

## ARTICLE FOUR OVERLAY DISTRICT REGULATIONS

401 OVERLAY DISTRICTS: The following set of zoning requirements are applied to specific areas of City of Tipton in addition to the requirements of the underlying use districts.

401.01 Development Requirements: Development within overlay districts must conform to the requirements of both districts. Whenever there is a conflict between the requirements of an overlay district and requirements of other sections of this Ordinance, the requirements of the overlay district shall apply. Whenever there is conflict between the requirements of an overlay district and the requirements of any other local, state, or federal law or regulation, the more restrictive shall apply.

401.02 Development Plan Review: Development Plan Review is for the purpose of promoting the orderly growth and development within areas of City of Tipton deemed to be unique in their location, development opportunities, historic significance, or sensitive natural environment. Development Plan Review shall promote development opportunities, which encourage compatibility of land uses, provide safe and sufficient transportation systems and infrastructure, and protect the natural environment through fair, objective standards and regulations.

A. Application: Development Plan Review is applicable within the Downtown Business District, as described in Section 403. No Improvement Location Permit shall be issued prior to Development Plan Review and approval pursuant to IC 36-7-4-1400 series and all standards, regulations, and procedures of this section.

B. Development Plan Review is required for any construction, reconstruction, or structural alteration of any structure or structures resulting in larger lot coverage, or the establishment or change of any land use of substantial increase in intensity on any property within an affected district. The following exceptions shall not be required to undergo development plan review. All other standards and regulations of the Ordinance apply.

1. New construction, improvements or additions of residential structures on lots of record as of the adoption date of this amendment to the City of Tipton Zoning Ordinance provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.
2. New construction, improvements or additions of residential structures on lots within minor or major subdivisions approved

by the City of Tipton Plan Commission after the adoption date of this amendment to the City of Tipton Zoning Ordinance provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.

3. The provision of essential services as defined in Article Two of the City of Tipton Zoning Ordinance.
4. Any development which has received Planned Unit Development approval in accordance with Section 606 of this Ordinance and IC 36-7-4-1500 series.
5. Any interior remodeling that does not increase the footprint of the building.
6. The changing of an existing sign or the addition of a new sign that complies in all respects with the zoning ordinance.

C. Advisory Meeting: Prior to submitting an application for Development Plan Review, applicants shall have at a minimum one advisory meeting with the Planning Director to discuss the details and purposes of the development plan. If the development plan request includes the subdivision of land, the advisory meeting shall be in conjunction with the Subdivision Administrator as required in the City of Tipton Subdivision Control Ordinance. At the advisory meeting the applicant shall submit a statement of purpose and a sketch plan showing generally the proposed development. The sketch plan need not be professionally prepared but shall be approximate in scale and at a minimum shall include all owners names and addresses; the parcel or parcels of property to be included in the development plan; the approximate size of the property; a location map showing all surrounding properties and streets, roads, or easements; the proposed land uses in the development; the proposed access to the development; the proposed location and size of all land uses, structures, drainage features, streets, landscaping and parking areas; and any other significant features of the development. If in conjunction with a subdivision advisory meeting, the sketch plan shall include all materials required by the Subdivision Control Ordinance. During this meeting, the Planning Director shall review the zoning classification of the property, the permitted land uses according to Table A of the Ordinance, and the applicable standards and regulations of the Ordinance. In conjunction with a subdivision procedure, the Subdivision Administrator shall determine the subdivision classification. The Planning Director and the Subdivision Administrator, if applicable, shall aid and advise the applicant in preparing the application and supporting documents as necessary.

