation ordinances by this action as per the requirements of the Indiana Code. Polices and fire protection, emergency medical service, water, sewage, etc. are discussed in the Annexation Policy that follows:

Annexation Policy:

The Town Council of Lapel, Indiana has considered other annexation criteria in addition to those set forth by State Statutes.

Non-Capital Expenditures and City Services.

1. General Administrative Functions

Upon annexation all administrative functions of the Town will be available

to the annexed area. This includes but is not limited to, the Plan Commission, Board of Zoning Appeals, Town Council, Town Hall, etc.

In addition, the following Town Services are provided to Town residents and will be provided to the annexed area; police, fire service, emergency medical service, solid waste collection, street lighting and parks.

#### Streets and Roads.

The county road to be annexed will be repaired by the petitioner as per the approved Memorandum of Understanding, adopted prior to the passage of the annexation ordinance. The Indiana Department of Transportation shall be responsible for State Road 13.

#### Capital Improvements

There are no existing water lines or sanitary sewer lines in or near the area to be annexed. Electricity and gas service are currently available to the area to be annexed. There is no need with present usage to extend water or public sanitary sewer service to the tract under consideration. If and when there is a need to have public utilities at this site, the petitioner/developer is responsible for extending public water and/or sanitary sewer service to the annexed tract.

##### 1. Sanitary Sewers.

There is no immediate need to extend sanitary sewers to this tract. It is currently agriculture. If and when there is a need to have public utilities at this site, the petitioner/developer is responsible for extending public sanitary sewer service to the annexed tract.

Estimated one time costs to the Town of Lapel	\$0.00
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##### 2. Water

There is no immediate need to extend public water to this tract. It is currently agriculture. If and when there is a need to have public utilities at this site, the petitioner/developer is responsible for extending public water service to the annexed tract.

Estimated one time costs to the Town of Lapel	\$0.00
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##### 3. Fire Hydrants

Public fire hydrants will be installed by the petitioner at the time when public water is brought to the site.

Estimated one time costs to the Town of Lapel \$0.00

4. Storm Drainage

The tract is served by several legal county drains. There is no need for any public storm drainage work. However, if any storm drainage lines need to be constructed the costs will be the responsibility of the petitioner.

Estimated one time costs to the Town of Lapel \$0.00

5. Interior Roads

There are no interior public roads. If any are proposed in the future, the costs of construction will be the responsibility of the developer.

Estimated one time costs to the Town of Lapel \$0.00

Revenue and Financial Summary

The Town will collect no property tax until this land is rezoned from agriculture. Therefore there will be no new revenue from this annexation.

There will be no capital costs associated with this annexation because the petitioner has committed to extend utilities as needed.

There will be a slight increase in non-capital Town expenditures for police patrol and other administrative services. However, these expenditures are estimated to be minimal.

Therefore the financial impact on the Town of Lapel will be minimal.

**TABLE III: VACATIONS**

<b>Ord. No.</b>	<b>Date passed</b>	<b>Description</b>
3-1984	7/11/84	Vacating a certain portion of Fourth Street, running east and west between Lots Numbered 12 and 13 in Sarah A. Ford's First Addition.
1-1987	3/4/87	Vacating a certain alley, running east and west between Lots Numbered 18 and 19 in Sarah A. Ford's First Addition.
10-2004	12/23/04	Vacating a certain alley beginning at the Southeast corner of Lot Numbered Twenty (2) in the Original Plat of the Town of Lapel, Madison County, Indiana, the plat of which is recorded in Plat Book 1, Page 70, Records of Madison County, Indiana, and running thence South 12 feet to the North line of any alley as used, thence West 132 feet, thence North 12 feet to the Southwest corner of Lot Numbered Nineteen (19) in said Original Plat, thence East 132 feet to the place of beginning.
6-2004	9/02/2004	Vacating a certain portion of 4 <sup>th</sup> Street, beginning at the Southwest corner of Lot 101 in the William Woodward Fourth Addition to the Town of Lapel, then South to a point at the Northwest corner of Lot 100 in the William Woodward Fourth Addition , then due East to the Northeast corner of Lot 100 in the William Woodward Fourth Addition, then due North to the Southeast corner of Lot 101 in the William Woodward Fourth Addition.
2-2004	2/19/2004	Vacating a certain alley between Lots numbered 26 and 27 running from Main Street eastward to the North-South alley running parallel to Main Street and being the first alley east of Main Street in said Original Plat of the Town of Lapel.
2-2003	2/6/2003	Vacating a certain alley described as right of way from Main Street East between Lots

Numbered 12 and 13 in Conrad's First Addition,  
Town of Lapel.

10-2000      9/18/2000

Vacating a portion of John Street and Fourth  
Street. Commencing at an existing railroad  
spike marking the Southwest corner of Lot  
Number 90 in Woodward's 3<sup>rd</sup> Addition to the  
Town of Lapel.

**TABLE IV: CREATION OF SPECIAL FUNDS**

<b>Ord. No.</b>	<b>Date passed</b>	<b>Description</b>
Reso 1998-14	9/17/98	Limb removal not to exceed a pile of six feet tall times six feet wide and times six feet deep with limbs four inch in diameter or smaller to be processed by the town chipper, shall be placed street side by 7:00 a.m. on the regular scheduled pick-up day. Residents will be charged for brush exceeding the above described limit. If residents require removal before regular monthly date, they may contact the town hall and will be billed for the service. Exceptions will be made for storm debris pick-up. A minimum fee of \$5.00 with a \$1.00 per minute charge for extra pick-up service.
1996-1	3/19/96	Fee established for copies of public documents at \$.25 per page. For documents in excess of 25 pages, the Town shall have authority to present such document for professional copying. Individual or public requesting materials shall pay for such copies.

Reso 7-1995	4/18/95	ACumulative Firefighting Building and Equipment Fund A established by a fund levy not to exceed \$ .10 per \$100 of assessed valuation.
9-1990	1/02/91	Cash reserve fund created for the Lapel Water and Sewer Companies for the purpose of providing monthly contributions or transfers to cash reserve fund of surplus earnings and in payment in lieu of taxes.
5-1991	2/27/91	"Ambulance Replacement Fund" established for the purpose of purchasing new ambulances as from time to time may be necessary and warranted. Fifty dollars of each ambulance service fee including the ambulance fee charged to firemen, EMT personnel and their immediate families is hereby allocated to the Ambulance Replacement Fund. The purpose of expenditures from this fund shall be only for the purchase of ambulances and the replacement of existing ambulances. This fund shall be considered perpetual until terminated by further ordinance and any fund balance remaining on eventual termination of these fund shall revert to the Cumulative Fire Fund or any fund as may be subsequently created by ordinance for uses by the Lapel Ambulance Service and/or Lapel Fire Department.
2-1984	6/13/84	A cumulative sinking fund for the purchase of fire fighting equipment for the Fire Department of the Town of Lapel is hereby established, and there shall be levied by said Town for five years after approval of said cumulative sinking fund by the State Board of Tax Commissioners, a tax on all taxable property in the Town of Lapel, provided that said tax shall not exceed ten cents on each One Hundred Dollars valuation of taxable property located in the Town of Lapel. Said tax upon collection shall be deposited in a public depository, and shall be held in a special fund known as the "Fire Equipment Fund", and shall be used for no purpose other than the



purchase and obtaining of fire fighting equipment for the Fire Department of the Town of Lapel.

- |        |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3-1989 | 5/10/89  | A cumulative sinking fund for the purchase of fire fighting equipment for the Fire Department of the Town of Lapel is hereby established, and there shall be levied by said Town for five years after approval of said cumulative sinking fund by the State Board of Tax Commissioners, a tax on all taxable property in the Town of Lapel, provided that said tax shall not exceed ten cents on each One Hundred Dollars valuation of taxable property located in the Town of Lapel. Said tax upon collection shall be deposited in a public depository, and shall be held in a special fund known as the "Fire Equipment Fund", and shall be used for no purpose other than the purchase and obtaining of fire fighting equipment for the Fire Department of the Town of Lapel.                                                                                                                                                                                                                                   |
| 1-2005 | 1/6/2005 | Whereas, IC 36-9-16-1 allows municipalities to establish and continue a Cumulative Capital Improvement Fund, and whereas, the Town of Lapel, Lapel Town Council finds that such a fund is necessary and prudent for the financial well being of the municipality; Now therefore, be it ordained by the Lapel Town Council of the Town of Lapel - Section 1, that there is here re-established the Town of Lapel Cumulative Capital Improvement Fund, Section 2. that an ad valorem property tax levy will be imposed and the revenue from the levy will be retained in the Town of Lapel Cumulative Capital Improvement Fund. Section 3. That the maximum rate of levy under Section 2 will not exceed \$0.03 per \$100 of Assessed Valuation. Section 4. That the Town of Lapel Cumulative Capital Improvement Fund is re-established until 2014. Section 5. That the funds accumulated in the Town of Lapel Cumulative Capital Improvement Fund could be used for purposes disclosed in IC 36-9-16-2 and IC 36-9- |

16-3. Section 6. Funds accumulated in the Town of Lapel Cumulative Capital Improvement Fund may be spent for purposes other than the purposes stated in Section 5 if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Lapel Town Council issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the fund. Section 7. This re-establishment takes effect retroactively to December 31, 2004, and upon approval of the Indiana Department of Local Government Finance.

11-2001	10/18/2001	A Public Record Copy Request will now be required to be filed, by any individual or entity requesting a copy of public records kept by the Town of Lapel, that all records requested, shall be requested in writing. At the option of the requestor, the name, daytime telephone number, and address shall be supplied on the Public Record Copy Request as attached hereto and made a part of this ordinance. There shall be a twenty five cent (\$.25) per page charge for all copies made.
8-2004	<u>DATE??????</u>	An ordinance authorized the acquisition and construction by the town of Lapel, Indiana, or certain improvements and extension to the sewage works of the town, the issuance and sale of revenue bonds to provide funds for the payment of the costs thereof, the issuance and sale of bond anticipation notes in anticipation of the issuance and sale of such bonds, and the collection, segregation and distribution of the revenues of such sewage works and other related matters.
9-2005	<u>DATE?????</u>	An Ordinance authorizing the acquisition and construction by the Town of Lapel, Indiana, of certain improvements and extensions to the

sewage works of the town, the issuance and sale of revenue bonds to provide funds for the payment of the costs thereof, the issuance and sale of bond anticipation notes in anticipation of the issuance and sale of such bonds, and the collection, segregation and distribution of the revenues of such sewage works and other related matters.

8-2000      DATE?????

The Lapel Town Council desires to purchase a new 2000 model year Ford Police Car through the Indiana state bid process. To accomplish this there is a need to borrow \$13,800 on a Loan in Anticipation of Future Revenue. The loan will mature December 31, 20-01. The monthly payments will begin in January, 2000 in the amount of \$575. The loan proceeds will come from the Gas Cash Reserve Fund. The interest rate on the loan will be zero.

## APPROVAL OF

**TABLE V - INDIANA DEPARTMENT OF TRANSPORTATION  
REQUIREMENTS FOR STATE HIGHWAY 13**

<b>Ord. No.</b>	<b>Date passed</b>	<b>Description</b>
Res. 3-1992	6/23/92	Approval of modification to streets and highways: <ol style="list-style-type: none"><li>1. Close Seventh St. at Ford St.</li><li>2. Close Short St. At Eighth St.</li><li>3. Close Rinnie Drive at Ninth St.</li><li>4. Modify Fourth St. to one-way from John St. to Pendleton Avenue in easterly direction</li><li>5. Modify Fifth St. to one-way from John St. east to Pendleton Ave.</li></ol>

**TABLE VI - SUPPLEMENTS**

<b>Ord. No.</b>	<b>Date passed</b>	<b>Description</b>
2-1989	3/8/89	Supplement to Section 18a of said Ordinance dealing with covenants pledged to the United States of American, acting through the Farmers Home Administration, the Clerk-Treasurer shall maintain a fidelity bond in an amount as specified in Section 18a of Ordinance No. 1-1978, dated 1-11-78.

## TABLE VII - ZONING

7-1995	8/15/95	Rezoning to R1 the North half of the Northeast Quarter of Section 33, Township 19 North, Range 6 East excepting therefrom the East 20 rods in width thereof containing 70 acres, more or less in Stony Creek Township and further excepting Tract A and Tract B described as follows: Annexing a part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East, and containing 20.00 acres, more or less. Subject to legal rights-of-way. Also annexing a part of the Northeast quarter of the Northeast Quarter and containing 10.609 acres, more or less, and being a Part of the Northwest Quarter of the Northeast Quarter and containing 9.391 acres more or less, and containing in all 20.0 acres, more or less all in Section 33, Township 19 North, Range 6 East.
13-1997	11/8/97	Part of the Northwest Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East in Stony Creek Township, commonly known as Montgomery Farms Subdivision rezoned to R-2.
7-1999	6/17/99	The Town of Lapel now restores the original zoning classification, from R-2 to R-1, of the Montgomery Farms Subdivision, part of the Northwest Quarter of the Northeast Quarter of Section 33, Township 19 North, Range 6 East in Stony Creek Township, Madison County, Indiana That this reclassification is a direct result of the developer's failure to follow through with the proposed development plan. The reclassification is believed to be in the best interest and spirit of the Town of Lapel's subdivision requirements.

VIII.  
SPECIAL ORDINANCES & RESOLUTIONS

Reso #	Date Passed	Description
13-1996	10/22/96	Removal of Utility from jurisdiction of Commission for Approval of Rates, Charges, and Evidences of Indebtedness; Alternative Procedures
5-1998	3/26/98	A public question shall appear on the ballot of the 11/3/98 general election asking whether the number of town council members be increased from three (3) to five (5) members
Ord. #		
8-1996	12/17/96	Removal of the municipal from the Indiana Regulatory Commission
1-1997	2/18/97	Procedure to implement future rate adjustments and utility financing requests: Retaining a CPA to prepare a rate study and/or feasibility study. Retaining an Engineer to conduct a study and report outlining proposed repair, improvement, or additions Recommendation will be made by each and a public meeting will be scheduled. Final adoption of any rate adjustment would be scheduled for vote by the town no less than 30 days after the public meeting.
2-1998	4/16/98	A one vehicle handicapped parking zone shall be designated for the residence at 922 N. Main Street. That the one-vehicle parking zone will remain in existence from the period March, 1998, for so long as the current residents remain in the home and in need of such handicapped designation due to his/her physical condition.
11-1999	no date	That the following building rules of the Indiana Fire Prevention and Building Safety Commission, of the Indiana Administrative Code, as set out in the following articles, are hereby incorporated and adopted to all Town of

Lapel building codes, requirements, and ordinance as of the date of execution of this ordinance:

Article 13 – Building Codes

- a. Fire and Building Safety Standards
- b. Indiana Building Codes
- c. Indiana Building Code Standards
- d. Indiana Handicapped Accessibility Code

Article 14 – One and Two Family Dwelling Code  
Indiana One and Two Family Dwelling Code

Article 16 – Plumbing Code  
Indiana Plumbing Code

Article 17 – Electrical Code

- a. Indiana Electrical Code
- b. Safety Code for Health Care Facilities

Article 18 – Mechanical Code  
Indiana Mechanical Code

Article 19 – Energy Conservation Code

- a. Indiana Energy Conservation Code
- b. Modification to the Model Energy Code

Article 20 – Swimming Pool Code  
Indiana Swimming Pool Code

8-2001          8/16/01

That the Ordinance No. 13, 1998, is now modified to implement I.C. 3-10-6-2.5.

That pending the implementation of the above referenced statute, the two (2) seats currently held by Shelley Lloyd and Rob Steele, shall be subject to appointment by the Town Council members, Lynn Wainscott, Carl Tony Pearson, and Gary Shuck, those appointments becoming effective on the 1<sup>st</sup> day of January, 2002, and continuing through a two (2) year term as will be designated in the required ordinance, adopted on January 1, 2002, and pursuant to I.C. 3-10-6-2.5



1-2002	1/3/2002	A public question on the ballot for the general election held on the 3rd day of November, 1998. Shall the number of town council members be increased from three (3) to five (5)? The majority of the voters of the Town of Lapel favored increasing the number of town council members from three (3) to five (5) pursuant to I.C. 36-5-2-4.2.
01-3	3/15/2001	Ordinance supporting Southern Madison Utilities, LLC request for authority to provide water utility services in Madison County, Indiana.
Ord. 5	2000 ?	Section 1. That a certain document, three (3) copies of which are on file in the office of the Town of Lapel Utilities, being marked and designated as the International Fuel Gas Code as published by the International Code Council Inc., be and is hereby adopted as the Fuel Gas Code for the Town of Lapel, in the State of Indiana; for the control of building and structures as herein provided; and each and all of the regulations, provision, penalties, conditions and terms of said Fuel Gas Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance. Section 2 the following sections are hereby revised: Section 101.1 Insert: The Town of Lapel Section 3. That any and all other ordinance or parts of ordinance in conflict herewith are hereby repealed. Section 4 That nothing in this ordinance or in the Fuel Gas Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any

character by lost, impaired or affected by this ordinance. Section 5 That the Town of Lapel Clerk Treasurer shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval as required by law.

12-06

DATE

WHEREAS, storm water and surface water control and management is an important function of the Town of Lapel.

WHEREAS, it is in the best interest of the Town of Lapel and its citizens that a Department of Storm Water Management be created for the purpose of providing for the collection, disposal and drainage of storm and surface water in the Town of Lapel.

Now, therefore, be it ordained by the Lapel Town Council of the Town of Lapel, Madison County, Indiana as follows:

- 1) I.C. 8-1.5-5 concerning "Storm Water Management System" is hereby adopted by the Lapel Town Council of the Town of Lapel, Indiana, so as to make the Act and any and all amendments thereto effective and operative in the Town of Lapel, Indiana; and
- 2) Pursuant to I.C. 8-1.5-5, a Department of Storm Water Management shall be an is hereby created for the purpose of providing for the collection, disposal and drainage of storm and surface water in the Town of Lapel; and
- 3) Pursuant to I.C. 8-1.5-5, a Department of Storm Water Management shall be controlled by the Lapel Town Council, Town of Lapel, Indiana; and
- 4) Pursuant to I.C. 8-1.5-5, there is hereby created a special taxing district which shall include all of the territory within the corporate boundaries of the Town of Lapel, Madison County, Indiana; and
- 5) The Lapel Clerk/Treasurer shall prepare a budget for the operation of the Department on

an annual basis which budget shall be subject to approval by the Lapel Town Council and any issuance of bonds or other methods for making capital improvements shall be approved by the Lapel Town Council as provided by law; and

6) Any ordinance or provision of any ordinance of the Town of Lapel or of the Municipal Code of the Town of Lapel in conflict with the provisions of this ordinance is hereby repealed; and

7) The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part of parts; and

This ordinance shall be in full force and effect from and after its adoption and approval by the Lapel Town Council, Lapel, Madison County, Indiana.

**APPENDIX A**  
**THE ZONING ORDINANCE**  
**OF**  
**THE TOWN OF LAPEL, INDIANA**  
**Ord. No. 1-1994**

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR LAPEL, INDIANA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 138, INDIANA ACTS OF 1957, AS AMENDED, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, Chapter 138, Article V, Indiana Acts of 1957, as amended, empowers the (town, city, county) to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Lapel Plan Commission, the Town Council of Lapel, Indiana, deem it necessary for the purpose of promoting the health, safety, convenience, and general welfare of the community to enact such an ordinance, and

WHEREAS, pursuant to the provisions of Chapter 138, Article VII, Indiana Acts of 1957, as amended, a Board of Zoning Appeals has been created to recommend and to carry out its powers and duties as described under Section 77, Article VII, Chapter 138, Indiana Acts of 1957, as amended, and

WHEREAS, the Lapel Plan Commission has divided all areas of the Town of Lapel into districts and has prepared regulations pertaining to such districts in accordance with an adopted comprehensive plan designed to lessen congestion in public streets; to secure safety from fire, flood, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, and

WHEREAS, the Lapel Plan Commission has given reasonable consideration, among other things, to the present character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and lands and encouraging the most appropriate use of land throughout the Town of Lapel and

WHEREAS, the Lapel Plan Commission has made studies and held public

hearings thereon, pursuant to law, and submitted its final report to the Town of Lapel, and

WHEREAS, the Lapel Plan Commission has given due public notices of hearings (pursuant to said Chapter 138) relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS, all requirements of Chapter 138, Indiana Acts of 1957, as amended with regard to the preparation of the report of the Lapel Plan Commission and the subsequent action necessary to enact this ordinance by the town have been met.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF LAPEL, INDIANA AS FOLLOWS:

## Enactment Provisions and Section 1 General Provisions and Enforcement

### Preface

The "enactment" provisions are necessary for establishing the legal basis of the ordinance in relation to the appropriate enabling legislation as it appears in the Indiana Code. They are also necessary to the ordinance itself as an act of the Town of Lapel for enacting the ordinance.

Section 1 deals with those general aspects of the ordinance which affect its legality and means of enforcement.

Subsection 1.1 provides for a single title by which the ordinance shall properly be known.

Subsection 1.2 explains the public purpose of the ordinance and how it is to be interpreted in relation thereto. It explains how the ordinance relates to other ordinances, regulations or other legal provisions and/or privately agreed obligations so that it does not nullify the effect of the most restrictive rules or highest standards embodied in any of them. The separability statement explains that the nullification of any portion of the ordinance does not constitute the nullification of the other provisions of the ordinance.

Subsection 1.3 explains that nothing related to this ordinance interferes with actions begun before it takes effect nor nullifies actions taken under previous legislation except as specifically provided for in this ordinance.

Subsection 1.4 deals with making clear that this ordinance does not restrict or regulate state or federal conferred rights to employ the power of eminent domain or the use of state or federal, or state or federal agency-owned or occupied properties, or of state or federal institutions. This would also include powers delegated by units of government to private entities such as utilities, etc.

Subsections 1.5, 1.6, and 1.7 set forth the date on which this ordinance becomes effective, the fact that all previous regulations dealing with zoning matters are thereby repealed and supplanted by this ordinance, and establishes the legal basis and procedures for amending this ordinance.

Subsection 1.8 explains the means by which the provisions of this ordinance shall be enforced and violations prevented, stopped, and/or punished.

Subsection 1.9 establishes the person primarily responsible for administering and implementing this ordinance.

## 1.1 Title

These regulations shall hereafter be known and cited as the Zoning Ordinance of Lapel, Indiana.

## 1.2 Interpretation, Conflict and Separability

A. In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

### B. Conflict with Public and Private Provisions

i. **Public Provisions.** The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or any other ordinance, rule or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.

ii. **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Private provisions can only be enforced privately unless a public agency such as the Town Council or Plan Commission has been made a party to such agreements.

iii. **Separability.** If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town of Lapel hereby declares that it would have enacted the remainder of these

regulations even without any such part, provision or application.

### 1.3 Saving Provision

This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing zoning ordinance, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the Town of Lapel under any section or provision existing at the time of the effective date of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town of Lapel except as shall be expressly provided for in this ordinance.

### 1.4 Exclusion

Nothing in this Ordinance or in any rules, regulations or orders issued pursuant to this Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, plan commission or board of zoning appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any state agency, or the use of property owned or occupied by the State of Indiana or any state agency. As used in this section, the term "state agency" shall mean and include all state agencies, boards, commissions, departments, and institutions, including state universities of the State of Indiana.

### 1.5 Effective Date

This ordinance takes effect January 18, 1994.

### 1.6 Repealer

Upon the adoption of this ordinance according to law, the [Lapel Zoning Regulations adopted on January 18, 1994] as amended and all prior zoning maps are hereby repealed.

### 1.7 Amendments

For the purpose of providing for the public health, safety, and general welfare, the Town, on recommendation of the Commission, may from time to time amend the text of this ordinance and/or the zoning map(s) incorporated by reference in this ordinance. Public hearings on all proposed amendments shall be held by the Commission and/or the Town in the manner prescribed by law.

### 1.8 Enforcement, Violation, and Penalties



A. It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney who may file a complaint against the person and prosecute the alleged violation.

B. Any person may, by suit in a circuit or superior court of the county, enjoin the violation of this Ordinance.

C. The (Advisory) Board of Zoning Appeals by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this Ordinance, or the removal of any use or condition permitted in violation of this Ordinance.

D. A use that violates this Ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.

E. Any person whether owner or possessor who shall violate, or who permits or allows a violation, of any of the provisions of this ordinance, or who fails to comply therewith or with any requirements thereunder or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted upon which an approval or grant is given under this ordinance shall, upon complaint filed in any court of the county and upon judgment finding such violation, shall be fined not less than \$10.00 and not more than \$300.00, and each day that such violation or noncompliance shall be permitted to exist, shall constitute a separate violation. The fine for not obtaining a building permit, pursuant to the provisions of this ordinance, shall be an amount of five (5) times the cost of the permit. Any person in violation of the provisions of this ordinance for failure to comply therewith shall be responsible for any and all court costs and attorney fees incurred, by the Town of Lapel in enforcement. (Ord. 10-1997, passed 8/16/97)

F. No Improvement Location Permit or Building Permit required under the Uniform Building Code or this ordinance shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.

G. That no building permit, improvement permit, construction permit, shall be issued for a dwelling, structure, or physical improvement, that is not located within one legally described parcel in the existing corporate boundaries of the Town of Lapel, Madison County, Indiana.

Ord No. 1-2006, passed 1/5/2006.

H. Attorney's Fees. Notwithstanding anything contained in this Ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the Town of Lapel is

required to utilize the services of the Town of Lapel attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance pursuant to Section 1.8C, 1.8D or 1.8E, or any other Section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town of Lapel is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant or party investigated for a violation shall pay the Town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Council of the Town of Lapel.

I. Costs on Appeal. As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.

J. The Administrator, his staff, or any person or persons assisting the Administrator in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission and Board of Zoning Appeals, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

#### 1.9 Designation of the Administrator

The Town of Lapel hereby designates its Inspector as the Administrator for the purposes of implementing this ordinance and has the principal responsibility for enforcing this ordinance.

## Section 2 Definitions

### Preface

The purpose of this section is to explain the meaning of the more important terms used in the text of the Lapel Zoning Ordinance. By making these meanings explicit, the risk of arbitrary administrative decisions through lack of understanding is reduced and fair administration of the ordinance enhanced; also those preparing applications will have their tasks made easier if the purposes, processes, and requirements of the ordinance are more clearly comprehended. Common understanding of the ordinance will facilitate adherence to it and the accomplishment of the stated public purposes for all parties affected by the ordinance in regard to adherence to its provisions and to the means of amending its text and maps.

It is extremely important that the definitions in the zoning ordinance be in agreement with the definitions in the Lapel Subdivision Ordinance and other development-related regulations in order to avoid conflicts between them. The lists of definitions need not be the same but those appearing in several ordinances should be in agreement although not necessarily equally comprehensive because of the differences of purpose of the various development-related ordinances. The definitions given here, for example, are in agreement with those in the recently published revised version of Highway Extension and Research Project for Indiana Counties and Cities Subdivision Regulations.

The definitions given here are designed to give maximum protection to the Town of Lapel in their regulation of land uses and should not be modified or abridged without sufficient reasons and careful consideration in the light of local conditions. Some additional terms may need to be defined if they are used frequently locally. It is also essential that the definitions finally used in the adopted ordinance reflect and not conflict with the actual terminology used in the text of all sections. This, of course, may vary somewhat in accordance with conditions unique to the Town of Lapel adopting an ordinance based on this Lapel Zoning Ordinance.

Only terms having a specific or narrow meaning will be defined. The dictionary definition will be used for terms not specifically defined in this Lapel Zoning Ordinance.

### 2.1 Definitions

**Accessory Building.** A subordinate structure, the use of which is incidental to that of the dominant use of the primary building or land.

**Accessory Use.** A subordinate use which is incidental to that of the primary use

and is a use other than human occupancy.

**Actual Construction.** (See 4.3 (c)).

**Administrator.** The officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission. The Town of Lapel, Indiana is hereby designated as the Administrator for the purposes of implementing this ordinance and is the Town of Lapel, Indiana officer referred to herein wherever the term Administrator appears.

