

ZONING ORDINANCE
OF THE
TOWN OF LONG BEACH
LAPORTE COUNTY, INDIANA



TOWN OF LONG BEACH, INDIANA
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**THE ZONING ORDINANCE
OF THE
TOWN OF LONG BEACH
LAPORTE COUNTY, INDIANA**

Ordinance No. 02.03

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE TOWN OF LONG BEACH, LAPORTE COUNTY, 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 of Long Beach to enact a zoning ordinance and to provide for its administration, enforcement and amendments, and

WHEREAS, the Long Beach Plan Commission and the Town Council of Long Beach, Indiana deem it necessary for the purpose of promoting the health, safety, convenience, and general welfare of the Town of Long Beach, Indiana to enact such an ordinance, and

WHEREAS, pursuant to the provisions of Article VII, Chapter 138, 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 Long Beach Plan Commission has divided all areas of the Town of Long Beach into districts and has prepared regulations pertaining to such districts in accordance with the adopted Master 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 overcrowding of land; to avoid undue concentration of population; to

facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements, and

WHEREAS, the Long Beach 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, and

WHEREAS, the Long Beach Plan Commission has made studies and held public hearings thereon, pursuant to law, and submitted its final report to the Town Council, and

WHEREAS, the Long Beach Plan Commission has given due public notices of hearings (pursuant to 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 by the Long Beach Plan Commission and subsequent action necessary to enact this Ordinance by the town have been met.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF LONG BEACH, LAPORTE COUNTY, INDIANA AS FOLLOWS:

SECTION 1 - TITLE, INTERPRETATION AND ENACTMENT

Section 1.1 - Title

These regulations shall hereafter be known and cited as the Zoning Ordinance of the Town of Long Beach, LaPorte County, Indiana.

Section 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 public health, safety and general welfare.
- B. Conflicts 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 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 easements, covenants, 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 Advisory Plan Commission or Board of Zoning Appeals 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 provision can only be enforced privately unless a public agency such as the Town of Long Beach has been made a party to such agreement.
 - 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 judgement shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgement 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 Long beach hereby declares that it would have enacted the remainder of the these

regulations even without any such part, provision or application.

Section 1.3 - Saving Power.

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, limited liability company, or corporation, or as waiving any right of the Town of Long Beach 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, limited liability company, or corporation, by lawful action of the Town of Long Beach except as shall be expressly provided for in this Ordinance.

Section 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 so empowered to exercise eminent domain. As used in this section, the term “state agency” shall mean and include agencies, boards, commissions, departments, and institutions, including state universities of the State of Indiana.

Section 1.5 - Effective Date.

This Ordinance shall take affect 14 days after the notice of the adoption is published pursuant to IC§36-7-4-610(a) and (e).

Section 1.6 - Repealer.

Upon the adoption of this Ordinance according to law, the Town of Long Beach Zoning Code, Ordinance Number 75 of 1970, as amended, that being Sections 154.01 through 154.99, Chapter 154 of Title XV, of the compiled ordinances of the Town of Long Beach, Indiana, including all prior zoning maps are hereby repealed.

Section 1.7 - Amendments.

For the purpose of providing for the public health, safety, and general welfare, the Town Council, on recommendation of the Plan Commission, may from time to time amend the text of this Ordinance and/or zoning map incorporated by reference in this Ordinance. Public hearings on all proposed amendments shall be held by the Plan Commission and/or Town Council in a manner prescribed by law.

Section 1.8 - Enforcement, Violation, and Penalties.

- A. It shall be the duty of the Building Commission and/or Police Chief/Town Marshal 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 of LaPorte, enjoin the

violation of the ordinance.

- C. **Removal/Discontinuance of Uses In Violation.** The Board of Zoning Appeals by mandatory injunction in the circuit court of LaPorte County against the owner or possessor of the real estate, may require the removal of a structure erected in violation of the ordinance, or the removal of any use or condition 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. **Daily Violation and Fines.** 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 circuit court of LaPorte County and upon judgement finding such violation, be fined not less than ten dollars (\$10.00) and not more than five hundred dollars (\$500.00), and each day shall constitute a separate violation.
- F. No Improvement Location Permit or Building Permit required under the Building Code of the Town of Long Beach, Indiana, shall be issued on any property subject to this Ordinance in violation of the provisions of this Ordinance.
- G. **Recapture of Enforcement Fees.** Notwithstanding anything contained in this Ordinance to the contrary or appearing to be contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the Town of Long Beach, Indiana, is required to utilize the services of the Town Attorney or any other attorney in investigating a possible violation of this Ordinance or enforcing the provisions of the 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 Council 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 of Long Beach its reasonable attorney fees and all cost related to the investigation of the violation and/or the enforcement of the ordinance, unless such attorneys fees or costs are specifically waived by the Town Council of Town of Long Beach, Indiana.
- H. **Costs on Appeal.** As to any appeal from a decision of the Board of Zoning Appeals, cost 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.
- I. **Right of Private Property Access for Inspection.** The Building Commission, Police Chief/Town Marshal, and staff or any person or persons assisting the Building

Commission or Police Chief/Town Marshall 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 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.

Section 1.9 - Designation of the Administration Responsibility.

The Town Council of the Town of Long Beach, Indiana hereby designates its Building Commission and Police Chief/ Town Marshal and their assigned personnel the responsibility for administration and enforcement of this Ordinance with the Building Commission serving as the principal administrator and enforcement authority for the ordinance and with enforcement assistance to be provided by the Police Chief/Town Marshal.

SECTION 2 - DEFINITIONS

Section 2.1 - Definitions

Accessory Building. A subordinate, detached and roofed structure not designed or used for permanent “year-round” human habitation which serves a function incidental to and associated with that of the primary residential or commercial use on the same lot.

Accessory Use. A subordinate use which is incidental to that of the primary use and is a use other than human occupancy.

Accessory Use - Child Care. An occupant’s use of a residential dwelling to provide child care for five (5) or fewer children at any time for less than 24 hours a day; activity which is exempt from State Child Care licensing regulations.

Advisory Plan Commission or Plan Commission. A planning commission serving a single local government jurisdiction established as defined under Indiana Code § 36-7-1-2. The Town of Long Beach Plan Commission is an Advisory Plan Commission.

Alley. A permanent “duly recorded” public or private service 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 or place.

Applicant. The fee simple owner of land or agent designated by the owner who makes application to the Plan Commission or Board of Zoning Appeals with the Building Commissioner for an action allowable by the terms of this Ordinance.

Architectural Features. Architectural features shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, decorative ornaments, and the like.

Baby-sitting. Care provided for compensation in the home for no more than five (5) children; an activity exempt from State Child care licensing requirements.

Bed and Breakfast, Home-Stay. An establishment, having one or more bedrooms for rent to transients for compensation in any form as an activity which is subordinate and incidental to the main residential use of the building. These are also referred to as tourist homes.

Billboard. See Sign, Outdoor Advertising.

Block. Property having frontage on one side of a street and located between the two nearest intersections or intersecting streets, or intersecting street and railroad right-of-way, or other barrier. When intersections or intersecting streets and railroad right-of-way, waterway, or other barriers do not exist, the unit of 660 feet shall be used and may begin at a quarter section line and terminate each 660 feet unless intersected by a street.

Board. The Advisory Board of Zoning Appeals of the Town of Long Beach, LaPorte County, Indiana.

Boarding Kennel. Use and occupancy of any parcel of land to keep and house four or more dogs, or other small animals that are ordinarily kept as pets, and are at least four years old. Boarding kennels are strictly prohibited in any zoning district in the Town of Long Beach. (See Section 4.5 E, page 24).

Buffer Landscaping. Any trees, shrubs, walls, fences, berms or related landscaping features under this Ordinance or the Subdivision Regulations to be placed on private property and privately maintained or in a public right-of-way for the purpose of buffering lots from adjacent properties, for esthetic 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, chattel, or moveable property of any kind (each part of such structure that is separated from the rest by an unbroken common wall is considered to be a separate building for the purposes of this Ordinance).

Building, Detached. A building having no structural connection with another building.

Building, Front Line of. The line of the face of the building parallel to Building Line or Building Front Setback Line.

Building Length. The longest side measurement of a building measured at the foundation line.

Building, Principal. A building in which is conducted the main or principal use of the lot on which the building is situated. Where any part of an accessory building or structure is attached to the principal building by any means, so as to give the impression that the building is a single structure and that such accessory building (including attached garages) shall be counted as a part of the principal building.

Building Width. The shortest side measurements of the building measured at the foundation line. The shortest side measurement shall not be less than one-third of the longest side measurements of any building; used herein as the building length.

Building Area. The horizontal projected area, measured at the foundation line, of the building on the lot including open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet. For any cantilevered building space or floor area projecting or extending beyond the foundation line such square footage shall be included in the total square footage of building area (i.e.: the 'shadow' of the building total floor

area shall be considered in the computation of building area).

Building Code. The nationally recognized model building code adopted by the Town Council, as periodically updated, including supplements, variations, or amendments promulgated by the national code sponsor and/or Town Council.

Building Commission. The person or persons duly appointed and/or delegated the responsibility for the administration and enforcement of these regulations by the Town Council as provided for in Section 9 of this ordinance.

Building Height. The distance measured between the top of building or structure and the highest level of the finish grade of the lot adjoining the foundation wall.

Building Inspector. Any persons or persons meeting the qualifications of Section 9.3 of this ordinance and appointed by the Building Commission and Town Council to serve in the position of Building Inspector as provide in Section 9 of this ordinance.

Building Line, Front or Building Setback 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 measured perpendicular from the right-of-way line.

Building Permit. See Improvement Location Permit. (See page 13.)

Business. The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit. Under the terms of this Ordinance, businesses include retail sales and provision of all personal services of all types.

Certificate of Occupancy. A certificate signed by the Building Commissioner or designee stating that the occupancy and use of land and/or building or structure referred to therein complies with the provision of this zoning ordinance.

Child Care. Custodial, supervisory, recreational or institutional care, designed to supplement parental care, given children (other than the provider's), who are under eleven (11) years old. Child care facilities are either licensed by the State or exempted from licensing requirements. Child Care does not include: public or parochial schools, pre-schools, baby-sitting, day camps, summer camps, foster homes, group homes, or cooperatives reciprocating care by group parents in their own homes. See Accessory Use - Child Care Center, Child Care Home.

Child Care Center. A State licensed (or exempted) Child Care Center facility is either 1) a nonresidential structure where one or more individuals provide child care for any number of children; 2) a facility in a residentially occupied residential structure where individuals provide child care for eleven (11) or more children at any time, or 3) a non-residentially occupied residential structure for six (6) or more children at any time.

Child Care Home. A State licensed (or exempted) facility in a residential structure where one or more individuals provide child care for six (6) to ten (10) children, for more than four hours but less than twenty-four hours, for ten or more consecutive working weekdays. The structure shall be occupied as a residence.

Commercial Business. Any activity which provides goods or services for consideration in any form including short-term occupancy and use of residential structures for a period of less than thirty (30) days.

Commission. The Long Beach Advisory Plan Commission.

Condominium. Real estate lawfully subjected to IC 32-1-6 (the Horizontal Property Law) by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

Courtway, Dedicated. See Place. (Page 16.)