D. Procedure: The adoption of a Development Plan requires the approval of the City of Tipton Plan Commission. In accordance with IC 36-7-4-1402 (c), the Tipton City Council authorizes the City of Tipton Plan Commission to appoint a Development Plan Review Committee to act on the Plan Commission's behalf to review and approve development plans when the total acreage of property is 20,000 square feet or less. After a review of an application, the City of Tipton Plan Commission Development Plan Review Committee may refer the matter for a public hearing before the City of Tipton Plan Commission, if they deem it in the best interest of the public. The approval may proceed simultaneously with primary plan approval required by the Subdivision Control Ordinance, where applicable. The procedure for adoption of a Development Plan shall be as follows.

1. File in the Office of the Planning Director an application, which is signed by all owners of real property included in the Development Plan request.
2. Pay the appropriate filing fee in accordance with the duly adopted fee schedule.
3. Submit the following materials with the application:
  - a. A site plan in accordance with Section 902.03 B of this Ordinance, and if the Development Plan includes the subdivision of land, a primary plat according to Article Three of the City of Tipton Subdivision Control Ordinance;
  - b. A drawing to scale of the site in its pre-developed state, including any existing structures, historical structures or sites, and the proposed use of each, and any existing streets, roadways, easements and curb cuts;
  - c. Any materials and information required for Section 401.02 E, Development Requirements;
  - d. Protective covenants or maintenance agreements, if applicable;
  - e. A statement of the proposed order of development, if the Development Plan is a phased project;

- f. Any other information or documentation this Ordinance requires for the respective overlay district in which the Development Plan is located;
  - g. Written approvals of all participating agencies including the approvals or pending approvals of all federal, state or local regulatory agencies and utilities having jurisdiction over the Development Plan.
- 4. The Planning Director shall determine if the submission is complete. If the submission is incomplete, the Planning Director shall inform the applicant of the deficiencies. Unless and until the Planning Director accepts the application as complete, it shall not be considered formally filed for the purpose of a Development Plan Review.
- 5. Within thirty days of the filing of the application which has been determined to be complete by the Planning Director, the Development Plan is docketed for a hearing before the City of Tipton Plan Commission or the City of Tipton Plan Commission Development Plan Review Committee in accordance with IC 36-7-4-1400 series and the standards and regulations of this Ordinance.
  - a. Hearings for Development Plan Review must provide notification by publication in accordance with the Rules and By-laws of the City of Tipton Plan Commission.
  - b. Development Plan Review docketed for hearing before the City of Tipton Plan Commission or the City of Tipton Plan Commission Development Plan Review Committee must provide notification to interested parties in accordance with the Rules and By-laws of the City of Tipton Plan Commission.
  - c. An interested party shall be as determined in the City of Tipton Plan Commission By-laws and Rules of Procedure.
- 6. At the hearing the City of Tipton Plan Commission or the City of Tipton Plan Commission Development Plan Review Committee shall review all materials, evidence, and testimony to determine if the Development Plan is consistent with the City of Tipton Comprehensive Plan, the development requirements as specified in this section, and the standards and regulations of the respective overlay district.

7. A final determination of approval or disapproval shall be made at the hearing by a majority decision of the entire membership of the hearing body, either the City of Tipton Plan Commission or the City of Tipton Plan Commission Development Plan Review Committee. The hearing may be continued for just cause. Approval of a Development Plan may be predicated on the following:
  - a. Conditions of approval that are reasonably necessary to satisfy the development requirements specified in this section and the respective overlay district;
  - b. A performance bond or written assurance that guarantees the timely completion of any proposed public improvements or infrastructure within the Development Plan;
  - c. Written commitments, in accordance with IC 36-7-4-1015, signed by the owner(s) of real property within the Development Plan and recorded in the Office of the City of Tipton Recorder.
8. The hearing body, either the City of Tipton Plan Commission or the City of Tipton Plan Commission Development Plan Review Committee, shall complete written findings of fact concerning its decision to approve or disapprove a Development Plan. These findings shall be based on the development requirements of this section and the overlay district in which the project is located. The findings of fact shall be signed by the Secretary of the Plan Commission or the Chair of the City of Tipton Plan Commission Development Plan Review Committee, respectively. The findings shall be made a part of the permanent record.
9. The applicant or interested party may appeal the decision of the City of Tipton Plan Commission Development Plan Review Committee within 30 days of the date of the hearing. An appeal shall be heard by the City of Tipton Plan Commission in accordance with this section of the Ordinance. Upon appeal, the applicant may not proceed with the development plan, during the procedure process.
  - a. A decision of the City of Tipton Plan Commission approving or disapproving a development is final and may only be appealed by writ of certiorari in accordance

with IC 36-7-4-1016 filed within 30 days of the City of Tipton Plan Commission decision.