**Advisory Plan Commission.** A planning commission serving a single local government jurisdiction established as defined under the Indiana Code, ss 36-7-1-2 (1983) as amended. The Lapel Plan Commission is an Advisory Plan Commission.

**Alley.** A public or private way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street.

**Applicant.** The fee simple owner of land who makes application to the Lapel Plan Commission for action by said commission thereby affecting that land.

**Arterial Street.** Either a primary arterial or secondary arterial as defined in this section.

**Bed and Breakfasts: Homestay.** A small establishment, having one to three bedrooms for rent to transients as an activity which is subordinate and incidental to the main residential use of the building. These are generally treated as tourist homes.

**Bed and Breakfast Inns.** Establishments ranging from four to twenty guest rooms and may include restaurants that cater to the general public as well as to overnight guests. These are treated as commercial enterprises.

**Billboard.** See Sign, Outdoor advertising.

**Block Face.** One side of a street between intersections.

**Block.** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**Board.** The Advisory Board of Zoning Appeals of Lapel.

**Boarding House.** A building, not available to transients, in which meals are regularly provided for compensation for at least three inhabitants in addition to the

owner occupant.

**Boarding Kennel.** A place primarily for keeping four or more dogs, or other small animals that are ordinarily kept as pets, and are at least four months old (which shall not include dangerous animals).

**Buffer Landscaping.** Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance or the Subdivision Regulations to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes, and/or for creating sound barriers and/or visual privacy.

**Building.** Any roofed structure built for the support, shelter, enclosure, or protection of persons, animals, chattels or moveable property of any kind (each part of such a structure that is separated from the rest by unbroken party walls is considered to be a separate building for the purposes of this ordinance).

**Building Area.** The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

**Building Line.** The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.

**Building Permit.** See Location Improvement Permit.

**Business.** The purchase, sale, or exchange of goods or services, or the maintenance for profit of offices or recreational or amusement enterprises.

**Business District.** Refers to the HS, LB, GB, CB & OD districts.

**Campground.** Any site, lot, field, or tract of land under single ownership, or ownership of two or more people, designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

**Cemetery.** Includes any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

**Clinic.** An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least two physicians or dentist are provided.

**Dwelling Unit.** A dwelling or part of a dwelling used by one family as a place of

abode.

**Easement.** An authorization grant made by a property owner for use by another of any designated part of his property for a clearly specified purpose and officially recorded.

**Family.** One or more persons sharing meals and living as a single housekeeping unit.

**Farm.** An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry.

**Flood Hazard Areas.** Those flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.

**Flood Plain.** The area joining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.

**Flood Protection Grade.** The elevation of the lowest floor of a building, including the basement, which shall be two feet above the elevation of the regulatory flood.

**Floodway.** See Regulatory Floodway.

**Floodway Fringe.** That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

**Foundation.** The supporting member of a wall or structure.

**Front Line.** With respect to a building, means the foundation line that is nearest the front lot line.

**Front Lot Line.**

1. For an interior or through lot, means the line marking the boundary between the lot and abutting street or a lake or watercourse; and
2. For a corner lot, means the line marking the boundary between the lot and the shorter of the two abutting street segments.

except as deed restrictions specify otherwise.

**Front Yard.** The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise.

**Garage or Yard Sale.** (See 4.4).

**General Industrial Use.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in open area.

**Group Home.** A single self-contained children's home established and operated by the county department of welfare, licensed private child placement agency or licensed incorporated group established for the purpose of receiving and caring for up to eight children who are attended by house "parents."

**Ground Floor Area.** The area of a building in square feet, as measured in a horizontal plane at the ground level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

**Hardship.** A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

**Height.** With respect to a building, means the vertical distance from the lot ground level to the highest point, for a flat roof; to the deck line, for a mansard roof; and to the mean height between eaves and ridges, for a gable, hip, or gambrel roof.

**Historical.** A contiguous district is a geographically defined area wherein the properties are unified by past events, by physical development, or by plan. A contiguous district often includes properties that are not considered worthy of National Register

status: such buildings are identified as "non-contributing". However, buildings may be considered as contributing to the district if they are not by themselves outstanding but add to the district's sense of time and place and historical development.

**Home Service.** The use of a home for a business or professional service which does not involve treating or attending a person or animal, except consultation or treatment by members of the medical and dental professions, beauticians, seamstresses and day care homes, which is established entirely within a dwelling unit and is conducted only by members of the family residing in the same dwelling unit.

**Improvement Location Permit.** A document issued under Section Nine of this Ordinance permitting a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

**Interior Lot.** A lot other than a corner lot or a through lot.

**Interested Parties.** Those parties who are owners of properties adjoining or adjacent to the property for which a zoning change is being sought.

**Junk Yard.** A place, usually outdoors, where waste or discarded used property other than organic matter, including but not limited to automobiles, farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard.

**Light Industrial Use.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed.

**Local Street.** A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

**Lodging House.** A building, not available to transients, in which lodgings are regularly provided for compensation for at least three persons in addition to the owner occupant.

**Lot.** A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.



**Lot, Corner.** A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees. A lot with streets abutting more than two (2) sides shall also be a corner lot.

**Lot Coverage.** The percentage of the lot area that is represented by the building area.

**Lot Ground Level.**

1. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, means the elevation of the sidewalk at the center of the wall abutting the street;

2. For a building having walls abutting more than one street, means the average of the elevations of the sidewalk at the centers of all walls that face streets; and

3. For a building having no wall abutting a street, means the average level of the ground adjacent to the exterior walls of the building.

**Lot Width.** The distance between the side lot lines as measured on the building line.

**Maneuvering Aisle.** A maneuvering space which serves two or more parking spaces, such as the area between two rows of parking spaces and/or the driveway leading to those spaces.

**Maneuvering Space.** An open space in a parking area which: 1) is immediately adjacent to a parking space; 2) is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but 3) is not used for the parking or storage of motor vehicles.

**Manufactured Home.** A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 U.S.C. 5401 et seq.), and which also complies with the following specifications:

1. shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space per IC 36-7-4 (d);
2. is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code;

3. has wheels, axles, and towing chassis removed;
4. has a pitched roof with a minimum rise of 2/12; and,
5. consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' in length or width enclosing occupied space.

**Mineral Extraction.** (1) mining or quarrying; and (2) removal of earth materials.

**Mobile Home.** Any vehicle without motive power designated by the manufacturer or maker with hitch and undercarriage to permit attachment of axles and wheels, and so designed to permit its being used as a conveyance upon public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a single-family dwelling and not qualifying under the definition of manufactured home.

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

**Occupied Space.** The total area of earth horizontally covered by the structure, excluding garages, patios and porches and other accessory structures.

**One and Two Family Dwelling Code, Indiana.** The nationally recognized model building code adopted by the Indiana Department of Fire Prevention and Building Safety as mandated by Public Law 360, Act of 1971, and, which includes those supplements and amendments promulgated by this agency.

**Open Use.** The use of a lot without a building, or a use for which a building with a floor area no larger than five percent of the lot area is only incidental.

**Parking Area.** A group of parking spaces, exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles.

**Parking Garage.** A garage, where parking but not repairs are available to the public.

**Parking Space.** An open space exclusive of maneuvering aisle and driveway for the parking of a motor vehicle.

**Permanent Foundation.** A structural system for transposing loads from a

structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**Permanent Perimeter Enclosure.** A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings, constructed in accordance with the One and Two Family Dwelling Code.

**Person.** A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

**Plat.** A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

**Planned Development.** A unified development meeting the requirements for zoning approval under the provisions of Section Six of this ordinance.

**Primary Arterial.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the Town or County; and/or as a route for traffic between communities; a major intra or intercity thoroughfare as designated by and shown on the Thoroughfare Plan.

**Principal Building.** A building in which the principal use of the lot or parcel on which it is located is conducted. Standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

**Private Garage.** A garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

**Private School.** A school other than a public school.

**Private Camp.** An area of land used or designed to be used to accommodate groups or organized camping parties, including cabins, tents, food service, and recreational facilities.

**Professional Office.** An office used by members of a recognized profession including but not limited to architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and realtors or insurance agents and brokers.

**Public Improvement.** Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. (All such improvements shall be properly bonded.)

**Rear Lot Line.** For an interior or corner lot, this means the lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot it means the line ten feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the lot line.

**Rear Yard.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

**Recreational Vehicle.** A portable vehicular structure designed as a temporary dwelling for travel and vacation uses which:

1. is identified on the unit by the manufacturer as a travel trailer or a motor home; and
  2. of a size that is street legal;
- or:
1. is a structure mounted on an automobile or truck; and
  2. is designed to be used for sleeping and human habitation.

**Regulatory Flood.** That flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

**Regulatory Floodway.** The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

**Residential District.** Those districts, R-1, R-2, and R-3 as described under Section 3, Districts.

**Scrap Metal Yard.** A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for sale and shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards, dumps, or automobile graveyards. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as wood, paper, rags, garbage, bones and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as either a junk yard, a sanitary fill or refuse dump depending on the content of the accumulated matter.

**Secondary Arterial.** A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials as designated by and shown on the Thoroughfare Plan.

**Section.** A unit of a manufactured home at least ten (10) feet in width and thirty (30) feet in length.

**Setback.** A line parallel to and equidistant from the relevant lot line (front, back, side) between which no buildings may be erected as prescribed in this ordinance.

**Side Lot Line.** Any lines separating two lots other than front or rear lot lines.

**Side Yard.** The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting nor more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escape, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

**Sign.** A visual device or structure used for advertising, display or publicity

purposes.

**Sign, Outdoor Advertising.** A structural poster panel or painted sign, either freestanding or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the activities on the premises upon which it is located.

**Sign, Portable.** A free-standing, on-premise advertising device which is designed to be moved from one location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tiedown straps or stakes;

**Special Use.** The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Advisory Board of Zoning Appeals.

**Street.** A right-of-way that is purchased by a governmental unit or is established by a recorded plat and publicly maintained to provide the principal means of access to abutting property.

**Structural Change.** A substantial change in a supporting member of a building, such as a bearing wall or partition, column, beam, or girder, or in an exterior wall or the roof.

**Structure.** Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground.

**Subdivision.** The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision.

**Through Lot.** A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

**Tourist Home.** See Bed and Breakfast: Homestay

**Trade or Business School.** A secondary or higher education facility teaching usable skills that prepare students for jobs in a trade, business or vocation.

**Use.** The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

**Use Variance.** The approval of a use other than that prescribed by this zoning

ordinance. Changes of allowed uses are not permitted by this ordinance except by zoning map amendment.

**Variance.** A specific approval granted by the Advisory Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes.

**Yard.** A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance.

## Section 3 Districts

### Preface

This section lists and describes two kinds of districts: 1) "as of right" districts in which a limited range of similar, compatible uses are permitted under the restrictions given for each district and in which a limited number of special uses may also be permitted on application to the Board of Zoning Appeals which may also set further restrictions and conditions, and, 2) "planned development districts" which conditionally allow various mixes of uses provided the development plan agreed by the owner and the plan commission and local legislative body to have been designed to eventuate in a compatible, mutually beneficial arrangements of uses on the land.

This section and its subsections importantly set the stage for the one that follows, Authorized Uses, describing in detail those uses permitted in each district and the standards which must be met by each of these uses in order for them to be compatible with other uses and, hence, allow them to be permitted.

The "planned development" technique is especially applicable where a variety of mixed, mutually-supportive uses can be made to be compatible through carefully organized design processes or for a site that is environmentally or topographically sensitive. This is a tool for flexible control of complex use arrangements.



### 3.1 Kinds of Districts: Establishment

The Town of Lapel is divided into the following districts:

A. **Agriculture Districts**, designated "A", are established to include substantial areas to preserve and protect the decreasing supply of prime agricultural land where little or no urbanization has occurred or is likely to occur in the near future. This district also is established to control the indiscriminate infiltration of urban development in agricultural areas which adversely affects agricultural operators.

B. **Conservation Districts**, designated "C-1" is limited to agricultural, recreational, and certain other open land uses. Residential and related uses may be permitted if approved by the Commission. The purpose of this district is to prevent intensive development of land that is unsuitable for development because of topography, soil condition, periodic flooding, or other natural features.

C. **Flood Plan Districts**, designated "FP" are established to include lowland areas adjacent to lakes and ponds, and areas that are within the flood plains of rivers or creeks and are thus subject to inundation and damage from flood waters up to the elevation of the regulatory flood.

D. **Residence Districts**, designated "R1", are established to include areas for low density single-family residences with a density of 4 dwelling units or less per gross acre.

E. **Residence Districts**, designated "R2", are established to include areas for medium density single-family residences with a density of 6 dwelling units or less per gross acre.

F. **Residence Districts**, designated "R3", are established to include areas for relatively high density single-family, two-family, and multi-family residential development with a density of 12 dwelling units or less per gross acre.

G. **Highway Service Districts**, designated "HS", are established to include areas that are close to interstate interchanges and intersections of two state highways and are appropriate to the limited shopping and service needs of those locations.

H. **Historical Districts**, designated "H" are established to include a contiguous district that is a geographically defined area wherein the properties are unified by past events, by physical development, or by plan. A contiguous district often includes properties that are not considered worthy of National Register status, such buildings are identified as "non-contributing". These buildings may be considered as contributing to the district if they are not by themselves outstanding but add to the

district's sense of time and place or historical development.

I. **Local Business Districts**, designated "LB" are established to include areas that are close to residential areas and appropriate to meeting their shopping and service needs.

J. **General Business Districts**, designated "GB", are established to include areas that are appropriate to all kinds of business and services.

K. **Central Business District**, designated "CB", is established to include the Lapel's core business area. The purpose of the district is to encourage expansion and renewal in the historic core business area of the community. A variety of business, institutional, public, quasi-public, cultural, residential, and other related uses are encouraged to provide the mix of activities necessary for a truly urban district.

L. **Office Districts**, designated "OD", are established to include office park facilities, and related office and business services.

M. **Industrial Districts**, designated "I", are established to include most of the existing industrial facilities and areas best suited for future industrial use because of location, accessibility and other conditions. The districts shall be defined as follows:

Light Industrial (I-1); the purpose of the district is to encourage the development of manufacturing and wholesale business establishments which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare; operate entirely within enclosed structures and generate little industrial traffic. Research activities are encouraged. The I-1 district is designed to act as a transitional use between heavy industrial uses and other less intense business and residential uses.

Heavy Industrial (I-2); the purpose of the district is to encourage the development of major manufacturing, processing, warehousing, and major research and testing operations. These activities require extensive community facilities, and reasonable access to arterial highways; they may have extensive open storage and service areas, generate heavy traffic but shall be prohibited if they create nuisances beyond the limitations set by the Commission.

Extractive Industrial (I-3); the purpose of the district is to provide land for the mining, processing, and storage of mineral resources. This district is designed to assure that these resources be properly managed and all land be reclaimed as not to create a hazard or nuisance which either immediately or in the future adversely affects the health, safety, or general welfare of the community.

N. **Planned Development Districts**, designated "PD-R", "PD-C", "PD-I",

"PD-REC", and "PD-E" are established for the purposes and under the conditions set forth in Section 6 hereof.

### 3.2 Boundaries: In General

A. The boundaries of the districts established by section 3.1 are as shown on the zone map which is a part of this Ordinance, and hereafter known as the Official Zoning Map for the Town of Lapel. Said Official Zoning Map shall hereafter be kept in the custody of the Administrator of Lapel, Indiana. Except as provided by Section 3.3, such boundaries and the Official Zoning Map shall be changed only by amendment to the Official Zoning Map. Upon such amendment the Town of Lapel shall within (5) days of passage of such amendment, certify a copy of such amendment to the Administrator, who shall immediately change the Official Zoning Map in accordance with such amendment. The Administrator shall cause the Official Zoning Map to show the Ordinance number and date of adoption of all such amending ordinances.

B. When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the zoning map.

C. When the maps are caused to be changed by amendment the change shall be to the center of any and all abutting rights-of-way.

D. If the boundary line of a district divides a lot having frontage on a street so that the front part of the lot lies in one district and the rest of the lot lies in another, use requirements and restrictions that apply to the front part of the lot apply to the entire lot.

### 3.3 Boundaries: Flood Plain Districts

The boundary of an FP District may be changed if the Indiana Natural Resources Commission, after investigating the land involved, determines (1) that the requested change would not endanger the public welfare, and (2) that the elevation of such land is at or above the elevation of the regulatory flood. Such determination shall be made in writing upon the request of the applicant who shall provide the Indiana Natural Resources Commission with a scale drawing identifying the location, dimensions and elevations related to the USGS datum of the land.

If the land within the boundary of an FP District is certified by a Registered Land Surveyor or Registered Professional Engineer as having an elevation at or above the regulatory flood elevation, as determined by the Indiana Natural Resources Commission, that area of land so certified will be removed from the FP designation and will become zoned as the adjacent areas on the zoning map. Should the adjacent areas contain more than one zoning district, the line dividing those existing districts shall be extended through the land so removed from the FP District. Should an area, certified

as having natural ground elevation at or above that of the regulatory flood, be adjacent to no district other than flood plain (i.e., surrounded by flood plain), it will be designated A, Agriculture, until or unless the legislative body alters that designation by ordinance. However, in the case of islands created by fill material only those islands located in the floodway fringe will be redesignated. Islands created in the floodway will still be considered part of the floodway. However, in no case shall an area derive A zoning from its adjacency to land removed by certification from the FP district if the area also abuts another zoning classification. It shall derive its zoning from the adjacent district.

Buildings permitted on lands within one hundred (100) feet of the FP District shall be required to comply with the flood protection grade as established by the Indiana Natural Resources Commission.

All lands, within the flood plain having an elevation below that elevation determined by the Indiana Natural Resources Commission to be the regulatory flood elevation for that location shall be in the FP District.

### 3.4 Subdivisions, Cluster Developments, Planned Developments, Condominiums and Zero Lot Line Developments

The subdivision of land pursuant to the requirements of the Lapel Subdivision Ordinance shall be permitted in these districts: A, FP, R1, R2, R3, CB, HS, LB, GB, I, and OD. The intended principal use of each of the proposed lots within a proposed subdivision shall govern the specific district or districts appropriate to the land to be subdivided, as per 4.1 of this ordinance.

However, the following classifications of subdivisions shall only be permitted in R1, R1, or R3 districts: major subdivisions intended entirely for residential use, and any portions of major subdivisions intended for residential use;

Planned Developments shall be permitted only in these districts: PD-R, PD-C, PD-I, PD-REC and PD-E, as per Section 6.2 of this ordinance. In order to provide greater design flexibility, and to encourage innovative land development techniques and a more efficient use of land, the design and development of uses within these districts may deviate from the standard prescribed by the Lapel Subdivision Ordinance and sections 5.1 through 5.14 of this ordinance.

Condominiums, as defined and regulated in IC 32-1-6 (the Horizontal Property Law), cluster developments, zero lot line developments and all developments of the minimum sizes specified in Section 6.2 of this ordinance and larger shall be considered for zoning purposes to be Planned Developments, and consequently shall be permitted only in these districts: PD-R, PD-C, PD-I, PD-REC and PD-E, as per Section 6.2 of this ordinance.

## Section 4 Authorized Uses

### Preface

The purpose of this section is to describe the uses which are permitted, either by right or by special exception, and the conditions under which they are authorized in the districts described in the previous Section.

Subsection 4.1 deals with "primary" as opposed to secondary, ancillary or "accessory" uses. Subsection 4.2 lists those accessory uses which are permitted. Subsection 4.3 deals with the problem of non-conforming uses and structures. It describes the various kinds of non-conformance and the limitations placed on such uses and structures in order to discourage their continued existence. Subsection 4.4 deals with the conditions for allowing garage or yard sales as a temporary use. The chart which concludes this chapter provides a convenient means of seeing which uses are authorized in each of the districts described in Section 3.

It is in this section that the Town of Lapel can express local experience and attitudes in regard to preserving and enhancing the quality of development in a manner appropriate to the character of our community.

#### 4.1 Primary Uses

Primary uses are authorized in the districts established by or under Section 3.1 as shown by an "X" in the table at the end of this section. Where the use is designated for the district with an "S", the use is permitted in that district only if a special use has been approved under Section 8.3.

#### 4.2 Accessory Uses

Accessory uses such as the following are authorized in all districts subject of the provisions of any and all recorded restrictive covenants running with the land:

- ! Bird baths and bird houses
- ! Accessory buildings
- ! Curbs
- ! Driveways
- ! Fences and Hedges\*
- ! Lamp posts
- ! Mail boxes
- ! Name plates

- ! Parking spaces
- ! Private swimming pools enclosed by a 6-foot high fence or, 6-foot vertical enclosure integral with an above ground pool Ord. No. 7-2000, passed 6/15/00
- ! Public utility installations for local service (such as poles, lines, hydrants, and telephone booths)
- ! Retaining walls
- ! Trees, shrubs, plants and flowers
- ! Walks

- \* Provided that, in any residence district, ornamental fences and hedges shall not exceed three feet in height in the required front yard, except that open chain link fences may be erected to four feet in height, or as provided in section 5.7.

#### 4.3 Nonconforming Uses and Structures

##### A. Intent

Within the districts established by this ordinance or by amendments that may later be adopted, there may exist:

- i. Nonconforming lots;
- ii. Nonconforming structures;
- iii. Nonconforming uses of land;
- iv. Nonconforming uses of land and structures in combination; and
- v. Nonconforming characteristics of use.

These were lawful before this ordinance was passed or amended, but they are prohibited, regulated or restricted under the terms of this ordinance or may be under future amendments hereto. It is the intent of this ordinance to permit these nonconforming uses to continue until they are removed but not to encourage their survival. It is further the intent of this ordinance that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district. [Note: Illegal uses existing at the time this ordinance is enacted shall not be validated by virtue of its enactment.]

##### B. Incompatibility of Nonconforming Uses

Nonconforming uses are declared by this ordinance to be incompatible with

permitted uses in the districts in which such use is located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

**C. Avoidance of Undue Hardship.**

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

**D. Single Nonconforming Lots of Record.**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this ordinance notwithstanding limitations imposed by other provisions of this ordinance. Such lots must be in separate ownership or included in a subdivision of record in the office of the Madison County Recorder at the time of passage of this ordinance. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width or both, of the lots shall conform to the regulations for the district in which such lots are located. (Also see Section 5.3 (c)). Variances of requirements listed in Section 5 of this ordinance, other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Sections 8.4. [Note: This section shall apply only to single-family residences.]

**E. Nonconforming Lots of Record in Combination.**

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be

considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with the lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

**F. Nonconforming Uses of Land.**

Where, at the time of adoption of this ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

i. No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

ii. No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this ordinance.

iii. If any such nonconforming uses of land are discontinued or abandoned for more than one year except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulation specified by this ordinance for the district in which such land is located.

iv. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

**G. Nonconforming Structures.**

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

i. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

ii. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to the extent of more than 50 percent of the fair market value of the building immediately prior to the damage, it shall not be



reconstructed except in conformity with the provisions of this ordinance.

iii. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **H. Nonconforming Uses of Structures or Structures and Land in Combination.**

If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not now be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

i. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

ii. A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

iii. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

iv. When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for more than one year (except when government action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

v. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### **I. Repairs and Maintenance.**

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve consecutive months on

ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure and market value of real estate, or nonconforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any order of such official. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

#### 4.4 Garage or Yard Sale

A. As used herein "garage or yard sale" is defined as a public or private sale conducted by the owner or occupier of a premise, and conducted within a residence, garage, other accessory buildings or outside thereof, which sale is of six or more items of personal property owned or in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

B. A garage or yard sale may be conducted no more than 3 times in any one calendar year on any premises located in any R1, R2, or R3 zone, but no such sale shall be conducted for more than three (3) consecutive days.

C. Such garage or yard sale shall only be conducted during the hours from sunrise to sunset.

D. All personal property exhibited for sale outside any structure during such garage or yard sale shall be removed from the outside and placed within a structure immediately following the last day of such sale. All signs erected for such garage or yard sale shall likewise be removed.

#### 4.5 Automotive Repair

A. Automobile Repair, Major -- Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.

B. Automobile Repair, Minor -- Incidental repairs, replacement of parts, and motor service to automobile, but not including any operation specified under "Automobile Repair, Major".

C. Gasoline Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be supplied and dispensed at retail.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage, of automobiles not in operational condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

## Section 5 Use Requirements and Restrictions

### Preface

The purpose of this section is to set forth in detail the development standards and restrictions for those uses which are authorized and on which their continued authorization depends.

Each subsection deals with a particular development standard. These standards have been calculated to make good neighbors of different uses, to prevent nuisances, to promote the preservation of property values, and to provide sound, safe, compatible development for the general public good.

### 5.1 Height of Structures

A. Except as otherwise provided by this section, no structure may be erected or changed so as to make its height greater than twenty-five (25) feet if it is in an R1 or R2 District, or thirty-five (35) feet if it is in an A, R3, HS, LB, GB or OD District, or one hundred (100) feet if it is in a CB or I District.

B. A clinic that is authorized as a special use under section 4.1 may be erected or changed to a height not greater than forty (40) feet.

C. In a GB District, a business or light industrial structure may be erected or changed to a height not greater than seventy-five (75) feet. In a CB or I District, a business or industrial structure may be erected or changed to any height. This height exception does not extend to signs permitted for these uses.

D. An agricultural structure may be erected or changed to any height necessary for its operation.

E. The following structures may be erected or changed to any height not greater than thirty-five (35) feet when permitted in an R1 or R2 District:

#### **List of Types**

- ! Churches or temples (excluding signage)
- ! Public Libraries or museums
- ! Schools
- ! Government Buildings

F. Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, penthouses for mechanical equipment, stacks, tanks, water towers, transmission towers for electric lines, and necessary mechanical appurtenances may be erected or changed to any height that is not otherwise prohibited elsewhere in this ordinance.

## 5.2 Maximum Lot coverage: Residential Uses

The residential buildings on any lot may not exceed in coverage the following percentages of total lot area:

### Maximum Lot Coverage

<u>District</u>	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>LB</u>	<u>CB*</u>	<u>A</u>
Percentage of Coverage	30%	35%	40%	25%	60%	25%

\*There is no maximum lot coverage if the entire first story contains non-residential uses.

## 5.3 Minimum Lot Size: Residential Uses

A. Except as provided for in 5.3(c), a lot on which a dwelling is erected or changed may not be smaller in area, in square feet per dwelling unit, than that prescribed for it in the following table. ("Changed" shall mean "increased in number of dwelling units contained therein," but shall not be construed to mean only refurbished, rehabilitated or expanded in size.)

### Lot Size In Square Feet and District

<u>Dwelling Type</u>	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>LB</u>	<u>CB</u>	<u>A</u>
Single-Family	10,000	7,250	6,000	6,000	6,000	20,000
Two-family	--	--	3,000	3,000	3,000	5,000
Multi-family	--	--	2,000*	2,000*	800	--

\*This figure applies for each of the first three dwelling units - add 1,00 square feet for each additional unit.

D. Except as provided for in 5.3(c), a lot on which a dwelling is erected or changed may not be smaller in width, in linear feet, than that prescribed for it by the following table. ("Changed" shall mean "increased in number of dwelling units contained therein," but shall not be construed to mean only refurbished, rehabilitated or expanded in size.)

#### **Lot Width in Feet and District**

<u>Kind of Dwelling</u>	District					
	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>LB</u>	<u>CB</u>	<u>A</u>
Single-family	75'	60'	60'	60'	--	100'
Two-family	--	--	60'	60'	50'	100'
Multi-family	--	--	70'	70'	70'	--

C. A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted if the lot was in separate ownership or included in a subdivision of record in the office of the County Recorder at the time of the passage of this ordinance, even though the lot does not have the minimum lot width or the minimum lot area, or both, specified for the district by this ordinance.