Daily Rental Use. The advertising (through any means including word-of-mouth) and/or the letting for consideration of any form, a principal building, and/or accessory structure and/or all or any portion of the lot or parcel of property for exclusive use and/or occupancy for a period of less than thirty consecutive days and the subject property cannot be subjected to more than one lease at any time. Daily rental of a single-family dwelling is hereby declared to be a commercial business use of a principal building, and/or accessory structure and/or all or any portion of the lot or parcel of property.

Deck. An open (unroofed) surface designed to support human use including walkways and platforms constructed of wood, metal, plastic or other material either attached or unattached to a principal or accessory use structure.

Deck, ground surface. A deck which is constructed on the surface of the ground, by any means.

Deck, elevated. A deck which is constructed above the surface of the ground.

Detached Building. See Building, Detached.

Development (Site) Plan. A drawing, including a legal or site description, of all real estate involved which shows the location and size of all buildings, current topography and proposed finish grade topography, structures, and yards; location and dimension of building lines, and easements; widths and lengths of all entrances, and exits to and from any real estate; location of all adjacent or adjoining streets or places; all of which present a unified and organized arrangement of buildings and service facilities and other development and to the uses of properties immediately adjacent to the proposed development.

Topography, Existing. The topography of a zoning lot before any earth changes which modify

the elevation of any portion of the zoning lot either by relocation of any amount of soil within the boundary of the site, removal of any amount of soil from the zoning lot or depositing soil brought from another source onto the zoning lot.

Topography, Finish Grade. The topography of the zoning lot after any earth changes. The finish grade cannot be higher than twelve (12) inches below the top of foundation.

Topography, Finish Grade - Severe Topographic Elevations. In cases of severe topographic elevations, the applicant shall propose a finish grade which shall be approved by the Board of Zoning Appeals or modified, if found necessary by the Board of Zoning Appeals.

Top of Foundation Elevation. The elevation of the top edge of the foundation as established by the architect or builder of the principal permitted or accessory building constructed on a parcel.

Dwelling. A building or portion thereof, used primarily as a place of abode for one or more human beings, but not including hotels, lodging, or boarding houses or tourist homes (including bed and breakfast facilities).

Dwelling Unit. A dwelling or portion of a dwelling used by one family for cooking, living, and sleeping purposes.

Easement. An authorization grant made by a property owner for use by another of any designated part of his/her property for a clearly specified purpose and officially recorded.

Family. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nursing home, dormitory, fraternity, or sorority house.

Flood Hazard Areas. The area subject to flooding or erosion as shown on the Flood Hazard or Floodway-Flood Boundary maps of the Federal Emergency Management Administration and/or the Indiana Department of Natural Resources.

Flood Plain. The area adjoining a lake, river or stream, which has been or hereafter may be covered by floodwater from the regulatory flood as defined by the Federal Emergency Management Administration and/or the Indiana Department of Natural Resources.

Flood Protection Grade. The elevation of the lowest habitable floor of a building which shall be two feet above the elevation of the regulatory flood as defined by the Federal Emergency Management Administration and/or the Indiana Department of Natural Resources.

Floodway. See Regulatory Floodway.

Floodway Fringe. That portion of the floodplain lying outside the floodway, which is inundated by the regulatory flood.

Foundation. The supporting member of a wall or structure situated in the ground.

Front Lot Line. See Building, Front Line of.

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 of the lot, and measured as the shortest distance perpendicular from the right-of-way line from the foundation to the right-of-way line. The front yard of a corner lot shall be the yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise, or as varied by the Board of Zoning Appeals. For the term of foundation used herein, any support footing used for any appurtenance to a principal building for porches and the like shall be considered a foundation. (See appendix - figure 1)

Garage, Private. An accessory building with capacity for not more than three motor vehicles per dwelling unit, one of which may be a commercial vehicle of not more than three (3) ton capacity. See Accessory Building.

Garage or Yard Sale. See Section 4.12.

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 the open or totally or partially within a building. General Industrial Use as used in this Ordinance, includes all commercial and industrial operations and facilities not otherwise included in the definition of business as defined in the section.

Ground Floor (Gross) Area. The square foot area of a residential building (including garages constructed as part of the principal structure) within its largest outside dimensions computed on a horizontal plane at the top of the foundation, exclusive of unroofed porches, breezeways, terraces, garages, and exterior stairways, but inclusive of any covered porches, breezeways and any other permanent structural attachments, regardless of the means of supporting foundation.

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 of, economic gain shall not be considered hardship. 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 improvements; any improvement initiated in violation of the standards of this Ordinance, or any result of land division requiring variance from the development standards of this Ordinance in order to render the site buildable.

Home Occupation/Service. An accessory use conducted entirely within a dwelling unit and participated in solely by members of the family (except as provided in the Section 4.9) which occupy the residence, which use is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the character thereof and in connection with which there is no commodity or service sold upon the premise. In no event shall a shop, tea room, sales

display area, or public accessible sales or service area including barbershops, hair salons, beauty shops offices of doctors or dentists and any other medical or other personal service operations be considered part of a home occupation.

Examples of home occupations/services include financial consultants, independent business representatives, and other telephone and computer based business occupations which do not routinely rely on customer or client visitation on the premise of the home occupation.

Home Occupation/Service is commonly understood to be the use of a home for a business or professional service pursuant to the requirements of Section 4.9.

Improvement Location Permit. Written permission in the form of a permit issued by the Building Commissioner stating that the proposed erection, construction, enlargement, alteration, repair, demolition or removal, moving of a building or structure or the change of any use or condition of the land referred to therein complies with the provision of this Ordinance. Under the terms of this Ordinance a location improvement permit is an integral part of a building permit issued pursuant to the building code of the Town of Long Beach.

Issuance of the Improvement Location Permit unless otherwise requested by the applicant and issued separately by the Building Commissioner, shall accompany or be incorporated in the Building Permit issued by the Building Commissioner or his designee.

Interested Parties. Those parties who are owners or occupants of properties adjoining or located adjacent to the property (including those properties immediately across a street, place or alley) for which a zoning action is being sought and to whom notice of pending action under the terms of the ordinance must be provided.

Lot, Zoning Lot, or Parcel. A parcel, tract, or area of land accessible by means of a street or place, abutting upon a street or place for at least 60% of the lot width prescribed for the district in which the lot is located. It may be a single parcel separately described in a deed or a plat which is recorded in the office of the County Recorder, or it may include parts of, or a combination of such parcels when adjacent to one another and used as one. A lot may be subdivided into two (2) or more zoning lots, provided that all resulting zoning lots and all buildings thereon shall comply with all of the applicable provision of this Ordinance. In determining lot areas and boundary lines no part thereof within the limits of a street shall be included.

Corner Lot. A lot situated at the intersection of two (2) streets or the bend of a road, where the interior angle of such intersection or bend of such road does not exceed 135 degrees. A lot with streets abutting more than two (2) sides shall also be considered a corner lot. See vision clearance on corner lots. (See appendix - figure 2)

Interior Lot. A lot other than a corner lot or through lot. (See appendix - figure 2)

Interior Lot, Reversed. A lot or irregular shape with the narrowest portion of the lot abutting the street, (See appendix - figure 5).

Through Lot. A lot having frontage on two parallel or approximately parallel streets. (See appendix - figure 2)

Lot Coverage. The horizontal area of all buildings, measured in accordance with the building area definition of this section, as a percentage of total lot area calculated in accordance to the definition of lot in this section.

Lot Line, Front. In case of an interior lot, a line separating the lot from the right-of-way line of a street or place; and in the case of a corner lot a line separating the narrowest street frontage of the lot from the street or place right-of-way line, except in cases where deed restrictions in effect specify another line as the lot frontage.

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten feet in length within the lot, parallel to and at its maximum distance from the front lot line. (See appendix - figure 5)

Lot Line, Side. Any lot boundary line not a front lot line or a rear lot line.

Lot Width. The distance between the side lot lines measured perpendicularly at the front building line.

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 and where such dwelling unit meets the minimum dwelling unit size standards established by the Town Council as set forth in Section 4.3:

1. Shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupiable space per IC 36-7-4- 1106 (d);
2. Is attached to a permanent foundation of material in compliance with the Building Code of the Town and has a permanent perimeter enclosure constructed in accordance with the Town Building Code;
3. Has wheels, axles and towing chassis removed; and
4. Has a pitched roof with a minimum rise of 2/12.

No manufactured housing shall be permitted as an addition to a principal residential building in any district.

Mobile Home. Any vehicle without motive power designed by the manufacturer or maker with hitch and undercarriage to permit attachment of axles, 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 properly 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. See Building Area. The portion of a building, structure or yard area used on a regular basis opposed to an area used infrequently such as building storage or yard open space.

Open Use. The use of a lot without building or including a building incidental to the open use with a ground floor area equal to five (5%) or less of the area of the lot.

Parcel. See lot, zoning lot or parcel; page 13.

Parking Area, Public. An open area, other than a street, alley or place designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers, paved with a suitable dust preventive hard surface.

Parking Space. A space other than on a street, alley or place designed for use or used for the temporary parking of a motor vehicle, and being not less than ten (10) feet wide and twenty (20) feet long exclusive of passage ways.

Permanent Foundation. A structural system for the transposing loads from a structure to the earth at a depth below the established frost line without exceeding soil bearing capacity for the supporting wall designed and constructed in conformance with the Town Building Code.

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 Town Building Code.

Person. A corporation, limited liability company, firm, partnership, association, organization, or any other group acting as a unit, as well as a natural person.

Place or Designated Courtway. An open, unoccupied officially designated space other than a street or alley, permanently reserved for the use as the principal (or secondary) means of access to abutting property.

Plat. A map indicating the subdivision or resubdivision of land, intended to be filed for record with the County Recorder.

Primary Use. The principal predominate use of real estate.

Primary Use Building. A building (including any other building attached in a substantial way, such as by a roof [See Building Area]), in which the primary use of the lot or parcel is conducted. For single-family residential uses, it is the main dwelling. Only one primary use building is permitted per lot or parcel and all others shall be accessory to it.

Private School. A school other than a public school.

Professional Office. Office of members of recognized professions, such as an architect, artist, attorney, dentist, engineer, musician, physician, surgeon, Realtors, insurance agents or other like professions.

Public School. A pre-primary, primary, grade or high school, college, or university which is publically owned and operated.

Rear Yard. A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to a 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 (See - Schedule of District Regulations, Page 36).

Recreational Vehicle. A movable 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 motor home, and
2. Of a size that is legal for street use;

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 (1%) in any given year.

Regulatory Floodway. The channel of a river or stream and those portions of floodplains 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 flood waters in significant downstream motion or covered by significant volumes of stored water during occurrences of the regulatory flood.

Section, Manufactured Housing. 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 lines (front, back, side) between which no buildings or structures may be erected unless otherwise permitted by specific terms of this ordinance. (See Table 1 - Schedule of District Regulations, Page 36).

Side Yard. The horizontal unoccupied space between the nearest foundation of a building to the side lot line extending from the front lot line to the rear lot line.

Sign. Any board, device, or structure or part thereof used for advertising, display, or publicity purposes. Signs are categorized as on-premise, off-premise, outdoor and portable. The total size of a sign under terms of this Ordinance shall consider only one surface. Signs placed or erected by a governmental agency for the purposes of showing street names or traffic directions or regulations or for other governmental purposes shall be exempted from regulations.

Sign, On-Premise. 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 related to the activities on the premises upon which it is located.

Sign, Off-Premise. 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 related to the activities off of the premises upon which it is located.

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 or off-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 tie-down straps or stakes.

Single-Family Dwelling. A building, on a separate lot, containing one dwelling unit.

