Town of Burns Harbor, Indiana
Zoning Ordinance

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Section 1: Introduction

AN ORDINANCE CLASSIFYING, REGULATING AND RESTRICTING THE SIZE OF BUILDINGS; THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES; THE DENSITY OF POPULATION; THE LOCATION AND USE OF BUILDINGS AND LAND FOR AGRICULTURE, TRADE, INDUSTRY, RESIDENCE AND OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THERE OF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; THEREFORE: BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BURNS HARBOR:

15–1–1 Short Title

This Ordinance shall be known, cited, and referred to as “THE TOWN OF BURNS HARBOR ZONING ORDINANCE.”

15–1–2 Provisions of the Ordinance Declared to Be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be the minimum requirements, adopted for the promotion of the public health, safety and the general welfare. Whenever the requirements of this Ordinance are in any way in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the highest standards, shall govern.

15–1–3 Relation to Comprehensive Plan

It is the policy of Burns Harbor that the enforcement, amendment and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Town Comprehensive Plan as developed and amended from time to time by recommendation of the Plan Commission and approval by the Town Council. The Town Council recognizes the Town Comprehensive Plan as the policy to regulate land use and development in accordance with the policies and purpose herein set forth.

15–1–4 Standard Requirements

A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

B. Where the conditions imposed by any provision of this Ordinance are more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statutes, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

C. Except as herein provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

D. Except as herein provided, no building, structure, or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

E. No yard or lot existing in the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards

or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

F. This Ordinance is not intended to abrogate any easement, restrictions, covenants, relating to the use of land or imposed on lands within the Town by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this Ordinance shall prevail.

15–1–5 Uses not Provided for within Zoning Districts

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the Town Council, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The Town Council or property owner, upon receipt of the staff study, shall if appropriate, initiate an amendment to the zoning regulations to provide for the particular use under consideration or shall find that the use is not compatible for development within the Town.

15–1–6 Repeal of Conflicting Ordinances

All previously enacted Zoning Ordinances and Ordinance #15 and Ordinance #131 are hereby repealed and the Fee Schedule provided in Section 5 of Article 4 of Chapter 15 of the Burns Harbor Town Code is hereby amended to correspond to the schedule set forth hereinafter in Addendum 15-1 of this Ordinance.

15–1–7 Severability Clause

Should any section, subsection, paragraph, subparagraph, clause, word or provision of the Ordinance to declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any other part thereof other than the part so declared as to be unconstitutional or invalid.

15–1–8 Amendment

The Zoning Ordinance of Burns Harbor may be amended by the Town Council in the manner provided by statute.

15–1–9 Effective Date

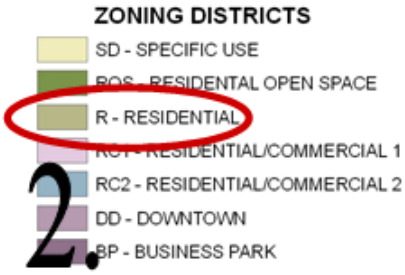
This Ordinance shall become effective on June 16, 2009.

Passed on the 10th day of June 2009.

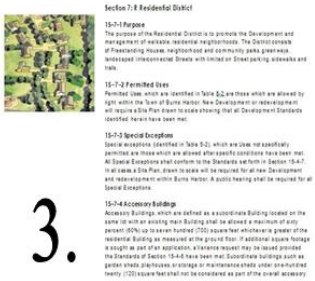
Town Council
Town of Burns Harbor, Indiana

HOW TO USE THIS ORDINANCE:

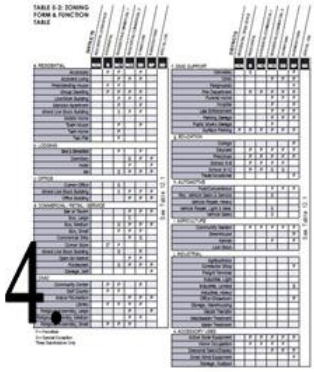
1. Locate site on zoning map.



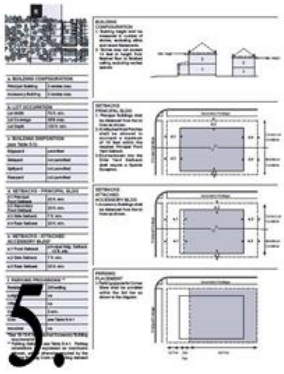
2. Determine the Zoning District.



3. Reference corresponding Zoning District Section (i.e. Page 64)to determine the purpose of the site's Zoning District.



4. Reference Table 5-2: Zoning Form and Function Table (Page 58) to determine uses that are permitted on the site.



5. Reference Zoning District Graphics (i.e. Page 66) to determine Building Configuration, Lot Occupation, Building Disposition, Setbacks and Parking Provisions for the site.

Section 2: Definitions

15–2–1 General Provisions

1. The most recent edition of the Oxford English Dictionary is the recognized reference for words and terms not defined herein.

2. Licensed professional refers to design professionals licensed to practice architecture, landscape architecture, engineering and land surveying by the Indiana State Board of Registration Professional Licensing Agency.

3. The language set forth in the text of this Ordinance shall be interpret accordance with the following rules of construction:

   a. The singular number includes the plural and the plural the singular.

   b. The present tense includes the past and future tenses, and the future the present.

   c. The word “shall” is mandatory, and the word “may” is permissive.

   d. The masculine gender includes the feminine and neuter.

   e. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition.

   f. All measured distances expressed in feet shall be to the nearest one-hundredth of a foot.

   g. Whenever a calculation is made based upon the provisions herein, if a fraction of a number results, the more restrictive rounding to a whole number shall apply.

15–2–2 Definitions

1. ABANDONMENT: The cessation of a Use for a period of six (6) months or more. There is a rebuttable presumption that an owner has intended to abandon a Non-Conforming Use of land or Structures where there has been no active Use for six (6) months or more. The owner may successfully rebut the presumption by demonstrating that a notice has been placed on file with the Building Commissioner concerning the temporary cessation of a Non-Conforming Use and the owner’s intention of resuming the Non-Conforming Use at a later, definite date.

2. ACCESSORY BUILDING OR USE: A subordinate Building located on the same lot with an existing main Building, or a subordinate Use of land, either of which is incidental to the main Building or to the Principal Use of the land. Accessory Buildings for residential Uses are limited to a total of one thousand eight hundred (1,800) square feet for each residence, including attached garages.
   An “Accessory Building or Use” includes, but is not limited to:

   - A garden house or private Greenhouse (size parameters vary per zoning District);

- A Garage, yard barn or Building for domestic Storage (size parameters vary per zoning District);

- A non-paying guest house or rooms for guests within an “Accessory Building,” if those facilities are used for the occasional housing of guests of occupants of the Principal Building and not for permanent occupancy by others as housekeeping units;

- Off-Street Motor Vehicle parking area, and Off-Street Loading and Unloading facilities;

- Signs, other than advertising signs as permitted and regulated in each District incorporated in this Ordinance;

- Carports;

- Boat house, if not more than ten (10) feet high as measured from the normal water level;

- Swimming pools, if private and being incidental to Use by the Owner and guests; and,

- Public Utility communication, electric, gas water and sewer lines, their supports and incidental equipment.

3. ACCESSORY DWELLING: Living quarters within an Accessory Building.

4. ACREAGE: Any tract or parcel of land, which has not been subdivided and platted and measured in units of 43,560 square feet.

5. ACTIVE SOLAR EQUIPMENT: Building mounted solar cell panels and their associated hardware and equipment required to generate and store electricity or heat water, primarily for use on-site.

6. ADULT USE: An establishment consisting of, including, or having the characteristics or any or all of the following: adult bookstore, adult-oriented products, video viewing booths, adult motion picture theater, and adult cabaret.

7. AGRIBUSINESS: Establishments primarily engaged in supplying agricultural services, crop services, Commercial Greenhouses, Farm labor and management services.

8. AGRICULTURE: The Use of land for agricultural purposes with the intent of selling any products produced by such activities. Agricultural Uses include farming, dairying, pasturage, apiculture, horticulture, aquaculture, floriculture, viticulture, animal and poultry husbandry, and the necessary Accessory Uses for packing, treating, or storing the products; provided, that:

   - The operation of any such Accessory Uses shall be secondary to that of the normal

agricultural activities;

- The above Uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within five hundred (500) feet of any residential District; and,

- The agricultural Use does not include the operation or maintenance of a commercial stockyard or feedlot (confined feeding operation).

9. ALLEY: A public Right-of-Way, other than a Street, road, crosswalk or Easement, and usually less than thirty (30) feet wide, which normally affords a secondary means of access for the special accommodation of the abutting property.

10. ALTERATION: Any change, addition or modification in construction, or any change in the structural members of a Building, such as load-bearing walls, columns, beams or girders.

11. ANCHORING SYSTEM: An Approved system of straps, cables, turnbuckles chains, ties, or other Approved materials used to secure a Manufactured or Mobile Home.

12. ANIMAL HOSPITAL: A Building, enclosure or portion thereof designed or Used for the care, observation, or treatment of three (3) or more dogs, cats and other domestic animals. An Animal Hospital is operated by or the treatment therein is under the direct supervision of a veterinarian licensed to practice by the State of Indiana.

13. ANIMAL UNIT: A unit of measure that determines the number of livestock or traditional Farm animals, and large recreational animals (ponies and horses) that are allowed on certain parcels.

14. APPLICANT: The Owner of land, or his or her representative.

15. APPROVED: Acceptable to the appropriate authority having jurisdiction, by reason of investigation, accepted principles, or tests by nationally recognized organizations.

16. ASSISTED LIVING: A Building with multiple Dwellings which may provide some combination of personal care, social or counseling services and transportation.

17. ATRIUM: A lobby or other entryway into a Building, usually enclosed.

18. AWNING, MARQUEE OR CANOPY: A roof-like structure which projects from the wall of a Building without lettering or graphics.