#### **5.4 Minimum Lot Size: Other Uses**

A lot on which one of the following uses is located may not be smaller in area than the area prescribed for that use opposite it in the following table:

#### **Minimum Lot Sizes by Use**

<u>Use</u> <u>Area</u>	<u>Minimum Lot</u>
Airport	80 acres
Cemetery or crematory*	20 acres
Clinic	15,000 sq. ft.
Commercial facilities for raising and breeding nonfarm fowl and animals	1 acre
Junk Yard	10 acres
Kindergarten or day care center	110 sq. ft. per child

Penal or correctional institution**	320 acres
Police station or fire station	15,000 sq. ft.
Private camp or campground	5 acres
Public or commercial garbage disposal plant	5 acres
Public or commercial sanitary fill, refuse dump or trash transfer station	10 acres
Riding stable	20,000 sq. ft. plus 5,000 sq. ft. for every horse over four

\*Does not apply to old town or city cemeteries

\*\*Does not apply to a town, city, or county jail.

## 5.5 Standard Setbacks

A. In any district except the CB district, where there is no such requirement, minimum depth of front yard for a lot abutting a street shall be as follows:

<u>Street Type</u>	<u>Minimum Front Yard</u>
Local or Place	25 feet
Collector	30 feet
Secondary Arterial	40 feet
Primary Arterial	60 feet

Arterials are designated by the Adopted Thoroughfare Plan; collectors are designated by resolution of the plan commission.

However, along a local street in a residence district or business district other than CB, where fifty percent of lots in that block face are occupied by principal use buildings, minimum depth of front yard for that block face shall be the average depth of front yard for those buildings, provided that such front yard shall be no less than 10 feet. But buildings to be removed to make way for a new building shall not be included when calculating average depth of front yard to be applied to the new building.

A through lot has a front yard on each abutting street.

For any corner lot, these front yard setback standards shall also apply to the side yard(s) abutting a primary or secondary arterial, collector, local street or place.

Where a lot does not abut a street, minimum depth of front yard shall be 25 feet, measured from a designated front lot line.

For any accessory building, minimum depth of front yard shall be the same as for the principal use building.

B. Minimum depth of rear yard, in feet, for primary and accessory building shall be as follows:

<u>Zoning District</u>	<u>Residential Use</u>		<u>Nonresidential Use</u>	
	<u>Primary</u>	<u>Accessory</u>	<u>Primary</u>	<u>Accessory</u>
R1, R2, R3, A	25	10	25	10
LB, OD	15	15	15	15
GB, HS	15	15	15/40*	15/40*
CB	0	0	0	0
I	--	--	15/40*	15/40*

\* Where rear lot line abuts a residential district.

C. Minimum depth of side yard, in feet, for primary or accessory buildings shall be as follows:

<u>Zoning District</u>	<u>Residential Use</u>	<u>Nonresidential Use</u>
R1, R2, R3, A	6	6
LB, GB, OD, HS	0	0/10*
CB	0	0
I	--	0/30*

\* Where side lot line abuts a residential district.

## 5.6 Setbacks: Accessory Buildings in Residential Districts

A. In a residential district, an accessory building may be located no closer to a side lot line than six (6) feet and no closer to the front lot line than the minimum front yard for a principal building.

B. If an interior lot abuts a corner lot or an alley separating them and the



front yards of the two lots are perpendicular to each other, an accessory building on the rear lot line of the corner lot may be located no closer to the street abutting the interior lot than the principal building on the interior lot.

C. Shall not exceed a height of 16'.

#### 5.7 Setbacks: Vision Clearance at Intersections

At the street intersection of each corner lot, the triangular space determined by the two lot lines at that corner and by a diagonal line connecting the two points on those lot lines that are twenty-five (25) feet respectively from the corner shall be kept free of any obstruction to vision between the heights of two and one-half (2 2) and twelve (12) feet above the established grade.

#### 5.8 Setbacks: Uses Allowed As Special Uses

When permitted by grant of special use per Section 8.3, the following uses are subject to the special setbacks prescribed, in feet, by the following table. If no figure appears for a front yard setback, the standard setback prescribed by Subsection 5.6 applies.

#### Setbacks in Feet by Use

Use	Front	Side	Rear
Bottled gas storage and distribution	300'	300'	300'
Cemetery or crematory	50'	50'	--
Clinic	--	10'	30'
Commercial facilities for raising & breeding nonfarm fowl & animals	100'	100'	100'
Junk Yard	300'	150'	150'
Kindergarten or day care center	20'	15'	--
Liquid fertilizer storage & distribution	300'	300'	300'
Mineral extraction, borrow pit or top soil removal and their storage areas	150'	150'	150'
Outdoor theater	100'	40'	40'
Outdoor commercial recreational enterprise	40'	40'	--

Penal or correctional institution	100'	100'	100'
Petroleum tank farm	300'	300'	300'
Private recreational development	40'	40'	--
Private camp or campground	100'	40'	40'
Public or commercial sanitary fill, refuse dump, garbage disposal, plant or trash transfer center	300'	300'	300'
Public or commercial sewage disposal plant	300'	300'	300'
Riding Stable	100'	100'	100'
Sales barn for livestock sale	300'	300'	300'

### 5.9 Buffering: Minimum Distances from Residential District

A. A mineral extraction area, borrow pit, or topsoil removal area (including storage area), penal or correctional institution, public or commercial sewage disposal plant, sales barn for livestock sale, truck terminal, or wholesale produce terminal may not be located closer to an R1, R2, or R3, District than three hundred (300) feet. A junk yard may not be located closer to such a district than thirteen hundred twenty (1320) feet.

B. A parking area or loading berth for any of the following uses may not be located closer to a residential district than the distance, in feet, listed opposite it in the following table:

#### Minimum Distance in Feet From a Residential District

Loading Use	Parking Area	Berth
Airport	25'	100'
Commercial facilities for raising & breeding nonfarm fowl & animals	25'	100'
Commercial greenhouse	--	50'
Junk yard	1320'	1320'
Mineral extraction, borrow pit, or topsoil removal and their storage areas	--	300'
Outdoor commercial recreational		

enterprise	25'	50'
Penal or correctional institution	300'	300'
Private recreational development	25'	--
Sales barn for livestock sale	50'	100'
Truck terminal	100'	100'
Wholesale produce terminal	100'	100'

#### 5.10 Buffering: Fences and Walls

The following uses shall be fenced or walled as respectively prescribed by the following table:

Use Category	Enclosure
Airport or heliport (where located at ground level)	6'0" chain link fence
Artificial lake of three or more acres, if accessible to public	6'0" chain link fence
Drive-in	6'0" wire mesh fence
Kindergarten or day-care center (play area only)	4'0" wire mesh fence
Junk Yard	8'0" solid wall or solid painted fence sufficient to hide from view
Mineral extraction, borrow pit, topsoil removal, and their storage areas	6'0" chain link fence
Outdoor commercial recreational enterprise	6'0" chain link fence
Outdoor theater	8'0" solid opaque fence
Private swimming pool	6'0" chain link fence
Public or commercial sewage disposal plant	6'0" solid painted fence
Wholesale produce terminal	6'0" wire mesh fence

#### 5.11 Buffering: Screen planting Abutting Residential Use

Tight screen planting, effective at all times to block the view from abutting residential uses, shall be provided for the following uses in accordance with the following table, the dimensions of the screen to be the minimum five years after the use is established.

## Screening of Uses

Use	Screen
Artificial lake of three acres or more	6'0" high; 3'0" wide
Commercial facilities for raising and breeding nonfarm fowl and animals	6'0" high; 3'0" wide
Mineral extraction, borrow pit, topsoil removal, and their storage areas	8'0" high; 3'0" wide
Private recreational development	6'0" high; 3'0" wide
Private swimming pool enclosed by a 6' fence or 6' vertical enclosure integral with an above ground pool. Ord. No. 8-2000, passed 6/15/00	6'0" high; 3'0" wide
Public or commercial sanitary fill, refuse dump, garbage disposal, plant or trash transfer station	8'0" high; 6'0" wide
Riding stable	6'0" high; 3'0" wide
Truck terminal	6'0" high; 6'0" wide
Wholesale produce terminal	6'0" high; 6'0" wide

### 5.12 Entrances

A. This subsection limits the number of entrances to an arterial street or a state or federal highway. However, it does not apply to entrances for emergency use only.

B. Each of the following uses, for which special uses are prescribed by Section 4.1, is limited to one entrance:

#### Use List

Artificial lake of three or more acres  
Clinic  
Commercial facility for raising and breeding nonfarm fowl and animals  
Country club or golf course  
Junk yard  
Mineral extraction, borrow pit, topsoil removal, and their storage areas  
Outdoor theater  
Penal or correctional institution

Private recreational development  
Private camp or campground  
Public or commercial sanitary fill, refuse dump,  
garbage disposal plant or trash transfer station  
Public or commercial sewage disposal plant  
Railroad right-of-way and uses essential to  
railroad operation  
Riding stable  
Sales barn for livestock sale  
Telephone exchange or public utility substation  
Tourist home or bed and breakfast  
Truck terminal  
Wholesale produce terminal

C. Each of the following uses, for which special uses are prescribed by Section 4.1, is limited to two entrances:

**Use List**

Airport  
Cemetery  
Outdoor commercial recreational enterprise

### 5.13 Minimum Off-Street Parking and Loading Requirements

**A. Purpose**

In order to reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided for in this subsection. Parking spaces or bays contiguous to the street, required by subdivision or other town ordinances, are in addition to and not in place of the spaces so required.

**B. Applicability**

No new building or structure shall be constructed or used in whole or in part, and no building or part thereof shall be altered, enlarged reconstructed or used, and no land shall be used unless off-street parking is provided in accordance with the following conditions:

i. No existing off-street parking spaces shall be eliminated by the replacement or enlargement of an existing building or structure, unless they are

replaced by spaces provided in accordance with this subsection.

ii. Enlargements or alterations which result in an increase in the ground coverage or the usable floor area of a building or structure shall require additional off-street parking spaces in accordance with the provisions of this subsection, but only to the extent that such increase exceeds 5% of the ground coverage or 15% of the floor area existing at the time this subsection becomes effective.

iii. Changes in the use of existing buildings, structures, or of land shall require additional off-street parking spaces in accordance with the provisions of this subsection but only to the extent of such change.

iv. Restoration of an existing building or structure that has been damaged or destroyed by fire or other disaster shall be permitted without conforming to the requirements of this subsection if said restoration or rebuilding complies with the following requirements:

- ! The restoration of the building does not increase the ground coverage that was occupied by the structure being replaced by more than 5%,
- ! The restoration does not increase the usable floor space by more than 15% over that which was in the building being replaced,
- ! The restoration does not reduce the number of parking spaces that were available to the subject structure, and were in existence, prior to the restoration.

v. Buildings, structures, or land uses, in existence, or structures or uses for which improvement location permits have been issued at the time this ordinance becomes effective shall not be subject to the requirements of this subsection except as provided above.

### **C. Required Parking Spaces**

i. Parking spaces shall be provided as follows:

#### **Parking Requirements by Use**

Uses	Required Parking Spaces
------	-------------------------

Airport or heliport	1 per 2 employees plus 1 per based or daily transient aircraft
Artificial lake of 3 acres or more	1 per 2 users
Automobile, RV and camper sales	1 per 400 sq. ft. of gross floor area.
Motor vehicle repair	1 per 200 sq. ft. of gross floor area
Banks, business offices, professional offices similar business uses, post office and similar service uses	1 per 200 sq. ft of gross floor area
Boarding or lodging house	1 per occupant plus 2 for the resident owner
Bowling alley	3 per lane
Cemetery or crematory	1 per 2 employees plus 1 per 4 seats in chapel, if provided
Church or temple	1 per 2 seats in main auditorium
Clinic	1 per employee plus 3 per doctor for patients
Communication relay tower	1 plus 1 per 3 employees
Country club or golf course	1 per 2 employees plus 3 per golf hole
Dancing, aerobics or gymnastics	1 per 200 sq. ft., of gross studio floor area
Department store, antique shop, apparel shop, flower shop, drugstore, hardware store, stationery and book store, newsdealer, record shop, photo studio, barber shop, beauty shop, health spa or fitness center, bakery, restaurant, delicatessen, liquor store, meat market, grocery (including convenience stores), roadside food sales stand, electrical appliance shop, radio-TV shop, dress-maker, millinery, tailor and pressing shop, self-service laundry, dry cleaning and laundry establishment, billiard room, night club, furniture and large appliance sales area	1 per 200 sq. ft. gross floor
Greenhouse (commercial), facilities	

for raising or breeding nonfarm fowl or animals (commercial)	1 per 2 employees plus 1 per 125 sq. ft. of sales area
Home Service	1 in addition to residence requirement
Hospital	1 per 4 beds plus 1 per doctor plus 1 per 3 employees plus 1 per hospital vehicle.
Hotel or motel	1 per 3 employees plus 1 per sleeping room.
Industrial uses generally	1 per employee on largest shift
Junk Yard or recycling center	1 per employee
Kindergarten or day care center	1 per 2 employees plus 1 per 5 children
Mortuary	1 per 3 seats in main auditorium
Nursing home	1 per 7 persons plus 1 per employee on largest shift.
Outdoor commercial recreational use	1 per employee plus 1 per 500 sq. ft. of use area
Penal or correctional institution	1 per 3 employees plus 1 per 10 inmates (capacity)
Police station or fire station	1 per employee on largest shift
Private club or lodge	1 per 6 active members
Private recreational development	1 per 2 customers or members
Private camp or campground	1 per camp site plus 1 per cabin plus 1 per employee
Public library or museum floor area	2 per 1,000 sq. ft. gross floor area
Public or commercial sewage disposal plant	1 per employee on largest shift
Bus station	1 per 10 seats in waiting room plus 1 per 2 employees of connected retail use
Residential use, including apartments	2 per dwelling unit
Riding stable	1 per 5,000 sq. ft.
School	1 per staff member plus 1 per 5,000 sq. ft. plus 1 per 4 students enrolled if a high school
Shopping center	
25,000 to 400,000 sq. ft. gross leasable area	4 per 1,000 sq. ft. gross leasable area



400,000 to 600,000 sq. ft. gross leasable area	4.5 per 1,000 sq. ft. gross leasable area
600,000 sq. ft. and over gross leasable area	5 per 1,000 sq. ft. gross leasable area
Swimming pools	1 per 100 sq. ft. of pool area
Telephone exchange or public utility substation	1 per employee
Theater (indoor)	1 per 2 seats
Theater (outdoor)	1 per 2 employees
Tourist home or bed and breakfast	1 per employee plus 1 per guest bedroom
Trade or business school	1 per 3 students and staff
Truck terminal	1 per 2 employees plus 4 for customers
Veterinary hospital or clinic or boarding kennel	1 per 3 animal spaces (cages or pens)
Wholesale produce terminal	1 per 2 employees

ii. Drive-up services, including but not limited to bank teller, photo pick-up, car washes, fast food order and pick-up, shall provide waiting space for queuing of vehicles awaiting use of drive-up windows. The requirements are: two (2) twenty (20) foot car-length waiting spaces for each drive-up lane (including the space where the transaction takes place), plus one additional space per drive-up lane where such waiting space can be in a common lane for multiple drive-up windows. Drive-up waiting space requirements are in addition to any off-street parking requirement.

#### **D. General Regulations**

i. Parking spaces may not be located in the required front yard except in business and industrial districts.

ii. Some parking areas must conform to the location requirements prescribed in Subsection (5.4 (B)).

iii. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall be not less than the sum of the requirement for the several individual uses computed separately. This provision shall apply to a building having space occupied by two or more uses.

iv. When determination of the number of off-street parking spaces required by subsection C results in a requirement of a fractional space, any fraction of one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one parking space.

v. Every company car, truck, tractor and trailer normally stored at a business site shall be provided with off-street parking space. Such space shall be in addition to the parking requirements of subsection C.

#### **E. Off-Site Parking Facilities**

Required parking for a non-residential development may be located off-site under certain circumstances. Requests for variances allowing the substitution of off-site for on-site parking must meet the following requirements:

i. The off-site parking shall be located so that it will adequately serve the use for which it is intended. In making this determination the following factors, among other things, shall be considered:

a. Proximity of the off-site parking facilities;

b. Ease of pedestrian access to the off-site parking facilities;

c. The type of use the off-site parking facilities are intended to serve, i.e. off-site parking may not be appropriate for high turnover uses such as retail.

ii A written agreement shall be drawn to the satisfaction of the Town Attorney and executed by all parties concerned assuring the continued availability of off-site parking facilities for the use they are intended to serve.

#### **F. Development Standards**

Each parking area shall comply with the standards as hereinafter set forth:

i. Design.

a. Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table:

**Minimum Parking Space and Aisle Dimensions for Parking Areas  
(in feet)**

Angle of Parking	Width of Parking Space	Length of Parking Space	Maneuvering Aisle (1-way)	Maneuvering Aisle(2-way)
76-90	9'	18'	22'	22'
61-75	9'	18'	18'	22'
46-60	9'	18'	17'	22'
0-45	8'	22'	12'	22'

Measurement of parking space width and length, aisle width and parking angle shall be made as per the following diagram:

Figure 5-1: Parking Space Measurements

b. Driveways shall be arranged for the free flow of vehicles at all times, and all maneuvering spaces and aisles shall be so designed that all vehicles may exit from and enter into a public street by being driven in a forward direction, except that residential and employee parking spaces may back-in from alleys. See Figure 5-1 above.

c. Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing other vehicle or by passing over any other parking space, except where the parking area is limited to employees.

d. On any parking area in any district, all paved portions of all parking spaces and maneuvering aisles shall be set back five (5) feet from any wall of a building, and five (5) feet from any private or public way, or any lot line of any land in residential districts or used for residential purposes.

**ii. Construction.**

a. All required parking spaces, maneuvering aisles, and driveways except in A & FP districts and on farms in any district, shall have a durable, dustless, all-weather surface, such as bituminous concrete or cement concrete, and shall provide for a satisfactory disposal of surface water by grading and drainage in such a manner that no surface water shall drain onto any lot in other ownership and such surfaces shall be well maintained.

b. Parking areas in all districts shall be provided with curbing, wheel stops, or other devices to prevent motor vehicles from being parked or driven within required setback areas or onto the required landscaped open space.

In any parking area the surface shall be painted, marked or otherwise delineated so that each parking space is apparent.

iii. **Landscaping.**

a. For an outdoor parking area containing twenty (20) or more parking spaces, at least one (1) tree shall be planted for every ten (10) parking spaces on any side of the perimeter of such parking area that abuts the side line of a private or public way or abuts the lot line of land in residential districts or land used for residential purposes.

b. In any outdoor parking area, a landscaped open space having an area of not less than 10% of the outdoor parking area on the lot shall be provided. A minimum of one half of the required landscaped open space shall be located in the interior of the parking space and contain ornamental or shade trees and/or shrubs and/or other appropriate plant materials to provide shade and color easily visible when the lot is full of cars.

c. Trees required by the provisions of this subsection shall be taken from the Lapel Tree Committee Recommended List and be at least two (2) inches in diameter at a height of five (5) feet at the time of planting and shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this subsection.

iv. **Screening.**

Any parking area which abuts residential districts or uses shall be screened from such residential districts or uses and any parking area shall be screened from a public or private way in accordance with the following requirements:

a. **Materials.**

Plant materials characterized by dense growth which will form an effective year-round screen shall be planted, or a fence or a wall shall be constructed, to form the screen except as prohibited in Section 4.2 and 5.7. Where a grill or openwork fence or wall is used it shall be suitable in appearance and materials. Screening may consist of both natural and man-made materials. To the extent

practicable, existing trees shall be retained and used to satisfy the provisions of this subsection. Plant material shall also be of a type whose roots will not interfere with utilities.

b. **Height.**

Screening shall be at least three (3) feet in height. Plant materials when planted, may be not less than 2 2 feet in height if of a species or variety which shall attain the required height and width within two (2) years of planting. Height shall be measured from the finished grade.

c. **Width.**

Screening shall be in a strip of landscaped open space at least five (5) feet wide, and so located as not to impair visibility of or from approaching traffic or create potential hazards for pedestrians.

d. **Maintenance.**

All required plant materials shall be maintained in a healthy condition and whenever necessary replaced with new plant materials to insure continued compliance with screening requirements. All required fences and walls shall be permanently maintained in good repair and presentable appearance and whenever necessary they shall be repaired or replaced.

e. **Lighting.**

All artificial lighting used to illuminate a parking area, maneuvering space or driveway shall be arranged and shielded so as to prevent direct glare from the light sources into any public street or private way or onto adjacent property.

f. Where appropriate and recommended by the Design Review Board, landscaped earth berms may be used to help in screening or separating uses or other useful purposes.

G. **Off-Street Loading.**

There shall be provided off-street loading berths not less than the minimum requirements specified in this subsection in connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles.

i. **Location.**

All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street or alley. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets, nor shall it be located in a required front yard, or side yard adjoining a street. Some uses are also subject to Section 5.8 and or 5.9.

ii. **Size.**

Off-street loading berths for over-the-road tractor-trailers shall be at least fourteen (14) feet in width by at least sixty (60) feet in length with a sixty (60) foot maneuvering apron, and shall have a vertical clearance of at least fifteen (15) feet.

iii. **Access.**

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.

iv. **Surfacing.**

All open off-street loading berths shall be improved with a compacted base not less than six (6) inches thick, or equal, surfaced with not less than two (2) inches of asphaltic concrete or some comparable all-weather, dustless material.

v. **Space Allowed.**

Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking areas or portions thereof.

vi. **Off-Street Loading Space Requirements.**

One off-street loading berth shall be provided for every 10,000 square feet of gross floor area but no more than a total of two spaces up to 40,000 square feet of gross floor area, one space for each additional 40,000 square feet up to 160,000 square feet, and one space for every 80,000 additional square feet.

## 5.14 Signs

### A. Purpose.

The purpose of this subsection is to permit such signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health, and morals; and to permit and regulate signs in such a way as to support and complement land-use objectives set forth in the zoning ordinance.

### B. Exempt Signs.

The following types of signs shall be exempted from the requirements of this subsection:

- i. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or home service.
- ii. Flags and insignia of any government.
- iii. Legal notices, identification information, or directional signs erected by or by order of governmental bodies.
- iv. Integral decorative or architectural features of buildings, except letters, trademarks, logos, moving parts or moving lights.
- v. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter, including logos.

### C. On Premise Signs.

- i. In any district, except as noted, the provisions of this subsection shall be applied to effect the safety of motorists and facilitate traffic movement.
  - a. No sign shall be erected or maintained at any location where, by reason of its position, wording, illumination, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device.
  - b. No sign shall contain or make use of any phrase, symbol, shape, form, or character in such a manner as to interfere with, mislead, or confuse moving traffic.

c. No exterior sign shall be permitted to display flashing, intermittent, revolving, rotating or animated lighting or illumination, nor any illumination which simulates or displays motion.

d. Except as permitted in subsection viii., Portable Signs are prohibited.

e. All signs not expressly exempted or permitted by this ordinance are prohibited.

ii. In all districts, the provisions of this subsection shall apply.

a. No part of any sign which is attached to the exterior wall of a building shall be erected to a height in excess of six feet above the roof or parapet line of such building.

b. No illuminated sign shall be permitted within fifty feet of property in any residence district unless the illumination of such sign is so designed that it does not reflect or shine light onto such property.

c. No part of any free-standing sign shall be erected to a height greater than that specified for other structures in the district in which the sign is located; rooftop sign structures shall not extend more than six feet above the roof line nor shall such sign structures extend beyond or overhang any exterior wall of the building upon which they are secured.

d. The minimum setback of free-standing signs from street rights-of-way shall not be less than those given below. Setback shall be measured to the nearest point of the sign to the edge of the right-of-way.

### **Minimum Sign Setbacks**

<u>Area of Sign per Face</u>	<u>Minimum Setback</u>
5 square feet or less	2 feet
5 to 14.9 square feet	10 feet
15 to 49.9 square feet	20 feet
50 to 99.9 square feet	30 feet
100 or more square feet	60 feet

e. The area of a sign shall be determined by the smallest circle,



triangle, or rectangle that can be used to enclose the sign, exclusive of supporting members that bear no message.

f. No free-standing sign shall be erected or maintained on or within any easement or right-of-way, public or private, without special permission in writing from that person or persons entitled to give such permission.

iii. In any residence district, the provisions of this subsection shall apply.

a. Multi-family developments may display identification signs indicating nothing other than name and/or address of the premises and/or the name of the management. Such sign shall not exceed nine square feet in area.

b. Nonresidential uses are permitted one bulletin board or identification sign, indicating nothing other than name and/or address of the premises, and schedule of services or other information relevant to the operation of the premises. Such sign shall not exceed twelve square feet in area unless erected along an abutting street or road having a speed limit in excess of 40 miles per hour; then the area of such sign shall not exceed 30 square feet.

c. For each use listed in paragraphs a. and b. eligible to display a sign, only one sign per street frontage shall be permitted, except that uses occupying extended frontages shall be permitted, one such sign per five hundred (500) feet of frontage.

iv. In any business district, except as herein provided, the provisions of this subsection shall apply.

a. Multi-family developments shall be subject to the provisions of subsection iii.

b. Signs shall be permitted as accessory uses for nonresidential uses according to the number and net area of signs set forth below:

#### **Business Use Signs and Sign Area**

District	Number of Signs	Net Sign Area (each sign)
HS	3	60 sq. ft.
LB & OD	2	30 sq. ft.

No building-mounted sign shall project over a lot line and no sign shall project into a required yard by more than two feet.

v. In any industrial district, each business or industrial use shall be permitted identification signs on the lot only as incidental uses, not to exceed two such signs or a total net area of three hundred square feet.

vi. To encourage design excellence, the maximum sign areas for business and industrial signs as set forth in paragraphs iv. and v. above, may be increased by the percentages as provided for herein. A separate bonus is granted for compliance with each of the criteria and the area is cumulative, but the percentage increase is based on the original sign area limitation.

a. Free-standing signs may be increased as follows:

! Twenty percent (20%) when the sign is constructed of solid wood and uses only colors approved by the Design Review Committee.

! Ten percent (10%) when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory, except the one (1) major facility.

! Twenty percent (20%) when the sign is installed in a landscaped planter having an area four (4) times the area of the resultant sign and the entire design is approved by the Design Review Committee.

! Ten percent (10%) if the sign is not designed or used with illumination.

! Five percent (5%) if the sign face is made from unbreakable material.

b. Wall or facade signs may be increased as follows, but only if the projection of the sign does not exceed twelve (12) inches:

! Ten percent (10%) when all the lettering and background are uniform in style and color for signs in a shopping center or for any three (3) consecutive separate establishments.

! Ten percent (10%) if the sign is not designed or used with illumination.

! Ten percent (10%) if the wall sign is the only sign identifying the establishment or its principal product. This bonus provision is not applicable in Local Business Districts (LB), Central Business (CB) Districts, and for stores in a shopping center.

! Ten percent (10%) if the sign is designed to contain only the identification of the establishment without advertisement of any products sold on the premises.

! Five percent (5%) if the sign face is made from unbreakable material.

vii. In any agriculture district, the provisions of this subsection shall apply:

a. Agricultural uses shall be permitted one (1) sign not to exceed thirty (30) square feet.

b. Industrial uses shall be permitted a maximum of two (2) signs not to exceed a combined area of one hundred (100) square feet.

c. Business uses shall be permitted two (2) signs not to exceed thirty (30) square feet each.

d. Other nonresidential uses shall be permitted, one bulletin board or identification sign, indicating nothing other than name and/or address of the premises, and schedule of services or other information relevant to the operation of the premises. Such sign shall not exceed twelve square feet in area unless erected along an abutting street or road having a speed limit in excess of 40 miles per hour; then the area of such sign shall not exceed 30 square feet. Only one sign per street frontage shall be permitted, except that uses occupying extended frontages shall be permitted one such sign per five hundred (500) feet of frontage.

e. Residential uses are subject to the provisions of subsection iii.

viii. The signs permitted by this subsection shall be allowed in any district.

a. One "For Sale" or "For Rent" sign not more than twelve square feet in area for each dwelling unit, garage, or other quarters where appropriate.

b. One sign, not more than twelve square feet in area, for construction and development, giving the name of the contractors, engineers, or architects, shall be permitted but only during the time that construction or development is actively underway.