b. No application may be refiled after an adverse decision, except as allowed in Section 507 of the City of Tipton Plan Commission By-laws and Rules of Procedure.

10. An approved Development Plan shall be valid for a period of two years from the date of approval. If an Improvement Location Permit has not been issued within the two-year period, the Development Plan approval is rescinded. If an appeal is filed, the approval may be extended to two years from the date of an approval of the appeal. The Development Plan may be resubmitted in accordance with the procedures specified in this section.

11. An amendment to a Development Plan may be submitted for approval in accordance with the procedures for a Development Plan Review as specified in this section.

E. Development Requirements: In reviewing applications for development plan approval the hearing body, the City of Tipton Plan Commission or the City of Tipton Plan Commission Development Plan Review Committee, shall review all development requirements as listed below:

1. Compatibility of the development with surrounding land uses and the City of Tipton Comprehensive Plan;
2. availability and coordination of all utilities, including water, sanitary sewers or on-site septic systems, surface and subsurface storm water drainage, and all other utilities;
3. development of the property to allow for green space and appropriate sight lines, including building setback lines, maximum lot coverage, and building separation;
4. management of traffic in a manner that creates conditions favorable to the health, safety, convenience, and the harmonious development of the community, such as properly designed interior traffic lanes, pedestrian sidewalks and bicycle pathways, parking and loading facilities, and driveway curb cuts;
5. mitigation of safety hazards and congestion by proper design and location of all streets and easements and highway or roadway access, including the determination that the capacity of such highways or roadways are sufficient to safely and

efficiently accept the projected increase in traffic and new streets or easements are compatible with existing and planned streets and developments;

6. reduction of the impact of more intense development by aesthetically pleasing design of the property, such as buffering and landscaping, appropriate height, scale, building materials, and style of improvements, signage and outdoor lighting;
7. availability of recreational opportunities;
8. adoption of protective covenants, if applicable;
9. compliance with any other applicable federal, state or local regulatory agency, including but not limited to City of Tipton Health Department, Indiana State Building Commissioner, Indiana Department of Environmental Management, Department of Natural Resources, Indiana Department of Transportation, and the Federal Aviation Association.

## **402 FLOODPLAIN REGULATIONS**

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## **Article 1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.**

### **Section A. Statutory Authorization.**

The Indiana Legislature has granted the power to local government units to control land use within their jurisdictions as per IC 36-7-4 11. Therefore, the City of Tipton Plan Commission recommends to the Common Council of City of Tipton to hereby adopt the following floodplain management regulations.

### **Section B. Findings of Fact.**

- (1) The flood hazard areas of City of Tipton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of upstream drainage projects, obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

### **Section C. Statement of Purpose.**

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

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (6) Make federally subsidized flood insurance available for structures and their contents in the Plan Commission jurisdiction by fulfilling the requirements of the National Flood Insurance Program.

#### **Section D. Objectives.**

The objectives of this ordinance are:

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

#### **Article 2. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Building** - see "Structure."

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

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

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

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

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

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

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

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

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

**Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

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

**FEMA** means the Federal Emergency Management Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Letter of Map Change (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map

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

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

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

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

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

**Lowest floor** means the lowest elevation described among the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

**Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

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

**Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the City of Tipton subject to inundation by the regulatory flood. The SFHAs of City of Tipton are generally identified as such on the Tipton County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

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

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

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

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

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

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

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

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

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

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

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

### **Article 3. General Provisions.**

#### **Section A. Lands to Which This Ordinance Applies.**

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the City of Tipton.