19. BAR OR TAVERN: A Building where liquors are sold to be consumed on the premises and where entertainment and food may or may not be provided.

20. BASEMENT: That portion of a Building that is partly (minimum fifty percent (50%)) or completely below Grade.

21. BED AND BREAKFAST: Overnight accommodations with fewer than six (6) sleeping rooms offering a morning meal.

22. BLOCK: A tract of land bounded by a Street or Streets and any combination of boundary lines or public or institutionally owned lands, Railroad Rights-of-Way, rivers and lakes and other lines of demarcation.

23. BOARD OF ZONING APPEALS: A Board established consistent with IC 36-7-4-900 series.

24. BOX, LARGE: A freestanding Building with a Commercial function with a Floor Area greater than thirty-five thousand (35,000) square feet.

25. BOX, MEDIUM: A freestanding Building with a Commercial function and a Floor Area between 10,001 and 35,000 square feet.

26. BOX, SMALL: A freestanding Building with a Commercial function and a Floor Area not exceeding 10,000 square feet.

27. BUFFER: A naturally vegetated or planted landscape area managed to screen separate land Uses or Right of Way.

28. BUILDING: A structure built for the support, enclosure, shelter, or protection of Persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

29. BUILDING DISPOSITION: The location of the Building relative to the boundaries of each
individual Lot, establishing suitable basic Building types for each transect zone.

30. BUILDING, HEIGHT OF: The vertical distance measured from the average elevation of the finished grade along the front of the building to the peak. In no instance shall a Building exceed forty (40) feet.

31. BUILDING LINE, FRONT: The line nearest the front and across a lot establishing the minimum open space, or set back, between the nearest part of a Building or edge of eaves and the Front Lot Line.

32. BUILDING LINE, REAR: The line nearest the rear and across a lot establishing the minimum open space, or set back, between the nearest part of a Building or edge of eaves and the Rear Lot Line.

33. BUILDING PERMIT: An official document or certification issued by the Building Commissioner authorizing performance of a specified activity that complies with all provisions of this Ordinance and the Town of Burns Harbor Building Code.

34. BUILDING, PRINCIPAL: A Building in which is conducted the Principal Use of the lot, on which it is located.

35. BUSINESS: An occupation, employment, or enterprise which occupies time, attention, labor, and materials; or wherein merchandise is exhibited or sold, or where services are offered.

35.25. BUSINESS SIGN, OFF PREMISES: A sign which advertises a business, product,

service or event that is not produced, sold, or made available on the property on which the sign is located. *(Ordinance 248, 10/17/2012)*

35.5. BUSINESS SIGN, ON PREMISES: A sign which advertises a business, product, service or event that is produced, sold or made available on the property which the sign in located. *(Ordinance 248, 10/17/2012)*

36. BUS LOT: Any lot or land area used for the Storage or layover of passenger buses, or motor coaches or the loading or unloading of passengers from the said Vehicles.

37. CARPORT: An open-sided roofed automobile shelter, formed by the extension of a roof from a side of a Building.

38. CAR/TRUCK WASH: A Commercial Building or portion thereof, containing facilities for washing Vehicles. Water and Waste shall be a minimum of ninety-five percent (95%) recycled. The facility shall be in compliance with the Town's Sewage Treatment Plant Agreement.

39. CEMETERY: Land used or intended to be used for the burial of human or animal remains and dedicated for Cemetery purposes, including crematories, mausoleums and mortuaries, if operated in connection with and within the boundaries of such Cemetery for which perpetual care and maintenance is provided.

40. CERTIFICATE OF OCCUPANCY: A certificate stating that the occupancy and the Use of land or a Building referred to therein complies with the provisions of this Ordinance.

41. CIVIC: Buildings and facilities for government and other not-for-profit organizations dedicated to arts, culture, education, recreation, or for Use approved by the Town.

42. CIVIC SUPPORT: Buildings and facilities in support of the health, safety and general welfare of the Town.

43. CLINIC: A Building or portion thereof, the Principal Use of which is for medic or dental study and/or treatment, and in which the services of professionals in the medical or dental fields of practice are provided.

44. CLUB OR LODGE, PRIVATE: A private association of Persons, who are bona fide members paying annual dues, which owns, hires, or leases a Building, or portion thereof; the use of such premises being restricted to members and their guests. (The affairs and management of such "Private Club or Lodge" are conducted by a board of directors, executive committee, or similar body chosen by the members). It shall be permissible to serve food on such premises. The sale of alcoholic beverages to members and their guests shall be permitted provided it is secondary and incidental to the promotion of some other common objective of the organization.

45. COMMERCIAL: On premise activities involving proprietors and customers in the direct exchange of goods and services for monetary remuneration.

46. COMMERCIAL MOTOR VEHICLE: a vehicle that has a gross vehicle weight rating of at least 26,001 pounds, is designed to transport 16 or more passengers including

the driver, or similar vehicle with two (2) or more rear axles; or any size vehicle carrying hazardous materials which requires placarding. *(Ordinance 269, 4/13/16)*

47. COMMERCIAL STRIP: A single Story, linear Building with a Commercial function, subdivided for multiple tenants, minimum of three, (3) with individual shop-front entrances and identification signage.

48. COMMERCIAL SURFACE PARKING: an off-street, ground level, permanently paved open area that provides temporary storage for commercial motor vehicles other than for expeditious delivery or pickup of materials or for construction use. *(Ordinance 269, 4/13/16)*

47. COMMITMENTS: Restrictions and guidelines placed upon a property's Use or Development. Commitments shall be recorded in the office of the County Recorder and take effect upon adoption of an amendment to the Zoning Ordinance or upon granting approval for a Special Exception; or Variance; from the terms of the Zoning Ordinance.

49. COMMUNICATIONS FACILITIES: A land use facility, including, without limitation any building, structure, Communications Tower, or accessory buildings and structures, which support Antennae or other devices intended for use in connection with the commercial transmission or receipt of radio or television signals, or any other spectrum-based transmissions/receptions. Communications facilities are regulated in Chapter 17 of the Burns Harbor Town Code. *(Ordinance 229, 11/11/2009)*

50. COMMUNITY CENTER:A Building to be used as a place of meeting, recreation or social activity (civic or private) and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed.

51. COMMUNITY GARDEN: An area of land designated for small plot gardening or local food production.

52. COMPREHENSIVE PLAN: The complete plan, or any of its parts, for the Development of the Town prepared by the Planning Commission and adopted in accordance with IC 36-7-4 as it is or may hereafter be in effect.

53. CONDOMINIUM: As defined under Indiana Code 32.16.1

54. CONFORMING BUILDING: Any Building which:

    - Complies with all the regulations of this Ordinance or of any amendment hereto governing the zoning District in which such Building is located; and,

    - Is designed or intended for a Conforming Use.

55. CONSTRUCTION PLAN: The maps or drawings, prepared by a licensed professional, accompanying a subdivision plat or application for a Building Permit showing the specific location and design of improvements to be installed in accordance with the requirements of the Commission as a condition of approval.

56. CONTRACTOR SHOP: A small-scale Building for the purpose of conducting Building

and grounds construction, maintenance and repair related services, typically containing areas for office, material, equipment and Vehicle Storage.

57. CONTROLLED ACCESS HIGHWAY: A traffic way, including freeways, expressways, and other Arterial Streets, to which Owners or occupants of abutting property or lands and other Persons have no legal right of access to or from the same, except only at such points and only in such manner as may be determined by the public authority having jurisdiction over such traffic way.

58. CORNER OFFICE: A freestanding Building with over fifty percent (50%) of the ground floor serving an office function, not exceeding 2,500 square feet, for the primary purpose of serving neighborhood residents within a quarter (1/4) mile radius.

59. CORNER STORE: A freestanding Building with over fifty percent (50%) of the ground floor serving a retail function, not exceeding 2,500 square feet, for the primary purpose of serving neighborhood residents within a quarter (1/4) mile radius, typically sited on a Corner Lot. A Corner Store may include a take out restaurant.

60. COUNCIL: The Town of Burns Harbor Town Council.

61. COURTYARD: An open unoccupied space bounded on three (3) or more sides by the exterior walls of a Building.

62. DEVELOPER: Any Person engaged in developing or improving a lot or group of lots or Buildings thereon for Use or occupancy.

63. DEVELOPMENT: Any improvement or change to property brought about by human activity, including, but not limited to, Buildings, mining, dredging, filling, grading, paving, excavation or drilling operations.

64. DISTRICT: A geographical area within which certain uniform regulations and requirements, or various combinations thereof apply under the provisions of this Ordinance.

65. DORMITORY: A Building used as group living quarters for a student body or religious order as an Accessory Use to a College, university, boarding school, convent, monastery or similar institutional Use.

66. DRIVE-IN ESTABLISHMENT: An establishment which offers merchandise service or entertainment to Persons in Motor Vehicles.

67. DRIVEWAY: A private access road serving only one (1) residential Dwelling or Commercial Building.

68. DRIVEWAY, SHARED: A private access road serving up to four (4) residential Dwelling or Commercial Buildings.

69. DUPLEX/TWO FLAT: A multi-Story Building containing two (2) Dwelling units stacked on top of each other with a common entrance hall or an enclosed stairway.

70. DWELLING: A permanent Building, or portion thereof, which is used exclusively for

human habitation.

71. DWELLING UNIT: One (1) or more rooms, minimum 600 square feet, including sleeping, living, lavatory, and principal kitchen facilities designed as a unit or flat for occupancy by only one (1) family.

72. EASEMENT: A non-possessing interest held by one (1) person in land another whereby the first person is accorded partial use of such land for a specific purpose, an easement restricts but does not abridge the rights of the fee owner to the Use and enjoyment of his land.

73. EDGEYARD: A Building that generally occupies the interior of its lot with Setbacks on all sides.

74. EDUCATIONAL:

- College: An educational institution authorized by the State of Indiana to award associate, bachelor, or higher degrees.