Also, one (1) portable sign on premise, not in excess of the number or size provisions of subsection iv.b may be permitted by the Administrator up to, but not to exceed, forty-five (45) days, if the portable sign is being used in lieu of a permanent sign, or during the period while commercial construction or remodeling is actively underway, to be removed when the permanent construction is completed under the Improvement Location Permit in the second case.

c. For an event of public interest sponsored by a church, governmental agency, school, political organization, or charitable organization, one (1) portable sign not over fifty (50) square feet in area, on the premises on which the event will take place, shall be permitted; such sign shall not be erected more than thirty (30) days before the event in question and shall be removed immediately after such event. Also, directional signs, may be permitted not more than three (3) square feet in area, showing only a directional arrow and the name of the event of public interest; such signs shall not be erected more than fourteen (14) days before the event in question and shall be removed immediately after such event.

d. For each real estate subdivision that has been recorded in accordance with the subdivision regulations, one sign, not over fifty (50) square feet in area, advertising the sale of property in such subdivision shall be permitted, but only when located in some portion of the subdivision being advertised for sale. Such sign shall not encroach upon any required yard. Such sign may be illuminated, but no flashing, intermittent or animated illumination is permitted. Such sign shall be maintained only during such time as some portion of the land advertised for sale remains unsold. Permits for such sign shall be issued for one-year periods to allow time for reasonable display.

e. Political advertisement signs, on private property, may be erected no more than thirty (30) days prior to the election and are to be removed within five (5) days after said election.

f. For each major entrance to a real estate subdivision one (1) sign containing the name of the subdivision only shall be permitted. Such sign shall not exceed twenty (20) square feet and shall have a maximum height of six (6) feet. In

addition, such sign shall comply fully with subsection 5.7 **Setbacks: Vision Clearance at Intersections** and subsection 5.14(c) ii.f., but shall not be subject to subsection 5.14(c) ii.d.

**D. Outdoor Advertising Signs.**

i. Outdoor Advertising signs shall be allowed in HS, GB CB and I Districts only, as authorized by or under Section 4.1.

ii. Outdoor advertising signs shall be separated by one thousand (1,000) feet in all directions, and pertaining to the Interstate and limited access highways, no outdoor advertising sign may be located adjacent to or within five hundred (500) feet of an interchange, at-grade intersection, or rest area; said five hundred (500) feet shall be measured from the right-of-way line.

iii. No outdoor advertising sign shall be permitted if it is located within three (300) feet of land that has been platted for residential use or is zoned R1, R2, R3, PDR or PDE.

iv. No outdoor advertising sign structure shall contain more than two facings and no facing shall display more than two (2) signs.

v. The maximum area for any one sign shall be 1,000 square feet and the maximum width 25 feet and maximum length of 60 feet, exclusive of any border, trim, ornamental base, apron, supports, embellishments, and other structural members, if the exclusions do not exceed 20 percent of the sign area. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the area affected.

**5.15 Restrictions Along Streams**

A. The following buildings and structures are the only ones that may be erected within a floodway fringe: recreational apparatus and unenclosed shelters; parking spaces, detached unenclosed carports and the driveways serving them; water wells and fountains, and transmission lines for water, sewer, gas, oil, electric, telephone and cable television; fences; mailboxes; bridges and public and private streets.

B. When required by the Indiana Department of Natural Resources, the buildings and structures listed in subsection A. above may be erected within a regulatory floodway only if a permit to construct in a floodway has been issued.

C. Water wells, water lines and sewage facilities located within a flood plain shall be constructed to eliminate contamination of or by floodwater.

## 5.16 Water Pollution

No authorization of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under the Stream Pollution Control Law (Acts of 1943, Chapter 214, as amended). Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the Indiana Department of Environmental Management and/or the State Board of Health, and any other Indiana department or agency authorized to review and approve such facilities.

## 5.17 Industrial Restrictions

### **A. Smoke.**

i. No light industrial use may emit more than ten smoke units per stack or smoke in excess of Ringelmann No. 2. However, once during any 25-hour period, for soot blowing, process purging and fire cleaning, each stack may emit an additional ten smoke units and during that time it may smoke up to and including Ringelmann No. 3.

ii. No general industrial use may emit more than sixty smoke units per hour per stack or smoke in excess of Ringelmann No. 2. However once during any 6-hour period, for soot blowing, process purging and fire cleaning, each stack shall be permitted an additional ten smoke units and during that time it may emit smoke up to and including Ringelmann No. 3

iii. In this section, the term:

"Ringelmann number" means the number of the area on the Ringelmann chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann chart is described in the U.S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered as no smoke or Ringelmann No. 0; and "Smoke unit" means the number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation. Each reading shall then be multiplied by the time in minutes during which it is observed. The products so computed shall then be added to give the total number of smoke units observed during the entire observation period.

### **B. Particulate Matter.**

i. The rate of emission of particulate matter from all sources within the boundaries of any lot may not exceed a net figure of one pound per hour per acre for a light industrial use, or three pounds per hour per acre for a general industrial use, of which no more than ten percent by weight may be particles larger than 44 microns (325 mesh). The net rate of emission shall be computed by:

a. determining the maximum emission in pounds per hour from each source of emission within the boundaries of the lot and dividing this figure by the number of acres of lot area, thus obtaining the gross hourly emission rate per acre for each source;

b. deducting from that gross rate the appropriate correction factors for height of emission and stack velocity as respectively specified in subsections ii and iii, below, thus obtaining the net hourly emission rate per acre for each source, and

c. adding the individual rates of emission so computed to obtain the total net hourly emission rate per hour from all sources within the boundaries of the lot.

ii. The allowance for height of emission is as follows (interpolate for intermediate values):

#### **Emission Height Allowances**

Height of Emission above Grade (ft)	Correction for Light Industrial Use (pounds per hour per acre)	Correction for General Industrial Use (pounds per hour per acre)
50'	0.01	0.02
100'	0.06	0.12
150'	0.10	0.20
200'	0.16	0.32
300'	0.30	0.60
400'	0.50	1.00
500' & above	0.50	1.50

iii. The allowance for velocity of emission is as follows (interpolate for intermediate values):

#### **Emission Velocity Allowances**

Exit Velocity Up (feet per second)	Correction for Light Industrial Use (pounds per hour per acre)	Correction for General Industrial Use (pounds per hour per acre)
0'	0	0
20'	0.03	0.06
40'	0.09	0.18
60'	0.16	0.32
80'	0.24	0.48
100' and above	0.50	1.00

iv. Dust and other kinds of air pollution that are borne by the wind from such sources within lot boundaries as storage areas, yards, and roads shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, or other means.

v. As used in this subsection, the term "particulate matter" means divided liquid or solid material that is discharged and carried along in the air.

#### **C. Odor.**

No light or general industrial use may release an unreasonably objectionable odor that is detectable in the neighborhood.

#### **D. Toxic Materials.**

For a light or general industrial use, the emission of toxic and nontoxic materials may not produce any concentration at a residence or business district boundary line exceeding the following percentage of the threshold limit values for toxic materials in industry as set forth in "Threshold Limit Values" for the current year, as adopted at the annual meeting of the American Conference of Governmental Industrial Hygienists:

Light Industrial Use	10%
General Industrial Use	30%

#### **E. Glare and Heat.**

i. No light or general industrial use may cause heat at the lot line so



intense as to be a public nuisance or hazard. No such use may cause illumination at or beyond any residence district boundary in excess of 0.1 foot candle.

ii. As used in this subsection, the term "foot candle" means a unit of illumination equal to the illumination at all points that are one foot from a uniform point source of one candle-power.

#### **F. Vibration.**

i. No light industrial use may cause at a lot line, continuous vibrations exceeding those under I in the following table. Nor may it cause at any residence district boundary, continuous earthborne vibrations higher than the limits set forth in column II.

#### **Maximum Permitted Vibration (light industries)**

Frequency (cycles per second)		I Displacement (inches)	II Displacement (inches)
More Than	Not More Than		
0	10	.0008"	.0004"
10	20	.0005"	.0002"
20	30	.0002"	.0001"
30	40	.0001"	.0001"
40	50	.0001"	.0001"
50		.0001"	.0001"

Discrete pulses that do not exceed one hundred impulses per minute may not produce higher than twice the displacement specified in the table.

ii. No general industrial use may cause at any HS, LB, GB, or I District boundary continuous earthborne vibrations higher than the limits set forth in column I of the following table. Nor may in cause at any residence district boundary continuous earthborne vibrations higher than the limits set forth in column II.

#### **Maximum Permitted Vibration**

Frequency (cycles per second)		I Displacement (inches)	II Displacement (inches)
More Than	Not More Than		

---

0	10	.0020"	.0004"
10	20	.0010"	.0002"
20	30	.0006"	.0001"
30	40	.0004"	.0001"
40	50	.0003"	.0001"
50		.0002"	.0001"

Discrete pulses that do not exceed one hundred impulses per minute may not produce higher than twice the displacement specified in the table.

iii. As used in this subsection, the term:

"resultant displacement" means the maximum amount of motion in any direction as determined by any three-component measuring system (a simultaneous measuring system approved by the commission); and

"three-component measuring system" means instrumentation that can measure earthborne vibrations in a horizontal as well as a vertical plane.

## G. Noise.

i. At no boundary of a residence or business district may the sound pressure level of any light or general industrial use (except for background noises produced by sources not under control of this ordinance, such as the operation of motor vehicles or other transportation facilities) exceed the following decibel limits:

### Maximum Noise Limitations

		I	II
Octave Band Frequency (cycles per second)		Maximum Permitted Sound Levels (in decibels)	Maximum Permitted Sound Levels (in decibels)
More Than	But Not More Than	Along Residence District Boundaries	Along Business District Boundaries
20	75	72	79
75	150	67	74
150	300	59	66
300	600	52	59

600	1200	46	53
1200	2400	40	47
2400	4800	34	41
4800	--	32	39

The prescribed limits of column I apply between 8:00 a.m. and 6:00 p.m. At other times, the allowable levels in each octave band are each reduced by six decibels.

ii. Sound levels shall be measured with a sound-level meter and associated octave band filter, manufactured and calibrated according to standards prescribed by the American Standards Association. Measurements shall be made using the flat C network of the sound-level meter and the fast meter movement of the octave band analyzer. Impulsive noises are subject to the performance standards prescribed by this subsection if they cause rapid fluctuations of the needle of the sound-level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured, such as irregular and intermittent noises, shall be controlled so as not to be a nuisance to adjacent uses.

iii. As used in this subsection, the term:

"octave band means all the frequencies from one frequency to a second. In sound octave band, the second frequency is usually twice the first one; and

"octave band filter" means an electrical device that separates the sounds in each octave band and presents them to the sound-level meter.

## **H. Fire Hazards.**

i. Solid substances ranging from free or active burning to intense burning may be stored, used or manufactured only within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.

ii. The storage, utilization or manufacture of flammable liquids or materials which produce flammable vapors or gases shall be permitted in accordance with the rules and regulations of the State Fire Marshall. A certificate of compliance issued by the State Fire Marshall's Office, stating that the plans and specifications for a light or general industrial use comply with the rules and regulations of the State Fire Marshall shall accompany the application for an Improvement Location Permit.

iii. As used in this subsection, the term:

"free burning" means a rate of combustion described by a substance that burns actively and easily supports combustion.

"intense burning" means a rate of combustion described by a substance that burns with a high degree of activity and is consumed rapidly.

## **I. Detonation materials.**

No activity involving the storage, use, or manufacture of materials that decompose by detonation may be carried on except in accordance with the rules issued by the State Department of Fire Prevention and Building Safety.

These materials include primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and their components, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles, and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than thirty-five percent; and nuclear fuels, fissionable materials and products, and reactor elements such as uranium 235 and plutonium 239.

## **J. Exceptions.**

Subsections A. through I. do not apply to:

- i. site preparation or construction, maintenance, repair, alteration, or improvement of buildings, structures, equipment, or other improvements on or within the lot line;
- ii. the operation of motor vehicles or other facilities for the transportation of personnel, materials or products;
- iii. conditions beyond the control of the user such as fire, explosion, accident, failure, or breakdown;
- iv. safety or emergency warning signals or alarms necessary for the protection of life, limb or property; or
- v. processes for which there is no known means of control.

Research shall be promptly conducted to discover methods of control

leading to the installation of protective equipment.

**K. Light Industrial Uses Near Agriculture or Residence Districts.**

The performance standards prescribed by subsections A. through J. for light industrial uses apply also to general industrial uses that are located within five hundred feet of an "A" District or a Residence District boundary.

## Section 6 Planned Developments

### Preface

The purpose of this section is to deal with development in a more flexible manner, i.e. with proposals which because of their complexity and mixed-use nature would be difficult, if not impossible, to be carried out under the "as of right" requirements of conventional zoning districts. (See Section 6.1 for further explanation.) Under the procedures for development in these zones the developer is required to meet the criteria provided in this section exactly in accordance with the details of the plan which he has negotiated with government officials and for which he has received approval. Accordingly, the community is assured that the development will be built exactly as indicated in the plans which were negotiated and approved.

The various subsections deal with the various kinds of planned development districts, the special procedures for securing review and approval of these developments, and with the means by which the community is protected from non-compliance with approved plans.

## 6.1 Intent of Districts

The purposes of these regulations are to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the Zoning Ordinance. The use of Planned Development Zoning Classifications shall be encouraged when the use of such regulations promotes a harmonious variety of uses, and/or provides for an economy of shared services and facilities, and/or are compatible with surrounding areas and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

The Planned Development regulations and procedures may apply to the redevelopment of presently developed lands, or the development of open or vacant lands, and may apply to parcels of relatively small size as well as large-scale developments and their relationship with other surrounding uses and the overall characteristics of the area in which located.

Planned Development regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design, and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

Planned Development projects should also encourage a more efficient use of land which reflects the changes in the technology of land development so that resulting economies may accrue to the benefit of the community at large.

In furtherance of the purpose and intent of a Planned Development, the provisions of Sections 5.1 through 5.14 inclusive of this Ordinance shall not be applied, or be applicable, to or in a Planned Development District.

## 6.2 Classifications of Planned Development

Upon preliminary review of a Planned Development proposal by the Administrator as provided by this Ordinance, such proposal shall be identified by the general character of the dominant use of the development. Such proposals shall be classified by the following designations:

### **A. "PD-R" - Planned Development - Residential**

Any development consisting of not less than three (3) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for residential purposes or those accessory purposes customarily related to

residential use.

**B. "PD-C" - Planned Development - Commercial**

Any development consisting of not less than four (4) acres in which all of the interior floor area of all buildings to be included in the development is to be used for commercial purposes.

**C. "PD-I" - Planned Development - Industrial**

Any development consisting of not less than five (5) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for industrial or manufacturing purposes or such accessory uses customarily relating to industrial uses with the balance of such interior floor area, if any, being intended for such commercial uses as reasonably relate to the support or convenience of the intended industrial uses or their occupants.

**D. "PD-REC" - Planned Development - Recreation**

Any development consisting of not less than five (5) acres in which the principal activity, whether conducted within or outside of a building or other structures relates to recreation, amusement, the exhibition of sports events, the conduct of games and athletics, or the provision of open space for any passive or active endeavor. In these districts, such commercial structures or uses as reasonable relate to the principal activity of the development shall also be permitted.

**E. "PD-E" - Planned Development - Extraordinary**

A development not otherwise distinguishable under any previous classification, containing less than the minimum land area and/or less than the stated minimum proportions of any single dominant use or function, and in which the proposed uses of interior and exterior spaces require unusual design flexibility to achieve a completely logical and complementary conjunction of uses and functions.

**6.3 Organization of Proposals**

Any person, corporation, partnership or association having an ownership interest in a proposed development, or any group of owners united in interest, acting jointly, and in pursuance to an agreement to carry out the proposal in separate ownership may propose a Planned Development District in accordance with the procedures hereinafter established, where such individual owner or group of owners in making such proposal intends to act as developer or sponsor of the development if the zoning change is adopted and indicates the requisite capabilities to carry out such proposal. A parcel, or



site proposed for Planned Development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Plan Commission.

#### 6.4 Filing Procedure

A. The authorization of a Planned Development shall be subject to the procedures expressed herein:

B. Submission of a petition and all other documents required for rezoning for the appropriate PD classification, which petition shall be signed by the owner or owners of all real estate involved in the petition for the Planned Development, or which petition shall have attached thereto the notarized consent of all such owners to the filing of such petition, and to the change to a PD classification of their real estate included.

C. The petition, which shall include a preliminary plan and plat for any area proposed for development as a Planned Development shall be filed with the Administrator. The preliminary plan and plat shall include:

i. Proposed layout of streets, open space and other basic elements of the plan.

ii. Identification of location and types of structures and their use categories within the area, including proposed densities of said uses.

iii. Proposals for handling traffic, parking, water supply, sewage disposal, storm drainage, tree preservation and other pertinent development features.

iv. A separate location map to scale shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.

v. The condominium declaration (if applicable), a document creating an owners' association and any covenants to be made a part of the Planned Development as well as the order and estimated time of development.

vi. A statement of the proposed order of development of the major elements of the project, including whether the development will be accomplished in phases, and, if so, the order and content of each phase.

D. The preliminary plan shall be presented in triplicate and to a scale ration not to exceed 100' = 1". The preliminary plan may include any additional graphics which will explain the features of the development. It shall also be provided to the following checkpoint agencies for their review and comment:

- ! Design Review Board
- ! Director of Public Works and Safety
- ! Police Department
- ! Fire Department
- ! Parks and Recreation Department
- ! School Corporation
- ! County Soil and Water Conservation District

E. Within twenty-five (25) days after filing, the Administrator shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide comments. After such consultation the petitioner may make modifications to the petition.

F. After the meeting described in (E) above and after making any modifications to the proposed preliminary plans the Petitioner shall file in triplicate a "Final Proposed Preliminary Plan" which shall:

- i. Include all documents included in the preliminary plan.
- ii. Include an index identifying all documents included in the preliminary plan.
- iii. Include a cover sheet indicating that it is the Final Proposed Preliminary Plan and indicating the date and zoning case number.
- iv. Be bound or stapled together and all documents therein reduced to a size no larger than 8 2 x 14 inches except for the maps, sketches and plat (if any).

## 6.5 Preliminary Plan Hearing

A. The petition, if and as modified, shall then be heard by the Plan Commission as a petition for zoning map amendment and subject to the procedures applicable thereto. The Plan Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the Council of the Town of Lapel. If approval is recommended, the preliminary plan

shall be stamped "Approved Preliminary Planned Development" and be signed by the President and Secretary of the Plan Commission. One copy shall be permanently retained in the office of the Plan Commission, one copy and all conditions shall be certified as described in (B) below.

B. The approved preliminary Planned Development shall then be certified to the Council of the Town of Lapel for adoption as a Planned Development District pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare the final detailed plan.

#### 6.6 Approval of Final Detailed Plan

A. Before any development takes place, the petitioner shall file with the Plan Commission a minimum of seven sets of the final detailed plan specifying the location, composition, and engineering features of all lots, storm drainage, sanitary sewage, water supply facilities, site perimeter treatment, landscaping, plat and other site development features including locations of buildings. The petitioner shall also file the original of all signed and notarized documents pertaining to restrictive covenants, condominium declaration and/or the creation of a homeowners association, along with financial assurance for the satisfactory installation of all public improvements in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Lapel Subdivision Ordinance. The Plan Commission shall then approve said final detailed plans by resolution duly adopted, upon an affirmative finding that the final detailed plan is consistent with the Approved Preliminary Planned Development as adopted and passed by the Council of the Town of Lapel upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further authority to review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as hereafter provided for.

B. The Approved Preliminary Plan may provide for development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire Planned Development.

C. The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Development" and be signed by the President and Secretary with one copy permanently retained in the office of the Plan Commission following recordation as specified in Section 6.8.

D. Unless extended by the Plan Commission pursuant to section 6.11 (A),

approval of the first phase of the final detailed plan shall be obtained within two (2) years and approval of the balance of the final detailed plan shall be obtained within five (5) years after adoption of the Planned Development District by the Council of the Town of Lapel.

E. In the event that approval of a final detailed plan is not timely obtained, the Plan Commission may initiate an amendment to the zoning map relating to said land.

F. In the exercise of continuing jurisdiction, the Administrator may from time to time approve only minor modifications of the approved Final Detailed Planned Development in a manner consistent with the approved Preliminary Planned Development. Such modifications shall not include any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in type of use, or any change in access points.

G. Approval of a final detailed plan shall expire after a period of five (5) years from the approved phasing of the preliminary plan unless the development is 50 percent (50%) completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation of the Administrator. Following expiration of the final detailed plan, the Town of Lapel shall declare the bond to be in default and cause all public improvements to be installed according to the final detailed plans.

## 6.7 Covenants and Maintenance

A. All covenants, when required by the Plan Commission, shall be set forth in detail and shall provide for a provision for the release of such restriction by execution of a document so stating and suitable for recording, signed by the Plan Commission President and Secretary upon authorization by the Plan Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.

B. The Plan Commission may require the recording of covenants for any reasonable public or semi-public purpose, including, but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semi-public purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Plan

Commission a modified final detailed plan for such land, otherwise consistent with the approved Preliminary Planned Development.

C. The Commission may require the recording of covenants for any other reasonable purpose, including, but not limited to, imposing standards for development of property in a Planned Development. Such development standards may include, but are not limited to, requirements as to the following:

- i. Lot area.
- ii. Floor area.
- iii. Ratios of floor space to land space.
- iv. Area in which structures may be built. ("Buildable area")
- v. Open space.
- vi. Setback lines and minimum yards.
- vii. Building separations.
- viii. Height of structures
- ix. Signs
- x. Off-street parking and loading space.
- xi. Design standards (including landscaping requirements).
- xii. Phasing of development.

D. Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Development, and, in such instance legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.

E. Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any

governmental unit.

F. All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

## 6.8 Recording

All approved Final Detailed Planned Development Plans and Plats and modifications thereof shall be recorded in the Office of the Madison County Recorder within two (2) years after approval, but before any development takes place.

Failure to so record shall automatically void the approval of the Final Detailed Planned Development.

Where upon completion of all development, the exact measurements, as to the location of buildings or structures erected during the development, are deemed desirable for public record by recording thereof, the developer may submit a copy of the approved Final Detailed Planned Development to the Administrator as an amended approved Final Detailed Planned Development with the exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved Final Detailed Planned Development, shall reapprove, date and sign said amended approved Final Detailed Planned Development, which the developer shall then record.

## 6.9 Permit

An improvement location permit shall be issued for a Planned Development District upon full compliance with the approved Final Detailed Planned Development.

## 6.10 Construction

A. No construction or installation work shall be done on any public improvements until the petitioner has, at least twenty-four (24) hours in advance, notified the appropriate Governmental Inspector(s) of his intention to begin such work, in order that inspections may be made as the work progresses.

B. All development shall be in conformity with the approved and recorded Final Detailed Planned Development and any material deviations from the approved and recorded Final Detailed Planned Development shall be subject to appropriate

enforcement action as provided for in this ordinance.

#### 6.11 Extensions, Abandonment, and Expiration

A. Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown.

B. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Final Detailed Planned Development for a twenty-four (24) consecutive months), or upon the expiration of five (5) years from the approval of a Final Detailed Planned Development for a development which has not been completed, an amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which the legislative body deems appropriate.

#### 6.12 Rules of Procedure

All proceedings brought under this section shall be subject to the Rules of Procedure of the Plan Commission, where not inconsistent with the procedure otherwise stated herein.

#### 6.13 Limitation of Rezoning

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a Planned Development before completion of the development as long as the development is in conformity with the approved Final Detailed Planned Development and is proceeding in accordance with the time requirements imposed herein.

Section 7  
Design Review Committee  
Preface

The purpose of this section is to provide a framework for the establishment of a technical committee to assist the plan commission with those decisions it must make in regard to community appearance, architectural character, landscape characteristics, site planning, and historic preservation.

This section provides for the committee's membership, its jurisdiction both geographically and in regard to subject matter, the purpose of the committee, and how its responsibilities under the zoning ordinance are to be coordinated with its responsibilities under the subdivision of regulations.

In most communities the matters of community appearance and character have come to be of increasing public concern. This is because all aspects of the physical environment are closely related to the economic success, livability, and overall well-being achieved in the towns, cities and the populated countryside.

#### 7.1 Membership and Jurisdiction

##### **A. Membership.**

The Design Review Committee (hereinafter referred to as the "Review Committee") shall consist of and continue as a five member panel appointed as follows:

One (1) ex-officio member of the Lapel Plan Commission appointed from among its members to serve as liaison between the Review Committee and the Plan Commission as well as serving as a fully participating member of the Review Committee.

Four (4) citizen members appointed by the Town Council who may not be members of the Plan Commission. These citizen members must, insofar as possible, possess the following professional qualifications:

- i. They must hold a college level academic degree in architecture, landscape architecture, art history, city planning, historic preservation, history, urban design or urban planning or have had an equivalent combination of education and experience in dealing with the historic and/or visual aspects of the natural and built environments.

- ii. They must possess a sensitive and keen interest in the protection and



enhancement of the natural and built environments.

**B. Terms of Office.**

The initial five members shall be appointed for terms of four (4), three (3), two (2), one (1) and one (1) year, respectively. Thereafter each successive member shall be appointed for four (4) years. The staggering of terms is intended for the purpose of giving the Review Committee continuity in its recommendations to the Commission.

**C. Territorial Jurisdiction.**

The Review Committee shall have a jurisdiction which is coterminous with that of the other sections of this Ordinance.

**D. Subject Matter Jurisdiction.**

The Review Committee shall have advisory authority only, and shall under this ordinance make recommendations 1) to the Administrator and the Plan Commission as a checkpoint agency for the review of planned developments, 2) to the Administrator regarding parking and landscaping plans filed with those for single family homes, and 3) to the Administrator regarding all aspects of design for improvement location permits filed for property located within the Historic Preservation District as defined and mapped in the adopted Comprehensive Plan.

**E. Purpose.**

The purpose of the Review Committee is to provide professional and technical advice to the Administrator and the Plan Commission in the administration of this Ordinance as specified elsewhere in this Ordinance.

**F. Coordination with the Zoning Ordinance/Subdivision Regulations.**

This Review Committee is established both under the Subdivision Ordinance and the Zoning Ordinance to serve the differing needs of these two ordinances. It shall be made up of the exact same members under both ordinances in order to facilitate coordination of the decision-making with respect to the design review aspects of these ordinances.

## Section 8

### Board of Zoning Appeals, Variances, Special Uses and Appeals

#### Preface

The purpose of this section is to explain the makeup of, jurisdiction of and procedures to be used by this Board. Subsection 8.1 describes the Board's membership, terms of office, area of jurisdiction and statutory basis. It also explains the Board's relationship to staff support. Subsection 8.2 sets forth the rules and procedures under which the Board shall function. Subsection 8.3 specifies how the Board must deal with requests for special uses. These are uses which may be permitted if they can meet restrictions and conditions in addition to those required under other provisions of the ordinance for the district in which they are to be located. The primary use table found in Section 4 establishes those uses which can be permitted in which specific districts through the grant of special use permits. Subsection 8.4 deals with the manner in which the Board may permit variances (deviations) from the strict interpretation of the ordinance in cases where a non-economic hardship exists with respect to a condition peculiar to a particular piece of property and not the result of any act of the owner. Subsection 8.5 describes the procedures for appealing decisions of the Board.

NOTE: Use variances are permitted by the State Statute for Advisory Boards of Zoning Appeals, but permitting them is not recommended by this author. Use variances have virtually the same effect as rezoning but without benefit of legislative action. Permitting the Board to have this authority usurps the role of city and town councils and boards of county commissioners to regulate land use and leads to the destruction of the homogeneity of zoning districts and their property values. In most states such a delegation of legislative authority to an appointed board is unconstitutional.

## 8.1 Boards of Zoning Appeals: Membership and Jurisdiction

**The Board.** There is hereby reestablished the Advisory Board of Zoning Appeals to be known as the ADVISORY BOARD OF ZONING APPEALS OF THE TOWN OF LAPEL, INDIANA. The Advisory Board of Zoning Appeals shall be a continuation of the present Board of zoning Appeals of the Town of Lapel heretofore established under the advisory plan law, being Indiana Code, '36-7-5-900, as added by Acts 1981, PL. 309 '23.