Special Use/Exception as Permitted 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 Board of Zoning Appeals.

Street. A right-of-way, other than an alley, place or dedicated courtway, dedicated or otherwise legally established to the public use, affording the principal means of access to abutting properties.

Structure. Any building or man made surface or subsurface feature or designed earth feature other than normal finished grading for drainage purposes, including berms, drives, parking areas,

garden houses, storage sheds, tents, decks, porches, play houses, game courts, signs, fences, walls, trailers, among others, but not including wires and their supporting poles, towers, of frames of electrical, and other utilities. See Building.

Structural Alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the exterior walls or the roof.

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 re-subdivision.

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 or other action permitted by law.

Variance. A modification of the specific requirements of this Ordinance granted by the Board of Zoning Appeals, in accordance with the terms of this Ordinance, for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other property in the same vicinity.

Vision Clearance On Corner Lots. A triangular space at the street, alley, place or courtway corner of a corner lot, free from any kind of obstructions to vision between the heights of three (3) and twelve (12) feet above established grade, determined by a diagonal line connecting two points fifteen (15) feet equidistant from the street corner along each property line (See Appendix - figure 7).

Yard. A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this Ordinance.

Zoning Lot, Lot or Parcel. See Lot.

Section 2.2 - Words Not Defined

Any word or term not herein defined shall be construed as defined in Webster's Unabridged Dictionary, current edition.

Section 2.3 - Identification of Terms.

Wherever the word *Town* appears in this Ordinance it shall be deemed to refer to the Town of Long Beach, LaPorte County, Indiana; the word *Commission* refers to the Town of Long Beach Advisory Plan Commission; *Board* refers to the Board of Zoning Appeals of the Town of Long Beach, Indiana; the word *District* refers to a section of the incorporated territory of the Town, for which uniform regulations governing the use, height, area, size, and intensity of use of buildings

and land, and open spaces about buildings, are herein established; the word *Zoning Map* refers to the zoning map entitled “Town of Long Beach, Indiana, Zoning Map” and any amendments thereto; the word *Master Plan*, refers to the complete plan, or any of its parts, for the development of the incorporated territory within the Town prepared by the Commission and adopted in accordance with Chapter 174, acts of 1947, and all acts amendatory or supplemental acts thereto, General Assembly of the State of Indiana.

SECTION 3 - ZONING DISTRICTS AND MAP

Section 3.1 - Establishment of Zoning Districts

The Town of Long Beach, Indiana original plat was recorded in February 1914 and the Town was incorporated in 1921 as a planned residential resort waterfront recreational community. As such, the original plat of the Town and subsequent Master Plan designated only three land uses; single-family residential, business and public (including public and semi-public recreation). In determining the boundaries of districts, and establishing regulations applicable to each district, due consideration and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use of which the land in each district may be adapted, and the conservation of property values throughout the incorporated territory of the Town.

The Town is divided into six zoning districts; five single-family residential districts, and one local business district and one flood hazard overlay zoning district.

Section 3.2 - Building (Location) Permit Required for Construction of Authorized Uses. No building, structure or land shall be used for a primary, principal or accessory use and no building or structure shall be erected, reconstructed, or structurally altered, which is arranged, intended, or designed to be used for any purpose other than a use which is permitted and specified in the district in which such building or land is located, and for which a building (location) improvement permit has been issued by the Building Commission or its designee.

Section 3.3 - Every Building To Be Constructed On A Zoning Lot.

Every building hereafter erected to house a principal permitted use in any district shall be located on a zoning lot. In no case shall there be more than one building used for the principal use defined for the district and all accessory use buildings and structures shall be located on the zoning lot.

Section 3.4 - Zoning Map Amendments and Interpretation of Boundaries.

- A. The boundaries of the districts established by Section 3.1 are as shown on the zoning map which is part of this Ordinance, and hereafter known as the *Official Zoning Map of the Town of Long Beach, LaPorte, County, Indiana,* said Official Zoning map shall hereafter be kept in the custody of the Town Clerk/Treasurer.
- B. 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 Clerk/Treasurer shall within five (5) days of passage of such amendment, change the Official Zoning Map in accordance with such amendment and record the ordinance number and date of adoption of all such amending ordinances on the Official Zoning Ordinance Map.
- C. When the exact boundaries of the district are uncertain, they shall be determined by use of the scale of the zoning map.

- D. When the maps are caused to be changed by amendment the changes shall be to the center of any and all abutting right-of-ways.
- E. 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 district, use requirements and restrictions that apply to the front part of the lot apply to the entire lot.
- F. In case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the zoning map as to the location of the boundary in question.

Section 3.5 - Replacement of Zoning Map

If the Official Zoning Map becomes damaged or unusable, the Town Council shall cause to be prepared a replacement map which shall be adopted by resolution of the Town Council and contain the following statement “This is the Official Replacement Zoning Map of the Town of Long Beach, LaPorte County, Indiana adopted pursuant to the provisions of Section 3.5 of Ordinance No. _____.”

Section 3.6 - Vacated and Filled Areas.

The following procedures relate to vacated or filled areas:

- A. Whenever any street, alley, place, public way, railroad right-of-way, waterway, or other similar area is vacated by a proper authority, the districts adjoining each side of the such street, place, alley, public way, railroad right-of-way, waterway, or similar area shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts.

SECTION 4 - RESIDENTIAL ZONING DISTRICT

Section 4.1 - Purpose of the Zoning District

The Residential District is established as the district in which the principal use of land is for one (1) single-family dwelling on a zoning lot containing a minimum of 12,000 gross square feet of land area (see Table 1, Page 36, Footnote 1) and where either on-site water and/or sewer services meeting the requirements of the LaPorte County Health Department or where either municipal water and/or sewer service can be provided and where such dwellings and accessory uses comply with yard setback requirements set forth in Table 1, Page 36. For the Residential District in promoting the general purpose of the ordinance, the specific intent of the section is:

- A. To encourage the construction of, and the continued use of land solely for, single-family dwellings and accessory uses,
- B. To prohibit business use of the land and to prohibit any other use which would be incompatible with the continued development of single-family dwellings,
- C. To encourage the discontinuance of existing uses that would not be permitted as new uses under the terms of the provisions of the ordinance,
- D. To discourage any land use which would generate traffic on any street, place, alley or courtway other than normal traffic to serve the residences on these streets, places, alleys or courtway, and
- E. To discourage any use, which because of its unusual character and size would create requirements and costs for public services such as fire and police protection, snow removal, garbage collection, and public supplied water and sewer services where not otherwise currently provided, substantially in excess of such requirements and costs if the district were developed solely for single-family dwelling of compatible size of dwellings within the immediate vicinity.

Section 4.2 - Permitted Uses and Structures. The following uses shall be permitted in the Residential District:

- A. One single-family dwelling on a zoning lot, either site constructed or factory constructed, meeting the definition of a manufactured home as defined in this Ordinance where such manufactured home meets the minimum building size regulations of Section 4.3,
- B. Accessory buildings and structures, including garages,
- C. Baby-sitting,
- D. Home occupations in the principal building,

- E. Park and recreational areas owned or operated by governmental agencies,
- F. Town of Long Beach municipal buildings and structures including those required for essential services, governmental operations, town street/maintenance services and other community facilities whether or not leased or rented to specific occupants,
- G. Membership owned golf/country clubs including necessary maintenance and related accessory uses and structures, and
- H. Churches, public and private schools, plus related church and school buildings and structures.

Section 4.3 - Minimum Residential Building Width and of Building Area.

In the R-1 Residential District, the minimum width of the principal building shall be no less than thirty-two (32) feet and contain a minimum 1,200 gross square feet of ground floor building area. In the R-1 residential District, the minimum lot size shall be 12,000 gross square feet (See Table, Page 36, Footnote (1) for non conforming lots).

In the R-2 residential District, the minimum width of the principal building shall be no less than twenty-six (26) feet and contain a minimum 1,200 gross square feet of ground floor building area. In the R-2 residential District, the minimum lot size shall be 6,000 gross square feet (See Table 1 Footnote (1) for non conforming lots).

Section 4.4 - Maximum Height of Buildings.

1. In the R-1, R-2, R-3, or R-4 Zoning Districts, no building or structure hereafter shall exceed a height of twenty-seven (27) feet measured from the top of the building or structure to the highest level of the finish grade of the lot adjoining the building wall (See Table 1, Page 36).
2. In the R-5 Zoning Districts, no building or structure hereafter shall exceed a height of thirty-three (33) feet measured from the top of the building or structure to the highest level of the finish grade of the lot adjoining the building wall (See Table 1, Page 36).

Section 4.5 - Uses Expressly Not Allowed. The following uses expressly prohibited in the Residential District due to their incompatibility with the Master Plan and the spirit and intent of this district:

- A. A mobile home as defined in this Ordinance when used as a single-family home.
- B. Multiple-family dwelling units of any type.

- C. Business, commercial and general industrial uses of any type not expressly permitted for in this the Ordinance.
- D. Use of a single-family dwelling unit for daily rental use and/or occupancy by persons who compensate the property owner (in any form) for the privilege of use and/or occupancy of the principal building, accessory structure(s) or lot for a period of less than thirty (30) days, including bed and breakfast and other home-stay lodging facilities.
- E. The operation of a boarding kennel as defined in this Ordinance or the raising of animals of any type for sale.
- F. Outdoor storage of recreational vehicles including, campers, trailers of any type, boats, personal water craft, in the front or side yards.
- G. See Section 7.14 for prohibition on the parking of certain trucks and vehicles in residential zoning districts.

Section 4.6 - Special Uses/Exceptions as Permitted Uses. The following uses may be permitted by the Board of Zoning Appeals if the proposed use will constitute a desirable and stable development which will be in harmony with development in adjacent areas and will not cause congestions on public streets nor be contrary to the spirit or purpose of the district or ordinance:

- A. Television, communication towers and related antennas accessory to residential use, where the maximum diameter of the dish is no greater than twenty-four (24) inches, may be mounted on the roof of the principal permitted structure or mounted on a tower located only in a rear yard. (See Section 7.16 for regulations concerning the location of Ham Radio towers and antenna).
- B. Child Care Homes (as defined in this Ordinance) meeting the following standards:
 - a. Is conducted totally within or as a permanent addition to the principal building designed as an integral part of the design of the principal building so as to give the impression to the public, viewing the principal building from the street, the appearance of a single family dwelling unit,
 - b. All outdoor space needs for child care activities are provided in the rear yard and are completely enclosed by fencing in accord with the fencing provisions of Section 4.11,
 - c. No persons, other than persons who occupy the residence engage in the delivery of child care services, and
 - d. There is adequate off-street parking spaces for the safe drop-off and pick-

up of children, as deemed necessary by the Police Chief/Town Marshal.

- C. Elder care, caretaker or staff dwelling unit meeting the following standards:
 - a. Is constructed totally within or as a permanent addition to the principal building, and
 - b. Is designed as an integral part of the design of the principal building so as to give the impression to the public, viewing the principal building from the street, the appearance of a single family dwelling unit.

Section 4.7 - Permitted Accessory Uses and Structures.