- Daycare: A facility licensed by the State of Indiana which is intended to provide for the care, supervision, and protection of children.

- School:

(1.) K-8 Any school that is licensed by the State of Indiana and meets the state requirements for K-8 education.

(2.) 9-12: Any school that is licensed by the State of Indiana and meets the state requirements for 9-12 education.

- Preschool: A facility licensed by the State of Indiana which is intended to provide for the education, care, supervision, and protection of children.

- Trade/Vocational: Teaching and training directed toward specific vocations

75. EFFICIENCY UNIT: A Dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or kitchen and dining alcove directly off the principal room.

76. ENFRONT: To place an element along a Street Frontage, as in “parking Enfronts the Street.”

77. FACADE TRANSPARENCY: The percentage of a building’s facade that is comprised of lightly tinted or clear glass windows and doors. Facade transparency is calculated by dividing the total, aggregate window and door area in square feet by the total facade area in square feet.

78. FAIRGROUNDS: Public or privately owned land used for public fairs, annual events, concerts and public gatherings.

79. FARM: An area of three (3) of more acres used for agricultural operations

80. FIRE DEPARTMENT: A publicly owned Fire Department.

81. FLOOD PLAIN: The relatively flat or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The Flood Plain includes the channel, flood way, and flood fringe, and is so designated by FEMA (Federal Emergency Management Administration) and/or the Indiana Department of Natural Resources.

    - Channel: The bed of a stream or waterway.

    - Flood Way: The channel of a river or stream and those portions of the Flood Plain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any river or stream. The Indiana Department of Natural Resources exercises primary jurisdiction in Flood Way Districts.

    - Flood Fringe: The area adjoining a river or stream which has been or which may hereafter be flooded, but outside an identified Flood Way District, and is so designated by the Federal Insurance Administration and/or the Department of Natural Resources.

82. FLOOR AREA: The area of a Building in square feet, as measured in a horizontal plane at the ground floor level within the largest outside dimensions, exclusive of open Porches, breeze-ways, terraces, garages and exterior stairways.

83. FOSTER CARE HOME: As defined by the Indiana Department of Social Service, are homes which provide congregate living arrangements for non-family members.

84. FREESTANDING HOUSE: A single Dwelling unit, unattached to any other Dwelling unit, which is considered the Principal Building with either an attached or detached garage. A Freestanding House shall have a minimum of 1,100 square feet for a single story and 1,800 square feet for multi-story.

85. FREIGHT TERMINAL: Terminals with the capability of handling a large variety of goods involving various forms of transportation and providing multimodal shipping capabilities, such as rail to truck or truck to air.

86. FRONTAGE (of a Block): All of the property abutting a Street or the space between a Building and the Street.

87. FRONTAGE (of a lot): All the property of such lot fronting on a Street, as measured between Side Lot Lines.

88. FRONTAGE:

    - Principal: On corner lots, the Private Frontage designated to bear the address and main entrance to the building, and the measure of minimum Lot width.

    - Private: The privately held layer between the Frontage (of a lot) and the Front Building Line.

- Public: The area between the curb of the vehicular lanes and the Frontage (of a lot) also referred to as a public Right-of-Way (ROW).

- Secondary: On corner lots, the Private Frontage that is not the Principal Frontage.

89. FRONT LINE: With respect to a Building, the foundation line that is nearest the Front Lot Line.

90. FUEL/CONVENIENCE: A fueling station and/or convenience store planned, operated and maintained for the purpose of selling fuel and convenience items. The Principal Building shall not exceed 5,000 square feet.

91. FUNERAL HOME: A Building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

92. GARAGE, STORAGE: A Building or premises used for housing only of Motor Vehicles, R.V.'s, boats or other vehicular equipment pursuant to previous arrangements and not being transients; and where no equipment or parts are sold, and Vehicles are not rebuilt, serviced, repaired, hired, or sold, except that fuel, grease, or oil may be dispensed within the Building to Vehicles stored therein.

93. GOLF COURSE: A tract of land laid out for at least nine (9) holes for playing the game of golf that may include a clubhouse, pro shop and practice facilities.

94. GRADE: The average level of the finished surface of the ground adjacent to the exterior walls of the Building.

95. GREENHOUSE: A Building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

96. GROUP DWELLING: A group home for the sheltered care of Persons with special needs, which, in addition to providing food and shelter, and a licensed-medical professional on-site when dwelling is occupied; must provide some combination of personal care, social or counseling services and transportation.

97. HOME OCCUPATION: Any activity carried out by a resident for gain and conducted in the resident's living quarters or Garage.

98. HOSPITAL: An institution providing primary health services and medical or surgical care to Persons, primary health services and medical or surgical care to Persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities, such as laboratories, outpatient facilities, training facilities, medical office, and staff residences.

99. HOTEL: A multi-Story facility of more than sixteen (16) sleeping rooms providing accommodations to the general public, which may include additional facilities and

services, such as Restaurants, meeting rooms, swimming pools, entertainment and personal services.

100. IMPROVEMENT LOCATION PERMIT: A permit stating that the proposed erection, construction, enlargement, Alteration, or moving of a Building referred to therein complies with the provisions of the Zoning and subdivision Ordinance.

101. INDOOR RECREATION: Recreational activities (such as bowling, roller skating, paintball, etc.) that are housed indoors.

102. INDUSTRIAL, HEAVY: (ArcelorMittal) Manufacturing, processing, assembling, storing, testing and similar industrial Uses which are generally major operations and extensive in character; require large sites, Outdoor Storage and service areas, extensive services and facilities, ready access to regional transportation systems; and normally generate some Nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the District boundary. Waste is limited to Wastes other than those classified as hazardous or toxic by the United States Environmental Protection Agency.

103. INDUSTRIAL, LIGHT: Manufacturing or other industrial Uses which are controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed Buildings; and generating little industrial traffic and no Nuisances. Waste disposal is limited to Wastes other than those classified as hazardous or toxic by the United States Environmental Protection Agency.

104. INDUSTRIAL, LIMITED: The manufacture and/or assembly of articles, which can compatibly exist adjacent to Commercial Uses, but require isolation from residential Uses.

105. INDUSTRIAL WASTE FACILITY: Any facility used for the Storage, transportation, reclamation or disposal of any Waste classified as hazardous or toxic by the United States Environmental Protection Agency.

106. INN: A rental establishment of no more than fifteen (15) sleeping rooms which may include a Restaurant.

107. JUNK YARD: An open area where Waste or used materials are bought, sold exchanged, stored, baled, packed, disassembled, or handled. Said Waste and used materials include but are not limited to Motor Vehicles; Vehicles, machinery or equipment drawn or operated by attaching to Motor Vehicles or mechanical units which are not in running or operable condition; scrap iron and other metals; paper; rags; rubber tires; and bottles. It does not include residential, Commercial or municipal “garbage” which is defined as animal, vegetable or mineral refuse. A “junk yard” does not include Uses established entirely within enclosed Buildings, nor does it include an establishment engaged only in the processing of scrap iron or other metals to be sold specifically for the manufacture of steel or metal alloys, which must have fencing to effectively screen the area.

108. KENNEL: Any premises or portion thereof on which more than four (4) dogs, cats, or other household domestic animals over four (4) months of age are kept, or on which

more than two (2) such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

109. LAW ENFORCEMENT: A publicly owned law enforcement department.

110. LIBRARY: A place in which literary materials, such as books, periodicals, newspapers, pamphlets and records, are kept for reading, reference, or lending.

111. LIQUOR STORE: A Building whose primary function is the sales of alcoholic beverages to be drunk off the premises.

112. LIVE STOCK: Animal Units defined by the State of Indiana as permitted within the confines of agricultural areas. Live stock is only permitted within the SD Zoning District.

113. LIVE/WORK BUILDING: A Building comprised of mixed-use units consisting of residential and Commercial, office or art functions. Non-residential functions may be located anywhere in the unit. It is intended that the Building be owner occupied by a business operator who lives in the same Building that contains the non-residential function.

114. LOADING AND UNLOADING SPACE, OFF-STREET: An area of land other than a Street or public way, which is principally used for the standing, loading and unloading of motor trucks, tractors and trailers to avoid undue interference with the public Use of Streets and Alleys. That space shall be not less than ten (10) feet in width, forty-five (45) feet in length and fourteen (14) feet in height, exclusive of access aisles and maneuvering space.

115. LOT, CONFORMING: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for Use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have Frontage on a Public Street, or on an Approved private Street, and may consist of:

- A single Lot of Record;
- A portion of a Lot of Record;
- A combination of complete lots of record, of complete lots or record and portions of lots of record, or of portions of lots of record; or,
- A system of land description whereby all boundary lines are set forth by use of terminal points and angles—mete referring to a limit or limiting mark, and bounds referring to boundary lines.

116. LOT,

- Corner: A lot at the junction of and abutting two (2) intersecting or intercepting Streets.
- Double Frontage: A lot, other than a Corner Lot, which fronts on two (2) Streets.

- Interior: A lot bound by other lots on at least two (2) sides.

117. LOT COVERAGE: The percentage of the lot area that is represented by the Building area(s).

118. LOT LINE,

- Front: That boundary of a lot which is along an existing or dedicated Public Street; or where no Public Street exists, is along a public way. Where such public way is not a dedicated Street, the Right-of-Way of such public way shall be deemed to be sixty-six (66) feet or more, unless otherwise provided.

- Rear: That boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the Front Lot Line.

- Secondary Front: On corner Lots, the Lot Line that is not on the Principal Frontage.

- Side: Any boundary of a lot which is not a Front or Rear Lot Line.

119. LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder, or a parcel of land, described by metes and bounds, the deed to which was recorded in the office of said recorder prior to the adoption of this Ordinance.