#### **Section B. Basis for Establishing Regulatory Flood Data.**

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

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Tipton shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Tipton County, Indiana and Incorporated Areas dated June 9, 2014 and the corresponding Flood Insurance Rate Map dated June 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Tipton, delineated as an "A Zone" on the Tipton County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.
- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

#### **Section C. Establishment of Floodplain Development Permit.**

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

#### **Section D. Compliance.**

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

#### **Section E. Abrogation and Greater Restrictions.**

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

#### **Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.**

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

#### **Section G. Interpretation.**

In the interpretation and application of this ordinance all provisions shall be:

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

#### **Section H. Warning and Disclaimer of Liability.**

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

## **Section I. Penalties for Violation.**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for City of Tipton. All violations shall be punishable by a fine not exceeding that permitted by Section 904 of this Ordinance titled Enforcement Penalties and Remedies.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The City shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

## **Article 4. Administration.**

### **Section A. Designation of Administrator.**

The Plan Commission of the City of Tipton hereby appoints the Plan Commission Director to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

### **Section B. Permit Procedures.**

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

- (1) Application Stage.
  - a) A description of the proposed development.
  - b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
  - c) A legal description of the property site.
  - d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

- e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)

(2) Construction Stage.

Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the floodproofing certification shall be at the applicant's risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor or floodproofed elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

### **Section C. Duties and Responsibilities of the Floodplain Administrator.**

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

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

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway.
- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (10) Review certified plans and specifications for compliance.
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.

## **Article 5. Provisions for Flood Hazard Reduction.**

### **Section A. General Standards.**

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

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

- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
- (10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials that form a durable and dustless surface.
- (11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
  - a) The excavation shall take place in the floodplain and in the same property, or on adjacent property where the impact of the excavation will have substantially the same effect as if it occurred on the same property, in which the authorized fill or structure is located. If the excavation is on adjacent property an easement shall be created on the adjacent property and recorded in the Tipton County Recorder's Office.
  - b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.



- c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
- d) The fill or structure shall not obstruct a drainage way leading to the floodplain.
- e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water at a rate to fill the excavation in an appropriate time frame to maximize the impact on the flood elevation.
- f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.
- g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

## **Section B. Specific Standards.**

In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - a) Construction or placement of any structure having a floor area greater than 400 square feet.
  - b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
  - c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
  - d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  - e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
  - f) Reconstruction or repairs made to a repetitive loss structure.
  - g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

- (2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).
- (3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4). Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:
- a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (12).
  - b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

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

- a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
- b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

- e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
  - g) If applicable, property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Tipton County Recorder.
- (5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file. Testing shall be done by a testing company frequently doing such work.
  - b) The fill shall extend a minimum of 10 feet beyond the foundation of the structure before sloping below the BFE.
  - c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical. All types of protection with a slope of 3 horizontal to 1 vertical and riprap or bulkheading with a slope steeper than 3 horizontal to 1 vertical shall be submitted to the Flood Plan Administrator for approval.
  - d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - e) The top of the lowest floor including basements shall be at or above the FPG.
  - f) Fill shall be composed of clean granular or earthen material.
- (6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
    - (i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an

adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

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

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

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

- (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

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

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

- (i) be on site for less than 180 days; or,
- (ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

- (iii) meet the requirements for “manufactured homes” as stated earlier in this section.

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

- a) Shall not be used for human habitation.
- b) Shall be constructed of flood resistant materials.
- c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

- d) Shall be firmly anchored to prevent flotation.
  - e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
  - f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
- (8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

### **Section C. Standards for Subdivision Proposals.**

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

### **Section D. Critical Facility.**

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

### **Section E. Standards for Identified Floodways.**

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for

construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

#### **Section F. Standards for Identified Fringe.**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

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

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

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

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

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

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met.