The following uses and structures are permitted in a Residential District provided they conform to all setback requirements unless otherwise permitted by the Board of Zoning Appeals:

- A. A private garage or carport, not to exceed the three (3) car capacity.
- B. A shed or storage building for garden equipment, and household items incidental to a permitted use, provided that a the floor area of such shed shall not exceed one percent (1.0%) of the size of the zoning lot (e.g.: for a 12,000 gross sq.ft. lot the maximum would be a shed(s) having a total of 120 gross sq.ft.) located in a rear yard.
- C. A private swimming pool and bath house fenced and protected against hazards to the public by fences or walls which totally enclose the swimming pool not less than five (5) feet in height nor more than seven (7) feet in height. The fence or wall shall be equipped with self-closing and self-latching gates or doors, the latching devise being located not less than four (4) feet above ground or floor surface area of the entryway located in a rear yard.
- D. Elevated decks, permanently installed gazebos, hot tubs and other similar permanently installed structures located in a rear yard.
- E. Statuary, arbors, trellises, awnings, canopies, flag pole, open terraces, landscaping walls, ground level decks and any other structures deemed a residential accessory use by the Board of Zoning Appeals located in the front, side or rear yards. Items in this subsection must conform with setback requirements for the district in which the zoning lot is located unless varied by the Board of Zoning Appeals.
- F. Barbecue equipment, portable tent/screen house, portable recreational equipment located in the side or rear yards.
- G. Non-illuminated residential identification signs having no more than one hundred twenty (120) square inches in total sign area located in the front yard.
- H. Off-street parking facilities as required by the terms of the district location and

which are exempt for setback requirements located in the side or rear yards.

- I. Lights capable of providing a maximum light output of 2,300 lumens.
- J. Outdoor parking of recreational vehicles, boats, camping trailers, of no more than thirty (30) feet long provided they are parked behind the principal structure in the rear yard and no closer than ten (10) feet from a side or rear property line.

Section 4.8 - Construction and Location Standards for Accessory Uses and Structures.

- A. A detached or attached accessory structure shall not be located in a front yard, interior side yard (defined as a side yard which adjoins another lot or an alley separating the side yard from another lot), or side yard adjoining a street except as otherwise permitted herein for a specific permitted use.
- B. No accessory use shall be established or structure erected prior to the establishment or erection of the principal use building to which it is accessory. No existing accessory use may be expanded or extended except in compliance with all regulations of Section 8.
- C. No accessory building shall be located closer to a side or rear line than ten (10) feet nor exceed eighteen (18) feet in height and, if detached from the principal building, shall be set back at least thirty (30) feet from the street, place, alley, courtway, or right-of-way line. On Lake Shore Drive, the required setback may be reduced to fifteen (15) feet.
- D. The Board of Zoning Appeals may upon application provide for the location of an accessory use in a side yard provided there is no other location on the zoning lot where the use can be located and comply with the location standards or where, due to topography or other physical limitation or need, there is no other suitable location for the accessory use on the zoning lot.

Section 4.9 - Home Occupation/Services.

Home occupation and home services shall comply with all standards applicable to the Residential District. No accessory use shall be established or structure erected prior to the establishment or erection of the principal or primary use building or structure to which it is accessory. No existing building, structure or accessory use may be expanded or erected except in compliance with all the regulations of this Ordinance and the following standards:

- A. The home occupation/service is incidental and secondary to the use of the dwelling for dwelling purposes and does not occupy more than twenty-five (25%) percent of the floor area of the dwelling,
- B. There are no signs, displays or activities that will indicate from the exterior that the dwelling is being used for any purpose other than that of a dwelling,
- C. There are no commodities sold, or services rendered that require receipt and delivery of

merchandise, goods, or equipment by other than a passenger motor vehicle or a vehicle with a capacity of not more than three (3,000) pounds (e.g.: United Parcel Service truck),

- D. There are no persons other than the persons who reside in the dwelling and up to three non-resident persons of the immediate family engaged in the home occupation,
- E. All activity, including storage, is conducted completely within the dwelling (except storage which may be done in a garage),
- F. No special structural alterations or construction modifications to the dwelling or garage, nor the installation of special equipment attached to the walls, floor, or ceilings shall be made,
- G. There is no perceptible noise, odor, smoke, toxic fumes, electrical interference, vibration, etc. emanating from the dwelling or garage, and
- H. There is no business activity between the hours of 10:00 p.m. and 7:00 a.m., except activities solely contained within the home.

Section 4.10 - Residential Sign Regulations .

The following signs shall be permitted on a zoning lot in the Residential District:

- A. Accessory non-illuminated name plaques as provided in Section 4.7 G.
- B. Non commercial temporary signs including garage or yard sale advertisements, announcements for neighborhood gatherings, school events and the like, provided that the total sign area does not exceed seven (7) square feet. Temporary banners shall also be permitted. All signs shall be installed not more than three (3) days prior to the date of the event and shall be removed not later than two (2) days after the event.
- C. "For sale" or "long-term lease for rent" signs provided the total sign area shall not exceed seven (7) square feet in area and be removed within three (3) days after the date of the sale or lease of the property being advertised.
- D. Temporary political and election campaign signs, provided that the total sign area does not exceed seven (7) square feet, may be installed not more than thirty (30) days prior to the date of any election and shall be removed not later than three (3) days after the date of the election.
- E. No permanent commercial business advertising signs including outdoor advertising, on-premise advertising or other business signs, other than those allowed under Section 4.7 G are permitted in the Residential District, except for up to five Town Center combined off-premise signs at five separate locations chosen by the Building Commission and submitted for approval by the Board of Zoning Appeals designed to give direction and announce the names of Town Center businesses, dimensions of which shall be

determined by the Board of Zoning Appeals.

- F. All signs shall be non-illuminated, subdued in appearance, harmonizing in design and color with the surrounding and shall not be attached to any tree or shrub.
- G. Portable signs are prohibited.

Section 4.11 - Fences In The Residential District.

Fences in the Residential District shall comply with the following standards:

- A. All fences located between the building line or the front building foundation line and the front property line abutting the street or place shall be of natural material either wood or a wood substitute, or ornamental metal iron or metal substitute, or premanufactured plastic (or similar type material) fencing. No chain-link fences of any type are permitted in the front of any building.
- B. All fences located between the building line or the front building foundation line and the front property line abutting the street or place shall not exceed four (4) feet in height nor be greater than twelve (12) inches in thickness/width.
- C. All fences located behind the front building line or the front foundation line of the building which ever is the furthest from the front property line adjoining the street or place, shall not exceed seven (7) feet in height nor be greater than twelve (12) inches in thickness/width.
- D. All fences shall be constructed not closer than six (6) inches to the property line, and it shall be the applicant/property owners' responsibility to determine the location of all property lines prior to installation of any fence. The Building Commissioner may reduce the six (6) inch property line setback dimension for the location of the fence upon presentation of written consent and approval by any and all abutting property owners by the applicant.
- E. All fences must be of the type having two finished sides, that being each side of the fence must have the identical finish.
- F. Fences to enclose a swimming pool are required pursuant to Section 4.7 C.

Section 4.12 - 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, or other accessory building or outside thereof, which sale is of any number of personal property items owned or in the possession of the owner or occupier of the premise (including possessions of one or more families), 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 two (2) times in any one calendar year on any premise located in the Residential District, but no such sale shall be conducted for more than three (3) consecutive days.
- C. Such garage or yard sale shall only be conducted between the hours of 8:00 a.m. and 6:00 p.m.
- 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 sales shall be erected and removed as provided for in Section 4.10 B.
- E. No such garage or yard sale shall be held without the owner or occupier of the premise having first obtained a permit therefor. Such permit shall be obtained by applying therefor from the Clerk/Treasurer or his/her designee. Such permit shall specify the address and date or dates of such sale plus the names of all participating families.

Section 4.13 - Schedule of District Regulations; Setback, Height, Lot Size and Coverage.

No building in the Residential District shall be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, ground floor area, or lot coverage regulations, established and specified for residential uses in the district in which the zoning lot is located.

No lot area shall be modified to be less than specified for the residential use district in which the lot is located.

Table 1 (Page 36) contains the schedule of district regulations for the residential districts.

Section 4.14 - On-Site Parking Requirements.

There shall be at least three (3) parking spaces for every dwelling unit. These spaces shall be on the same lot with the principal use building they are intended to serve and contain an area no smaller than ten (10) feet wide by twenty (20) feet long for each parking space of which a minimum of two (2) parking spaces shall be of a hard surface material either concrete, asphalt, compacted gravel, driveway brick pavers or similar material.

Section 4.15 - Duplicate Building Types.

Not more than one (1) dwelling of any standardized plan shall be erected in the Town, unless recommended by the Building Commissioner and approved as a variance by the Board of Zoning Appeals. A standardized plan is defined as follows:

- A. Where the plan of a house is standardized and remains constant as to width and length.
- B. Where the volume of the house remains practically the same; changes made to a

standardized plan where the width and length of the plan and the volume of the house are not substantially changed; shall not be sufficient change to grant a permit.

- C. The adding to or subtracting from a standardized plan of small units such as porches, bay windows, terraces, and other appurtenances, or the changing or varying the slope or type of roof, or location or size of door and window openings, or changing or varying the style or design, or changing or varying the finish color of the exterior walls, shall not be sufficient change to a standardized plan to warrant the granting of a permit for its erection in the Town.

Section 4.16 - View Protection Standards.

After the date of adoption of this ordinance, construction of any new home or the expansion, remodeling or redevelopment (partial or total) of any residential dwelling on a lot in which the property line abuts Moon Valley, the Long Beach Golf Course or any water body shall comply with the following view protection standards.

It is the intent of these standards to protect the view of Moon Valley, the Long Beach Golf Course and any water body from the principal permitted building (i.e.: residence).

1. No dwelling located on Moon Valley, the Long Beach Golf Course or any water body shall block the view of any other dwelling located on an adjacent lot or parcel of land fronting on Moon Valley, the Long Beach Golf Course or any water body.
2. The waterfront setback from the shoreline upon which the dwelling shall be built shall be determined by the Building Commissioner, as determined by the following criteria:
 - A. Equal to the average of the waterfront setbacks of dwellings already built on both sides of the lot or parcel upon which the dwelling is to be built, or
 - B. Equal to the average of the waterfront yard setback of the dwelling already, but only built on one side of the lot or parcel upon which a dwelling is to be built, and the required minimum waterfront yard setback of the zoning district, or

- C. The required minimum waterfront yard setback on the zoning district, if lots and parcels adjacent on both sides of the lot or parcel where proposed dwelling is to be built upon are vacant.
3. No other structure, including fences, boathouses, cabanas and other structures and landscaping plants except for those already in existence shall be built or planted as to block the view of the surface water features of any dwelling located on an adjacent lot or parcel.
 4. The height of any structure including proposed new dwellings constructed, and the remodeling, and redevelopment of any dwelling in a residential district abutting water, shall be limited to the maximum height allowable in the zoning district provided that such height does not block reasonable viewing of the water body from any existing dwelling on any abutting lot or property.

SECTION 5 - LOCAL BUSINESS ZONING DISTRICT

Section 5.1 - Purpose of the Zoning District

The Local Business District is established as the district in which the principal use of land is for commercial purposes to provide for the retail shopping and service needs of residents within the immediate neighborhood on a zoning lot of which the size and dimensions are approved by the Board of Zoning Appeals and where either on-site water and/or sewer services meeting the requirements of the LaPorte County Health Department or where either municipal water and/or sewer service can be provided.