**A. Membership.** The Advisory Board of Zoning Appeals shall consist of and continue as a five member board appointed as follows:

Four (4) citizen members appointed by the Town Council of the Town of Lapel, of whom one (1) must be a member of the Advisory Plan Commission and three (3) must not be members of the Advisory Plan Commission.

One (1) citizen member appointed by the Advisory Plan Commission who must be a member of the Advisory Plan Commission other than the member appointed by the Town Council of the Town of Lapel.

**B. Terms of Office.** Following adoption of this Ordinance, each of the above members shall be reappointed for the balance of the term being served on the present Advisory Board of Zoning Appeals of the Town of Lapel. Thereafter each member, except those appointed from the Advisory Plan Commission shall be for a term of four (4) years. The members appointed from the Advisory Plan Commission shall be for a term of one year. Each term shall expire on the first Monday of the year of termination.

**C. Territorial Jurisdiction.** The Advisory Board of Zoning Appeals shall have jurisdiction over all the land subject to the zoning ordinance.

**D. Subject Matter Jurisdiction.** The Advisory Board of Zoning Appeals shall have exclusive jurisdiction for (1) variances under the statute and this ordinance except it shall have no jurisdiction to grant a variance from a use district or classification; (2) special uses; (3) appeals as provided by statute, including requirements for procurement of improvement location or occupancy permits or any ordinance adopted under IC 36-7-4 or any prior zoning statute, and any other appeals authorized by statute.

**E. Staff.** The Staff of the Advisory Board of Zoning Appeals shall consist of the Administrator as defined in this ordinance and such other persons employed by the Town of Lapel as he may direct from time to time to assist him or the Advisory Board of Zoning Appeals.

## 8.2 Board of Zoning Appeals: Rules and Procedures

**A. Rules and By-Laws.** The Advisory Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code, ' 36-7-5-916 and any and all by-laws concerning organization, selection of officers, forms for applications, filing requirements, other than as to place of filing as herein provided for, procedures, notices for conduct of meetings. Upon adoption of such rules and by-laws they shall be applicable to the Advisory Board of Zoning Appeals. A change of zoning request may be submitted if more than one legally described parcel of real estate is effected by that request. Such modification of zoning request must be in accordance with the procedure as set forth in this section.

**B. Facilities and Funding.** The Town of Lapel shall provide suitable facilities for the holding of Advisory Board of Zoning Appeals hearings and the storage of its recorded documents and accounts, and in its annual budget to provide sufficient funds for the functioning of said Board and its staff.

**C. Filing.** All applications for variances, special uses, and requests for appeal shall be filed by the applicant with the staff of the Advisory Board of Zoning Appeals.

**D. Hearings.** All hearings required for variances, special uses, and appeals shall be by the Advisory Board of Zoning Appeals. As per section 8.2 (a), procedures for public notice setting forth time and place for all hearings by the Advisory Board of Zoning Appeals shall be established by the Advisory Board of Zoning Appeals.

8.2a The following will be required in order to submit an application for change of zoning:

A. A change of zoning request may be submitted if more than one legally described parcel of real estate is effected by that request. Such modification of zoning request must be in accordance with the procedures as set forth in this section.

B. Upon receipt of an application for a zoning classification modification, that application shall be referred to the advisory planning commission for investigation as to the manner in which the proposed modification and the character of the proposed modification will effect the comprehensive plan of the town of Lapel. The planning commission shall report the results of its investigation to the town board within 45 days following the receipt of the application. If no such report has been filed with the town board, the board may proceed to process the application.

C. The board shall then proceed with a hearing on the application. That hearing shall be conducted at its regular monthly town board meeting. Notification of that haring will be by publication pursuant to I.C. 5-3-1

and as per Sec. 8.2 (E) as required in the rules of procedure for the Board of Zoning Appeals. Following the hearing, and on an affirmative finding by the board that:

1. The proposed zoning modification is located in a district where such use may be permitted and in appropriate,
2. The requirement set forth in this section, for the zoning modification, have been met,
3. The zoning modification is consistent with the spirit, purpose, and intent of the zoning code; will not substantially and permanently injure the appropriate use of the neighborhood property; and will serve the public convenience and welfare.

D. The town board shall approve or deny the zoning modification pursuant to the application of Sec. C.

## 8.2 (E)

In addition to the notice requirements of Sec. 8.2 (A) there will a required posting of a sign, giving notice of any hearing on special uses, variances, or zoning changes, placed on the parcel of real estate. Notice shall be posted, by the Town of Lapel, at least 15 days before any such hearing conducted by the Board of Zoning Appeals, planning commission, or town board, where such an application for variance, special use, or zoning change will occur.

## 8.3 Special Uses

A. There shall be no classes of cases or application therefor, nor any particular situation in which this Ordinance authorizes either special exceptions, contingent uses or conditional uses.

B. The Advisory Board may approve a special use in a district if, after a hearing under section 8.2 (d), it makes findings of fact in writing, that:

- i. section 4.1 authorizes that special use in that district; and
- ii. the requirements and development standards for the requested special use as prescribed by this Ordinance will be met; and
- iii. granting the special use will not subvert the general purposes served by this Ordinance and will not, because of traffic generation, placement of outdoor lighting, noise production or hours of operation, materially and permanently injure other property or uses in the same zoning district and vicinity.

C. The Advisory Board may impose such reasonable conditions upon its approval as it deems necessary to find that (b) (3) above will be served.

D. The Advisory Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under IC 36-7-5-921.

E. The approval of a special use under subsection (B) is unnecessary for a use authorized by section 4.1 if that use existed on the date this Ordinance, or pertinent amendments to it, were passed. However, this subsection shall not authorize the expansion of such a use if it involves the enlargement of a building, structure, or land area.

F. A special use approved by the Advisory Board may not be expanded, extended, or enlarged unless reapproved by the Advisory Board under the procedures set forth in this Ordinance for approving a special use.

G. A special use, approved under subsection (B) or authorized by subsection (E) ceases to be authorized and is void if that use is not established within a twelve-month period of the date the special use was approved, or if that special use is discontinued at that site for a twelve-month period during which time it is not succeeded by the same specifically approved special use.

H. A special use may be terminated by the Advisory Board of Zoning Appeals, upon filing of an application therefore by an interested person or the Administrator, and upon a finding at a public hearing, with notice to the property owner, that the terms of this Ordinance, or conditions of approval or commitments have not been complied with.

For a special use to be eligible for a public hearing by the Advisory Board under this section, an applicant must first receive a determination from the Administrator that a special use is required for the intended use or for the expansion, extension, or enlargement of a use under (F) above. The Administrator shall file a report of determination (in a form prescribed by the Advisory Board) with the Plan Commission which body shall determine how the granting of the special use would affect the purposes served by this Ordinance in furtherance of the Comprehensive Plan. Within thirty (30) days of the date on which it received the application, the Commission shall report its determination to the Advisory Board, for action by it as authorized by subsection (B). If the Advisory Board grants the special use, it shall direct the applicant to apply for an improvement location permit under section 9.1. If such application complies with this ordinance and all other applicable codes and ordinances, the Administrator shall issue the improvement location permit for the approved special use.

## 8.4 Variances

A. The Advisory Board may grant a variance from the development standards (such as height, bulk, area) of the zoning ordinance if, after a public hearing, it makes findings of fact in writing, that:

i. the Advisory Plan Commission has determined that the variance application is not for a use variance, i.e. a variance from a use district or classification per Section 8.1 (D); and

ii. the approval will not be injurious to the public health, safety, morals, and general welfare of the community; and

iii. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

iv. the strict application of the terms of this Ordinance (a) is being applied to some condition peculiar to the property involved that is not common to other properties in the same zoning district; and (b) will result in an unusual and unnecessary hardship. This situation shall not be solely self-imposed, nor be based on a perceived reduction of or restriction on economic gain.

B. The Advisory Board may permit or require the owner of a parcel of property to make written commitment concerning the use or development of that parcel or may impose conditions upon that grant of variance.

C. A variance granted by The Advisory Board shall run with the land until such time as: (1) the use of the variance ends, or (2) the property conforms with the Ordinance as written.

D. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of variance, the Advisory Board may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this Ordinance in the same manner as if the variance had not been granted.

## 8.5 Appeals

A. A decision of the Administrator enforcing this Ordinance may be appealed to the Advisory Board of Zoning Appeals by any person who is adversely affected by the decision.

B. On an appeal under subsection (A), the Advisory Board of Zoning Appeals

may make any decision that the Administrator might have made.

C. All appeals from a decision of the Advisory Board of Zoning Appeals shall be made pursuant to Ind. Code 36-7-5-1001 through 36-7-5-1020. The person aggrieved by a decision of such Board of Zoning Appeals shall present the petition provided for in Ind. Code 36-7-5-1003 to the Court within thirty (30) days after the entry of the decision of the Board of Zoning Appeals.



## Section 9 Improvement Location Permits

### Preface

The purpose of this section is to describe the process for obtaining improvement location permits and the conditions which have to be met in order to obtain them. It also deals with occupancy permits. The issuance of such permits is absolutely critical for the implementation of a zoning ordinance with respect to both temporary and permanent improvements to structures, buildings, and land.

Subsection 9.1 explains the applicability of this permit system: the circumstances under which they must be obtained. Subsection 9.2 deals similarly with occupancy permits. Subsection 9.3 explains what drawings and related information must be submitted as part of the permit process. Subsection 9.4 deals with the special provisions concerning industrial uses which must obtain a compliance certificate showing that the zoning ordinance performance standards are being met. Subsection 9.5 deals with the special provisions for mobile homes. Subsections 9.6 through 9.9 explain what records must be kept, the length of time for reviewing applications, procedures for issuance or denial, how appeals may be made, and when improvement location permits expire.

### 9.1 Applicability

A. No special use may be approved under section 8.3, no change in an FP District may be made under section 3.3, and no other change in the use of land (except an agricultural use) that involves a change in any structure on or in any land, or in the condition of the land, may be made unless the Administrator on application, issues an improvement location permit authorizing the change.

B. The filing fees for improvement location permits shall be as shown in the table at the end of this section.

### 9.2 Certificate of Occupancy

A. No application for an improvement location permit under section 9.1 may be considered unless the applicant has also applied for a certificate of occupancy.

B. No land or structure with respect to which a permit has been issued under section 9.1 may be used for the purpose contemplated by the permit unless the Administrator, after the change is completed, issues a certificate of occupancy stating

that the change complies with this ordinance and with the permit.

C. Within ten days after the completion of the change authorized by the improvement location permit, the Administrator or his designee shall inspect the premises and, if the change conforms to this ordinance and the improvement location permit, and a certificate of compliance, if required by section 9.4, has been obtained, he shall issue a certificate of occupancy.

D. If an applicant fails to obtain an Improvement Location Permit, shall fail to receive the issuance of a Certificate of Occupancy, as referred to in Paragraph 9.2 (C), the applicant shall be fined an amount of \$50.00 per day for each day that the premises is occupied in violation of the requisite Certificate of Occupancy.”  
Ord. No. 10-1999, passed 11/18/1999.

### 9.3 Site Plan and Construction Drawings

A. In addition to all other required applications, information and permits from other governmental agencies, a person who applies for an improvement location permit under section 9.1 must furnish the Administrator with plans drawn to scale showing:

- i. the location and legal description of the land concerned;
- ii. the location and size of all buildings and structures already on the land and those to be erected, including parking, signage, landscaping, and screening;
- iii. the size of all entrances to and exits from the land, including all adjacent streets and highways;
- iv. detailed drawings showing all construction and materials; and
- v. elevations of all buildings to be constructed.

Plans so furnished shall be kept by the Administrative Officer as permanent records.

B. As a condition of issuing a permit, the Administrator may require changes to the landscape plan upon recommendation of the Design Review Committee, the relocation of any structures or buildings, or of any entrance or exit, or the inclusion of entrances or exits not shown on the plan, or the deletion of any entrance or exit, if the requirement is necessary in the interest of the public welfare or to an appropriate balancing of the interests of persons in the district and vicinity concerned.

### 9.4 Industrial Uses: Certificate of Compliance

If an application for an improvement location permit relates to an industrial use, it must be accompanied by a certificate of compliance, certified by a registered professional engineer of the state, stating that the use will meet the performance standards of the district concerned. After ten working days have elapsed during which the Administrator has not required additional information or objected in writing, he shall issue the permit.

## 9.5 Mobile Homes

A. Mobile homes shall be permitted as temporary uses only, subject to section 4.1 and the Primary Use Table and this section.

B. In the event that a single family home has been destroyed by fire, explosion, act of God, or the public enemy and an improvement location permit has been issued for its replacement or reconstruction, the property owner may make application for an improvement location permit for a mobile home to be placed on the same property for a period not to exceed one (1) year. No extensions of time shall be permitted by the Administrator.

C. Application procedures and requirements shall be the same as for any other improvement location permit.

D. Placement of the mobile home shall be subject to all use requirements and restrictions applicable to a single family home.

E. In addition to all other requirements, the property owner shall post a one thousand dollar (\$1,000.00) cash bond in favor of the Town of Lapel to be held by the Town Clerk. Said cash bond shall be returned without interest upon removal of the mobile home and the issuance of a certificate of occupancy for the constructed or reconstructed single family home. Said cash bond may be drawn on by the Council of the Town of Lapel, at the Commission's discretion upon the advice of the Administrator, that the property owner has failed to remove the mobile home either at the end of one (1) year or within one (1) week of the issuance of the certificate of occupancy for the constructed or reconstructed single family home, whichever occurs first. Said cash bond may be used to defray expenses incurred by the Town for the removal of the mobile home and/or legal costs directly associated with the enforcement of this ordinance.

F. Section 9.5 is not intended nor should it be construed to limit the damages, legal or equitable, that the Town of Lapel may seek in the enforcement of this ordinance, nor should section 9.5 be construed as authorizing any violation of this ordinance and/or the subdivision ordinance and the designated uses of respective

parcels of real estate.

## 9.6 Records

A record of each improvement location permit and each certificate of occupancy shall be kept by the Administrator. Upon request, a copy shall be furnished to any person having a proprietary or possessory interest in the premises concerned.

## 9.7 Issuance or Denial

The Administrator shall accept only a complete application and issue the improvement location permit or deny the application together with a statement of reasons for the denial within a period of eight working days following its submittal, except for the longer period of time required for industrial uses as provided in section 9.4

## 9.8 Appeals

A decision of the Administrator under section 9.7 may be appealed to the Advisory Board of Zoning Appeals subject to the provisions of Section 8.5

## 9.9 Expiration

An improvement location permit shall be valid for a period of one (1) year at which time it shall expire, unless work authorized by the improvement location permit is proceeding and inspections have been made by an official Town Inspector in which case it shall remain in full force and effect.

## 9.10 Failure to Obtain Permit/Violation of Building Code

If an improvement location permit, as required in this section, is not obtained, the Town building inspector shall have authority to issue a stop work order on all work being performed. Such stop work orders shall be withdrawn upon the proper permit being obtained. Any improvement being deemed by the Town=s building inspector as not in compliance with building codes or Town Ordinances shall be subject to the issuance of a stop-work order. Such stop-work order shall be withdrawn upon compliance. The Town of Lapel shall retain all civil remedies available by statute, for the failure to obtain a permit pursuant to this section.

(Ord. 5-1998, passed 6/18/98)

Section 10  
Planning Commission

10.1 The Plan Commission is hereby reestablished. The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this section. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Commission.

For the purpose of this section the Commission shall have the following duties:

- A. Review all proposed amendments to their section and make recommendations to the Town Board.
- B. Review all proposed subdivisions and plat dedications.
- C. Authorize the issuance of a building permit for planned unit developments or mobile home park that is consistent with the intent of their section.

Section 11  
TOWN OF LAPEL PERMIT FEE SCHEDULE

11.1 All applications filed with the Town of Lapel shall be accompanied by a fee in accordance with the schedules contained herein. All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances.

11.2 All construction done by the Town is required to follow the procedures and obtain appropriate permits, but at no cost for the fee.

11.3 FEES

All applications filed with the Town of Lapel shall be accompanied by a fee in accordance with the schedules contained herein. All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances.

11.2 All construction done by the Town is required to follow the procedures and obtain appropriate permits, but at no cost of the fee.

11.3 Planning and Zoning Fees

- A. Annexation \$250 plus \$10 per acre
- B. Annexation with Zoning \$400 plus \$10 per acre
- C. Zoning Ordinance Amendment
  - 1) Text only \$250.
  - 2) Map & text \$250 plus \$10 per acre
- D. Concept Plan\*
  - 1) Single & 2 family dwellings \$500 plus \$60 per lot
  - 2) Multi-family \$500 plus \$50 per unit
  - 3) Business, Commercial, Industrial \$500 plus \$25 per acre\*applicant is responsible for all costs required for public notice
- E. Plat and construction plans\*\*
  - 1) Single & 2 family dwellings \$500 plus \$60 per lot
  - 2) Multi-family \$500 plus \$75 per unit

- 3) Business, Commercial, Industrial \$500 plus \$50 per acre  
 \*\* applicant is responsible for all recording fees

F. Amendments to a recorded plat – Fees are required in accordance with the classifications in item E above, for the area affected, as determined by the Plan Commission.

G. Additional fees will be charged for additional reviews beyond the first 2 reviews when the applicant does not make the revisions requested in the original review. Each review after the initial 2 reviews will be charged in accordance with the schedule and classifications above.

H. Improvement location permits \$.15 per square foot of lot area but not less than \$500

#### 11.4 Variances – Board of Zoning Appeals

- |    |                                  |                                              |
|----|----------------------------------|----------------------------------------------|
| A. | Zoning development variance      | \$150 plus \$50 for each additional variance |
| B. | Use variance                     | \$250                                        |
| C. | Non-conforming use determination | \$50                                         |
| D. | Appeals                          | No fee but petitioner pays for public notice |
| E. | Special use                      | \$50                                         |

#### 11.5 Variances – Plan Commission

- |    |                      |       |
|----|----------------------|-------|
| A. | Sub-division Control | \$250 |
|----|----------------------|-------|

#### 11.6 Building Permits

- |    |                               |                                   |
|----|-------------------------------|-----------------------------------|
| A. | Single and 2 family dwellings | \$150 plus \$.067 per square foot |
| B. | Multi-family                  | \$250 plus \$.20 per square foot  |
| C. | Commercial, Industrial        | \$250 plus \$.10 per square foot  |
| D. | Additions of 1 or 2 rooms     | 75% of fees listed above          |
| E. | Additions of 3 or more rooms  | 100% of fees listed above         |

F.	Remodeling	
1.	Roof	\$35
2.	Electrical	\$35 plus \$.01 per square foot
3.	Plumbing	\$35 plus \$.01 per square foot
4.	Structural	\$100 plus \$.03 per square foot
5.	HVAC	\$35 plus \$.01 per square foot
6.	Combination	\$75 plus \$.03 per square foot
G.	Accessory structures	
1.	buildings	\$50 plus \$.06 per square foot
2.	pools	\$100 plus \$.01 per square foot
3.	decks	\$35 plus \$.01 per square foot
4.	fences	\$45
H.	Demolition	\$50
I.	Moving structure	\$100 plus traffic safety costs
J.	Certificate of Occupancy	
1.	Single and 2 family	\$50
2.	Multifamily	\$100
3.	Commercial/Industrial	\$100
K.	Temporary uses	\$50

L. Additional inspection required because of incomplete work will be assessed \$35 per inspection trip payable in advance.

#### 11.7 Sign Permits



A. Signs \$25 per sign plus \$1 per square foot over 16 square feet.

#### 11.8 Filing Fee Penalty

Any person or persons, firm, or corporation who shall initiate construction prior to obtaining a permit of any type set forth in this section shall pay double the amount in the schedule.

#### 11.9 Payment

All fees shall be payable to the Town of Lapel at the office of the Clerk Treasurer and shall be deposited according to the procedures established by the Town Council of Lapel, Indiana.

(Ord. 7-2004, passed 9/2/2004)

All other terms and requirements of Ordinance No. 8, 1995, remain in full force and effect.

(Ord. No. 1-1995, passed 2/21/95)(Ord. 8-1995, passed 9/19/95)(Ord. No. 7, 1997, passed 8/19/97)(Ord. No. 8, 1998, passed 8/20/98)

Section 12  
Building Rules

The following building rules of the Indiana Fire Prevention and Building Safety Commission, of the Indiana Administrative Code, as set out in the following articles, are hereby incorporated and adopted to all Town of Lapel building codes, requirements, and ordinance as of the date of the execution of this ordinance:

- Article 13      Building Codes
- a. Fire and Building Safety Standards
  - b. Indiana Building Codes
  - c. Indiana Building Code Standards
  - d. Indiana Handicapped Accessibility Code
- Article 14      One & Two Family Dwelling Code  
Indiana One and Two Family Dwelling Code
- Article 16      Plumbing Code  
Indiana Plumbing Code
- Article 17      Electrical Code
- a. Indiana Electrical Code
  - b. Safety Code for Health Care Facilities
- Article 18      Mechanical Code  
Indiana Mechanical Code
- Article 19      Energy Conservation Code
- a. Indiana Energy Conservation Code
  - b. Modifications to the Model Energy Code
- Article 20      Swimming Pool Code  
Indiana Swimming Pool Code

Ord. 11-1999, passed \_\_\_\_

## **APPENDIX B**

### **PROCEDURE FOR APPLICATIONS**

#### **Concept Plans and Plat Approvals**

##### **Concept Plans:**

submitted to Town Hall with fees for concept review 31 days prior to Planning Commission meeting.

concept plan given and reviewed by checkpoint agencies

at scheduled Commission meeting, concept plan is either continued, tabled, rejected or approved.

##### **If Approved:**

applicant may then proceed to prepare his application for certificate of plat approval and all supporting documents.

##### **Application For Certificate of Plat Approval**

Submitted to Town Hall with fees for preliminary plat approval.

Placed on Planning Commission agenda to begin 31 day review period.

Plans and supporting documents given to checkpoint agencies.

Commission sets date for public hearing

Within 5 days of acceptance of application, publish notice in newspaper of general circulation in Madison County: general location of proposed subdivision that the application is on file and may be examined at Lapel Town Hall. Parties having probable interest in the plat may file in writing at Town Hall comments or concerns within 10 days of publication

##### **Action of Planning Commission**

Within reasonable time of hearing the Planning Commission shall study documents and information from checkpoint agencies to determine conformity to ordinances. Commission shall also consider information presented at the public hearing.

Commission shall continue, table, reject or approve.

**\*\*IF ALL INFORMATION IS NOT SUBMITTED AT ONE TIME OR DEVIATES FROM THE ORDINANCE OR STANDARD THEN MORE TIME MAY BE REQUIRED TO OBTAIN RECOMMENDATION FOR APPROVAL.**

Checkpoint Agencies:

Town Board  
Town Engineer  
Town Marshal  
Local Fire Department

Utility Departments  
County Board of Health  
County Soil & Conservation  
Appropriate School Corporation

STATE OF INDIANA     )  
                                  )SS:  
COUNTY OF MADISON )

ORDINANCE NO. 4

BE IT ORDAINED by the Town of Lapel, Madison County, Indiana:

That the Town of Lapel hereby adopt an ordinance for utilization of the Subdivision Control Code, attached hereto and made a part of this Ordinance, and marked Exhibit A.

NOW, BE IT ORDAINED by the Board of Trustees of the Town of Lapel, Madison County, Indiana adopt the Subdivision Control Code to guide the development of the Lapel Advisory Plan Commission=s jurisdictional area for the benefit of the Town of Lapel, its citizens, and future development.

READ AND ADOPTED THIS 27 DAY OF AUGUST, 1996.

SCOTT HERSBERGER

GARRY SCHERER

ROSILYN OLEKSY

ATTEST:  
THOMAS G. TUDOR,  
CLERK/TREASURER

## GENERAL PROVISIONS

### TITLE.

This chapter and chapters supplementary or amendatory thereto shall be known and cited hereafter as the Subdivision Control Code.

The purpose of this Subdivision Control Code is to guide the development of the Lapel Advisory Plan Commission=s jurisdictional area in such a manner as to provide for the improvement of the health, safety, convenience and welfare of its citizens and to plan for the future development of the community; to the end that streets and highways be carefully planned: that new areas grow only with adequate street, utility, health, education and recreational facilities. Further, that the needs of public utilities and facilities be recognized in the future growth: that residential area provide healthy surroundings for the family life and that the growth of the community is commensurate with, and primitive of, the efficient and economical use of public funds.

### APPROVAL OF PLATS: CONTROL OF PLAN COMMISSION.

No plat or replat of a subdivision of land, located within the jurisdiction and territorial limits of the Town of Lapel Advisory Plan Commission shall be recorded in the Madison County Recorder=s Office until it shall have been approved by the Commission and the Town Council, in accordance with the following requirements, standards and specification, and such approval has been entered in writing on the plat by the President and Secretary of the Commission.

### PROCEDURE FOR PLAT APPROVAL

#### PRELIMINARY CONSULTATION; CONCEPT PLAN APPROVAL.

(A) The owner or owners of land, or the subdivider, proposing to subdivide plat, or otherwise develop property within the jurisdictional area of the Commission, shall consult with the Director of Development or his designee and the Town Engineer prior to the preparation of the Concept Plan and prior to the submittal of the Concept Plan to the Advisory Plan Commission.

(B) The owner or developer shall submit a Concept Plan for the subdivision which shall show the manner in which the proposed subdivision is coordinated with the Comprehensive Plan and its provisions; specifically with relation to the requirements of the Official Thoroughfare Plan: school and recreation sites; shopping centers; community facilities; sanitation, water supply and drainage; and other developments, existing and proposed, in the vicinity provided, however, that no land shall be subdivided or otherwise developed unless adequate access to the land over improved streets or thoroughfares exist or will be provided by the subdivider, or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or

improper drainage, objectionable soils, earth and rock formations, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole.

### Subdivision Control

(C) The owner or developer shall also be prepared to demonstrate that the proposed development will meet the requirements of, and be in harmony with, the County Surveyor, Madison County Highway Department, Indiana Department of Natural Resources and Soil Conservation Service, Madison County Conservation District. Within a reasonable time after the submittal of the Concept Plan, the Commission shall study the Concept Plan and all supporting documents to determine if it conforms to the Comprehensive Plan. Upon the continuance or rejection of the Concept Plan, the Secretary shall notify the applicant in writing what revisions, or further changes are needed for approval. Upon the rejection of the Concept Plan, the Commission will not review the application until it is resubmitted, which cannot be done but once every two months. Upon the approval of the Concept Plan, the Secretary shall notify the applicant in writing of the Commission's actions. The applicant may then proceed to prepare his Application for Certificate of Plat Approval, and all supporting documents.

### FILING OF APPLICATION FOR CERTIFICATE OF PLAT APPROVAL

(A) The owner or developer shall, upon the application form furnished by the town, make application to the Commission for the Certificate of Plat Approvals. In addition to the application form, various plans, exhibits, approvals, and documents shall be included as part of the application and submittal. The information outlined in this chapter is intended to represent the minimum information required, and the owner or developer may submit whatever additional information he deems necessary or helpful in presenting his application. Further, the Commission may require additional documentation beyond that listed and described, where it believes such information to be helpful in considering the application.

(B) The application shall be filed not later than 12 months after the date of approval of the Concept Plan, otherwise it will be considered void unless an extension is requested by the owner or developer and granted by the Commission in writing.

(C) After receipt of a completed application, the application shall be placed on the agenda of the next Commission meeting for notification of receipt of the plat and application, and to start the 31 working day review period as provided in the Town of Lapel, Indiana, Code of Ordinances.

## PAYMENT OF FEES.

The owner or developer shall at this time submit his check for the appropriate fees. The check shall be made out to the town and shall be in the amount specified in the Town of Lapel, Indiana. Code of Ordinances.

## APPLICATION FOR CONCEPT PLAN REVIEW AND CERTIFICATE

Name(s) of Subdivider(s) \_\_\_\_\_

Address(es) \_\_\_\_\_

Phone(s) \_\_\_\_\_

Subdivider=s Representative (if any) and Registered Land Surveyor (if any):

Name(s) \_\_\_\_\_

Address(es) \_\_\_\_\_

Phone(s) \_\_\_\_\_

I (we) do hereby apply for sketch Plan review and certificate or approval of the following described subdivision in accordance with the provisions of the Lapel Subdivision Ordinance. I (we) am (are) the owner (owners) of the real estate included in said subdivision.