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

## **Section H. Standards for Flood Prone Areas.**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

## **Article 6. Variance Procedures.**

### **Section A. Designation of Variance and Appeals Board.**

The City of Tipton Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

### **Section B. Duties of Variance and Appeals Board.**

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Tipton County Circuit Court.

### **Section C. Variance Procedures.**

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (1) The danger of life and property due to flooding or erosion damage.
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The importance of the services provided by the proposed facility to the community.
- (4) The necessity to the facility of a waterfront location, where applicable.
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development,
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

#### **Section D. Conditions for Variances.**

- (1) Variances shall only be issued when there is:
  - a) A showing of good and sufficient cause.
  - b) A determination that failure to grant the variance would result in exceptional hardship.
  - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.
- (3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.



- (4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section E).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

#### **Section E. Variance Notification.**

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

- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the flood protection grade increases risks to life and property.

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

#### **Section F. Historic Structure.**

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

#### **Section G. Special Conditions.**

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

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**403 DOWNTOWN OVERLAY DISTRICT:** The Downtown Overlay District is intended to provide space for a combination of retail, commercial, office, professional, financial, government and other business uses in areas characterized by older buildings with little or no building setback. Residential uses for upper floors are also permitted with the approval of the Commission provided that appropriate accommodations for parking, access and public safety are demonstrated. Provisions of this ordinance are intended to encourage the maintenance and viability of the Downtown Overlay District and preserve and protect the architectural character of the area(s). The Downtown Overlay district is of special and substantial interest to the public. The purpose and intent of this section is to promote the health, safety, comfort, convenience and general welfare of the public by guiding the growth and development of the area of the Downtown Overlay District and those areas adjacent and adjoining to the Downtown Corridor. It is in the public interest to establish fair, objective and consistent standards for development within the Downtown Overlay District in order to encourage capital investment and economic development; to promote efficient land use and innovative site design; to preserve the natural environment; and to secure the safety and convenience of vehicular and pedestrian traffic. To this end, the architectural design and compatibility of development within the Downtown Overlay District will be considered in the Development Plan approval process. The architectural design of the site and structures must be harmonious with the surrounding natural and built environment and compatible to adjacent land uses. Areas of consideration will be access, intended use, functionality, landscaping, scale and proportion, building materials, architectural features, and aesthetics.

**403.01 APPLICATION:** The standards and regulations established in this section are applicable to all lots that lie either wholly or partially within the Downtown Overlay District which is described below. Whenever there is a conflict between the requirements of this section and requirements of other sections of the Ordinance, the requirements of this section shall apply. Whenever there is conflict between the requirements of this section and the requirements of any other local, state or federal law, the more

restrictive shall apply. Should the City of Tipton determine to establish a Historic Board of Review having jurisdiction over an area encompassing the Downtown Overlay District, or a significant portion thereof, and adopt a set of standards that they enforce then the Downtown Overlay District would become null and void and the Plan commission would not require development plan review. Upon a Historic Board of Review becoming operational the Plan Commission would then require that applicants for improvement location permits, or change of occupancy permits, first obtain a certificate of appropriateness or equivalent approval from the Historic Board of Review and show evidence thereof.

403.02 DISTRICT BOUNDARIES: The boundaries of the Downtown Overlay District are hereby established as the territory described below which is within City of Tipton Plan Commission jurisdiction and within an area that has the presence of, or historically has had, traditional Downtown type commercial structures or other areas closely geographically and visually related that would adversely affect the character of the Downtown Overlay district if an inappropriate structure not compatible with the district were permitted.