Section 5.2 - Permitted and Special Use/Exception Uses. The following uses shall be permitted in the Local Business District:

- A. Uses permitted in the Residential District and subject to the zoning regulations of Section 4 of this Ordinance.
- B. A Child Care Home or Center, as defined in this Ordinance.
- C. The following uses:
 - a. Electronic appliance sales and services,
 - b. Public parking areas,
 - c. Dressmaking - tailor shop,
 - d. Laundry - dry cleaning shop,
 - e. Clothing sales,
 - f. Shoe repair,
 - g. Delicatessen including pizza shop,
 - h. Grocery,
 - i. Bank including bank teller machine,
 - j. Business and professional offices,
 - k. Beauty - barber shop,
 - l. Apparel shop,
 - m. Drug store,
 - n. Flower shop,
 - o. Postal station,
 - p. Community buildings housing business operations, and
 - q. Similar uses deemed appropriate by the Board of Zoning Appeals as a Special Use/Exception Use.

Section 5.3 - Permitted Accessory Uses and Structures.

- A. A fence structure for the screening of trash and garbage receptacles.
- B. Any accessory uses required for the conduct of any business expressly allowed by the

terms of this section of the ordinance or any use expressly permitted by the Board of Zoning Appeals as provided by this section or any other section of this Ordinance shall be approved by the Board of Zoning Appeals, using the following standards:

- A. The proposed accessory use is customary and necessary for conduct of the primary business use,
- B. The proposed accessory use cannot be carried-out within the principal business,
- C. The size of the accessory use is the smallest size necessary for the conduct of the primary business use, and
- D. The location of the proposed accessory use will not cause undue harm to abutting and nearby residentially zoned lots.

Section 5.4 - Uses Expressly Not Allowed.

General industrial and commercial uses which provide for the manufacture and assembly of products is expressly prohibited in the Local Business District due to their incompatibility with the Master Plan and the spirit and intent of this district.

Section 5.5 - Maximum Height of Buildings.

- 1. In the LB Zoning Districts, no building or structure hereafter shall exceed a height of twenty-seven (27) feet measured from the top of the building or structure to the highest level of the finish grade of the lot adjoining the building wall (See Table 1, Page 36).

Section 5.6 - Local Business Sign Regulations.

The following signs shall be permitted on a zoning lot in the Local Business District:

- A. Business accessory non-illuminated name plaques.
- B. Non commercial temporary signs including garage sale advertisements, announcements for neighborhood gatherings, school events and the like, provided that the total sign area does not exceed seven (7) square feet. Temporary banners shall also be permitted. All signs shall be installed not more than three (3) days prior to the date of the event and shall be removed not later than two (2) days after the event.
- C. For sale or rent signs provided the total sign area shall not exceed seven (7) square feet in area and be removed within three (3) days of the date of the sale or lease of the property being advertised.
- D. Temporary political and elections campaign signs, provided that the total sign area does not exceed seven (7) square feet, may be installed not more than thirty (30) days prior to the date of any election and shall be removed not later than three (3) days after the date of the election.

- E. Wall mounted on-premise advertising and other business signs, including outdoor advertising on-premise signs provided that the total sign area does not exceed seven (7) square feet and upon approval of the location by the Building Commissioner.
- F. All signs shall be non-illuminated, subdued in appearance, harmonizing in design and color with the surrounding and shall not be attached to any tree or shrub.
- G. Portable signs are prohibited.

Section 5.7 - Fences In The Local Business District.

Fences in the Local Business District are prohibited except as follows:

- A. A fence, no greater than eight (8) feet in height, either stone, metal, wood or a wood substitute, berm, or other visual barrier of natural material is required to totally visually screen the view of any outdoor storage including garbage and trash receptacles.
- B. All fences must be of the type having two finished sides, that being each side of the fence must have the identical finish, except where used to enclose a storage area.

Section 5.8 - Schedule of District Regulations; Setback, Height, Lot Size and Coverage.

No building or structure in the Local Business District shall be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, ground floor area, or lot coverage regulations, established and specified for local business uses in the district in which the zoning lot is located. No lot area shall be so reduced, diminished, and maintained that the yards, other open space, or total lot area shall be less than specified for the local business use district in which the lot is located.

Table 1 (Page 36) contains the schedule of district regulations for the Local Business District.

Section 5.9 - Off-Street Parking and Loading Requirements.

Parking spaces shall be provided for each building located in the Local Business District either in the front yard or within 300 feet of the zoning lot on a site approved by the Building Commissioner according to the following schedule:

- A. **Retail and Office Uses.** One parking space for each 125 square feet of building floor area.
- B. **Public And All Other Uses.** One parking space for each employee per working shift, one space for each six auditorium seats, one space for each member of a club lodge, or other association including a golf course, subject to review and approval of the Board of Zoning Appeals who may modify the required number of spaces.

- C. **Loading Space Requirements.** All businesses shall designate a minimum of one loading berth or designated loading/unloading area, which shall be reviewed and approved by the Building Commissioner.
- D. **Combined (Group) Parking Encouraged.** Businesses are encouraged to join together to provide combined parking where possible. The Board of Zoning Appeals may modify the total aggregate combined parking requirement where evidence of business use indicates that the peak demand would allow shared parking to fulfill the demand generated by the individual businesses without overflowing the number of parking spaces.
- E. **Parking Surface To Be Hard Surface.** Parking areas and driveways subject to vehicular traffic shall be paved with a dustproof or hard surface.
- F. **Screening of Parking Areas.** The Building Commissioner may permit the use of a fence, berm or landscaping for the purpose of totally screening parking areas from view from an abutting residential zoned property.
- G. **Handicapped Parking Requirements.** The number and location of designated handicapped parking spaces shall conform with applicable federal and state requirements. The location of such designated spaces shall be approved by the Building Commissioner.

Section 5.10 - Height Variance for Chimneys Etc.

Chimneys, cooling towers, elevators, bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical appurtenance may be erected to a height beyond the maximum building height upon approval of the Board of Zoning Appeals and based on the finding that there is no other means to fulfill the construction required without a height variance.

**TABLE 1 -
TOWN OF LONG BEACH INDIANA
SCHEDULE OF ZONING DISTRICT REGULATIONS**

SEE APPENDIX FOR OFILLUSTRATIONS DIMENSION REQUIREMENTS

Zoning District	Minimum Lot Dimensions			Minimum Yard Setback Requirements			Maximum Building Height (4) (Feet)	Maximum Lot Coverage(5)
	Area (sq. ft.)	Width (feet)	Depth (feet)	Front (feet)	Side (feet)	Rear (feet)		Percent
R-1 Single-Family(6)	12,000 ⁽¹⁾	80(2)	120	30	10	20	27	35
R-2 Single-Family (Lakeshore Drive) ⁽⁶⁾	6,000 ⁽¹⁾	40 ⁽²⁾	120	15	6	20	27	35
R-3 Single-Family (St. Lawrence Avenue) ⁽⁶⁾	12,000 ⁽¹⁾	80 ⁽²⁾	120	10	10	20	27	35
R-4 Single-Family (Hidden Shores) ⁽⁶⁾	12,000 ⁽¹⁾	80 ⁽²⁾	120	30	10	20	27	35
R-5 Single-Family (Hidden Shores - 1 st Addition) ⁽⁶⁾⁽⁷⁾	12,000 ⁽¹⁾	80 ⁽²⁾	120	30	10	20 ⁽³⁾	33	35
LB Local Business	None	None	120	None	None	None	27	35

NOTES:

- (1) Nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district.
- (2) As measured at the front building line.
- (3) Each lot shall have a rear yard not less than 20 feet, except in Hidden Shores, 1st Additions where deed restrictions may require a larger setback.
- (4) See definitions of building height (Page 9)
- (5) Maximum lot coverage by buildings and structures as a percentage of total lot area.
- (6) See Section 4.7 and 4.8 for accessory uses.
- (7) In this district all construction is subject to architectural control review and/or approval, as provided by deed requirements.

SECTION 6 - FLOOD HAZARD (OVERLAY) DISTRICT

Section 6.1 - Purpose of the Zoning District.

The purpose of this district is to identify the boundary of the designated flood hazards area within the Town of Long Beach as identified by the State of Indiana, Department of Natural Resources and the Federal Emergency Management Agency (FEMA).

Section 6.2 - Development Prohibited In Flood Hazard Area Without Special Approval.

No development shall be permitted, except access stairs and walks necessary to gain access, within the regulated flood way fringe, regulated floodplain area, regulated floodway or the designated Flood Hazard Boundary as depicted on the zoning map unless approved by the Board of Zoning Appeals and only upon presentation of permits and approvals from all state and federal regulatory agencies. The elevation of lowest habitable floor of any building and structures shall conform to the definition of Flood Protection Grade.

Section 6.3 - FEMA Map Available For Inspection.

In terms of this Ordinance, the Flood Hazard Boundary shown on the Zoning Map depicts the Flood Hazard Boundary published by the Federal Emergency Management Agency Community Panel No. 185177A, Map H-01 which is available for inspection at the Office of the Clerk/Treasurer during business hours. Properties subject to a Flood Hazard Boundary may be subject to Federal Flood Insurance regulations.

SECTION 7 - SUPPLEMENTAL DISTRICT REGULATIONS

Section 7.1 - Temporary Uses.

The Building Commissioner or Board of Zoning Appeals may grant a temporary use permit, as provided in paragraphs A, B or C, for a period not to exceed one year, unless another time limit is specified, and impose other conditions, for seasonal or transitory uses, if it finds that the intended site is appropriate, that adequate operational safeguards will be maintained, and that adjoining established uses will not be adversely affected. The following uses are deemed to be temporary uses and shall also be subject to the specific regulations and time limits which follow:

- A. **Christmas Tree Sales.** In any district, a temporary use permit may be issued by the Building Commissioner for the display of open-lot sales of Christmas trees, but such permit shall be issued for a permit not longer than forty-five (45) days.
- B. **Contractor's Office and Equipment Sheds.** In any district, a temporary use permit may be issued by the Building Commissioner for a contractor's temporary structures incidental to a construction project. Such structures shall not contain sleeping or cooking accommodations. Such permit shall be valid for not more than six (6) months but may be renewed for an additional three (3) months. Moreover, such structures shall be removed upon completion of the construction project or upon expiration of the temporary use permit, whichever occurs sooner.
- C. **Other Uses Not Herein Defined.** The Board of Zoning Appeals may grant a temporary use permit for other purposes not herein defined for a period not to exceed thirty (30) days to allow temporary structures for private and public gathering, events and the like, provided the standards of this section are fulfilled.

Section 7.2 - Corner Vision Clearance Distance.

At the 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 fifteen (15) feet respectively from the corner shall be kept free of any obstruction to vision, as determined by the Police Chief/Town Marshal, between the heights of three (3) and twelve (12) feet above the established grade. See Appendix, Figure 7.

Section 7.3 - Accessory Uses Allowable in the Public Right-of-Way.

- A. Accessory uses such as public utility installations, ground level walks, driveways, curbs and mail boxes are permitted in the public right-of-way.
- B. Retaining walls, plaques, ornamental lamp posts, bird baths, or the like are only permitted in the required front, side or rear yard. Driveways on a forty (40) foot frontage lot located on Lakeshore Drive shall be permitted only in the front yard.
- D. Installation of any other structure or lawn ornamentation shall only be permitted by

issuance of a variance issued by the Board of Zoning Appeals.

Trees, shrubs, flowers, or plants are permitted in any required front, side or rear yard, subject to vision clearance requirements of Section 7.2.