120. LOT WIDTH: The distance between the Side Lot Lines of a lot measured at the Building line.

121. LOT, ZONING: A single tract of land located within a single Block, which (at the time of filing for a Building Permit) is designated by its Owner or Developer as a tract to be Used, developed, or built upon as a unit, under single ownership or unified control. (A “zoning lot” may or may not coincide with a “Lot of Record”).

122. MANSION APARTMENT: A multi-Story residential Building of no more than two (2) stories in height, and comprised of up to a maximum of eight (8) separate apartment units and designed in the style of a large Freestanding House or mansion.

123. MANUFACTURED HOME: A Dwelling unit, as defined by the State of Indiana, designed and built in a factory, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law, and certified by the State of Indiana. Such manufactured home shall be constructed after January 1, 1981, classified as residential design, and exceed nine hundred sixty (960) square feet of occupied space, exceed twenty-four (24) feet in width; exclusive of Porches, terraces, garages, pull-out and expansion rooms.

124. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODES: Title VI of the 1974 Housing and Community Development Act (42 U.S.C 5401 et sequentia), as amended (previously known as the federal Mobile Home Construction and Safety Act), rules and regulations adopted there under (including information supplied by the home manufacturer, which has been stamped and

Approved by a Design Approval Primary nspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the Indiana Administrative Building Council; all of which became effective for mobile/Manufactured Home construction on June 15, 1976.

125. MARINA: A dock or basin, public or private, used for the seasonal Storage of boats, watercraft and related equipment.

126. MINERAL EXTRACTION: Includes mining, quarrying and removal of ear materials.

127. MIXED USE BLOCK BUILDING: A multi-Story Building placed at or close to the Front Lot Line supporting multiple functions one of which may include structured parking.

128. MOBILE HOME: A detached transportable Building designed to be used as a single-family residential dwelling with all of the following characteristics:

- Certified in a factory and fabricated to the Standards outlined in Indiana Public Law 135 pursuant to Indiana Code 9-8-1.5-1;

- Designed to be transported after fabrication on its own wheels; and

- Arriving at the site where it is to be occupied as a Dwelling complete, including the major appliances, and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on foundation supports connection to the utilities and the like.

129. MODULAR HOME: A housing unit designed, built and certified in a factory to the Indiana Code 22-11-1-1.5 for use as a principal residence. It is constructed complete with the necessary plumbing, heating and electrical systems. It is designed to be transported by means other than its own undercarriage to a prepared site, and becomes suitable for permanent occupancy after proper installation of foundation supports and connection to utility service.

130. MOTOR VEHICLE: A vehicle that is self-propelled including automobiles, trucks, motorcycles, snowmobiles, recreational vehicles and like devices which have a gross vehicle weight rating of 26,000 pounds or less *(Ordinance 269, 4/13/16)*

131. MUSEUM: A Building containing historical or modern artifacts for the purpose of public viewing and research.

132. NATIONAL WETLANDS INVENTORY (NWI): A series of maps produced by the Fish and Wildlife Service of the United States Department of the Interior, in coordination with the maps produced by the U.S. Geologic Survey, showing the location and classification of certain identified Wetlands in standard topographic areas.

133. NATURAL RESOURCES, DEPARTMENT OF: The Department of Natural Resources of the State of Indiana.

134. NATURAL RESOURCE RESTORATION: A human activity that returns a Wetland or

former Wetland, prairie or woodland from a disturbed or altered condition with lesser Acreage or functions to a previous condition with greater Acreage or functions.

135. NON-ACCESS EASEMENT: A public Easement along a public Right-of-Way across which access to the property is not permitted.

136. NON-CONFORMING BUILDING: A Building, or portion of a Building, existing at the effective date of this Ordinance, or subsequent amendment thereto, that could not be built under the terms of this Ordinance by reasons of restrictions on lot size, height, yards, location on the lot, or other requirements concerning the Building.

137. NON-CONFORMING USE: A Use of land or Buildings which does not comply with all of the regulations of this Ordinance or of any amendment hereto governing Use for the zoning District in which such Use is located.

138. NOXIOUS MATTER OR MATERIALS: That which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

139. NURSERY, PLANT MATERIALS: Land, Buildings, or the combination thereof for the Storage, cultivation or transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening and landscaping.

140. NURSING HOME: A home or facility for the care and treatment of pensioners or elderly people.

141. NUISANCE: Any thing, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

142. ODOROUS MATTER: Matter or material that yields an odor which is offensive in any way.

143. OFFICE BUILDING: A Building used primarily for conducting the affairs of a Business, profession, service, industry, or government or like activity; it may include subsidiary services for office workers, such as a Restaurant, coffee shop, newspaper stand, and child-care facilities.

144. OFFICE SHOWROOM/FLEX OFFICE: A single Story, multi-use Building with a minimum of fifty percent (50%) office and Wholesale display and quasi-retail sales Use with supporting artisanal, technology, research and development, light assembly, warehousing and distribution Uses occupying the remaining space.

145. Off-Street: located outside of a street right-of-way. *(Ordinance 269, 4/13/16)*

146. ONE AND TWO FAMILY DWELLING CODE, INDIANA: The nationally-recognized model Building code prepared by the Council of American Building Officials, adopted by the Indiana Administrative Building Council (ABC) as mandated through Public Law 360, Acts of 1971, and , which includes those supplements and amendments promulgated by the ABC.

147. OPEN AIR MARKET: A public marketplace conducted outdoors where food and merchandise is sold.

148. OPEN USE: The Use of a lot without a Building, or a Use for which a Building, with a Floor Area no larger than five percent (5%) of the lot, is only incidental.

149. ORDINARY HIGH WATER MARK: In Wetlands, a mark delineating permanent or periodic inundation or prolonged soil saturation sufficient to create conditions that support hydrophytic vegetation and include hydric soils, as defined by the United States Army Corp of Engineers and Indiana Department of Natural Resources.

150. OWNER: Any individual, firm, association, syndicate, co-partnership or corporation, having sufficient proprietary interest in a parcel of land.

151. PARCEL OF PROPERTY: A single tract or plot of land.

152. PARKING GARAGE: A Building composed of multiple levels that provides temporary Storage for primarily automobiles and similar weight Motor Vehicles and motorcycles.

153. PARTICULATE MATTER: Dust, smoke, or any other form of air-borne pollution in the form of minute separate particles.

154. PEDESTRIAN SHED**:** An average quarter (1/4) mile radius or 1,320 feet, about the distance of a five-minute walk at a leisurely pace.

155. PERMANENT FOUNDATION: Any structural system for transposing loads from a Building to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

156. PERMANENT PERIMETER ENCLOSURE: A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground.

157. PERSON: A corporation, firm, partnership, association, organization or any other group which acts as a unit.

158. PORCH: A roofed-over structure, projecting out from the wall or walls of a main Building with a portion of it commonly open to the weather.

159. PRINCIPAL BUILDING: A non-accessory Building in which the principal Use of the lot on which it is located is conducted.

160. PROPERTY LINES: The division between two (2) parcels of land or a parcel and the street.

161. PUBLIC IMPROVEMENT: Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, off-Street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

162. PUBLIC LAW 360, ACTS OF 1971: Enabling legislation requiring Administrative Building Council to adopt rules and regulations for the construction, repair or maintenance of factory-built one (1) or two (2) family residential Dwellings.

163. PUBLIC STREET: A Street established or dedicated for public Use.

164. PUBLIC UTILITY: A firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation to the public; electricity, gas, steam, communication (including CATV), transportation, drainage, sewer or water.

165. RAILROAD RIGHT-OF-WAY: A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.

166. REARYARD: A Building that occupies the full Frontage, leaving the rear of the lot as the sole yard.

167. RECREATIONAL CAMPGROUND: An area of land on which two (2) or more Recreational Vehicles, including campers, tents, RV's or other similar temporary recreational Buildings, are regularly accommodated with or without charge, including any Building or fixture of equipment that is used or intended to be used in connection with providing such accommodations.

168. RECREATIONAL FACILITIES: Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but are not limited to hunting, fishing, race tracks, riding clubs and parks. Intensive facilities generally require less land and include, but are not limited to miniature golf courses, amusement parks, stadiums and bowling alleys.

169. RECREATIONAL VEHICLE: Commonly referred to as "RV's" are a temporary Dwelling for travel, recreation and vacation Use. They include, but are not limited to:

    - Motor Homes: a self-propelled Vehicle with a Dwelling constructed as an integral part of the Vehicle;

    - Pick-up Coach: a Structure designed to be mounted on a truck chassis or cut-down car; or,

    - Travel/Camping Trailer: A Vehicle or other portable structure that is designed to be towed on the highway and designed or used as a Dwelling.

170. REGULATED ACTIVITY: An activity with a significant impact on Wetlands, lakes or the land including, but not limited to:

    - Removal, excavation, or dredging of soil, sand, gravel, minerals, or matter, or materials of any kind;

    - Changing of existing characteristics for drainage, sedimentation patterns, flow patterns, or flood retention;

- Disturbance of the Wetland or lake water level or water table by drainage impoundment or other means;

- Dumping or discharging of material, or the filling of a Wetland or lake with material;

- Placing of fill or the grading or removal of material that would alter existing topography;

- Driving of piles, placement of obstructions, and erection or repair of Buildings of any kind;

- The destruction or removal of native plant life that would degrade the character of a Wetland or lake; and

- Any activity that results in a significant change of water temperatures, a significant change of physical or chemical characteristics of Wetland or lake water sources, or the introduction of pollutants.

171. REGULATORY FLOOD: A flood as designated by local, state and federal agencies.

172. RELIGIOUS ASSEMBLY, LARGE: A Building or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held with 751 up to 1,200 seats in the largest assembly space.

173. RELIGIOUS ASSEMBLY, MEDIUM: A Building or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held with 401 to 750 seats in the largest assembly space.

174. RELIGIOUS ASSEMBLY, SMALL: A Building or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held up to 400 seats in the largest assembly space.