A. The territory of the Downtown Overlay District is described as that area bounded by the following described streets and alleys in the City of Tipton, IN. Beginning at the intersection of Washington Street and East Street; then west on Washington Street to the north/south alley between Main Street and West Street; then south on said alley to the east/west alley between Washington Street and Jefferson Street; then west on said alley to West Street; then south on West Street to the east/west alley between Madison Street and Adams Street; then east on said alley to Independence Street; then north on Independence Street to Madison Street; then east on Madison Street to East Street; then north on East Street to Washington Street, which is the point of beginning.

403.03 Development Plan Review: Prior to the issuance of any improvement location permit or change of occupancy permit within the Downtown Overlay District, a development plan review must be completed in accordance to Section 401.02, Development Plan Review, of this Ordinance. Any construction, reconstruction or land use exempt from Development Plan Review, according to Section 401.02 B is exempt from the standards and regulations of this section.

403.04 Permitted Uses: All land uses which, in accordance with Table A of the Ordinance and the underlying zoning district, are listed as permitted, or special exception and have obtained special exception approval of the Board of Zoning Appeals, are permitted in the Downtown Overlay District, except any uses listed in 406.04 A below.

A. The following uses are not permitted within the Downtown Overlay District:

Nursing and Retirement Home  
Tattoo Parlor  
Radio or TV Transmitting Tower  
Mobile Homes-When used for Commercial or Industrial Purposes

403.05 Accessory Buildings and Uses: All accessory buildings and uses, which are accessory to a use which is permitted in the Downtown Overlay District, shall be permitted. Accessory buildings and uses must be a part of and constructed in accordance with the approved Development Plan.

403.06 Minimum Standards: All development within the Downtown Overlay District must meet the following minimum standards.

A. Minimum lot area is 15,000. Minimum lot area is calculated as the total horizontal area within the boundaries of a lot.

1. No land, which is within public rights-of-way or public lands or public or private street or access easements, shall be used for computing the minimum lot area.
2. No land, which is within a watercourse, drainage way, channel, stream, designated wetlands or floodway as specified by the Zoning Ordinance, shall be used for computing the minimum lot area.
3. No land, which is under water, other than a temporary detention storage area or ornamental pond, shall be used for computing the minimum lot area.
4. Lots which do not meet the minimum lot area which are within approved subdivisions and lots of record prior to the establishment of the Downtown Overlay District may obtain improvement location permits provided all other standards of the Ordinance can be met, including Development Plan Review, if applicable.

B. Minimum gross floor area is 1,200 square feet, excluding basement or any accessory buildings. Permitted residential dwellings, and accessory buildings need not meet the minimum gross floor area.

C. Minimum height of a principal structure is 14 feet, with a minimum of 12 feet to the lowest eaves for a building with a gable, hip, or gambrel roof.

D. Minimum lot width is 60 feet. Lots in approved subdivisions and lots of record established prior to the adoption of the Downtown Overlay District need not meet this requirement.

E. Minimum front and side yard setbacks are zero (0) in the Downtown Overlay District in recognition of the traditional character of construction and rear yard setback is 10% of the lot depth as per Table B.

403.07 Maximum Standards: All development within the Downtown Overlay District may not exceed the following maximum standards.

A. Maximum Building Height is as specified in Section 307 of this Ordinance.

403.08 Site Design of the development shall meet the following standards:

A. Landscaping: A landscaping plan shall be submitted with the Development Plan Review Application. The landscaping plan shall be drawn to scale and adhere to all standards and regulations of this ordinance. The variety and types of species are subject to Plan Commission approval.

1. Parking Lot landscaping and screening is required as per section 308.

3. In addition, street trees are required in the Downtown Overlay District to be planted along the frontage of City Streets and State Roads. Deciduous Trees of at least eight (8) feet in height and two and a half (2 1/2) inch caliper at twelve (12) inches above ground at planting are required along the frontage to the street or highway. The species of the trees and spacing is subject to the approval of the Tree Advisory Committee as per Chapter 14, Art. IV, of City Code.