Section 7.4 - Alignment of Front Building Setback Line

Where the front building line of the principal structure on abutting zoning lots do not conform with the front yard setback requirements of Table 1 (Page 36) for the zoning district in which the zoning lots are located, the Board of Zoning Appeals may vary the front yard setback requirements to align the front building line of the proposed principal structure with the front building lines of the principal structures on the abutting zoning lots.

Section 7.5 - Subdivision Front Yard Setbacks and Zoning Compliance.

If the front yard or building setback lines established in recorded subdivisions are less than the setback requirements set forth in Table 1 (Page 36) for the district in which the zoning lot is located, the set back provision of Table 1 shall govern.

Section 7.6 - Front Yard Setback Requirements for Through and Corner Lots.

On through and corner lots a front yard setback meeting the minimum requirements of the zoning district in which the zoning lot is located are required on each street, place or courtway frontage.

Section 7.7 - Structure Projection Into Yards.

- A. Any architectural feature (including chimneys, cornices, eaves, sills, canopies, catwalks, elevated decks, stairways, balconies, or similar features) may extend or project into the required front, side or rear yard setback yard area not more than forty-eight (48) inches. A chimney may project into any required yard not more than two (2) feet, provided that the width of any side yard is not reduced to less than four (4) feet thereby.
- B. An open platform (walkway or ground surface deck) is permitted in the front, side or rear yard setback area.

Section 7.8 - Location of Accessory Building or Structure On a Tapered Zoning Lot.

Where a reversed interior lot abuts a corner lot, place or an alley separating such lots, an accessory building or structure located on the rear of the lot line of a corner lot shall be setback from the side street or place as far as the dwelling on the reversed interior lot. For each foot that such accessory building or structure is placed from the rear line toward the front of the corner lot, the accessory building or structure may be set four (4) inches closer to the side street line, but in no case closer than the required setback for the district in which the zoning lot is located. See Appendix, Figure 5.

Section 7.9 - Air, Water, Waste, Light and Noise Pollution

- A. No residential or business operation or activity shall discharge, or cause to be discharged, air, liquid or solid waste or storm waters in violation of state and federal law and

regulation.

- B. No residential or business operation or activity shall cause any site lighting to emanate beyond the boundary of the zoning lot.
- C. No residential or business operation or activity shall cause any discernable sound to emanate beyond the boundary of the zoning lot during the period of 10:00 p.m. to 7:00 a.m.

Section 7.10 - Placement and Removal of Trash/Garbage Receptacles.

No residential or business operation or activity shall cause to be placed alongside the street or place any trash, garbage or recycling container, bin or any other receptacle used for the disposal of any matter prior to the evening of the day before a scheduled trash/garbage pick-up. All trash, garbage or recycling containers, bins or any other receptacle used for the disposal of any matter shall be retrieved from the side of the street or place by sundown on the day of the scheduled garbage pick-up.

Section 7.11 - Fire Suppression Required - Structures Greater Than 4,000 Square Feet.

All buildings or structures constructed after the date of this Ordinance having greater than 4,000 square feet of gross ground floor area (excluding basement and garage area), and any addition or remodeling resulting in a gross floor area greater than 4,000 square feet of gross floor area shall be required to install within the new construction, a fire suppression system designed by a duly qualified professional holding a state or national license or certification or a qualified building inspector holding an appropriate state or national building inspector certification deemed acceptable by the Building Commission and Fire Chief.

Section 7.12 - Sand Mining and Mineral Extraction Prohibited.

Sand mining or mineral extraction except for removal of soil necessary for the construction of a building pursuant to an approved location improvement or building permit is expressly prohibited.

Section 7.13 - Permit Required for Earth Changes and to Alter Topography.

A building permit is required to modify the topography of any zoning lot from its current condition. It is a goal of the Town of Long Beach to retain the current dune topography to the maximum extent possible and require developers of zoning lots to plan the development of the zoning lot so as to minimize changes in topography. All applicants for a building permit shall be required to submit a topographic survey, signed by a Indiana Registered Surveyor, showing the existing topography of the zoning lot and proposed final topography of the zoning lot. In granting a permit, the Building Commissioner shall determine that:

1. The planning and design of the of all structures, revetments, retaining walls and the like are designed to minimize the amount of topographic change of the zoning lot necessary for the construction of the proposed buildings and structures.

2. The level and shape of all finish grading will complement the natural land form of the zoning lot and all abutting lots and rights-of-way.
3. That proposed landscaped areas will complement the natural land form of the zoning lot and all abutting lots and rights-of-way.
4. That the proposed changes of topography minimize disruption of existing plants and/or ground cover on the zoning lot and all abutting zoning lots.
5. That the proposed changes of topography provide for adequate fire safety access as determined by the Town of Long Beach Fire Chief.

Section 7.14 - Parking of Non Licensed, Non Operating and Certain Trucks Prohibited.

- A. No person shall park or cause to be parked a non licensed (operable or non operable) or licensed non operating vehicle of any type on any public or private property within the Town, unless enclosed in a garage. In terms of this section a carport or other structure which does not completely enclose the vehicle shall not be considered fulfillment of the definition of a garage for the storage of such vehicles. Storage of a vehicle under a tarp or other fabric or plastic cover shall not be considered compliance with the terms of this section.
- B. No person shall park or cause to be parked any truck including tractors, tractor & trailer combinations, dump trucks, flatbed trucks, stake-bed trucks, vans, step-vans, and any other truck vehicle except automobiles, sport utility vehicles, single-axle pickup trucks and delivery vans, in the Town of Long Beach.

Section 7.15 - House and Building Address Identification Required

All principal buildings including all houses and business structures, shall display in the immediate vicinity of the front door, the address of the property so it can be seen from the street immediately in front of the principal structure. The letters and numbers shall not be less than four (4) inches in height.

Section 7.16 - Towers - Including Power Generation, Communication, Radio, TV, Etc.

- A. A tower used for any purpose, not otherwise governed by federal regulation or a cellular communication tower regulated by Section 7.18, is prohibited in all residential zoning districts. In all non residential districts a TV antenna tower may be installed in the rear yard, the location of which shall be approved by the Board of Zoning Appeals.
- B. HAM radio towers and antenna, accessory to a residential use, may be located only in a rear yard. A ground antenna, an antenna located between ground level and eight (8) above ground level shall be completely enclosed by a fence meeting the specification of

Section 4.10.

Section 7.17 - Location of Heating, Ventilation, Air Conditioning and Similar Devices.

Placement of any heating, ventilation, air conditioning or similar device used to service a residential dwelling or other structure located in a residential zoning district shall be located only in the rear or side yard unless varied by the Board of Zoning Appeals.

Section 7.18 - Cellular Communication Towers

A. Intent To Provide for Wireless Communication Services

It is the intent of this Ordinance to allow communication and other similar towers to serve the ever changing technology in the field of personal and business communications for wireless communications as defined in the Telecommunications Act of 1996 which includes Federal Communications Commission (FCC) licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed. The term tower shall include all communication towers, other wireless communication antenna support structures, antennas, buildings/facilities and any similar structures necessary for the provision of wireless communication services.

B. Policy of Collocation of Antenna and Antenna Arrays on Existing Structures

It is the policy of the Town to encourage the collocation of antenna and antenna arrays on existing Towers, either privately owned or owned by the Town, including the existing water tower, existing communications towers and location of a new tower upon land owned by the Town; specifically at the Street Department Garage facility on land so designated for such purposes. Location of an antenna/antenna array and related equipment shall be permitted as a special use pursuant to the provisions of this Ordinance. A proposal for the location of a new tower or communication structure for the purpose of collocation of wireless communication antenna/antenna arrays and which meets the locational requirements and construction standards set forth in paragraph D, below, may be permitted as a special use issued by the Board of Zoning Appeals only on land owned by the Town as prescribed above or as prescribed in the following subsections.

C. Restriction Upon the Location of New Towers Unless Standards Are Met

It is a policy of the Town to prohibit the location of any additional towers or other communication support structures within the Town limits unless the applicant can demonstrate to the reasonable satisfaction of the Board of Zoning Appeals that the following conditions exist and the location of the proposed tower or other communication support structure meets the locational requirements and construction standards as set forth in paragraph D, below:

- a. There is no existing tower or other communication support structures located within the Town limits for which the applicant's proposed antenna or antenna array can be attached which meets the applicant's engineering requirements, and

- b. There is no existing tower or other support structures located within the Town having sufficient height to meet the applicant's engineering requirements, and
- c. There is no existing tower or other support structures located within the Town having sufficient structural strength to support the applicant's proposed antenna or antenna array, and
- d. The applicant has demonstrated to the satisfaction of Board of Zoning Appeals that the proposed tower location and the antenna to be located thereon will not cause communication, television or radio interference.

D. Location Requirements, Construction Standards and Other Conditions

All newly constructed towers, communication support structures and any related equipment shall conform to the following locational requirements, construction standards and other conditions as follows:

- a. Towers, not otherwise permitted in Section 7.18 above, shall be allowed as a special use in a residential or commercial district.
- b. The minimum lot size shall be one-fourth ($\frac{1}{4}$) acre of land area.
- c. The base of the tower or other communication structure shall be of the self-supporting type and not be of the construction which requires cable support of any kind.
- d. The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by an Indiana Registered Structural Engineer, designated by the Building Commissioner, that the structural integrity of the tower will withstand the maximum high wind velocity for the area, as reported by a nationally recognized weather service or Town Building Code specifications, and associated impacts, and the likelihood of a tower failure is minimal.
- e. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than forty (40) feet.
- f. Accessory structures shall not exceed one hundred (100) square feet of gross building area.
- g. All other requirements of the zoning district in which the tower is located shall be enforced.
- h. Security to prevent unauthorized access shall be provided for all fence and building enclosures. A written agreement with the Fire Department concerning access for fire safety shall be provided to the Town prior to the approval of the special use.

- i. Engineering plans and specifications for the tower, prepared by an Indiana Registered Structural Engineer designated by the Building Commissioner specializing in structural engineering, shall be provided with the application for the special use.
- j. Engineering plans and specifications for the tower mounting foundation and the foundation for any structure shall be prepared by an Indiana Registered Structural Engineer designated by the Building Commission. These shall accompany the application for the special use and shall include soil boring information for the site of the tower mounting foundation and any other foundation in excess of four (4) feet in depth. Soil conditions must be determined suitable for the tower mount foundation by a qualified independent soil engineer chosen by the designated Indiana Registered Structural Engineer, designated by the Building Commissioner.
- k. The applicant shall provide inspection and verification that the installation of the tower, mount and foundation have been installed in compliance with the plans and specifications and all applicable codes and standards. The design engineer shall provide to the Building Commissioner a certification that the construction of the tower complies with the design specifications. Inspections and verification procedures shall be subject to approval of the Building Commissioner.
 - 1. All towers shall meet the standards of the Federal Aviation Administration, Federal Communications Commission and any other applicable regulatory State of Indiana, Federal agency, LaPorte County and/or Town of Long Beach.
- m. Communication towers in excess of one hundred (100) feet in height above grade level shall conform with Federal Aviation Administration requirements.
- n. No part of any tower shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the tower will be located. In no case shall a tower be located within forty (40) feet of a property line.
- o. Metal towers shall be constructed of, or treated with, corrosive resistant material acceptable to the Indiana Registered Structural Engineer, designated by the Building Commissioner.
- p. Towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- q. All attachments to any tower shall be designed to withstand the maximum uniform wind loading as prescribed in the Town Building Code.