175. RESTAURANT: An establishment where food and drink are prepared,served and consumed, mostly within the Principal Building.

176. RESTAURANT, TAKE OUT: An establishment where food is prepared for consumption off the premises only.

177. RIGHT-OF-WAY (R.O.W.): A strip of land occupied or intended to be occupied by a Street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special Use. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a secondary plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for Streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other Use involving maintenance by a public agency shall be dedicated to public Use by the maker of the plat on which such right-of-way is established.

178. SALVAGE YARD: Establishment engaged in processing of scrap iron and/or other metals.

179. SEASONAL SALES / DISPLAY: A sale or display that is temporarily displayed, for a period not to exceed three (3) months.

180. SECTION: A unit of a Manufactured Home at least ten (10) body feet and thirty (30) body feet in length.

181. SETBACK: The minimum horizontal distance between the line of a Building measured at the wall of the Building which is closest to the property line and said property line.

    - Principal Front: The setback at the front nearest the Front Lot Line
    - Secondary Front: On corner Lots, the setback that is nearest the Secondary Front Lot Line.
    - Side: The setback at the side nearest the Side Lot Line
    - Rear: The setback at the rear nearest the Rear Lot Line.

182. SIDEYARD: A Building that occupies one (1) side of the lot with the Setback to the other side.

183. SIGN, BILLBOARD: A Structure or Accessory Structure usually elevated above the ground's surface; the gross surface area shall not exceed more than eight hundred (800) square feet on any facing and shall not exhibit more than two (2) signs per facing.

184. SIGN, BUSINESS: A sign which directs attention to a Business, commodity, service, or entertainment related to the premises where such sign is located or to which it is affixed.

185. SIGN, DYNAMIC: Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, linking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

186. SIGN, FLASHING: An illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. (A revolving, illuminated sign shall be considered to be a "flashing sign").

187. SIGN, GROSS AREA OF: The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between

any adjacent elements of same. (Such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display).

188. SIGN, NAMEPLATE: Non-illuminated sign flush with the front of the Building indicating the name or address of a Building, or the name of an occupant thereof and the practice of a permitted occupation therein.

189. SITE PLAN: A drawing to scale, prepared by a licensed professional, shows size and location of all existing and proposed Buildings, all adjacent Streets and highways, the size of all entrances and exits from the land and a legal description of the land. For some Uses a landscape development plan must be included.

190. SMALL WIND EQUIPMENT: Building mounted or pole-mounted small wind turbines (10 kW to 50 kW) and their associated equipment required to generate and store electricity, primarily for use on-site.

191. SPECIAL EXCEPTION: A Use permitted within a District requiring approval of the Board of Zoning Appeals because of its unusual nature.

192. SPLITYARD: A Building that occupies the boundaries of its lot from side to side leaving the front and rear of the lot as open yard.

193. STABLE, PRIVATE: A Building which is located on a lot three (3) acres or more in size on which a Dwelling is located, and which is designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for the use of occupants of the Dwelling, but in no event for hire, and limited to not more than three (3) horses per three (3) acres.

194. STABLE, RIDING: A Building which is designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for hire.

195. STOCKYARDS: A yard where Live Stock is kept before being slaughter sent to market.

196. STORAGE,

- Outdoor: The keeping, in an unenclosed area, of any goods, junk, material or junk vehicles in the same place for more than thirty (30) days.

- Self: A private, small to medium box facility, whose function is to allow for storage of residential and household items.

- Warehouse: A Principal Use or Accessory Building of one or more stories for the storage of specific goods and materials which pertains to the Principal Use.

197. STORY: That portion of a Building included between the surface of any floor and the surface of the floor next above or if there is no floor above, the space between the floor and the ceiling next above.

198. STREETS, Major

- Arterial: Any roadway that provides for through traffic movements between areas within the town and through the town.

- Collector: A Street which carries traffic from Local Streets to Arterial Streets, and may include the principal entrance Street of residential Developments.

199. STREETS, Minor

- Cul-de-Sac: A dead-end Street permanently terminated by a Vehicle turn around.

- Limited Access Street: A Street to which abutting properties are denied access.

- Local Collector: A roadway which provides access between the Major Street system and the Minor Streets defined below.

- Local: A roadway, the primary function of which is to provide direct access to residential, Commercial, industrial, or other abutting real estate.

- Loop Street: A Street which has its origin and termination point with the same Street and forms a loop or “U” of various shapes or proportions.

- Perimeter Street: Any existing Street to which the parcel of land to be subdivided abuts on only one (1) side.

- Service Road: A minor road which is parallel and adjacent to a Thoroughfare, and which provides access to abutting properties and protection from through traffic.

200. STREETS (Road): A right-of-way, other than an Alley, dedicated or otherlegally established to the public Use, usually affording the principal means of access to abutting property. A Street may be designated as a highway, Thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name.

201. STREET, THOROUGHFARE: A public way or public place that is included in the Thoroughfare plan of a unit. The term includes the entire Right-of-Way for public Use of the Thoroughfare and all surface and sub-surface improvement on it such as sidewalks, curbs, shoulders, and utility lines and mains.

202. STRUCTURAL ALTERATION: A change, other than incidental repairs, which would prolong the life of the supporting members of a Building, such as the addition, removal, or Alteration of bearing walls, columns, beams, girders or foundations.

203. STRUCTURE: A combination of materials to form a construction that is safe and stable and includes among other things stadiums, platforms, radio towers, sheds, storage bins, fences and display signs.

204. SUPPORT SYSTEM: A pad or a combination of footings, piers, caps, plates, and shims, which when properly installed, support the Manufactured or Mobile Home.

205. SURFACE PARKING: An off-Street, ground-level, permanently paved open area that

provides temporary Storage for Motor Vehicles.

206. TOWN HOUSE: A one-family Dwelling, with a common wall, as defined by Indiana Building Code.

207. TWIN HOME: A Building containing two (2) single family Dwelling units separated from each other by an unpierced wall extending from the Basement to roof.

208. USE (of property): The purpose or activity for which the land or Building thereon is designed, arranged, or intended, or for which it is occupied or maintained. (Includes any manner of performance of activity or operation with respect to the performance Standards of this Ordinance).

209. USE, PERMITTED: A Use which may be lawfully established in a particular District or Districts (provided it conforms with all requirements, regulations, and performance Standards, if any, of such District).

210. USE, PRINCIPAL: The main Use of land or Buildings as distinguished from a Subordinate or Accessory Use. (May be either “permitted” or “special”).

211. VARIANCE: A departure from the strict application of the specific requirements of this Ordinance granted by the Board of Zoning Appeals in accordance with the terms of this Ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity or District.

212. VEHICLE:

- Boats and watercraft (motorized and non-motorized)

- Light: Cars and trucks with single rear axles and single rear wheels with a gross vehicle weight rating of 8,000 pounds or less, including motorcycles and scooters.

- Medium: Trucks and similar vehicles, other than truck tractors, with single rear axles and dual rear wheels with a gross vehicle weight rating that does not exceed 26,000 pounds

- Heavy: Trucks, including truck tractors, and similar Vehicles with two or more rear axles. Any truck exceeding a gross vehicle weight rating of 26,000 pounds or any truck-tractor or semitrailer. *(Ordinance 269, 4/12/16)*

213. VEHICLE REPAIR,

- Light & Medium: A privately owned and operated facility used for the purpose of repairing Light and Medium Vehicles and boats.

- Heavy: A privately owned and operated facility used for the purpose of repairing Heavy Vehicles.

214. VEHICLE SALES: A privately owned and operated facility used for the purpose of

displaying, selling or leasing Vehicles (new or used, including Recreational Vehicles) in operable condition and where service and repair work may be done.

215. WASTE: Defined by the Indiana Department of Environmental Management (IDEM) and the Environmental Protection Agency (EPA).

- Hazardous: Regulated by the Resources Conservation and Recovery Act (RCRA, 1976) and it's amendments, is any Waste that is "corrosive, ignitable, reactive, or toxic", or poses a substantial threat to human health and environment when improperly managed.

- Industrial Solid: Generally consists of such materials as Wastewater treatment sludges (Wastes with most of the water removed; semi-liquid), agricultural Wastes, plastics, oil, paint, metal, coal ash and is managed on-site in landfills, surface impoundments, land application units, and Waste piles and/or to off-site land facilities, discharged to Wastewater treatment plants and to surface waters.

- Municipal Solid: The refuse discarded by households, institutions, and Commercial establishments (as distinct from Hazardous Waste and sludges), and is disposed of in landfills, by incineration, is composted, recycled or re-used.

- Wastewater: The effluent (something that flows out) from industrial facilities, oil and gas operations, mining, agricultural run-off, municipalities, small businesses and households. When discharged from a pipe to surface water ("point" source), it is regulated under the Clean Water Act (CWA, 1972) and it's amendments. Most Wastewater from diffuse origins ("non-point" source), such as agricultural run-off or domestic septic systems, is not regulated.

- Yard: Plant clippings, pruning, and other discarded materials from yards and gardens; also called yard rubbish.

216. WASTE DISPOSAL FACILITY AND MANAGEMENT/SOURCE REDUCTION: Techniques primarily to reduce weight, volume and packaging which include but are not limited to:

- Collection Center: A Light Industrial facility for collecting secondary materials, usually from the public, and reselling to brokers, processing centers or manufacturers. Collection centers may or may not buy material; can be permanent or mobile; do no processing of materials for resale.

- Composting: The controlled decay of organic matter, producing a nutrient - rich mulch or organic soil; is utilized for yard debris, thus removing part of the Waste going to landfills and incinerators.

- Incineration: A process technology which provides the benefit of reducing the amount (particularly by volume) of Wastes; the residues of which must then be managed and disposed of properly.

- Landfill, Sanitary: An engineering project for refuse disposal in which the Waste is dumped in accordance with a preconceived plan, compacted, and covered

during and at the end of each day.