Name of the Subdivision \_\_\_\_\_ generally described as follows:

Civil Township \_\_\_\_\_ Section \_\_\_\_\_ Quarter Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

### (LEGAL DESCRIPTION OF SUBDIVISION ATTACHED HERETO)

=====

The undersigned, having been duly sworn on oath states the above information is true and correct as he is informed and believes.

Signature(s) of Subdivider(s) \_\_\_\_\_

State of Indiana ) \_\_\_\_\_

County of \_\_\_\_\_ ) SS:

Subscribed and sworn to before me this day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

Residing in \_\_\_\_\_ County

My Commission Expires: \_\_\_\_\_

=====

Staff Use: Date of Concept Plan Review \_\_\_\_\_

Fee of \$\_\_\_\_\_ received from subdivider. Date \_\_\_\_\_



## REQUEST FOR CERTIFICATE OF PRELIMINARY PLAT APPROVAL

Name(s) of Subdivider(s) \_\_\_\_\_

Address(es) \_\_\_\_\_

Phone(s) \_\_\_\_\_

Subdivider=s Representative (if any) and Registered Land Surveyor (if any):

Name(s) \_\_\_\_\_

Address(es) \_\_\_\_\_

Phone(s) \_\_\_\_\_

I (we) do hereby request primary approval of the following described subdivision in accordance with the provisions of the Lapel Subdivision Ordinance. I (we) am (are) the owner (owners) of the real estate included in the subdivision.

Name of the Subdivision \_\_\_\_\_ generally described as follows:

Civil Township \_\_\_\_ Section \_\_\_\_ Quarter Section \_\_\_\_ Township \_\_\_\_ Range \_\_\_\_

Area in acres \_\_\_\_\_; Number of lots \_\_\_\_\_

Miles of new streets to be dedicated to the public (in hundredths):

Full width \_\_\_\_\_

=====

The undersigned, having been duly sworn on oath states the above information is true and correct as he is informed and believes.

Signature(s) of Subdivider(s) \_\_\_\_\_

Subscribed and sworn to before me this day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public

Residing in \_\_\_\_\_ County

My Commission Expires: \_\_\_\_\_

=====

Staff Use: Date of Public Hearing before Commission \_\_\_\_\_

Fee For Additional Lots of \$ \_\_\_\_\_ received from subdivider. Date \_\_\_\_\_

## NOTICE OF HEARING

(A) Upon receipt of the application and on the tentative approval and acceptance of the application, the Commission shall set a date for a public hearing on this application and proposed subdivision, notify the applicant in writing, and notify by general publication or otherwise any person, or unit of government, having a probable interest in the proposed plat.

(B) Upon the official notification forms of the Lapel Plan Commission, the secretary shall notify by certified/registered mail, the owner or owners, according to the most recent bound volumes of the real estate tax assessment lists on file in the offices of the Assessor of Madison County, Indiana, of all parcels of land adjoining or adjacent to the land described in said application for plat approval to a depth of two ownerships, but not to include any ownership of land located more than 600 feet from said land described in the application for plat approval.

(C) For the purposes of giving notice as required by this section, the land described in said application for plat approval shall be deemed to include any adjoining or adjacent land owned by the applicant, with the exception, however, that if the applicant is a railway or other utility, the land described in said application for plat approval shall not be deemed to include the entire right-of-way but shall be limited to the particular parcel involved, and land separated from land described in the application for plat approval by streets, alleys, easements, channel waters, or any other natural or artificial barrier, except a boundary line of Stoney Creek Township, Madison County, shall be deemed to land adjoining, or adjacent to, that described in the application for plat approval. Such notice shall state:

(1) The general location of the proposed subdivision and a legal description of the land contained herein, as stated in the application for plat approval.

(2) That the Application for Certificate of Plat Approval for the proposed subdivision is on file and may be examined at the office of the Secretary of the Plan Commission.

(3) That the addressee may file in writing with the Secretary any comments concerning the proposed subdivision and plat thereof within ten days after the date of the postmark appearing on the certified/registered mail envelope enclosing said notice.

(D) Within five working days of the acceptance of the application, the Secretary shall also publish a notice in a newspaper of general circulation in Madison County stating:

(1) The general location of the proposed subdivision and a legal description of the land contained therein, as stated in the application for plat approval.

(2) That the Application for Certificate of Plat Approval for the proposed subdivision is on file and may be examined at the office of the Secretary of the Plan Commission.

(3) That all parties having probable interest in the plat may file in writing with the Secretary any comments concerning the proposed subdivision within ten days after the date of publication.

## NOTICE OF PUBLIC HEARING ON SUBDIVISION

Notice is hereby given that the Lapel Planning Commission, on the \_\_\_\_date of \_\_\_\_\_, 20\_\_\_\_,

at 7:30 p.m. in the Lapel Town Hall, 720 South Ford Street, Lapel, Indiana, will hold a public

hearing on a request by \_\_\_\_\_ subdivision. Said Subdivision involves

(subdivider)  
the following described real estate in \_\_\_\_\_ Township, located at  
(Name of Civil Township)

\_\_\_\_\_ to wit:  
(Common address or road location)

### DESCRIPTION

Written suggestions or objections to the provisions of said request may be filed at Lapel Town Hall 10 days after the publication of such meeting and will be heard by the Lapel Planning Commission at the time and place specified. Said hearing may e continued from time to time as may be necessary.

Interested persons desiring to present their views on the said request, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place.

LAPEL PLANNING COMMISSION OF MADISON COUNTY, INDIANA

By: \_\_\_\_\_  
President

Seal:

Attest: \_\_\_\_\_

## ACTION OF PLAN COMMISSION.

(A) Within a reasonable time after the hearing, the Commission shall study the Application for Certificate of Plat Approval and all supporting documents to determine if it conforms to the Comprehensive Plan, and to the minimum development standards as outlined and required by this chapter. The Commission shall also consider all information presented at the public hearing. The Commission shall then, based upon these facts presented, approve the Application for Certificate of Plat Approval, continue and hearing, table the matter, or reject the Application for Certificate of Plat Approval and forward their recommendation to the Town Council.

(B) Upon the tabling or rejecting of an application, the Secretary shall notify the applicant in writing what revisions, changes, or further changes in the application are needed for approval. Upon the rejection of an application, the Commission will not review the application until it is resubmitted, which cannot be done but once every six months.

(C) Upon the approval of the application and plat, the President and Secretary shall sign and seal the plat at the appropriate locations. The Secretary shall also notify the applicant in writing of the Commission's actions. It may then be filed for recording in the Office of the Recorder of Madison County, as required by law. If disapproved, the Commission shall set forth the reason for such disapproval in its own records and provide the applicant with a copy.

(D) The approved plat shall have incorporated all changes or modifications required by the Commission, Town Engineer, Development Coordinator or his designee, Health Officer, Madison County Soil and Water Conservation District and County Surveyor, and it may constitute only that portion of the Concept Plan which the subdivider proposed to record and develop at that time, provided that such portion conforms with all requirements of this chapter and meets the approval of the Commission and was stipulated at the time of Concept Plan submittal.

## BOND REQUIREMENTS.

(A) The Commission may not approve a plat for a subdivision without a bond or irrevocable letter of credit to cover the proposed plat improvements and installation. The bond or letter of credit shall:

- (1) Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with the chapter;
- (2) Provide surety satisfactory to the Commission;

(3) Run to and be in favor of the town, or the county;

(4) Specify the time for the completion of the improvements and installations (both on and off site);

(5) Be in effect and shall not terminate until 30 days after the final construction is approved by the Commission, and the maintenance bonds have been accepted;

(6) Not be released until the Town Engineer has certified that he has inspected the improvements during construction, and after completion, and that they have been installed in accordance with the intent of the approved Construction Plans and Specifications; and

(7) Be on a form approved by the Council.

(B) There is hereby created a dedicated form acceptable to the State Board of Accounts which shall hold and accumulate all funds paid pursuant to the provisions of this section and which shall not thereafter be appropriated for any use unless it is associated with the completion of infrastructure improvements which had not been completed after having been initiated for any reason whatsoever.

(1) In the absolute discretion of the Director of Development in consultation with the Clerk-Treasurer and the town engineer for the Town, as needed, an entity or person obligated to provide a performance bond to the town may be allowed to pay a cash amount to the town in lieu thereof equivalent to the amount of premium which would be paid by said entity or person if it were to obtain a performance bond. Conditions governing the exercise of discretion by the Planning Commission shall include but not necessarily be limited to the following;

(a) The general credit worthiness of the entity or person seeking such alternative form of payment;

(b) The nature of the proposed improvement;

(c) The reputation and history involving the person or entity seeking such alternative form of payment;

(d) Such other underwriting standards as may be appropriate under the circumstances.

(2) It shall be the policy of the town as incorporated into this section

that the Planning Commission shall document it's reason for denying a request in writing when such a denial occurs, and that said Planning Commission need not be limited to the conditions set out herein.

(3) All other requirements pertaining to the time of posting and the calculation of the amount shall remain the same as currently exists within the ordinances of the town. Specifically, the cash amount in lieu of bond shall be exactly equal to the amount of premium for such a bond as evidenced by a certified quote for such premium from a recognized commercial bonding company. It shall be the duty of the person seeking the benefit of this section to provide the evidence of the premium to the Planning Commission.

(4) Nothing in this section shall in any way limit the ability of the town to give consideration to other alternative forms of insuring the proper completion of public improvement projects involving infrastructure which is to be dedicated to the town or for the benefit of the public.

#### ACCEPTANCE OF SUBDIVISION; POSTING MAINTENANCE BONDS.

When the subdivision has been completed, the owner or developer shall apply for a Certificate of Final Acceptance from the Plan Commission. When the application for Final Acceptance is submitted to the Commission, it shall be accompanied by a notice from the Council, stating that there has been filed with, and approved by that body, the following.

(A) A statement certified by the developer's engineer, addressed to the town council, stating that he has inspected the improvements and construction of the subdivision required for its approval, during and after their construction and installation and that they have been made or installed in accordance with the approved plans and specifications; and, that a 3 year maintenance bond has been provided for any improvements and installations required by this chapter. The said maintenance bond shall:

(1) Run to and be in favor of the town;

(2) Be in a penal sum of not less than 25% of the total improvement's construction cost of the subdivision to assure and guarantee the maintenance of all improvements and installations, during such 3 year period. Including, but not limited to: streets to minimum specifications at the end of such period, sanitary sewers, storm sewers, including lift stations, pumps, motors, connections and main lines installed in the subdivision; sidewalks. shoulders, side slopes and ditches, street signs and street lights; provided that the Town Council may reduce the penal sum set forth herein for good cause if the intent of the Maintenance Bond provision is preserved;

(3) Commence upon acceptance;

(4) Provide surety satisfactory to the Commission;

(5) Warrant the workmanship and all materials used in the construction, installation and completion of said improvements and that the installations are of good quality and have been constructed and completed in a workmanship manner in accordance with standards, specifications and requirements of this chapter and the approved plans and specifications therefor;

(6) Provide that for a period of three years after the Plan Commission Meeting at which said installations and improvements have been completed and are accepted for public maintenance by any appropriate governmental unit or agency thereof, the subdivider will at his own expenses make all repairs to said improvements and installations, and on the foundation thereof, which may become necessary by reason of improper workmanship or materials, with such maintenance, however, not to include any damage to said improvements and installations resulting from forces or circumstances beyond the control of said subdivider; and

(7) A certification from the developer that all improvements and installations for the subdivision required for compliance with this chapter have been made or installed in accordance with the approved plans and specifications.

(8) Provide for 4 sets of complete “as built” plans to the Town of Lapel at the completion of the project in for form of 3 sets of blue lines or black lines and 1 set of reproducible mylars. The “as built” shall include accurate to scale horizontal location of all utilities, including but not limited to sanitary sewer mains and service laterals, storm sewers, water mains and service lines, gas, electric, telephone and cable television. Vertical location shall be provided for sanitary and storm sewers, including but not limited to inverts, grade and top casting elevations. The plans shall also include any horizontal or vertical revisions of streets, sidewalks, entrance signs, drainage, retention and/or detention ponds, pump stations, accurate construction details and other improvements. ‘As built” plans shall be dated and noted as such on each plan sheet and shall be certified by the engineer providing the inspection service in Section A.

(Ord. No. 2-1999, passed 1/21/1999)

#### PLAT AND SUPPORTING DOCUMENTS; PRESENTATION.

(A) The Concept Plan may be presented in the form of one or more documents, consisting of plans, drawings, slides, reports, letters and/or other supporting information. Four copies of all items shall be submitted.



(B) The proposed plat and all on-site development amenities shall be presented on a plan with a minimum scale of not less than 1 inch - 100 feet. The on-site plan shall include the existing ground contours at not more than a five-foot interval. This plan shall be entitled "Proposed Development Plan".

(C) All off-site considerations may be presented on a plan map of not less than a 1 inch - 1,000 feet scale. This plan shall be entitled "Area Map" and it shall show all off-site considerations and amenities as hereinafter described.

(D) The proposed improvements may be presented in any form as best suits the developer's presentation. The developer should note that the final project shall clearly reflect the proposed structures, plans, uses, and purposes as represented by the Concept Plan.

(E) For this submittal the owner or developer shall present a Concept Plan which shall:

(1) Represent the proposed plat with the legal description showing the layout of streets, lots, and other elements basic to the proposed use in relationship to the site conditions (Proposed Development Plan);

(2) Define the proposed traffic flow, method of handling the sanitary sewage, storm water run-off, water supply, utility services, legal drains, subsurface water problems and also all off-site considerations which may affect the proposed site as well as any downstream areas (Proposed Utility Plan);

(3) Show locations of all existing or proposed parks, schools, recreational and other public and semi-public sites and facilities which are proposed to be within the development, or which may be affected by the development due to location or proximity, as well as all land use and zoning classifications adjacent to the proposed subdivision (Area Map);

(4) Illustrate by plans, drawings, renderings, models, pictures, and specifications, the proposed improvements, structures, buildings, and all other pertinent amenities which are proposed to be constructed or otherwise installed within the developed project;

(5) Include a copy of the proposed covenants; and

(6) Include a soils report from the Madison County Soil Conservation Service, U.S. Department of Agriculture.

(F) The owner or developer shall also be prepared to demonstrate that the proposed development will meet the requirements of, and be in harmony with, the recommendations of the Madison County Surveyor, Madison County Highway

Department, Indiana Department of Natural Resources, and the Soil Conservation Service, Madison County Conservation District.

(G) The plans presented shall have been prepared by an architect, engineer or surveyor registered in this state. The plans shall have been prepared in a professional manner, and shall depict the present situation as it truly exists. All streets, roads, creeks, and places shall be named. All land areas shall be identified as to ownership and Zoning Classification and present use. All existing utilities, drainage ways, storm and sanitary sewers, streets and roads, shall be located and shown to the extent that they may affect the proposed development.

(H) The Concept Plan shall be submitted to the Secretary of the Advisory Plan Commission at least 31 working days prior to the Commission meeting at which it is to be presented.

(I) The owner or developer shall at this time also deposit with the Clerk-Treasurer his check for the cost of concept plan review. These costs are set forth in the Town of Lapel, Indiana, Code of Ordinances.

(J) The owner or developer shall submit an application for Certificate of Plat Approval upon the forms provided by the Secretary. The application, plat and all supporting documents, as hereinafter described, shall be submitted in six copies to the Secretary for docketing on the next Commission meeting agenda. After the Commission meeting, a 31 - working day review period will begin as follows:

(1) Working Day 1-10: The Development Coordinator or his designee, the Town Attorney and the Town Engineer will review the submitted application and documents within ten days and provide the applicant with their comments.

(2) Working Day 11-21: The applicant will then have 11 days to make revisions and corrections and resubmit them to the Secretary.

(3) Working Day 22-26: The Development Coordinator or his designees, the Town Attorney and the Town Engineer will then have five days to complete the review and mail the final comments/recommendations to all the Commission Members and the applicant.

(4) Working Day 27-31: The Commission Members will then have five days; two days for delivering of mail and three days for review, prior to the meeting for review of the recommendations.

(K) The plat shall be prepared on a mylar base material with India ink or other approved materials, so as to be a permanent record. The owner or developer shall furnish one permanent (mylar) transparency to the Commission, along with six copies or prints of the plat and all supporting documents.

(L) The original drawing of the plat of the subdivision shall be drawn to a scale of 1 inch = 50 feet, provided that the resulting drawing can be placed on a sheet 18 inches x 23 inches. A scale of 1 inch = 100 feet may be used if authorized by the Commission.

(M) The plat shall accurately indicate and show:

(1) Name of subdivision, name and address of owner and/or developer;

(2) Location by section, township and range and by legal description, and a Location Key Map;

(3) The signature, seal and certification of a registered land surveyor, in accordance with this chapter, who prepared the plat;

(4) Scale shown graphically, date, and north point;

(5) Boundary lines of plat and acreage thereof based upon an accurate

traverse (1 foot in 5,000 feet), with temperature corrections equal to 68°F;

(6) True courses and distances to the nearest established street lines or official monument which accurately describe the location of the plat;

(7) Town, township, county, and section lines accurately tied to the lines of the subdivision by courses and distances;

(8) Street rights-of-way, in accordance with the provisions of this chapter and the Thoroughfare Plan. Names and lines of all streets within and on the perimeter of the plat, with accurate dimensions in feet and hundredths showing angles to streets, alleys, and lot lines at least to the nearest minute;

(9) Radii, central angles, tangents, lengths of areas, curvatures, angles at street intersections and a complete street traverse of each street within and on the perimeter of the plat;

(10) Lines of any existing alloys or alloys for commercial, industrial or other non-residential land uses within and on the perimeter of the plat, with accurate dimensions in feet and hundredths;

(11) All lot numbers, liens, and areas with accurate dimensions in feet and hundredths. Lots in various phases of the same section in a subdivision shall be numbered consecutively through the several sections;

(12) Lines of an identity of all easements provided for public services and utilities, with accurate dimensions in feet and hundredths;

(13) Accurate location and material of all monuments, indicating whether found or set, and elevation of at least one thereof;

(14) Accurate outlines of any area to be dedicated or reserved for public use, or acquisition, with the purposes indicated thereon and in the dedication, and of any area to be reserved by deed or covenant for common use by owners of land obtained in the plat;

(15) Building setback lines accurately shown with dimensions;

(16) A correct legal description of the land platted, indicating any changes from the description appearing in the last record transfer of said land;

(17) Restrictive covenants applicable to the land in the plat consistent with the requirements, standards and specifications of this chapter, as required by the Commission;

(18) Certification of dedication of streets and other public property;

(19) Certificate for approval by the Commission.

#### SUPPLEMENTARY DATA REQUIRED.

(A) A Development Plan shall be presented with the plat. The Development Plan shall be prepared to a scale of 1 inch = 50 Feet or less and preferably on sheets not to exceed 24 inches x 36 inches. The Development Plan shall include the following information;

(1) Contours at vertical intervals of one foot or less if the general slope of the site is less than 10% and at vertical intervals of two feet if the general slope of the site is 10% or greater.

(2) Tract boundary lines showing dimensions, bearing, angles, and references to section, township and range lines, with a written legal description of the tract.

(3) Location of existing drainage, drainage channels, underground facilities, wooded areas, power transmission poles and lines, legal drains and/or known private drains, and any other significant items shall be shown.

(4) The location and size of all existing utilities. (Storm, sanitary sewers, water main, telephone, electrical, gas, etc.)

(5) Streets and rights-of-way, on and adjoining the site of the proposed subdivision, with names of streets which shall not duplicate names of other streets in the community except in cases of extensions of existing streets, sidewalks and other pertinent data

(6) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes. These shall be shown on the Site Location Map if not a part of this project.

(7) Building setback or front yard lines.

(8) Easements: Locations, width and purposes.

(B) A "Utilities and Drainage Plan," also conforming to the above shall

(1) Show all existing and proposed utilities, sanitary and storm sewers, lift or pumping stations (sanitary or storm), proposed drainage ditches, swales, or pipes, culverts, detention or retention ponds. Note: The layout of telephone, electric, gas, and water utilities is required at this time.

(2) In all cases a separate "Drainage Area Map" with calculations shall

be presented, as an engineering document to support the planned method of drainage and storm water run-off management.

(C) A Site Location Map showing the location of highways, county roads, rural routes, legal drains, flood plains, private drain tile, open drains, watershed boundaries, and any other physical features that may have a bearing on proposed developments i.e. swamp, steep escarpments, woods, etc.

(D) An Erosion Control and Landscape Plan shall be included and may be in conjunction with the Development Plan.

(E) Plan and profile sheets shall be prepared for all on and off site sewers, storm sewers, streets and roads, drainage ditches, and force mains. These plans shall be prepared on 24 inch x 36 inch drawings to a scale of 1 inch = 50 feet horizontal and 1 inch = 5 feet vertical.

(F) Detail sheets shall be prepared which clearly define all construction matters, and special conditions. Written specifications shall be prepared as part of the plans or as separate documents. These specifications shall cover construction techniques, materials, and tests.

(G) From time to time additional plans and/or specifications may be required for special or unusual conditions which are not herein mentioned. This information shall be furnished as directed by the Town Engineer.

## SUBDIVISION PRINCIPLES; MINIMUM DESIGN STANDARDS

### PURPOSE.

(A) It is the purpose of this chapter to establish and define certain principles and minimum design standards which shall be required by the Commission prior to the approval of any plat. Further, these minimum requirements shall serve as a guide to owners and developers who will be submitting plats for those areas within the jurisdictional control of the Advisory Plan Commission.

(B) In planning for the subdivision and development of areas within the jurisdiction of the Advisory Plan Commission, the owner and developer shall make every effort to assure that the proposed project will be accomplished in agreement with the intent and purpose of this Comprehensive Plan. The proposed development shall be consistent with the present zoning classification and uses, and shall result in a project which is harmonious with the use of the land upon which it is planned as well as the overall community of the town.

### CONSIDERATIONS: STANDARD MINIMUMS.

(A) In the development of the Lapel area, care shall be taken and

consideration given to the preservation of the existing environment and natural features of the land. These shall include, but are not limited to, farm lands, woods, creeks, floodways, historic sites, cemeteries, wild life habitat or other similar areas which may be of value, either intrinsic or real, and which are considered to enhance the total area in general.

(B) Special consideration shall be given to the prevention of soil erosion, air and water pollution and the proper disposal of all refuse and waste materials, and the elimination of any undesirable condition or situation.

(C) The development of the area shall be harmonious with the existing areas, and shall further protect the health, safety and welfare of the residents in the jurisdictional area of the Commission.

(D) The standards and requirements of this chapter shall be deemed "Minimum," and whenever the requirements of the Zoning Code, or any requirements of the Comprehensive Plan, or any governmental agency are higher or more restrictive, then the latter standards and requirements shall control any approval of the plat or development plans.

#### PLATTING OF LAND.

(A) The land shall be platted to achieve the most desirable utilization thereof, in a manner most conducive to:

(1) The creation of conditions favorable to the public health, safety, and welfare and the physical, social and economic development of the area, and in conformity with the Comprehensive Plan;

(2) The advantageous distribution of population densities and traffic control;

(3) The creation of desirable local subdivision units with provision for;

(a) Adequate public and semi-public grounds, spaces and facilities, including, but not limited to, governmental services and administration, education and recreation;

(b) Sanitation and drainage, including the treatment and disposal of excess drainage waters, sewage, garbage, refuse and other wastes;

(c) Necessary public utilities providing water, light, heat, and communication;

(4) The prevention of stream pollution;

- (5) The elimination of blight;
- (6) The prevention and control of floods; and
- (7) The conservation of water, oil and other agricultural and mineral resources.

(B) Land shall be platted with aversion to effectuating any long range programs or financial obligations on the part of the town or the Commission, and shall promote the efficient and economic use of public funds.

(C) Land which is subject to flooding or other danger shall not be platted for any use or in any manner tending to create an increased detriment to the public health, safety or welfare.

#### SOIL SURVEY, EROSION AND SEDIMENT CONTROL.

(A) Before granting the approval of a plat or the issuance of a Development Permit, the Town Engineer and/or the Development Coordinator or his designee shall be satisfied that the proposed subdivision meets the applicable criteria set forth herein for the tract of land concerning types of soils involved, and the conditions which are requisite to assure proper execution of erosion and sediment control, proper drainage, and the overall general development. The Town Engineer and/or the Development Coordinator or his designee shall be guided by the information set forth in the findings in the National Cooperative Soil Survey prepared by the USDA Soil Conservation Service in cooperation with the Purdue Experiment Station and the Madison County Soil and Water Conservation District. The Town Engineer and/or the Development Coordinator or his designee shall also be guided by advice from the USDA Soil Conservation Service, Madison County Soil and Water Conservation District, Madison County Drainage Board, Indiana Department of Natural Resources - Division of Water and other agencies or officials offering technical assistance on the subject of soils, drainage, erosion and sediment control. The applicant shall provide the information, report or plan with his application, and any additional expense necessary to ensure adequate information, report or plan shall be met by the applicant.

(B) No changes shall be made in the contour of the land, or grading excavating, removal or destruction of the top soil, trees or other vegetative cover of the land until such time that a plan for minimizing erosion and sedimentation has been reviewed by the Town Engineer and/or the Director of Development or his designee, or there has been a determination by the

Town Engineer and/or the Development Coordinator or his designee that such plans are not necessary.

(C) No subdivision plat shall be approved unless there has been a plan approved by the Development Coordinator or his designee and the Town Engineer that



provides for drainage and minimizing erosion and sedimentation consistent with this chapter, and that an improvement bond or other acceptable securities are deposited with the town which will ensure installation and completion of the required improvements, or there has been a determination by the Development Coordinator, or his designee and the Town Engineer that a plan for drainage and minimizing erosion and sedimentation is not necessary.

(D) Measures used to control erosion and reduce sedimentation and to provide drainage shall as a minimum meet the soils report and recommendations of the Madison County Soil and Water Conservation District. These measures shall be set out in the Erosion Control Plan, which shall be a part of the plans.

#### EROSION AND SEDIMENTATION CONTROL PRINCIPLES.

The following measures shall be considered in minimizing erosion and sedimentation and shall be included where applicable in the erosion control plan:

(A) Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion.

(B) Development plans shall preserve salient natural features, keep cut-fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water run-off.

(C) Whenever feasible, natural vegetation shall be retained, protected and supplemented.

(D) The disturbed area and the duration of exposure shall be kept at a practical minimum.

(E) Disturbed soils shall be stabilized as quickly as practicable.

(F) Temporary vegetation and mulching shall be used to protect exposed critical areas during development.

(G) The permanent final vegetation and structural erosion control and drainage measures, shall be installed as soon as practical in the development.

(H) Provisions shall be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.

(I) Where necessary the rate of surface water run-off will be structurally retarded.

(J) Sediment in the run-off water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment bases, silt traps, or similar measures.

#### SITE GRADING.

In order to provide more suitable sites for building and other uses, improve surface drainage, and erosion control, the following considerations shall be made:

(A) All lots, tracts, or parcels shall be graded to provide proper drainage away from the buildings and dispose of it without ponding, and all land within a development shall be graded to drain and dispose of surface water without ponding, except where approved by the Development Coordinator or his designee and/or the Town Engineer.

(B) All drainage provisions shall be of such design to handle the surface run-off and carry it to the nearest suitable outlet such as a curbed street, storm drain, or natural watercourse. Where drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted as required and shall be of such slope, shape and size as to conform with the requirements.

(C) Concentration of surface water run-off shall only be permitted in swales or watercourses.

(D) Excavations and fills:

(1) Cut and fill slopes shall not be steeper than 3:1 unless stabilized by a retaining wall or cribbing except as approved by the Director of Development or his designee and/or the Town Engineer.

(2) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills, by installation of temporary or permanent drainage across or above these areas.

(3) Cut and fills shall not endanger adjoining property.

(4) Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.