- r. All signals and remote control conductors extending substantially horizontally above the ground between the tower and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- s. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned or leased by the applicant, including fire safety equipment.
- t. The base of the tower shall occupy no more than five hundred (500) square feet of area.
- u. Minimum spacing between tower locations shall be one-half (½) mile in order to prevent a concentration of towers in one area.
- v. Height of the tower shall not exceed three hundred (300) feet and no tower located within five hundred (500) feet of any residential district shall exceed one hundred seventy five (175) feet in height from grade.
- w. Towers shall not be illuminated unless required by the Federal Aviation Administration.
- x. Existing on-site vegetation shall be preserved to the maximum extent possible.
- y. There shall not be displayed advertising or identification of any kind intended to be visible from the ground mounted on the tower or other structures, except for emergency purposes.
- z. Any attachments to the tower shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the tower as determined by the Building Commissioner.
- aa. All structures shall be subject to any local, state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive local, state or federal standards are adopted in the future, the tower shall be made to conform to the extent required by such standards or the special use approval will be subject to revocation. Costs for testing and verification of compliance shall be born by the owner of the tower.
- bb. There shall be no employees located on the site on a permanent basis to service or maintain the tower or attachments, unless specifically approved as part of the special use approval. Occasional or temporary repair and service activities are excluded from this restriction.
- cc. All parking and drive areas must be paved with material meeting the standards of the zoning district.

dd. A vegetative buffer shall be required where the property adjoins any residentially zoned property or land use. The tower owner shall plant and maintain two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter, and twenty (20) feet beyond but not further than the property line, of the tower and structure, to provide a visual sight barrier from the adjoining residential zoned properties and the tower and structures. In no case shall the evergreens be any closer than ten (10) feet to the tower or structure.

- 1). The tower shall be removed by the property owner or property lessee within six months of being abandoned.

Notice of the abandonment of the tower shall be provided to the Town ninety (90) days prior to abandonment.

- 2). The applicant shall be responsible for the payment of all costs associated with the Town review of the application for the special use and any required plan review or construction inspection, whether or not a special use permit is granted.

SECTION 8 - NONCONFORMING USES AND STRUCTURES

Section 8.1 - Intent and Single-Family Amortization Exemption.

- A. Within the districts established by this Ordinance or by amendment that may later be adopted, there may exist:
- a. Non conforming lots,
 - b. Nonconforming structures,
 - c. Nonconforming use of land,
 - d. Nonconforming use of land and structures in combination, and
 - e. Nonconforming characteristics of use.
- B. The nonconformities that were lawful before the adoption of this Ordinance, but which are prohibited, regulated or restricted under the terms of this Ordinance or may be under future amendments thereto are permitted to continue until they are removed. It is the intent of this Ordinance to permit these nonconformities to continue and to encourage their modification to become into greater conformance with the terms of this Ordinance whenever possible.
- C. It is the intent of this Ordinance to allow for the Building Commission to permit rebuilding or provide for the discontinuance of such nonconforming uses, where such nonconforming uses have been destroyed more than fifty (50) percent of their current assessed value, as defined by the Township Assessor, except as provided by Section 8.11. This section does not prevent the refurbishment of a nonconforming single-family dwelling provided that the rebuilding or refurbishment does not expand, extend or increase the degree of nonconformity with the terms of this Ordinance.

Section 8.2 - Nonconforming Use Declared Incompatible.

Nonconforming uses are declared by this Ordinance to be incompatible with the permitted use in the district in which such uses are 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 except as provided in this section.

Section 8.3 - Residential Single Nonconforming Lot of Record In Any District.

In any residential district, a single family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of this Ordinance, having a lot size originally recorded less than the minimum standard of the zoning district in which it is located, notwithstanding limitations imposed by other provisions of this Ordinance and LaPorte County

Health Department regulations concerning on-site wastewater disposal systems. This provision shall apply even though such lots fail to meet the minimum requirements for area or width, or both, that are generally applicable in the district. Variances of requirements listed in Table 1 (Page 36) of this Ordinance shall be obtained only through action of the Board of Zoning Appeals as provided in Section 9.

Section 8.4 - Nonconforming Lots of Record In Combination

If two or more vacant lots in single ownership (including combination of lots or portions of lots) having a continuous front lot line are of record at the time of adoption of this Ordinance, each of which does not meet the minimum requirements established for a buildable zoning lot, the land involved shall be considered to be a zoning lot for the purposes of this Ordinance.

No nonconforming lot shall be used or sold in a manner which diminishes compliance with area requirements established by this Ordinance, nor shall any nonconforming lot be divided which creates a lot or a zoning lot which does not conform with the requirements of this Ordinance.

Section 8.5 - 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 continue so long as they remain otherwise lawful, provided:

- A. No such nonconforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of this Ordinance.
- B. 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 the adoption of this Ordinance.
- C. If any such nonconforming uses of land are discontinued or abandoned for more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. No additional buildings or structures not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

Section 8.6 - Nonconforming Buildings and Structures.

Where a lawful building or structure exists at the effective date of adoption of this Ordinance that could not now be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the building or structure, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming building or structure may be enlarged or altered in a way which increases its nonconformity, but any building or structure may be altered to decrease its nonconformity.
- B. Should such a building or 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.

Section 8.7 - Nonconforming Uses of Buildings/Structures and Land in Combination

If a lawful use involving individual buildings and structures, or if a building or structure and land in combination, exists at the effective date of adoption 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:

- A. No existing building or structure devoted to a use not permitted by the terms of 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 building or structure to a use permitted in the district in which it is located, except as provided in Sections 8.8, 8.9, 8.10 or 8.11.
- B. A nonconforming use may be extended throughout any part of a building or structure which was manifestly arranged or designed for such use at the time of adoption of this Ordinance, but no such use shall be extended to occupy any land outside such building or structure.
- C. For any building or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use and thereafter conforms to the regulations for the district, any nonconforming use may not thereafter be resumed.
- D. When a nonconforming use of building or structure, or a building or structure and land in combination is discontinued or abandoned for more than six (6) months, the building and structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located, except as provided in Sections 8.8, 8.9, 8.10 or 8.11.

Section 8.8 - Repair/ Maintenance; Nonconforming Building, Structures & Land Uses.

The Building Commission shall issue a location improvement or building permit for any nonconforming building or structure or portion of a building or structure containing a nonconforming use, for repair and maintenance work to be done provided that any such repair and maintenance work does not enlarge or extend the nonconformance.

Section 8.9 - Expansion of Nonconforming Building/Structures and Land Uses.

The Board of Zoning Appeals is empowered to grant a special use/exception permit and so order the Building Commission to issue a location improvement or building permit for the purpose of expanding a nonconforming building, structure or building/structure and use of land in combination when such special use/exemption complies with the spirit and intent of the specific district after public hearing, and affirmative findings based on the standards cited in Section 9.9 C. and where such expansion is deemed to be the minimum expansion required for the specific use and/or occupancy of the building and/or structure and/or use of land requested by the applicant.

Section 8.10 - Nonconforming Residential Dwelling Alteration Permitted

A nonconforming residential building or other accessory nonconforming structure in any residential district may be altered in any way to improve its livability (or usability of any structure) provided that no such alternation may be made which will increase either the size of the first floor area of the building (i.e.: building foot print) or volume of the building.

Section 8.11 - Restoration of Nonconforming Uses in Residential Districts.

A nonconforming use, building or structure, located in a residential district, damaged by fire, casualty, or act of God may be restored, reconstructed and used as before, provided that the size of the first floor area of the building (i.e.: building foot print), the height of the building or the volume of building or structure may not exceed the size and volume of the building or structure prior to the damage occurrence.

SECTION 9 - ADMINISTRATION AND ENFORCEMENT

Section 9.1 - Office of the Building Commission.

The Town of Long Beach, Indiana, office of the Building Commission is established to administer the provisions of the Building Code and Zoning Ordinance. It shall be the duty of the Town Council to appoint a Building Commission of not less than three (3) members, not more than two of whom shall be members of the Town Council. The Town Council shall from time to time appropriate sufficient funds to carry into effect the purposes of the Office of Building Commissioner. In all matters relating to the duties of this office, as herein set forth, the Building Commissioner(s) shall be under the jurisdiction of the Town Council.

Section 9.2 - Duties of the Building Commissioner.

- A. To serve as the Zoning Administrator to administer and enforce (with assistance of the police Chief/Town Marshal) this Ordinance, and all ordinances now in force or which may herein after be established together with all local, State and Federal laws, and regulations pertaining to the erection, construction, alternation, repair or removal of buildings and other structures in the Town or pertaining to the use and occupancy of real estate in said Town.
- B. To recruit qualified applicants and recommend to the Town Council for appointment any person or persons to the position of Building Inspector as provided for in this Section.
- C. To notify in writing the person responsible for a violation, upon finding that any of the provisions of this Ordinance are being violated and ordering the action necessary to correct such violation. However, in emergency situations, oral communication may proceed written notice.
- D. To order the discontinuance of illegal use of land, buildings or structures.
- E. To order the removal of illegal buildings or structures or illegal additions or structural alterations.
- F. To order discontinuance of any violation of this Ordinance.
- G. To take other action authorized by this Ordinance to ensure compliance with or prevent violation of this Ordinance, including:
 - a. Issuance of any action on Certificates of Occupancy and maintenance of records thereof.
 - b. Issuance of all building permits, and inspection of buildings, structures and uses of land to determine compliance with the terms of this Ordinance.

- c. Maintenance of permanent and current zoning records, including but not limited to all maps, special use permits, amendments to this Ordinance, special exceptions, variances, appeals and applications thereof, except as otherwise provided in this Ordinance.
- d. Transmission of written recommendations on all amendments to this Ordinance and subdivisions to the Town Council and Plan Commission.

Section 9.3 - Qualifications of a Building Inspector.

Any Building Inspector shall be either an Indiana registered architect, Indiana licensed professional engineer, licensed and qualified general contractor, certified building inspector/administrator, or other qualified person determined by the Town Council. An “other qualified person” is a person deemed by the Town Council to have at least three (3) years of experience in responsible charge of construction activity as determined by the Town Council on a case by case basis after review and consideration of the resume and employment record of any applicant.

Section 9.4 - Conflict of Interest with Role of Building Commissioner or Inspector.

The Building Commissioner or Building Inspector shall not undertake any of the duties herein assigned to the Office of the Building Commission where the Building Commissioner or Building Inspector has a direct or indirect financial interest, where a family member is involved, or where it is otherwise necessary for the Building Commissioner or Building Inspector to recuse him(her) self. In such cases a neutral Building Commissioner shall be appointed by the President of the Town Council to perform the duties and responsibilities for processing any action required under the terms of the application and this Ordinance.

Section 9.5 - Reestablishment of the Advisory Plan Commission.

There is hereby reestablished an Advisory Plan Commission as defined under Indiana Code 36-7-1-2 consisting of seven (7) members. The Town Council by mutual consent shall appoint three (3) Plan Commission members who also serve as members of the Board of Zoning Appeals. The Town Council shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party. Each member shall be a resident of the Town.

Section 9.6 - Conflict of Interest with Role of Plan Commissioner.

A member of the Plan Commission may not participate in any matter considered by the Commission in which he(she) has a direct or indirect financial interest or where a member may have a family member involved. The Commission shall enter in its record the fact that the member is disqualified and the remaining members shall appoint a replacement qualified under this section to participate as a member of the Commission in deliberation and voting upon the aforementioned matter.

Section 9.7 - Duties of the Advisory Plan Commission.