- Processing Center: A Heavy Industrial facility that buys secondary mater usually from brokers, collection centers and various post-consumer Waste facilities, to use for the re-manufacturing of products.

- Recycling: The process by which materials otherwise destined for disposal are retrieved and re-manufactured into new products.

- Transfer Station: An intermediate facility where collected refuse is deposited for transfer to the final disposal site.

217. WASTEWATER TREATMENT: A sewage disposal system which is constructed, installed, maintained, operated and owned by a municipality or taxing District established for that purpose.

218. WATER TREATMENT: A water supply system which is constructed, installed, maintained, operated and owned by a municipality, taxing District established for that purpose or a utility under the jurisdiction of the Public Service Commission of Indiana.

219. WATERSHED: All land and water within the confines of a drainage divide (a ridge separating two drainage basins).

220. WATERSHED/LOCATION MAPS: Maps required to be provided to the Commission when seeking primary approval of a plat. The maps may be separate or incorporated in the primary plat and shall show pertinent subdivision information such as but not limited to: Thoroughfares, physical features, existing schools, location of the subdivision and the streams/drainage within the Watershed, and the Flood Plains and floodways as mapped by the Federal Insurance Administration.

221. WETLAND: An area which, as described in the United States Army Corp of Engineers,

    - Supports predominantly aquatic or hydrophytic vegetation;

    - Contains hydric soils

    - Is saturated with water permanently, or at least some time during the growing season; and,

    - Displays an hydrology typically associated with a Wetland.

222. WETLAND DISTRICT: Any area which includes any or all of the following:

    - A Wetland;

    - The area within fifty (50) feet of a Wetland;

    - The area within fifty (50) feet of the shoreline of a public freshwater lake.

223. WETLANDS MAP: That portion of the National Wetlands Inventory which includes Burns Harbor, and which shows Wetlands and lakes located within the town's geographic area. The official Wetland, published by the U.S. Fish and Wildlife Service, as periodically updated, is incorporated herein by reference.

224. WHOLESALE ESTABLISHMENT: A Business establishment engaged in selling to retailers or jobbers rather than consumers.

225. YARD: An open space on the same lot with a Building, unoccupied and unobstructed except as otherwise permitted. (A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning District in which such lot is located) and shall not include that part in Use or to be used as a Street Right-of-Way.

    - Corner Side: A Side Yard which adjoins a Public Street, road or highway.

    - Front: A yard extending along the full length of the Front Lot Line between the Side Lot Lines and shall not include that part in Use or to be used as a Street Right-of-Way.

    - Interior Side: A Side Yard which is located immediately adjacent to another lot or to an Alley separating such Side Yard from another lot.

    - Rear: A yard extending along the full length of the Rear Lot Line between the Side Lot Lines.

    - Side: A yard extending along a Side Lot Line from the Front Yard to the Rear Yard.

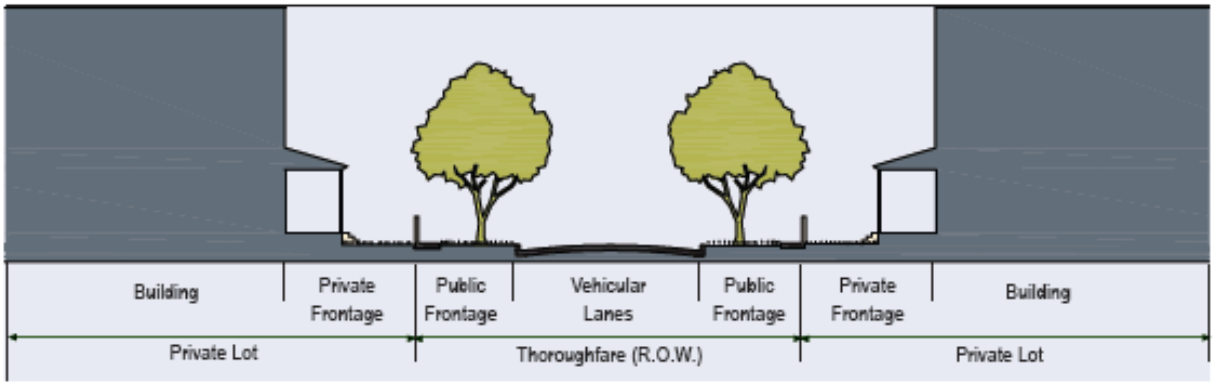
    - Transitional: A yard which must be provided when two conflicting land uses are adjoining.

226. ZONING DISTRICT(S): A section or sections of the territory of Burns Harbor, Indiana for which the regulations and requirements governing Use, lot, and bulk of Buildings and premises are uniform.

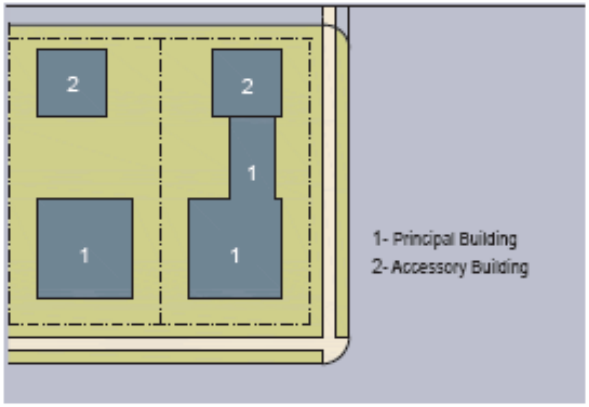
227. ZONING ORDINANCE: The part of the Comprehensive Master Plan, now or hereafter adopted, which includes an ordinance and zone maps which divide the jurisdiction of the Commission into Districts, with regulations and requirements and procedures for the establishment of the land use controls.

Table 2-1 DEFINITIONS ILLUSTRATED.
Illustrations used throughout this ordinance are for example purposes only.

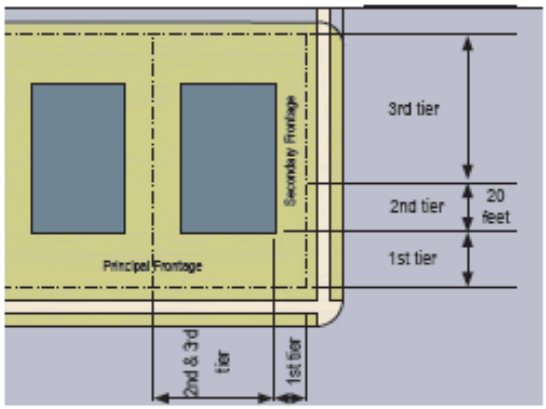
a. THOROUGHFARE & FRONTAGES



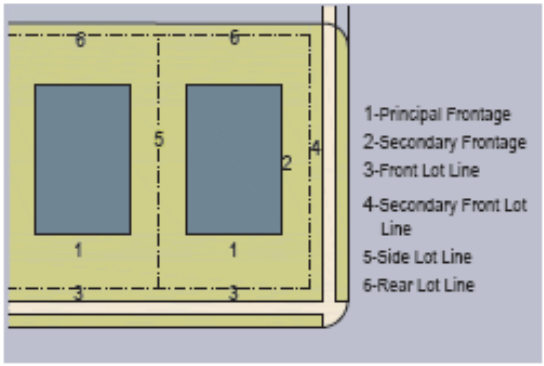
b. BUILDING DISPOSITION



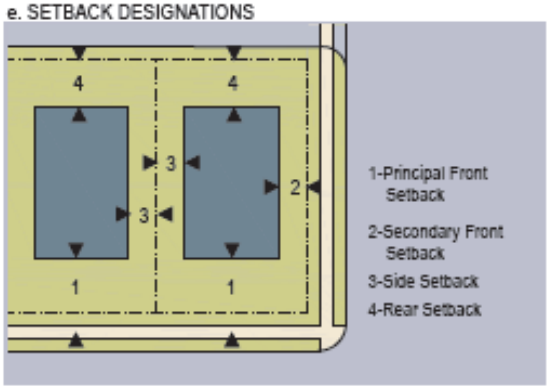
c. LOT TIERS



d. FRONTAGE & LOT LINES



e. SETBACK DESIGNATIONS



SECTION 3: ADMINISTRATION

15-3-1 BUILDING COMMISSIONER

The Building Commissioner is appointed by the Town Council to administer and enforce all of the provisions of the Town Code pertaining to Building and zoning matters so as to provide minimum Standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design of Buildings and Structures. All references to the Building Code or enforcement procedures of the Building Commissioner are addressed in Chapter 14 of the Town Code.

15-3-2 ENTRY AND INSPECTION

As outlined by Indiana Building Code, upon presentation of proper credentials, the Building Commissioner or duly authorized representatives may enter at reasonable times any Building, Structure or premises in the Town of Burns Harbor to perform any duty imposed upon the Building Commissioner by the Town Code.

15-3-3 ADOPTION OF STATE RULES BY REFERENCE

A. Building rules of the Indiana Fire and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Chapter and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

1. Article 13 -Building Codes
    - a. Fire and Building Safety Standards
    - b. Indiana Building Code
    - c. Indiana Building Code Standards
    - d. Indiana Handicapped Accessibility Code
2. Article 14 -One and Two Family Dwelling Code
    - a. Council of American Building Officials One and Two Family Dwelling Code
    - b. CABO One and Two Family Dwelling Code; Amendments
    - c. Standard for Permanent Installation of Manufactured Homes
3. Article 16 -Plumbing Codes
    - a. Indiana Plumbing Code
4. Article 17 -Electrical Codes
    - a. Indiana Electrical Code
    - b. Safety Code for Health Care F
5. Article 18 -Mechanical Codes
    - a. Indiana Mechanical Code
6. Article 19 -Energy Conservation Codes
    - a. Indiana Energy Conservation Code
    - b. Modifications to the Model Energy Code

7. Article 20 -Swimming Pool Codes

a. Indiana Swimming Pool Code

B. Indiana Code 16-41-27-1 et seq, providing for the licensing and regulation of Mobile Home parks by the State Department of Health and the resulting rules set out in the Indiana Administrative Code beginning at 410IAC 6-6-1 et seq for mobile park sanitation and safety are hereby incorporated by reference,which incorporation shall include later amendments to said Indiana Code and Administrative Code as the same are officially published by the State of Indiana from time to time with effective dates as are fixed from time to time in the official versions of said Indiana Code and Administrative Code. (Ordinance 170, 3/13/2002)

C. Copies of adopted Building rules, codes and Standards are on file in the office of the Burns Harbor Clerk-Treasurer.

15-3-4 PURPOSE

The purpose of this section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Ordinance.