B. Off-Street Parking: An off-street parking plan shall be submitted with the Development Plan Review application. This plan shall be drawn to scale, including dimensions and distances. The off-street parking plan shall adhere to all the standards and regulations of this Ordinance. The Zoning Administrator and/or Plan Commission has the authority to waive parking requirements as per Section 308.02 H.

C. Outdoor Sales and Storage: All outdoor sales and storage shall be in and only in an approved designated area. No outdoor sales or storage shall conflict with the development plan as approved, including parking areas. No sales or storage shall be conducted in any trailer, container, or



temporary shelter unless it is a part of the approved Development Plan. All approved outdoor sales and storage shall be appropriately screened.

D. Signage: A signage plan shall be submitted with the Development Plan Review application. This plan shall be drawn to scale, including dimensions and distances. The signage plan shall adhere to all the standards and regulations of this Ordinance. Additionally, there shall be no banners, sandwich boards, flags, pennants, or other temporary signs unless specifically designated in the development plan approval.

1. Freestanding signs, (pole signs) are not permitted in the Downtown Corridor Overlay District for individual businesses.

2. In addition to the building mounted signs as permitted in Section 505.03 a ground mounted sign (monument sign) not to exceed six (6) feet in height or 48 square feet is allowed for businesses located on individual lots that have adequate building setback to accommodate such sign. Other than height and square footage these ground mounted signs are allowed in the same manner as free standing signs are permitted in Section 505.3 C, provided they do not impede vision as per section 306.12 and are not located in the public right-of-way.

E. Building Orientation: All structures shall front onto streets or highways within the defined Downtown Overlay District or give the appearance of a front-like facade.

F. Buried Utilities: Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

403.09 Building Design Standards for the Downtown Overlay District are intended to promote new construction or rehabilitation of existing buildings that are compatible to the traditional downtown buildings.

A. Exterior metal walls shall be prohibited on the walls of all buildings constructed, altered, repaired or used which abut or are adjacent to Downtown or streets intersecting Downtown within the defined Downtown Corridor Overlay District.

B. Building facades may be constructed from masonry, as defined below or other materials or products which provide the same desired stability and quality, such as composite stone, plaster, or “Dryvit”. Buildings that face two streets or highways must treat both elevations as facades. Wood treatment or similar appearing material framing windows and doorways and used as architectural accents is permitted.

1. Masonry Construction: Includes all masonry construction which is composed of solid, cavity, faced, or veneered-wall construction, unless otherwise approved by the Plan Commission or its duly designated representative.

- a. Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard of durable all-weather stone. Ashlar, cut stone, and dimensioned stone construction techniques are acceptable.
- b. Brick material used for masonry construction shall be composed of hard fired (kiln-fired) all-weather standard size brick or other all-weather facing brick.
- c. Concrete finish or precast concrete panel (tilt-wall) construction shall be exposed aggregate, brush-hammered, sand blasted, or other concrete finish as approved by the Plan Commission or its duly appointed representative.
- d. Split-face concrete block may be used on building facades only as approved by the Plan Commission or it's duly appointed representative but shall not exceed 10 (ten) percent of the wall surface.
- e. Concrete block is not considered an acceptable material for building facades.

C. Roofing and Mechanical Equipment: The materials and finishes of exposed roofs shall compliment the exterior walls. An exposed roof shall be defined as that portion of the roof that is visible from Downtown or roads intersecting Downtown within the defined Downtown Corridor Overlay District.

- 1. Standing-seam metal roofs of a complimentary color are permitted.
- 1. Roof mounted equipment on exposed roofs shall be screened from view.
- 2. All building mechanical and electrical equipment located adjacent to the building and visible from a public thoroughfare

or a residentially zoned district or use shall be screened from view. Such screens or enclosures shall be treated as an integral part of the building's appearance.

3. Flat roofs are the preferred building style. Gable walls facing the street are discouraged as are hip roof and gambrel roof construction.

D. Buildings that adjoin or would adjoin other existing two story buildings in zero side yard setback configurations shall be two story structures.