The duties of the Advisory Plan Commission shall be commensurate with the duties provided by I.C. 36-7-4-401 et.seq., including:

- A. To prepare and submit to public hearing a Master Plan for the development of the Town and to process such amendments which may be required from time to time for enactment by the Town Council,
- B. To make rules pertaining to investigations and public hearings,
- C. To keep complete records of proceedings,
- D. Process and recommend to the Town Council such amendments to this Ordinance, and
- E. Such other duties as set forth by law and/or assigned by the Town Council.

Section 9.8 - Establishment of the Board of Zoning Appeals.

- A. A Board of Zoning Appeals is established with membership and appointment provided in accordance with Indiana Code 36-7-4-900 consisting of five (5) members.
- B. At the first meeting of each year, the Board shall elect a chairman and vice-chairman from among its members, and it may appoint and fix compensation of a secretary and such employees as are necessary for the discharge of its duties, all in conformity to and in compliance with the salaries and compensation theretofore fixed by the Town Council.
- C. The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of the Ordinance.
- D. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of all examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes shall be filed in the office of the Clerk/Treasurer and shall be of public record.

Section 9.9 - Power and Duties of the Board of Zoning Appeals.

- A. **Appeals From Building Commission Decision.** To hear and determine any claim of being adversely affected from any person due to any action or decision of the Building Commission and to hear and determine appeals from and review any order, requirement, decision, or determination made by the Building Commission in enforcement of this Ordinance. In exercising its power, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed and issue its opinion of what may be done with the premise, and to that end shall have the powers of the Building Commission from who the appeal is taken.
- B. **Variations From the Strict Interpretation of the Ordinance.** To authorize upon appeal in specific cases such variations from the strict interpretation of the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of

the provision of any section of the Ordinance will result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done, after public hearing and affirmative findings based on the following standards:

- a. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or class of use in the same vicinity and district,
- b. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district but which is denied to the property in question,
- c. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property improvements in such vicinity and district but which is denied to the property in question, and
- d. That the granting of such variance will not alter the land use characteristics of the vicinity and district, diminish the marketable value of adjacent land and improvements nor increase congestion in the public streets or places.

C. Special Use/Exceptions; Generally and In District Regulations. The Board of Zoning Appeals is empowered to issue special use/exception permits and so order the Building Commission to issue a location improvement or building permit pursuant to the terms of selected sections of this Ordinance, for essential public utility service needs, governmental buildings and uses similar thereto, or for uses complementary to those specifically cited within each respective district when such uses comply with the spirit and intent of the specific district after public hearing, and affirmative findings based on the following standards:

- a. The proposed special use/exception is to be located in a district wherein such use may be permitted,
- b. The setback requirements set forth in district or as altered by variance, provide adequate setback distance and visual barrier from abutting properties to conceal the use from view as determined necessary by the Board of Zoning Appeals, and
- c. The special use/exception is consistent with the spirit, purpose and intent of the district in which the property is located and where such use will not permanently injure the appropriate use of the neighboring property, and will serve the public convenience and welfare.

Section 9.10 - Public Hearing Requirements for Plan Commission & BZA Actions .

- A. Prior to consideration of any action concerning an amendment to this Ordinance by the Advisory Plan Commission or any determination or an appeal or any decision on a permit

for a special use/exception , variance or any other matter for which a decision by the Board of Zoning Appeals is required by the terms of this Ordinance, a public hearing shall be scheduled at a reasonable time and public notice provided as required by I.C. 36-7-4-604 and I.C. 36-7-4-920, that being publication of a newspaper of general circulation in the area setting forth the time and place of the hearing and by giving due notice, either by personal distribution or by certified mail, to the owners of adjacent property or properties immediately across the street, alley or courtway and any other interested parties in accord with the rules of the Advisory Plan Commission or Board of Zoning Appeals. At minimum, individual notices shall be issued to all abutting property owners and when deemed desirable by any member on the Plan Commission or Board of Zoning Appeals to nearby residents.

- B. The Advisory Plan Commission or Board of Zoning Appeals shall require the party making application to assume the cost of publication and postage for delivery of notices to interested parties, unless waved by rule of the Advisory Plan Commission, Board of Zoning Appeals or action of the Town Council.

Section 9.11 - Filing of Applications and Appeals.

- A. All applications for an Improvement Location or Building Permit, Amendment to the Zoning Ordinance to the Advisory Plan Commission or a request for a variance, special use/exception permit or any other decision allowable under the terms of the Ordinance by the Board of Zoning Appeals shall be submitted to the Building Commission.
- B. An appeal to the Board of Zoning Appeals concerning any decision or action rendered by the Building Commission shall be filed with the Clerk/Treasurer.
- C. Upon receipt of an application, the Building Commission shall notify the Chair of the Advisory Plan Commission and/or Chair of the Board of Zoning Appeals to effect the call of a meeting for the purposes of considering the applicant's request.
- D. Upon the receipt of an appeal regarding an action of the Building Commission by the Clerk/Treasurer, the Clerk/Treasurer shall notify the Chair of the Board of Zoning Appeals to effect the call of a meeting for the purposes of considering the applicant's request.

Section 9.12 - Development Plan Required with Application for Improvement Location Permit.

- A. Any person whom shall make application for an improvement location or building permit shall furnish the Building Commission with a development (site) plan of the real estate upon which the application for an improvement or building permit is made. The development (site) plan shall be drawn to scale no less than one inch equaling four feet (1" = 4') showing the following:
 - a. Legal site description of the real estate involved,

- b. An elevation benchmark based on USGS datum,
 - c. Location and size of all existing and proposed buildings and structures,
 - d. Location of all front, side and rear setback lines required by the terms of district in which the property is located,
 - e. Width and length of all entrances and exits to the public street or place from any real estate,
 - f. All adjacent streets, places, courtways or alleys,
 - g. Existing topography, proposed final/finish grade and the elevation of the top of the foundation in relation to the elevation of the adjoining surface of the street or place, and
 - h. Any other information deemed necessary by the Building Commission to fulfill the requirements of the terms of this Ordinance.
- B. Any application and development (site) plan so furnished to the Building Commission shall be filed by the Building Commission and shall become a permanent record.
 - C. The Building Commission may require the relocation of any proposed building or structure or exit or entrance shown on the development (site) plan or the location of new exits or entrances shown on the development (site) plan before issuing an improvement location permit or building permit when such action is necessary to carry out the purpose and intent of this Ordinance.
 - D. Upon receipt of notice from the Board of Zoning Appeals that the application has been approved, the Building Commission shall issue an improvement location permit or building permit.

Section 9.13 - Certificate of Occupancy Required for Use and Occupancy.

- A. No land shall be occupied or used and no building hereafter erected, reconstructed, or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy has been issued by the Building Commission or its designee stating that the building and use complies with all of the provisions of this Ordinance applicable to the building or premise or the use in the district in which the property is located.
- B. Upon completion of the improvement covered by the location improvement permit or building permit, the Building Commission or its designee shall have the premise inspected and, if the inspection reveals, that the proposed improvements have been

completed in substantial conformity with the development (site) plan, building permit, and any amendments thereto, shall issue a certificate of occupancy.

- C. Pending the issuance of a certificate of occupancy, a temporary certificate of occupancy may be issued for a period not more than ninety (90) days during the construction or alteration of any building or structure when in the determination of the Building Commission that such occupancy will not pose safety or other harm to inhabitants of the building or structure. The temporary permit may only be issued when there is evidence of at least seventy-five (75%) percent of the work, as measured in relation to the bulk of the structure being constructed or altered, for which the application was made has been completed and where to the satisfaction of the Building Commission reasonable progress has been made and will be continued toward completion of the construction or alteration in accordance with the terms of the location improvement or building permit. The Building Commission may give one renewal for a period not to exceed ninety (90) days. Additional extensions beyond one renewal shall only be granted by the Board of Zoning Appeals based on evidence of a unique hardship or extenuating circumstance that has delayed the construction progress beyond the control of the property owner or general contractor.

Such temporary certificate of occupancy shall not be construed in any way to alter the respective rights, duties or obligations of the applicant or of the Town relating to the use or occupancy of the land or building under the terms of this Ordinance and such temporary certificate of occupancy shall not be issued except under such restrictions and provisions as will adequately insure the safety of inhabitants of the building or structure.

- D. No change shall be made in the use of land or in the use of any building or part thereof, now or hereafter erected, reconstructed, or structurally altered, without a building permit and a certificate of occupancy having been issued by the Building Commission or its designee, and no such permit shall be issued to make such change unless it is in conformity with the provisions of this Ordinance.
- E. A certificate of occupancy shall be applied for coincidentally with the application for a location improvement permit or building permit. The certificate of occupancy shall be issued within ten (10) days after the lawful erection, reconstruction, or structural alteration of such building or other improvement on the land shall have been completed and has received a favorable report by the Building Inspector.
- F. No improvement location or building permit shall be issued for excavation for or the erection, reconstruction, or structural alteration of any building, before an application has been made for a certificate of occupancy.
- G. A record of all certificates of occupancy shall be kept on file in the office of the Building Commission.
- H. Upon application, the Building Commission shall issue a location improvement permit or

building permit for the addition to an existing structure nonconforming as to front yards and/or side yards or both provided such additions will be conforming as to use and does not encroach upon the front yard and/or side yards beyond the limits of the existing structure.

- I. Under the terms of this Ordinance, no change in the use of land that involves a change in any land or in the condition of the land may be made unless an application has been filed and the special land use/exception approved and the Building Commissioner issues a location improvement permit or building permit.

Section 9.14 - All Decisions Appealable to a Court of Law.

Every decision of the Advisory Plan Commission, Board of Zoning Appeals and Town Council shall be subject to review by an applicable court of jurisdiction after fulfillment of any appeals procedures provided by law or the terms of this Ordinance.

Section 9.15 - Remedies for Non Compliance with Terms of the Ordinance.

- A. The Building Commission, Board of Zoning Appeals, Town Council, or any designated enforcement official, or any person, firm, limited liability company, or corporation jointly or severally aggrieved, may institute a suit for injunction to restrain an individual or governmental unit from violating any provision of this Ordinance.
- B. The Building Commission, Board of Zoning Appeals, Town Council, or any designated enforcement official, may institute a suit for mandatory injunction directing any person, firm, limited liability company, or corporation or a governmental unit to remove a structure erected in violation of any provision of this Ordinance.
- C. Any building, erected, raised, or converted, or land or premise used in violation of any provision of this Ordinance, or the requirements thereof, is declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

Section 9.16 - Penalties for Non Compliance with Terms of the Ordinance.

Any person violating any of the provisions of this Ordinance shall be fined not less than ten (10) dollars, and not more than five hundred (500) dollars. Each day that a violation is permitted to exist shall be construed a separate offense. Nothing herein shall be construed to limit any other remedies at law or equity.

SECTION 10 - APPROVAL AND ADOPTION

This Ordinance shall be in full force and effect from and after passage, approval, recordation and publication as provided by law.

Passed, adopted and approved this _____ day of _____, 2002, by the Town Council of the Town of Long Beach, LaPorte County, Indiana.

Town Council

John A. Gavin, President

Robert S. Angelo, Councilman

John P. Hayes, Councilman

Tom N. Ringo, Councilman

Richard P. Schaeffer, Councilman

Attest:

Anne Heywood, Clerk- Treasurer

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APPENDIX

FIGURES ILLUSTRATIONS AND ADMINISTRATIVE FORMS