15-3-4-1 EXCEPTIONS TO REVIEW

The following shall be excepted from the foregoing requirements:

A. Agricultural Uses

B. Limited Review Permit

15-3-4-2 PROCEDURES

An application for formal site plan approval shall be approved or denied within sixty (60) days from the date of its official and complete submission to the Building Commissioner.

A. Any Person making application for a Site Plan Approval shall furnish the Building Commissioner with three (3) copies of a Site Plan or Development plan of the real estate involved in the proposed permit. All plans submitted and actual construction shall be in accordance with Section 14-4-1 Principles of Standard and Designs of the subdivision Control Ordinance being Chapter 14 of the Burns Harbor Town Code. (Ordinance 187, 10/12/2005) Said site or Development plan shall be drawn to scale showing the following items:

1. Legal or site description of the real estate involved.

2. The boundaries of the property drawn to scale with dimensions

3. Location and size of all Buildings and structures both existing or proposed drawn to scale with dimensions.

4. Designation of Front, Side and Rear Yard Setback dimensions and distance between existing and proposed structures and said Setback dimensions.

5. All adjacent and adjoining roads or highways and width and length of all entrances and exits to and from said real estate onto said roads or highways.

6. Drawn to scale descriptions of right-of-way which the Applicant proposed to dedicate to the Town along with the legal description for said right-of-way.

7. An attached narrative description of the nature, scope and purpose of and proposed Buildings or structures along with a list of agencies to whom permits or applications for permissions have or will be filed in regard to the proposed Building, structure or the property on which the same is located.

8. A detailed plan for the safe distribution of traffic and elimination of unsafe traffic conditions which may result from the proposed Building or structure.

9. Show existing and proposed Easements and their widths.

10. Show what provisions will be made to handle storm-water run-off which currently exists or which may result from the proposed Buildings or structures to be placed on the property. Also, show surface elevations, finished floor elevations and the engineering calculations for surface water run-off.

11. Show proposed connections to sanitary sewers, storm sewers, water lines and the location, size and depth of same. Also, show the type and location of sediment - grease traps, the type and location of back flow devices for water and the location of fire protection devices such as hydrants.

12. Show any change in proposed topography including, but not limited to, extractions or additions to elevation in connection with construction of proposed Buildings or structures.

13. Show a plan for clearing Town Streets of dirt and debris deposited there during the course of construction of the proposed Building or structure or other Development of the property.

14. Describe all uses to be conducted on the described real estate and the items to be stored within the boundaries of said real estate.

15. Show the number and location of parking spaces proposed including all handicapped parking.

16. In the event the real estate of the Applicant is located in a Flood Plain area or adjacent to a Flood Plain area, the Site Plan shall be prepared by a professional engineer licensed in the State of Indiana.

17. Show all proposed landscaping, fencing and/or walls and describe the method for disposing of all trees and tree stumps removed during the construction process. (Ordinance 157, 2/26/1997)

18. Designate the name, address and telephone number of the Person responsible for the preparation of the Site Plan.

19. List the names, addresses and phone numbers of all contractors and subcontractors that the Applicant intends to employ for the project. No Improvement Location Permit shall be issued until each of the listed

contractors has a current license with the Town of Burns Harbor. (Ordinance 157, 2/26/1997)

20. List the names and addresses of all adjacent property Owners.

21. A copy of a design release, issued by the Indiana Fire and Building Service Department.

22. The Town may request additional engineering studies be conducted by the applicant describing impacts and potential upgrades of items such as traffic, sanitary sewer and potable water systems.

15-3-4-3 CERTIFICATION OF TAXES PAID

Prior to approving an application for a final site plan, the applicant shall provide certification to the Town that there are no delinquent property taxes, special assessments, interest, or Town utility fees due upon the parcel of land to which the site plan application relates.

15-3-5 IMPROVEMENT LOCATION PERMITS REQUIRED

A. No building or improvement of real estate in the Town of Burns Harbor may be altered, changed, placed, erected or located on platted or unplatted lands, or the use thereof changed unless an Improvement Location Permit for such structure or use has been issued by the Building Commissioner. There are two types of Improvement Location Permits: Limited Review Permit and Extensive Review Permit.

   1. A limited review permit shall be required for all detached structures, which include decks, patios, driveways, and fences, with an estimated cost of construction of less than ten thousand dollars ($10,000). This type of review will require a registered survey or site plan drawn to scale with the location of the structure and setbacks located within the site plan. A narrative description of the request will be required for all permits that describes the costs of the improvement as well as illustrations or graphics of what the structure will look like once completed.

   2. An extensive review shall be required for all enclosed porches, room additions, building expansions and subdivisions. This type of review and application will require that a detailed site plan, as outlined in Section 15-3-4. A narrative description of the request will be required that describes the costs of the improvement as well as illustrations or graphics of what the structure will look like once completed.

B. PERMIT FEES: No application for any permit from the Building Department shall be considered unless it is accompanied by cash or check for fees pursuant to the fee schedule, as amended.

   1. INVENTORY OF TOWN IMPROVEMENTS: Prior to the issuance of an Improvement Location Permit for a Structure, improvement, or use developed with access on Town Streets as opposed to State Highways the following shall be completed:

      a. The condition of Town Streets, culverts, storm sewers, or ditches be documented in an inventory done by the Town's Street Department,which inventory may include still pictures and video tape of the potentially affected improvements. An as-built, prepared by a licensed professional, shall be submitted to the Town by the Developer.

C. PERFORMANCE BOND: No application for an Improvement Location Permit for a Building, improvement, or use developed with access on Town Streets as opposed to State Highways shall be considered unless said application is accompanied by a Bond with acceptable corporate surety, bank letter of credit, or cash payable to the Town of Burns Harbor as a Performance Bond for the purpose of guaranteeing compliance with:

1. The Approved Building plans

2. The cleanup of all construction debris from the site, including trees and tree stumps removed during the construction process

3. And further guaranteeing the repair and restoration of any Town Streets culverts, storm sewers, or ditches damaged during the construction of the project to the condition of said improvements that existed prior to the beginning of the project.

Upon the completion of any required repairs and the issuance of the Certificate of Occupancy, the Building Commissioner may release that portion of the Performance Bond not required for repair and restoration. Said Performance Bond for single family residential construction shall be in the amount equal to one percent (1%) of the estimated construction cost not to exceed a Bond amount of $1,000. For Commercial, industrial, and multi-family construction, the Performance Bond shall be in the amount equal to five percent (5%) of the estimated construction cost not to exceed a Bond amount of $25,000. (Ordinance 157, 2/26/1997) No Bond shall be required for any residential repair or restoration amounting to Five Thousand Dollars ($5,000) or less. (Ordinance 159, 1/28/1998)

D. TIME LIMITS:

1. Construction authorized in an Improvement Location Permit shall begin within three (3) months after the permit is issued.

2. The exterior of the Building or Structure or additions or Alterations thereto shall be completed within twelve (12) months after the start of construction.

3. Construction shall be completed within eighteen (18) months after the start of construction provided, however, the eighteen (18)-month deadline shall not apply for projects constructed in the Special Use District if Approved by the Town Council.

Failure to utilize the Improvement Location Permit in a timely manner as aforesaid shall cause the Improvement Location Permit to be automatically void. After the payment of second application fee, deadlines can be extended or voided permits renewed only upon written application by the permit holder by a majority vote of the members of the Burns Harbor Plan Commission at a regularly scheduled meeting for a term and upon the conditions as may be set forth in the motion adopted. (Ordinance 159, 1/28/1998)

E. REQUIREMENTS FOR IMPROVEMENT LOCATION PERMIT: Any Person making application for an Improvement Location Permit shall furnish the Building Commissioner with three (3) copies of a Site Plan or Development plan of the real estate involved in the proposed permit. All plans submitted and actual construction shall be in accordance with Section 14-4-1 Principles of Standard and Designs of the subdivision Control Ordinance being Chapter 14 of the Burns Harbor Town Code. (Ordinance 187,

10/12/2005) Said site or Development plan shall be drawn to scale showing the following items:

1. Legal or site description of the real estate involved.

2. The boundaries of the property drawn to scale with dimensions.

3. Location and size of all Buildings and Structures both existing or proposed drawn to scale with dimensions.

4. Designation of Front, Side and Rear Yard Setback dimensions and distance between existing and proposed Structures and said Setback dimensions.

5. All adjacent and adjoining roads or highways and width and length of all entrances and exits to and from said real estate onto said roads or highways.

6. Drawn to scale descriptions of right-of-way which the Applicant proposed to dedicate to the Town along with the legal description for said right-of-way.

7. An attached narrative description of the nature, scope and purpose of and proposed Buildings or Structures along with a list of agencies to whom permits or applications for permissions have or will be filed in regard to the proposed Building, Structure or the property on which the same is located.

8. A detailed plan for the safe distribution of traffic and elimination of unsafe traffic conditions which may result from the proposed Building or Structure.

9. Show existing and proposed Easements and their widths.

10. Show what provisions will be made to handle stormwater run-off that currently exists or which may result from the proposed Buildings or Structures to be placed on the property. Also, show surface elevations, finished floor elevations and the engineering calculations for surface water run-off.