(5) Fills shall not encroach on natural watercourses or constructed channels.

(6) Fills placed adjacent to natural watercourses or constructed channels shall have suitable protection against erosion during periods of flooding.

(7) Grading will not be done in such a way so as to divert water onto the property of another land owner without the expressed written consent of that owner.

(8) During grading operations, necessary measures for dust control will be exercised, such as water sprinkling application.

(9) Grading equipment will not be allowed to cross live streams. Provision will be made for the installation of temporary crossings or permanent culverts or bridges.

(10) All adjacent roads, streets and drives shall be kept free and clear of all dust, mud, dirt or other debris carried from the site by trucks and earth equipment.

## RESPONSIBILITY.

(A) Whenever sedimentation is caused by the stripping of vegetation, regardless of other development, it shall be the responsibility of the applicant, person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.

(B) Maintenance of all driveways, parking areas, drainage facilities and watercourses within any development area is the responsibility of the applicant owner or developer.

(C) It is the responsibility of the applicant and any person, corporation, or other entity doing any act on or across a communal stream, watercourse, or swale or upon the flood plain or right-of-way during the pendency of the activity and to return it to its original or equal condition after such activity is completed.

(D) No applicant, person, corporation, or other entity shall block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Town Engineer and the Development Coordinator or his designee or the Indiana Department of Natural Resources, Division of Water, whichever is applicable.

(E) Where a development area is traversed by a watercourse, the total development of the watercourse shall be considered. There shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse, and of such width as will be adequate to preserve natural drainage to the satisfaction of the Town Engineer and the Development Coordinator or his designee.

(F) Each applicant, person, corporation, or other entity which makes any surface changes shall be required to:

(1) Collect on-site surface run-off and dispose of it to the point of discharge into an adequate outlet approved by the Town Engineer and/or the

Development Coordinator or his designee; and

(2) Provide and install at his expense, in accordance with the Town Engineer and/or the Development Coordinator or his designee's requirements, all drainage and erosion control improvements (temporary and permanent) as approved on the Erosion Control Plan.

(G) It is the responsibility of the applicant or owner to keep all major streams, not under the jurisdiction of other official agencies, open and free flowing.

(H) The applicant or owner will assume the responsibility for maintaining an open and free flowing condition in all streams, watercourses and drainage systems, constructed or improved in accordance with town and county design criteria, on or off his property, which are necessary for proper drainage

#### COMPLIANCE WITH REGULATIONS AND PROCEDURES.

(A) The design, installation, and maintenance of the required drainage facilities and erosion and sediment control measures shall be in accordance this chapter and the recommendations and reports prepared by the Madison County Soil and Water Conservation District.

(B) The approval of plans and specification for the control of erosion and sedimentation shall be concurrent with the approval of the development and become a part thereof.

(C) Permission for clearing and grading prior to the approval of the Development Plan may be obtained, under temporary approvals or other conditions satisfactory to the Town Engineer and/or the Development Coordinator or his designee and the Planning Commission.

#### PLATED STREETS.

(A) All proposed plats submitted for Commission approval under the provisions of this chapter shall allocate adequate areas for streets, in conformity with the Comprehensive Plan and Thoroughfare Plan, and shall designate and label all such streets thereon in accordance with the Thoroughfare Plan as to platted width, right-of-way and control of access thereto.

(B) The plan, arrangement, character, extent, width, grade and location of streets within and on the perimeter of said plat shall be logically related to the public convenience and safety, existing and planned streets in conformity with the Comprehensive Plan and Thoroughfare Plan, and existing and proposed topographical and other conditions, so as to:

- (1) Produce reasonable grades and suitable sites for the uses proposed.
- (2) Serve vehicular and pedestrian traffic adequately and provide ease of circulation within, ingress to and egress from said proposed platted area.
- (3) Create a desirable local subdivision plan consistent with said proposed uses.

(C) Such street plan shall provide for the logical extension, continuation, or completion of all properly located existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Commission.

(D) Streets which are extensions or continuations of, or obviously in alignment with, any existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Commission, shall bear the names of such existing streets.

(E) The names of new streets shall be subject to the approval of the Commission and shall not duplicate or closely resemble phonetically any existing street names within the territorial limits of the Commission, except as herein above provided.

(F) A building permit shall not be issued for any lot, however, which does not abut upon and have sufficient and adequate access to:

- (1) At least a whole-width pavement constructed or to be constructed in accordance with the requirements, standards and specifications of this chapter applicable to local street pavement width and depth:

- (2) A building permit may be issued for a model home upon the placement of permanent curbs and stone base, as specified in division (F) (4) below. The location of all model homes shall be approved by the Planning Commission.

- (3) No permits for the construction of single-family detached homes shall be allowed in a subdivision until an asphalt binder or Portland surface is laid upon the streets in that subdivision.

(G) Access to areas abutting thoroughfares. If the area proposed to be planned abuts upon or contacts an existing or proposed thoroughfare, the street plan shall provide vehicular access to each lot abutting upon said thoroughfare by one of the following means:

- (1) A parallel street, supplying frontage for lots backing onto, but separated from said thoroughfare right-of-way by a screen planting or buffer strip:

- (2) A cul-de-sac, or series of cul-de-sacs, entered from a street

paralleling said thoroughfare, with the terminal lots of the cul-de-sac backing onto the thoroughfare right-of-way by a screen planting for buffer strip:

(3) A marginal access street separated from said thoroughfare by a screen planting or buffer strip, access to the thoroughfare being provided at proper intersection distances; or

(4) Any other reasonable means necessary to control the number and location of intersections with such thoroughfares and provide adequate separation of through and local vehicular traffic.

(H) As a general principle, intersections with thoroughfares shall not occur at less than quarter-mile intervals.

(I) Intersecting streets which determine block lengths shall be provided at such intervals as to conform to the Comprehensive Plan and Thoroughfare Plan, serve cross traffic adequately, logically relate to existing and proposed topographical and other conditions, produce reasonable grades and suitable sites for the uses proposed, and create a desirable local subdivision plan consistent therewith.

(J) Dead-ended streets. Permanently dead-ended streets, except cul-de-sacs as defined in this chapter, shall be prohibited. A temporarily dead-ended street shall be permitted in any case in which a street is proposed to be, and should logically be extended beyond the limits of said plat, but is not yet constructed beyond said plat limits. An adequate easement for a turn-around shall be provided for any such temporarily dead-end street which extends 250 feet in length.

(K) Alleys shall not be located in areas proposed to be platted for residential use.

(L) If the area proposed to be platted abuts upon or contains a railroad right-of-way, the plat shall be so designed as to provide, where necessary, future grade separations at thoroughfare intersections with said railroad right-of-way and shall provide an adequate buffer between said railroad right-of-way and sites abutting thereon, by any of the following means.

(1) A parallel Street at a sufficient distance from the railroad right-of-way to provide frontage for deep lots abutting upon said railroad right-of-way and separated from said railroad right-of-way by a screen planting or buffer strip.

(2) A Cul-de-sac, or series of cul-de-sacs, at approximately right angles to the railroad right-of-way, with deep terminal lots thereof backing onto said railroad right-of-way and separated from said railroad right-of-way by a screen planting or buffer strip; or

(3) A park screen planting or buffer strip abutting said railroad right-of-

way.

(M) Street standards and design principles. All streets, roads, drives, and access ways shall conform to the following standards and design principles:

(1) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(2) Residential street systems shall be designed to minimize through traffic movement, but certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.

(3) Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivisions the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.

(4) Residential street patterns shall provide reasonable direct access to the primary circulation system.

(5) Local circulation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.

(6) Widths of streets and right-of-ways shall conform to the widths set forth in the Thoroughfare Plan.

(7) Alleys shall be discouraged in residential districts, but mandatory access should be included in commercial and industrial areas where needed for loading and unloading or access purposes, and where platted shall be at least 20 feet in width.

(8) The center lines of streets should intersect as nearly at right angles as possible.

(9) At intersections of street: and alleys, property line corners shall be rounded by arcs of at least 20 feet radii, or by chords of such arcs.

(10) At intersections of streets the property line corners shall be rounded by arcs with radii of not less than 25 feet, or by chords of such arcs.

(11) If the smaller angle of intersection of two streets is less than 60 degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the Town Engineer.

(12) Intersections of more than two streets at one point shall be avoided.

(13) Local street intersection with centerline offsets of less than 125 feet shall not be permitted.

(14) Where parkways or special types of streets are involved, the Commission may apply special standards to be followed in their design.

(15) Only one street shall be permitted from a subdivision or plat onto an arterial street or road. Two or more streets' or points of vehicle access may be permitted by the Commission only if they are definitely needed to improve the safety and traffic circulation in the area.

(16) A temporarily dead-ended street shall be permitted in any case in which a street is proposed to be and should logically be extended but is not yet constructed. An adequate easement for a turn-around shall be provided for any such temporary dead-ended street which extends 200 feet or more in length. Such easement shall be automatically vacated to abutting property owners when said dead-ended street is legally extended.

(17) In developments that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established by the Thoroughfare Plan, the developer shall dedicate additional width along either one or both sides or such streets of inadequate width so as to bring them up to standards, provided the area to be used for widening is owned by the subdivider or under his control.

(18) The following divisions shall be required as a provision of the restrictive covenants of all final plats to which they apply:

(a) No fence wall, hedge, tree or shrub planting which obstructs sight lines and elevation between 3 and 12 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 40 feet from the intersection of said street lines or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.

(b) The same sight line limitations shall apply to any lot within ten feet of the intersection of a street right-of-way line with the edge of driveway pavement or alley line. No driveway shall be located within 75 feet of the intersection of two street lines.

(19) Minimum pavement width.

(a) In subdivisions designed for 2-1/2 dwelling units or less per acre of ground within the boundaries of the plat; the minimum width of local street pavement, including gutters and curbs, shall be 32 feet measured back to back of curbs, with no on-street parking allowed.



(b) In subdivisions designed for more than 2-1/2 dwelling units per acre of ground within the boundaries of the plat; the minimum width of local street pavement, including gutters and curbs, shall be 32 feet measured back to back of curbs, with no on-street parking allowed.

(20) Street grades.

(a) The maximum grade for local streets, marginal access streets and cul-de-sacs shall not exceed 7%, except for portions of streets not to exceed 600 feet in length where maximum grade shall not exceed 10%.

(b) The minimum grade of concrete streets and gutters shall be 0.5%. The minimum grade for all other types of streets and gutters shall be 0.60%

(21) Horizontal and vertical alignment.

(a) Profile grades for local streets, cul-de-sac, and marginal access shall be connected by vertical curves with a minimum length equal to 15 times the algebraic grade difference, or 100 foot awes, whichever is larger.

(b) The minimum radii of center curvature for streets shall be 150 fact on local streets, marginal access streets and cul-de-sacs, 100 feet or 58 degrees on streets shorter than 500 feet.

(c) The minimum tangent between reversed curves shall be 100 feet for local streets, cul-de-sacs, and marginal access roads.

(22) Visibility requirements.

(a) Minimum vertical visibility measured from 5-1/2 feet, eye level, to 18 inches, tail light height, within traveled lanes shall be 200 feet on local streets, marginal access streets and cul-de-sacs, and 100 feet on streets shorter than 500 feet.

(b) Minimum horizontal visibility measured on centerline shall be, 100 feet for local streets, cul-de-sacs, and marginal access roads.

(23) Intersection.

(a) Street curbs shall be rounded by radii of sufficient length to permit smooth flow of traffic.

(b) Street intersections shall be as nearly at right angles as is possible and no intersection shall be at an angle of less than 60 degrees.

(c) Street jogs with centerline offsets of less than 125 feet shall not be permitted.

(24) Site Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the streets, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within 10 feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(O) The subdivision streets shall be constructed in accordance with Good Construction Practice, Standard Specification, Indiana State Highway Department, Thoroughfare Code, and the recommendations and requirements of the Town Engineer.

(P) Special attention will be required in regard to the sub-soil conditions and street base materials. Sub-surface drains shall be installed when recommended in the Soils Report, by the Town Engineer, or during construction when conditions arise that were unexpected but obviously require such remedial measures. All sub-surface drains shall be extended and connected to the storm drainage system.

(Q) All streets, roads, alleys, access ways, commercial drives, etc., shall be constructed to the cross sections and profiles as shown on the approved construction plans. All streets, roads, etc., shall be graded, surfaced and improved, and finished to the cross sections and profiles as shown on said plans, the construction being accomplished in accordance with the above requirement, and the following street sections:

(1) Rigid Type Plain Concrete Local Streets shall be a minimum of six inches thick placed upon an approved compacted base sub-surface. The thickness shall be heavier for special soil conditions, or for special base preparation as determined by the Town Engineer.

(2) Flexible Hot Asphaltic Concrete (HAC) Local Streets shall be constructed with one inch of HAC Surface placed upon three inches of HAC Binder placed upon two inches of compacted #11/#53 stone placed in 2-inch lift: pieced upon eight inches of compacted #2 Or #4 stone placed in 2 5-inch lifts, upon an approved, sub-surface soil material.

(R) All draft and road construction shall be inspected by the Town Engineer prior to the placing of any base materials. The coring and certification of the base

materials and technique, by professional testing laboratory shall be required. The cost of such borings shall be borne by the developer. The number of boring samples required shall be determined by the Town Engineer. However, no less than one sample in each 250 lineal feet of street shall be required.

(S) All pavement materials shall be certified in writing to the town, as to their composition, mix, quantity delivered and compliance with the materials specified and/or referenced from the ISHD Standard Specifications.

## SANITARY SEWERS.

(A) All proposed plats submitted to the Commission for approval, under the provisions of the Comprehensive Plan and this chapter shall provide for the collection of all sanitary sewage discharges by the installation of sanitary sewers. These sewers shall be constructed within the street rights-of-way or within other dedicated sewer and utility easements.

(B) The design of and the construction plans for the sanitary sewer system shall be prepared by an engineer, registered in the state, and said plans shall be a part of the Development Plans

(C) The plans shall meet the requirements of the Comprehensive Plan, this chapter, and the standards of the state. Further, the plans shall be reviewed and approved by the Indiana State Board of Health.

(D) The sanitary sewers shall be constructed of the materials set out in division (G) of this section, of where situations are extreme, special materials may be required by the Town Engineer.

(E) Sewer service connections, house connections.

(1) The service connections shall be installed in accordance with the current Uniform Plumbing Code, and the rules, regulations, resolution and ordinances adopted by the town.

(2) Sewer service connections shall be a minimum of six inches in diameter, laid on a minimum slope of 0.61 feet per 100 feet. Cleanouts shall be installed to grade at all bends of 45 degrees or greater, and at the high point of the connection adjacent to the building sewer connection. Where the sewer service connection is located within 50 Feet of a water well, the connection shall be constructed with pressure rated pipe materials and joints. No sewer service connection shall be constructed closer than 25 feet to well.

(3) Sewer service connections shall be connected to the street sewer or local sewer only, utilizing only approved fittings and construction methods. Service

connections to manholes shall not be allowed, and the cutting or breaking into sanitary sewers shall not be allowed.

(F) Local, collector and interceptor sewers.

(1) These sewers shall be constructed in accordance with the standards of the state, good engineering and construction practices, and the requirements of the Town Engineer.

(2) The sewers shall be designed for the following peak flow capacities:

(a) Local sewers, 400 gallons per capita per day, eight-inch minimum diameter.

(b) Collector and interceptor sewers, as set out in the "Recommended Standards for Sewage Work - Latest Edition" of the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers.

(3) Sanitary sewers shall be designed for the size and minimum slopes of:

Size (diameter in inches)	Minimum Slope
8	0.40 feet per 100 feet
10	0.28 feet per 100 feet
12	0.22 feet per 100 feet
15	0.15 feet per 100 feet
18	0.12 feet per 100 feet
21	0.10 feet per 100 feet
24	0.08 feet per 100 feet
27	0.067 feet per 100 feet

(G) Sewer Materials for Construction. The sanitary sewers, house connections and manholes shall be constructed of the following materials. The application of these pipe materials shall be specified upon the construction plans, and approved by the Town Engineer.

(1) A cast iron and ductile iron shall be:

Type	Specifications
Soil pipe	ASA A 40.1-1935 EXTRA HEAVY
Ductile Iron	ANSI A 21.50 AND 21.51
Cast Iron	ANSI 21.1 AND 21.8
Cast Iron Fittings	ANSI A 21.10
Rubber Gasket Joints	ANSI A 21.11

(2) Concrete Pipe, 15 inches and larger shall be reinforced concrete culvert, storm drain and sewer pipe, specification ASTM C 76 and C 507. All reinforced pipe shall be of circular reinforcement, the class (I, II, IV & V) and wall thickness (A, B, or C) shall be shown on the construction plans, for concrete sewers, shall be equal to ASTM C 443.

(3) Polyvinyl Chloride (PVC) pipe.

(a) PVC gravity sewer pipe shall be of the single wall construction for all sizes. This pipe shall only be used for residential installations. Industrial or commercial uses shall require the approval of the Town Engineer. This pipe shall meet ASTM Specification D 3034 with the wall thickness equal to an SDR ratio of 35. The pipe shall be joined with rubber ring gaskets covered in the same specification, and shall be installed in accordance with ASTM D 2321.

(b) PVC pressure sewer pipe (force main), shall be equal to ASTM D 2241 with a wall thickness ratio (SDR) of 26, or heavier, and joined with rubber ring gaskets equal to ASTM D 1869.

(4) Manholes. All manholes on sanitary sewers shall be a minimum of 4 foot in diameter for sewers 8 inches through 21 inches diameter, and 5 feet in diameter for sewer 24 inches through 30 inches in diameter. The manholes shall be constructed using precast manhole barrels meeting ASTM Specification C478. The manhole shall be water tight at all joints and at all pipe inlets. The manhole joints shall be made with AO-Rings® Plastic fillers, which shall meet ASTM Specification C 443. All manholes shall be constructed with concrete inverts and benchwalls, providing for the smooth flow of sewage across the manhole section. Manhole steps, castings and other appurtenant items shall be as required by the Town Engineer.

(H) The Developer shall notify the town 24 hours prior to the commencement of construction of any sanitary sewer. The construction shall be inspected by the town on a periodic basis, for determining conformance with these requirements and the construction plans. The town's inspection shall also observe and report on all testing required by this chapter and the acceptability or deficiencies of the sewer being tested. The developer shall be responsible for furnishing all test weirs, or other apparatus required to perform the following tests, as well as all labor to accomplish them. The town shall be notified 24 hours prior to any testing and shall observe all tests. Any one or all of the following tests may be required prior to the acceptance of the sewer being tested; air test; smoke test; infiltration test; exfiltration test; and dejection test, for flexible pipes. New sanitary sewers shall not be connected to the existing system, until they have been inspected and approved. Further, no service connection shall be connected to new local sewers until the local sewer has been inspected and approved. [NOTE: INCLUDE HOUSE LATERALS.]

## STORM SEWERS AND DRAINAGE.

(A) All proposed plats, submitted to the Commission for approval, under the provision of the Comprehensive Plan and this chapter, shall provide for the collection and management of all storm and surface water drainage. The drainage system shall be designed and constructed by the developer to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. The system shall be constructed and installed in accordance with this chapter, the Comprehensive Plan and the requirements of the Town Engineer. In order to insure the maintenance of a properly designed and installed drainage system, the following division shall be required as a provision of the restrictive covenants of all record plats.

(1) Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the Town Engineer. Property owners must maintain these swales as sodded grass-ways, or other non-eroding surfaces. Water from roofs of parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by the Town Engineer. Culverts must be protected, especially at the ends, by head walls or metal end section, and, if damaged enough to retard the water flow, must be replaced.

(2) Any property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten days notice by registered mail to repair said damage, after which time, if no action is taken, the town will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owners for immediate payment.

(B) General Drainage Considerations. The purpose of this division is to protect the safety, health, and general welfare of the citizens of the town by requiring compliance with accepted standards and practices for storm water drainage. This division does not create any liability on the part of the town, the Advisory Plan Commission, or any elected or appointed official or employer thereof, for any damages that result from reliance on this division or any alterations required to conform to the engineering requirements established hereunder or any administrative decisions lawfully made thereunder. Any land alteration must be accomplished in conformity with the drainage requirements. Where any apparent conflict exists, between drainage requirements of this chapter and similar requirements of any state or federal agency which has jurisdiction of the work involved the most astringent requirements shall be and compliance with this chapter shall not excuse noncompliance with any other applicable provision of law, ordinance, or regulation.

(C) A drainage facility shall be provided to allow drainage of water run-off from all of the upstream drainage area and from all areas within the proposed

subdivision to a place adequate to receive such runoff. Furthermore, a drainage facility shall:

(1) Be durable, easily maintained, retard sedimentation, and retard erosion. It shall not endanger the public health and safety or cause significant damage to property.

(2) Be sufficient to accept the water run-off from the site after development and the present water run-off from all areas upstream. Also, consideration shall be given to water run-off from future developments in undeveloped areas upstream which cannot reasonably be accommodated in the upstream area. The types of consideration should include, but need not be limited to, retention-detention systems, oversizing with 15-year law Cost recovery, and granting of adequate easements for future construction. The type of future development shall be in accordance with the uses indicated in the Comprehensive Plan for Lapel or the use allowed by current zoning, whichever reflects the most intense use. The volume of water run-off attributable to future development which is not to be accommodated in the proposed drainage facilities, shall be determined by good engineering practice, and may assume use of retention-detention systems, except for:

(a) Parcels that are too small to effectively use a retention-detention system, and

(b) Parcels where it is not technically and/or economically justifiable to use a retention-detention system.

(3) Be designed such that there will be no increase in the peak discharge run-off rate as a result of the proposed development unless the existing or improved downstream drainage facilities are adequate to accept:

(a) The water run-off from the site after development;

(b) The present water run-off from developed and undeveloped areas upstream; and

(c) The present water run-off of downstream areas contributory to the downstream drainage facility beyond the limits of the site.

(4) Be designed such that the low points of entry for residential, commercial and industrial structures are two feet above and free from a 100-year flood. In addition, avenues of ingress-egress shall also be free from the 100-year flood.

(5) Be inspected during construction by a registered professional engineer, or a land surveyor, in the state, at the expense of the developer and certified in accordance with division (L) below. This is in addition to the inspection provided by

the town.

(D) A drainage plan must be submitted in triplicate, and shall contain the following as a minimum. This plan shall be submitted with the Development Plans.

(1) A location and Vicinity Map indicating the boundaries of existing site and off-site watershed considerations. Minimum scale to be one inch equals 1,000 feet.

(2) A Scale, North Arrow, U.S.G.S, and a Bench Mark. Existing and Final Contours shall be shown as follows.

- (a) One foot contours @ slopes of 0% - 10%
- (b) Two foot contours @ slopes of 10% - 25%
- (c) Five foot contours @ slopes of greater than 25%

(3) The location and lowest point of entry elevation of existing and proposed buildings and paved areas.

(4) The location of existing and proposed on- and off-site drainage facilities. The drainage plan shall also indicate the direction of flow invert elevations, gradient, size, and capacity of existing and proposed storm drainage facilities. If drainage ditches are used, cross sections and type of surface shall be shown.

(5) The plan and profile of all drainage facilities, as well as all construction details, shall be shown. The plan shall be to a scale of no more than 1 inch equals 50 feet and shall show appropriate rights-of-way and easement limits. The scale for construction details shall not be less than 1/4 inch per foot.

(6) A certification by a registered professional engineer, or a land surveyor, in the State of Indiana, that is familiar with storm drainage design. However, any storm water retention structure and/or pumping facilities shall be certified by a registered professional engineer in the State of Indiana.

(E) The design calculations shall be submitted with the drainage plans and as a minimum shall include:

(1) The storm run-off calculations based on the ten-year storm, or other storm frequencies where appropriate. The 100-year impact shall be analyzed and discussed.

(2) The weighted run-off coefficients computations.



(3) The time of concentration computation, also indicating the overland flow time and the adjusted time of concentration for the swale, pipe, channel, or other storm water conveyance facility.

(4) The closed conduit and open channel design calculation for:

(a) The size of pipe or channel cross section.

(b) The pipe or channel slope in percent.

(c) The roughness coefficient.

(d) The flow velocity.

(e) The design capacity.

(5) The head loss calculation in major structure, or where appropriate.

(6) The hydraulic gradient computations wherever applicable.

(7) The erosion control and final surface preparation measures to be constructed.

(F) The following items represent the minimum criteria that shall be followed in the engineering and design of drainage facilities:

(l) Minimum criteria and submittal information:

(a) Swales - generally for backyard drainage and does not have a well defined top of bank. The following shall not be exceeded for swales:

1. Maximum flow -- 4 cfs

2. Minimum velocity -- 2 fps

3. Minimum side slopes -- 4%

(b) Ditches -- an open conveyance for storm water drainage with a defined top of bank. The following criteria shall not be exceeded for ditches:

1. Minimum velocity -- 2.5 fps

2. Maximum velocity -- 6.5 fps

3. Maximum side slope -- 4:1, steeper slopes may be

considered depending on soils or other limiting factors.

4. Easements -- adequate for construction and maintenance.

5. Erosion protection -- adequate surface preparation for erosion protection shall be provided.

(c) Retention/detention ponds - can be permanent ponds with storage capacity for storm run-off, and controlled discharge, or a detention area with controlled discharge that is completely drained after use. The following minimum criteria applies to either type of retention/detention pond:

1. Design storm -- 100-year, 6 hour storm (other design years are acceptable dependent on downstream conditions.)

2. Minimum freeboard -- 2.5 feet above top of storage

3. Side slopes -- 4:1 for storage area and freeboard.

4. Other minimum information to be furnished - high ground water elevation, emergency spillway provisions, controlled discharge rates, contents, of storage area to be discharged within three days, economic evaluation of alternatives to a retention-detention pond.

(d) The following additional minimum criteria should be obtained when designing a permanent pond type facility.

1. Side slopes -- 3:1 below permanent pool elevation.

2. Storage depth -- not to exceed five feet above permanent pool elevation.

3. Permanent pond depth -- not to be less than seven feet, 5 feet at bank.

4. Maximum allowable permeability -  $3.5 \times 10^{-6}$  to the 6th cm/sec.

5. Minimum soil borings -- three per acre and to a depth of ten feet below the proposed pond bottom.

(e) Pipes and conduits -- are buried conveyances for storm water drainage. The following minimum criteria shall apply.

1. Minimum velocity -- 2.5 fps.
2. Maximum velocity -- 8.0 fps (dependent on materials of construction).

(f) Culverts and bridges -- a structure located underneath a roadway that allows storm water to pass under the roadway. The following minimum criteria shall apply:

1. Minimum velocity -- 2.5 fps.
2. Maximum velocity -- 8.0 fps.
3. Erosion control -- adequate erosion protection measures shall be provided.
4. Critical flow capacity -- the critical flow capacity shall vary with the road classification.

(G) Storm sewers, culverts, conduits and pipe shall be constructed accordance with the following specified materials.

(1) Road, street and drive culverts shall be a minimum of 12 inches in diameter for concrete pipe, and 15 inches in diameter for corrugated metal pipe.

(2) Storm sewers (long conduits) shall be concrete pipe for all sizes up to 42 inches. For conduits 42 inches and larger in diameter, concrete or corrugated metal pipe, pipe arches or fabricated metal pipe arches may be used, Note: Conduit sizing shall be in accordance with the appropriate "C" values for that particular type conduit material. All metal conduits shall be factory treated with a combined asbestos fiber and bituminous coating or approved equal.

(3) All pipes shall be installed in accordance with the manufacturers recommendations. All pipe materials, load classifications, thickness, gauge and class shall be specified on the Development Plans.

(4) Manholes shall be as specified in l53.34(G)(6).

(5) Storm sewer curbs, any yard inlets, may be either precast concrete or built in place solid concrete brick. The structures constructed of solid concrete brick shall be surfaced on the interior and exterior with one inch of cement mortar.

(H) Retention-detention ponds and lakes shall be owned and maintained by the property owner, owners Association, etc. The developer shall be responsible for the formulation of certain agreements that will accomplish this fact, and further, no

obligation shall be inferred upon the town for such ownership or maintenance.

(I) The maintenance program shall include at a minimum the methodology of funding a maintenance program, the frequency of maintenance, the type of maintenance, and the establishment of a responsible organization to administer the program. Ownership and maintenance of the facility shall be defined in the recorded covenants or agreements of the development in which this facility is contained.

(J) Swales and small ditches, up to six cfs, shall be maintained by the adjacent property owners. All ditches, culverts, conduits, and storm inlet structures shall be maintained by the town, subsequent to formal acceptance.

(K) The Plan Commission, Development Coordinator or his designee or Town Engineer shall be empowered to require such additional information to be included in a drainage plan that is necessary to evaluate and determine the adequacy of the proposed drainage facility.

(L) Inspection during construction. The drainage facilities shall be inspected during construction as required by division (B) above. Further, within 30 day after completion of on and off- site and the drainage facilities, the registered professional engineer or land surveyor, responsible for the inspection of the work shall certify in writing to the Plan Commission that:

(1) He or she is familiar with all drainage requirements of the Comprehensive Plan.

(2) He or she has personally inspected the construction necessary to accomplish the land alteration and drainage facility; and

(3) To the best of his or her knowledge information and belief the work has been performed and completed in conformity with the drainage plans and requirements. (Any exceptions should be so noted.)

#### LOTS, BLOCKS, EASEMENTS AND PUBLIC SITES.

(A) Block length and width or acreage within bounding streets shall be such as to accommodate the size of lot required in the area by the Zoning Code, and to provide for convenient access, circulation control, and safety of street traffic. Blocks that are unreasonably large or small will not be approved.

(B) The maximum block length shall be 1200 feet. In the design of blocks longer than 800 feet the commission may specify the provision of pedestrian crosswalks near the center, or wherever most useful to facilitate pedestrian circulation to a school, park, recreation area, shopping center, or other significant neighborhood destination.

(C) Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth except where an interior street parallels an expressway, major thoroughfare major or minor collector street, or a railroad right-of-way.

(D) All proposed plats submitted for Commission approval under the provisions of this chapter shall allocate lot area for the uses proposed, in conformity with the Comprehensive Plan and all zoning codes applicable thereto.

(E) The design, character, grade location, and orientation of all lots so allocated shall be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan and Subdivision Code.

(F) Every lot appearing upon said proposed plat shall abut upon and have sufficient and adequate access to a street designated and labeled within or on the perimeter of said plot and constructed or to be constructed in accordance with the requirements, standards, and specification of this chapter.

(G) As a general principle, side lot lines shall be approximately at right angles to street lines.

(H) Corner lots shall be of sufficient size to permit appropriate building setback and orientation to both streets.

(I) In the event double frontage lots are platted which face an interior street of residential subdivision but also have frontage on a collector street or thoroughfare, an area 20 feet wide shall be provided to encompass the entire perimeter of the subdivision where it abuts a collector street or thoroughfare. Requirements for screening and landscaping within this area shall be in conformance with (planned by the Developer/owner).

(J) Street numbers for all lots shall be assigned by the Postmaster of the Town of Lapel.

(K) The depth to width ratio of any single-family residential lot shall not be greater than three to one.

(L) Shopping centers, commercial areas, and industrial parks shall be designed as functional facilities in total rather than to the platting of lots for individual commercial use.

(M) Lots abutting a watercourse, drainageway, channel or stream shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required by the Zoning Code for front, rear, and side yards.

(N) Building setback lines shall be regulated by the setback provisions of the Zoning Code applicable to classification of the lot to be platted, with the exception that front building setback lines shall also be in conformance with the Thoroughfare Plan requirements where applicable.

(O) All proposed plats submitted for Commission approval under the provisions of this chapter shall allocate areas of suitable size and location, wherever necessary, for drainage and/or utility easements. Such easements shall be located along both sides of rear lot lines and the total width of such combined lot easements shall be 15 feet. All easements and corresponding utility location plans shall be complete and approved prior to the approval of the plat.

(P) If any stream or necessary surface drainage course is located in said area proposed to be platted, adequate areas for easements along the sides of such stream or surface drainage course shall be allocated for the purpose of widening, deepening, sloping, improving or protecting said stream or surface drainage course.

(Q) Public spaces or public sites.

(1) Where sites for parks, schools, playgrounds, or other public uses are located and shown in the Comprehensive Plan of Lapel and where such areas are within the boundaries or portion of the boundaries of the proposed platted area, the owner/developer shall reserve those areas for such uses.

(2) Where sites for parks, schools, playgrounds, or other public uses are not located or shown in the Comprehensive Plan of Lapel, the owner/developer shall reserve or participate in the reservation of such areas by the implementation of one of the following formulas. The method of implementation shall be at the discretion of the Town Council.

(a) In a residential subdivision of;

1. Two or less lots per gross acre, reserve a minimum of 1 gross acre per 50 lots, or portion thereof;

2. More than two lots per gross acre, reserve a minimum of 1-1/2 gross acres per 50 lots or portion thereof; and

3. Escrow with the Council the cash equivalent to the land value for the zoned required acreage.

(b) In a commercial or industrial subdivision:

1. For small tracts, less than 25 acres, the owner/developer

shall escrow with the Council the cash equivalent to the zoned land values at the rate of 2 gross acres per 25 developed acres or portion thereof;

2. For larger tracts of 25 acres or more, the owner/developer shall reserve two gross acres per 25 developed acres or escrow a like amount in cash as set out in division (b) 1. above; and

3. The reservation of said tracts or areas shall remain in effect for a period of three years. Prior to the expiration of the three-year period, the town may request the dedication of said tract or area to the town. Should the three-year period elapse, then the area shall be released for the private use of the developer, within the limits of the Zoning Code and classification of the land.

(R) Private open spaces and sites.

(1) With the recommendation of the Commission, the Council may allow the above required open space requirements to be met by the dedication of said tracts to private home owners associations, or other proper and responsible private entities. It shall be the total responsibility of the owner/developer to formulate all such agreements, which shall be approved by the town prior to their implementation.

(2) Private open spaces shall meet the requirement for open space ratios and obligations.

(S) Miscellaneous.

(1) As for public schools and libraries shall be deemed to meet the open space requirements.

(2) The public open space or site shall be accessible by a paved street or surfaced way over or upon a dedicated right-of-way, meeting these subdivision development standards.

## WATER SERVICE.

(A) All proposed plats submitted to the Commission for approval, under the provisions of this chapter, shall provide for the installation of a complete potable water and fire protection distribution system.

(B) Private or semi-public water supplies and distribution systems shall not be allowed with the exception of single family or single owner systems. Should the owner/developer wish to install individual wells for the potable water supplies on a per lot basis, he shall demonstrate that:

(1) Adequate water supplies are available by test drilling and providing

a report prepared by a certified ground water hydrologist.

(a) The scope of the testing and report shall be determined by the hydrologist and the Town Engineer.

(b) The report shall specify the type of well to be constructed, the approximate depth, and expected quantity of water available for the area, consideration being given to the proposed density of the plat and/or demand placed upon the aquifer.

(2) The cost of connecting to the public water systems prohibitive. This does not mean to show that it costs more than a private well system, but that the resulting cost would make the project unfeasible. The cost difference shall exceed 200% before the Commission shall make any consideration of private systems.

(3) Further, the Commission shall retain the authority to waive all considerations and only approve the installation of the public water supply system.

(C) Should private wells be allowed, the covenants of the recorded plat shall reflect that private wells are to be installed and that the town is not now or in the future obligated to provide, furnish or have any liability for fire protection, that could have been provided by the public water supply

(D) Private wells and water systems shall be approved by the Madison County Health Officer, and be constructed in accordance with the rules, regulations and approval of the Indiana State Board of Health.

(E) The extension of public water supplies and distribution systems shall be made at the sole expense of the owner/developer. The construction plans, shall be approved by the IDEM, and shall be on file with the Director of Development or his designee prior to the issuance of the Plat Approval and Town Engineer.

(F) It shall be the developer's responsibility to coordinate the installation of the water system. Conflicts with prior constructed utilities and damage to them shall not be allowed, and the work shall be stopped, and damages repaired before allowing the work to continue.

(G) No permits for the construction of single-family detached homes shall be allowed in a subdivision, until all street infrastructure and the sanitary sewer system have been installed and released by the Town Engineer.

(H) Fire Hydrants.  
(1) Waterous Pacer WB-67-250 with yellow paint only;  
(2) Shall conform to AWWA C-502 "standard for dry barrel fire hydrants";  
(3) Steamers shall have permanent mounted 5-inch Stortz fittings with thumb lock. NO ADAPTORS;



- (4) Shall be of the traffic model design;
- (5) Main valve openings shall be a minimum of 5-1/4 inch;
- (6) The bronze valve seat shall thread into a bronze sub-seat
- (7) The all bronze drain plunger shall be positively operated by the main operating rod;
- (8) Nozzle section shall have 360-degree rotation capabilities;
- (9) Shoe and lower valve washer shall be coated inside with fusion-bonded epoxy;
- (10) Design shall allow for plugging of drains without excavating;
- (11) Steamers shall face street or road.

(I) Fire Protection Systems

- (1) The FDC (fire department connection) to any fire protection system or standpipe will be equipped with a 5" Stortz fitting;
- (2) A fire hydrant will be located in close proximity to the FDC. The exact location of that hydrant will be determined by the Fire Chief;
- (3) Hose connections to the standpipe(s) shall be NST fire hose threads. The Fire Chief shall be consulted as to the size and location of those connections;
- (4) An unobstructed fire apparatus access road will be provided with a width of not less than twenty (20) feet and an overhead clearance of not less than 13 feet 6 inches;
- (5) Apparatus access road surface shall be designed and maintained to support the imposed loads of said apparatus and shall be provided with a surface so as to provide all-weather drivability;
- (6) Apparatus access road turning radius shall be approved by the Fire Chief.

ADDITIONAL IMPROVEMENTS.

(A) The following miscellaneous improvements shall be included on the plat or construction plans for all subdivisions submitted to the Commission for approval.

(B) Monuments and markers.

- (1) Monuments shall be four inches square, precast concrete and a minimum of three feet long. They shall have a deep cut cross, cast in the top of the monument.
- (2) Markers shall be 5/8-inch diameter steel rods at least 12 inches long, with a copper, aluminum or other non-corrosive cap.
- (3) Monuments and markers shall be set plumb and the top shall match the finish grade elevation. The cross on monuments shall coincide exactly with the intersection of the plat point being referenced. One line of the cross shall be in alignment

with at least one line of the subdivision line referenced.

(4) Monuments shall be set at the plat boundary intersecting all street right-of-ways.

(5) Markers shall be set at.

(a) All street centerline control, i.e., point of intersection, point of curve, and point of tangency.

(b) Intersection of all boundary lines and street centerlines; and

(c) All boundary intersections.

(6) Any existing section, half section, or quarter section stone or monument that may be encountered on the project, shall be protected from damage. Should any damage occur, the monument shall be reset at the direction of the Madison County Surveyor. The cost shall be borne by the developer.

(7) All U.S., state or geological monuments or bench marks shall be preserved in their precise position.

(C) Sidewalks.

(1) Sidewalks, as defined herein, shall be located on each side of all local public and private streets and on the developed side of all perimeter public and private roadways in all Residential, Industrial, Planned Development, and Town Center districts.

(2) The minimum width of any residential sidewalk shall be four feet. Commercial sidewalks shall be five feet in width. All sidewalks shall be constructed to a minimum thickness of four inches of Portland cement concrete set upon a compacted granular base of at least four inches, subject to any further applicable guidelines contained within the Americans With Disabilities Act of 1991.

(3) On interior subdivision streets sidewalks shall be located within the public right-of-way at least one-half foot in from the property line, but no closer than three feet from the back of curb.

(4) (a) On perimeter streets or roadways sidewalks may be located within the public right-of-way and may also be located within a designated "Common Area" or "Landscape Easement", or combination thereof.

(b) In no instance shall a sidewalk of this nature extend more than six feet into the public right-of-way of the perimeter street or road.

(5) Multi-purpose paths, as defined herein, shall be located where it is deemed necessary to accomplish the goals and objectives of the Circulation Plan, a component of the Parks and Recreation Master Plan.

(6) (a) The minimum width of any multi-purpose path shall be eight feet and shall be constructed to a minimum thickness of four inches of asphalt surface upon a compacted granular base of at least four inches.

(b) Where it is identified in the Circulation Plan, other material, methods of construction, and development standards may be warranted, as determined by the Director of Planning and/or the Town Engineer.

(7) (a) Multi-purpose paths along perimeter streets or roadways may be located within the public right-of-way and may also be located within a designated "Common Area" or "Landscape Easement", or combination thereof.

(b) In no instance shall a multi-purpose path of this nature extend more than nine foot into the public right-of-way of the perimeter street or road.

(8) Where the developer/owner can demonstrate the acceptability of waiving or altering certain development standards relating to sidewalks and multi-purpose paths, it may be the ruling of the Administrator with a concurring recommendation from the appropriate body of governmental authority that such standards be altered, reduced or eliminated.

(D) Street Signs.

(1) The developer shall install a minimum of one street sign at each street intersection within the subdivision and on all perimeter intersections. The signs shall be set on the northeast corner of the intersections, at a point approximately six inches from the sidewalk intersection (on the street side).

(2) Street signs shall be of aluminum, 6 inches by 24 inches, shall be double faced with letters of Scotchlite or the equivalent, 4 inches in height, and shall be mounted upon a galvanized pipe post, 10 feet in length and 2 inches inside diameter and approximate 2-1/2 inches outside diameter, set in concrete to a depth of 2-1 /2 feet.

(E) Plantings.

(1) When requested by the developer, or when required by the Commission, the developer shall provide plantings within the grass strip between the back of curb and the sidewalk.

(2) Planting requirements on development plans.

(a) No tree or shrub shall exceed a maximum height of 18 feet at maturity: and

(b) No shrub exceeding 3 feet at maturity, or any tree, shall be planted closer than 20 feet to any other tree or shrub.

(3) Covenant requirements on plat. When trees and/or shrubs are provided by the developer, the covenants shall include the following statements:

(a) The owner or person in control of the dominant real estate adjacent to the area between the street and the sidewalk and/or right-of-way easement line on which any tree or shrub is planted pursuant to the above, shall be responsible for the maintenance and removal of the tree or shrub if such removal is necessary.

(b) If after notice from the town, the owner or person in control fails to maintain or remove a dead tree or shrub or any dead or dangerous limbs or branches thereon, the town may remove said shrub or limbs and collect the costs thereof from the owner.

(c) The town and all public utilities retain their ownership and right of access to the area between the street and the right-of-way easement line of the dominant owner and retain the right to reasonably remove any tree or shrub impeding necessary work to be performed by the town and/or all public utilities, or other properly authorized users.

(d) Neither the town nor any public utility or other properly authorized user of the town's property located between the street and the sidewalk and/or right-of-way easement line shall be liable to the owner of the dominant real estate for any damages done to trees or shrubs, located upon town property between the street and the sidewalk and/or right-of-way easement line as a result of actions of the town or any public utility or other authorized user or their agents or employees in the performance of their duties.

(4) Obstruction hazard. If any tree or shrub planted pursuant to the above shall, in the opinion of the Town Council create a hazardous obstruction to vision which may endanger vehicular or pedestrian traffic, then said tree or shrub shall be appropriately trimmed or removed by the owner pursuant to the procedure as described in division (2) above.

(5) Damage to street and/or sidewalk. If any tree or shrub planted pursuant to the above shall cause damage to any street, curb, or sidewalk then said tree or shrub causing such damage shall be removed and the damage repaired by the dominant land owner or person in control as set forth in division (3) above.

(F) Street lights, yard lights.

(1) The developer shall install, or cause to be installed, street lights at all intersections as required by the Town Engineer and/or as recommended by Public Service of Indiana. The intended purpose of the street lighting is to provide adequate night visibility for traffic at all intersections.

(2) It is not the Commission's intention to require street lighting to all areas that lie between the street intersections. This lighting shall be provided by yard lights, installed by the home builders and maintained by the homeowners.

(3) The yard lights shall be specified and set out on the covenants.

(G) Utility construction credit.

(1) Notwithstanding any previously or subsequently adopted ordinances or agreements of the town, and intended to be in conformance with them, the following policy shall apply to public utility extensions under the control of the town.

(2) Certain public utilities, constructed by the owner/developer relative to the development of a particular subdivision, may also be of benefit to other owners/developer relative to their respective developments. When this is the case, the town may, upon request of the owner/developer, enter into contractual agreements which shall provide for proportional cost recovery of the installed utility. These agreements shall be in accordance with the appropriate Indiana Statutes: and the cost for preparing any and all exhibits, studies, and legal services shall be borne by the owner/developer. The required exhibits and studies shall be prepared by the Town Engineer. Further, in the case of sanitary sewers, the town may direct the Town Engineer to prepare the plans and specifications for certain sewer lines, and the owner/developer shall reimburse the town for those engineering costs. In all cases, the appropriate agreements shall be prepared and executed prior to the start of construction of any utility that is eligible for this construction cost credit.

PLATTING OF MULTI-FAMILY, COMMERCIAL AND INDUSTRIAL SUBDIVISIONS  
SPECIAL PROBLEMS AND CONSIDERATIONS.

(A) In the platting and developing of multi-family, commercial and industrial parks or subdivisions special problems arise, some of which are the arrangement of lots, and the division of property lines. Utilities are also often difficult to locate within public rights-of-way. Further, the open spaces of these subdivisions are frequently referred to as Common areas, as in commercial or industrial parks. These areas usually include on site, private drives, parking areas, park or playground areas and other common facilities for the use of the entire subdivision. Due to these special considerations the plats for these subdivisions shall be reviewed and considered with emphasis placed upon conformance to the Zoning Code, development amenities (Parking, open space, green

belt, signage, etc.), street and traffic function, drainage and utilities service. The platting procedure shall be the same as for regular subdivisions, except that:

(1) In the case of multi-family housing project industrial parks the entire site shall be planned and platted including all improvements, even though the site may be developed in sections or phases. The area shall be planned to include final layouts of streets, utilities and drainage, and proposed lots (to the extent of minimum lot rear).

(2) Then from time to time as additional lots are sold, the developer shall submit an amended plat to the Commission for consideration. The approved, amended plat shall then be recorded and subdivision bonds posted, if required. This procedure shall continue until the site is fully developed. Regular procedural requirements, i.e., bonding, shall then be implemented for the maintenance period required.

(3) In this procedure, streets, roads, drives, sanitary sewers, storm sewers, drainage facilities, and other development amenities which have been constructed in accordance with approved construction plans and specifications, shall not be reconstructed to meet subsequent Commission requirements. However, the developer may be directed to clean, repair, resurface, or otherwise bring up to the town's standards those improvements, prior to final acceptance and the posting of maintenance bonds.

#### DEVELOPMENT CONSIDERATION AND POLICY.

Due to the nature of this type subdivision, the following general considerations and policies shall prevail. The owner developer shall plan his subdivision and improvements accordingly.

(A) Dedicated streets

(1) Only those streets which are a functioning part of the overall traffic requirements of the town, or which clearly provide required access, adjacent areas or points of access, shall be considered for dedication as public street, and hence maintained by the town.

(2) All streets accepted for dedication shall be in accordance with this chapter and shall have the rights-of-way and building setback lines as herein established.

(3) Parking areas, blisters, bubbles or lots shall not be located within the dedicated street right-of-way, but may be connected to the street with approved drives, ingress and egress controls.

(4) All other "on-site" streets, drives and traffic areas shall be and remain a part of the subdivision and hence be maintained by the owners or occupants of said subdivision.

(B) Dedicated utilities.

(1) The water utility--- the arrangement for the dedication or private maintenance of the water service shall constitute an agreement between the owner/developer and the water company, the only exception to that being that those fire hydrants located within the dedicated street rights-of-way shall be included in the fire hydrant rental agreement. All other hydrants shall be considered private and the rental shall be managed.

(2) The above policy and service conditions shall apply to street lighting. The electric utility and street lighting is provided by a franchise between the town and Public Service Indiana.

(3) The town does provide for the collection and treatment of sanitary sewage discharges. Therefore, the sanitary sewer construction, and the allowable infiltration quantities shall be strictly controlled by the town. Only those sewers which meet the approval of the town shall be connected to the town's collection system. All sanitary sewers shall be totally completed, inspected and tested prior to any connection with the existing system. Only those sanitary sewers located in dedicated street right-of-way shall be accepted by the town as part of its system, and for maintenance by the town. It shall not be the policy of the town to accept sanitary sewers which lie within the subdivision, even though easements are offered. Further, from time to time, the town shall test the sewers for infiltration, and may, upon the results of said test, cause the owner to repair the sewers, pay additional treatment cost, or take other appropriate actions, including discontinuation of service.

(4) The same policy shall prevail for storm sewers and drainage facilities, to the extent that only those storm drainage facilities which are located in street rights-of-way shall be accepted by the town. Detention, retention, and/or lakes and ponds shall remain the property of the subdivision, and shall not become a part of the town's system or obligation for maintenance.

#### COVENANTS REQUIRED.

The plats for these subdivisions shall include covenants which are clearly written to reflect the above policies to the town. Further, those covenants shall explicitly establish the ownership, assessments, dues and programs which will insure the future maintenance of these on-site, non-dedicated, development amenities, at no expense or burden to the town. It shall be the owner/developer's responsibility to establish those programs and to satisfy the town of their feasibility, and to insure the town of their continuous ongoing effectiveness to accomplish the intended purpose of this section of this chapter.

#### DEVELOPMENT PLAN.

The development plan for these districts shall be prepared in accordance with the previously written subdivision requirements. In addition, it shall include a tabulation of all qualifying data as set out in the Zoning Code, such as, but not limited to, Zoning Classification, Unit Densities, Total Area, Occupancy Tabulated, Cross Building Area, Net Open Area, Parking Spaces, etc. The on-site improvements, streets, drives, sewers, water, lighting, walks, and drainage shall be designed in accordance with the applicable sections of this chapter. Building setback lines, front yards, side yards, back yards, building heights, and land use shall be in accordance with the applicable chapters of the Zoning Code.

## SIGNS.

The development plans for all districts shall include accurate details and locations of all proposed signs. This includes all signs that will be utilized on the site, including but not limited to project identification, project directory, individual occupancy (identification or advertisement). All signs shall be in conformance with the Town of Lapel, Indiana, Code of Ordinances.

## PENALTY.

(A) Criminal penalty. Any person or persons, firm or corporation whether as principal, agent, employee or otherwise who violates any of the provisions of this chapter may be prosecuted pursuant to IC 36-7-41000 et seq, or as set forth in division (B) below. Violation of this chapter is a Class C infraction.

(B) Civil penalty. The town shall impose civil monetary fines or penalties for violations of this chapter which may be enforced by the designated enforcement entity in accordance with the procedures outlined in division (5) below.

(1) Definitions. Terms used in this division (B) are defined as follows:

BOARD. Board Of Zoning Appeals.

CIVIL VIOLATION. The erection, alteration, enlargement, maintenance or use of any building, structure or land in violation of any provision of the zoning ordinance, the subdivision control ordinance, the sign ordinance, the weed ordinances and the building codes of the town applicable to such building, structure or land in the zone in which it is located.

DEPARTMENT. Department of Development.

DEVELOPMENT DIRECTOR. Director of the Department of Development.

GRACE PERIOD. Extension of time granted for correction, termination or cessation of a civil violation of this chapter.



NOTICE OF VIOLATION. Notice issued by the Department.

REPEATED CIVIL ZONING VIOLATION. A recurring violation at the same location or a similar violation at a different location by the same responsible party.

RESPONSIBLE PARTY. Any person firm or corporation who (which) use& property in violation of this chapter or knowingly permits another person firm or corporation to do so.

SIGN ORDINANCE. Sign ordinance of the Town of Lapel.

SUBDIVISION CONTROL ORDINANCE. An ordinance relating to subdivision control regulations of the Town of Lapel.

WEED ORDINANCE. An ordinance relating to the cutting of weeds and other vegetation in the Town of Lapel.

ZONING OFFICIAL. The Development Director or his designee.

ZONING ORDINANCE. Zoning ordinance of the Town of Lapel.

(2) Civil violations: Any person, firm, or corporation who (which) uses property in violation of this chapter or knowingly permits another person; firm; or corporation to do so shall upon citation by the designated enforcement entity be deemed to have committed a civil violation and shall pay to the town a civil monetary fine in the amount prescribed in division (3) below.

(3) Schedule of monetary fines.

(a) The civil monetary fine for each civil violation shall be no more than \$50.00 except as provided in division (b) below.

(b) For a repeated civil violation by the same violator the following fine shall apply:

Second violation	\$100
Third violation	\$180
Fourth violation	\$200
Each Violation in excess of four	\$500

(c) These civil violation fines do not preclude the civil violator from responsibility of payment of costs incurred by the town if it is a necessity for the town to enter onto a property to correct, terminate, or cease a violation in accordance

with procedures outlined in this chapter.

(4) Citation for civil violations.

(a) The Development Director or his duly authorized designees, upon verification of a civil violation may issue a civil citation to any responsible parties who commit a civil violation. The citation may be served by personal service or by certified mail or by placement in a conspicuous place on the property where the civil violation occurs. If personal service of a civil violation is made by a Development Director or his designees, said official will:

1. In conspicuous manner, wear on his person identification from the Town of Lapel; and

2. In a conspicuous manner, wear on his person identification of his employment with the Department.

The citation shall serve as notice to the responsible parties that said party has committed a civil violation.

(b) No citation shall be issued unless the violator has been issued a notice of violation with a minimum of one and a maximum of ten days before the issuance of the citation in order to allow the violator the opportunity to correct the violation and to come into compliance with the prescribed section of the pertinent ordinance.

(c) The notice of violation shall include:

1. The date of issuance;
2. The name and address of the person charged;
3. The section number of the pertinent ordinance which has been violated;
4. The nature of the civil violation;
5. The place and time at which the civil violation occurred.
6. The range of fines which could be assessed upon continued noncompliance activity;
7. The specific time allowed in which to bring the civil violation into compliance;

8. The name, business address and telephone number of the official issuing the notice of violation; and

9. The date and time of the notice and the number of days given on the notice.

(d) The citation shall be on a form adopted by the department and shall include:

1. The date of issuance;
2. The name and address of the person charged;
3. The section number of the pertinent ordinance which has been violated;
4. The nature of the civil violation;
5. The place and time at which the civil violation occurred;

6. The schedule of monetary fines to be assessed;

7. The name, business address and telephone number of the official issuing the citation, and;

8. The date and title of notice given and the number of days given on notice.

(e) The date, time and location of the court in which the civil violation shall be adjudicated shall be determined by the court which will send notification thereof to the violator and the Development Director or his designee.

(5) Trial for civil violation.

(a) Upon the issuance of a citation, the Zoning Official shall forward a copy of the citation to the designated enforcement entity and the Madison County Court, Anderson, Indiana shall schedule the case for trial.

1. The Town Attorney, his designee or the Department is responsible for the enforcement of this chapter.

2. All procedures will be in compliance with the Indiana Rules for Civil Procedure and will adopt court cost recovery for infractions according to the State of Indiana.

(b) In proceedings before the court for a civil violation;

1. By a preponderance of the evidence presented at the trial, the designated enforcement entity has the burden of proving the civil zoning violation and that the violator committed the infraction:

2. The violator may question all witnesses who appear for the designated enforcement entity and may also produce evidence or witnesses on the violator's behalf.

(c) A person found guilty of a civil violation is liable for the fine, court costs and fees. No costs may be assessed against the designated enforcement entity in any such action.

(d) Seeking a civil penalty as authorized in this section does not preclude the designated enforcement entity from alternative relief from the court in the same action or from seeking injunctive relief which is available under the law of the State of Indiana or any other remedy in a separate action for the enforcement of the pertinent ordinance.

(e) When a violator has been found Guilty of a civil violation, the court may impose additional civil penalties and grant appropriate relief to abate or halt the violation, and the court may direct that payment of the civil monetary fine or additional civil penalties be suspended or deferred under conditions established by the court. If a violator fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt; and

(f) A change of venue from the Madison County Court shall not be granted in such a case.

Ord. No. 8-2005, passed 3/17/2005