11. Show proposed connections to sanitary sewers, storm sewers, water lines and the location, size and depth of same. Also, show the type and location of sediment - grease traps, the type and location of back flow devices for water and the location of fire protection devices such as hydrants.

12. Show any change in proposed topography including, but not limited to, extractions or additions to elevation in connection with construction of proposed Buildings or Structures.

13. Show a plan for clearing Town Streets of dirt and debris deposited there during the course of construction of the proposed Building or Structure or other Development of the property.

14. Describe all uses to be conducted on the described real estate and the items to be stored within the boundaries of said real estate.
15. Show the number and location of parking spaces proposed including all handicapped parking.

16. In the event the real estate of the Applicant is located in a Flood Plain area or adjacent to a Flood Plain area, the Site Plan shall be prepared by a licensed professional.

17. Show all proposed landscaping, fencing and/or walls and describe the method for disposing of all trees and tree stumps removed during the construction process. (Ordinance 157, 2/26/1997)

18. Designate the name, address and telephone number of the Person responsible for the preparation of the Site Plan.

19. List the names, addresses and phone numbers of all contractors and subcontractors that the Applicant intends to employ for the project. No Improvement Location Permit shall be issued until each of the listed contractors has a current license with the Town of Burns Harbor. (Ordinance 157, 2/26/1997)

20. List the names and addresses of all adjacent property Owners.

21. A copy of a design release, if required, issued by the Indiana Fire and Building Services Department pursuant to I.C. 22-15-3-1 and Approved by the office of the State Fire Marshal as provided therein.

22. In the case of industrial uses and Buildings, the application shall include a Certificate of Compliance from a Professional Engineer registered in the State of Indiana certifying that the intended use will satisfy the performance Standards such as noise regulations of the Town Code for the District in which it is located. Additionally, if application is for construction of improvements for other than single family residential use, unless the Building Commissioner grants a written waiver as he may for projects where he estimates the value of construction to be less than $5,000.00, the information provided to the Building Commissioner shall include additional information including:

    Site Plans so furnished to the Building Commissioner shall be filed by the Building Commissioner and shall become a permanent record of the town.

F. PROTECTION OF FLOOD PLAIN AREAS: Prior to the issuance of any Improvement Location Permit, the Building Commissioner shall:

1. Review all Building Permit applications for new construction or substantial improvements to determine whether proposed Building sites will be reasonably safe from flooding.

2. Review Building Permit applications for major repairs within the Flood Plain area having special flood hazards to determine that the proposed repair

    a. Uses construction materials and utility equipment that are resistant to flood damages, and

    b. Uses construction methods and practices that will minimize flood damage.

3. Review Building Permit applications for new construction or substantial improvements within the Flood Plain area having special flood hazards to assure that the proposed construction (including Manufactured Housing and Mobile Homes) (a) is protected against flood damage; (b) is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the Structure, flood damage and (c) uses construction methods and practices that will minimize flood damage.

G. IMPROVEMENT LOCATION PERMITS REQUIRING SPECIAL EXCEPTIONS OR VARIANCES: The Building Commissioner shall issue an Improvement Location Permit for Structures or uses requiring a Special Exception or Variance only following the receipt of written notice from the Board of Zoning Appeals that an application for the Special Exception or Variance has been Approved by said Board.

15-3-6 INSPECTIONS

After the issuance of any Improvement Location Permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to insure full compliance with the provision of this Ordinance and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of inspection fees.

15-3-7 INSPECTION ASSISTANCE

The Chief of the Fire Department, or their designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner.

15-3-8 STOP WORK ORDER

Whenever any work is being done contrary to the provisions of the Town Code, the Building Commissioner may order the work stopped by notice in writing serviced on any Persons engaged in the doing or causing such work to be done, and any such Persons shall forthwith stop such work until authorized by the Building Commissioner to proceed with the work.

15-3-9 CERTIFICATE OF OCCUPANCY

No change in the use or occupancy of land, nor any change in the use or occupancy in an existing Building, shall be made, nor shall any new Building be occupied, until a Certificate of Occupancy has been issued by the Building Commissioner who prior to the issuance of said Certificate shall determine that the new occupancy or improvements comply with all provisions of the Town Code. The Certificate of Occupancy shall be applied for coincidentally with the application for any required Improvement Location Permits but shall not be issued until any erection, reconstruction, or Structural Alterations or other improvements of the land have been completed. Records of all Certificates of Occupancy issued shall be kept on file in the office of the Building Commissioner and copies shall be furnished upon request to any interested Person having a proprietary or tenancy interest in the Building or land affected.

15-3-10 TEMPORARY CERTIFICATES OF OCCUPANCY

If after submission of the application for a Certificate of Occupancy, the Building Commissioner determines upon inspection that the Applicant has not fully met the required conditions and Standards for a Certificate of Occupancy, a temporary Certificate of Occupancy along with a written statement of necessary modification may be issued for a period not to exceed sixty (60) days, pending completion of the modifications.

15-3-11 TEMPORARY USES:

A. CIRCUMSTANCES FOR PERMIT ISSUANCE: Subject to conditions, fees, and Standards otherwise required by this Ordinance, a temporary use permit may be issued, with the approval of the Board:

   1. To an Applicant to use a Manufactured or Mobile Home as a construction office at a job site during actual periods of construction, which permit shall be renewed annually;

   2. To an Applicant whose own health or the health of another necessitates care, and where the facts show that an unnecessary hardship would occur if not permitted to locate a Manufactured or Mobile Home adjacent to the residence of one who is able to provide such care or in need of such care, which permit shall expire when the Person in need of care has ceased to live on the site for more than thirty (30) days.

B. CIRCUMSTANCES FOR PERMIT DENIAL OR TERMINATION: The Board may deny a temporary use permit, or may terminate an issued permit for the location of a Manufactured or Mobile Home for, but not limited to, the following reasons:

   1. If the unit is to be used for rental purposes. It must be occupied only by the Person to whom the permit is issued;

   2. If the unit is to be used for Storage purposes; or,

   3. If any Alteration is made to the building for purposes of increasing the usable living area or providing additional Storage area with the exception of manufacturer Approved and constructed add-a-room or expando units.

C. PERMIT EXPIRATION: At the time the temporary permit expires, the Manufactured or Mobile Home and all appurtenances shall be removed from the property within sixty (60) days.

D. UTILITY REQUIREMENTS: Manufactured or Mobile Homes used for temporary uses shall have an Approved water supply, sewage disposal system, and utility connections, where appropriate, and at the discretion of the Plan Commission's designated administrator.

E. TEMPORARY TENTS: Tents used for Commercial sales may be used as temporary fixtures on a parcel of land for a period of not more than thirty (30) days with more than thirty (30) days between the periods of the tent's usage and no more than twice during any calendar year. Temporary tent structures shall not be placed for a septic field nor on required parking spaces. (Ordinance 159, 1/28/1998)

15–3–12 COMPLAINTS REGARDING VIOLATIONS

Any Person may file a written complaint alleging a violation of any provision of the Town Code regarding the use and occupancy of land and improvements with the Building Commissioner. The Building Commissioner shall record the complaint, immediately investigate and take action thereon and shall make a written answer to the complaint within thirty (30) days of its receipt.

15–3–13 REMEDIES

Any Building erected, razed or converted, or land or premises used in violation of any portions of the Town Code, is hereby declared to be a common Nuisance and as such may be abated in such manner as Nuisances are now or may hereafter abated under existing law. If the Building Commissioner finds any violation of any portion of the Town Code pertaining to the use and occupancy of Buildings or land within the Town, he shall notify the responsible parties in writing, indicating the nature of the violations and ordering the action necessary to correct them. The Building Commissioner shall order the discontinuance of the illegal uses of land, Building or Structures; the removal of the illegal Buildings or Structures or the illegal additions, Alterations or structural changes; the discontinuance of any illegal work being done and the Building Commissioner shall take any action necessary to insure compliance with or to prevent violations of the Town Code including bringing actions for mandatory and injunctive relief in the enforcement of and secure compliance with any order(s) made by the Building Commissioner which actions may be joined with an action to recover penalties provided for in the Town Code. The Plan Commission, the Board of Zoning Appeals, the Building Commissioner or any designated enforcement official, or any Person or Persons, firm or corporation, jointly or severally aggrieved, may institute a suit for an injunction to restrain an individual or governmental unit from violating the provisions of Town Code pertaining to use and occupancy of Buildings or land.

ATTORNEY FEES: In any action commenced under the preceding paragraph to enforce any portions of the Town Code or in any legal proceeding initiated by any Person, firm or corporation, and if the Town entity (i.e. Plan Commission, the Board of Zoning Appeals, the Building Commissioner or any designated enforcement official) shall prevail, the other party(ies) shall pay the Town entity's attorney fees and staff costs incurred in connection with such proceedings, as set forth in a letter maintained on file with the Clerk-Treasurer's office.

15–3–14 RIGHT OF APPEAL

All Persons aggrieved by a decision of the Building Commissioner may appeal said decision to the Board of Zoning Appeals following the procedures outlined in Section 15-4-4 of the Town Code.

Section 4: THE BOARD OF ZONING APPEALS

15-4-1 ORGANIZATION AND MEMBERSHIP OF THE BOARD OF ZONING APPEALS

(Ordinance 258, 11/12/2014)

A. ORGANIZATION: The Burns Harbor Board of Zoning Appeals has been established and shall perform its duties and exercise its powers and jurisdiction in accordance with Indiana Code 36-9-4-901 et seq, as may be amended from time to time, and pursuant to this Chapter 15.

B. MEMBERSHIP: The membership of the Board of Zoning Appeals shall consist of five (5) members. At the first meeting of each year, the members shall select one of their members as the Chairman and one as Vice Chairman, to serve for a period of one (1) year or until their successors are selected.

C. SECRETARY: The Board shall appoint a secretary to the Board at the first meeting of each year. The secretary is not required to be a member of the Board. The secretary's duties shall be fixed by state statute, town ordinance and by the rules and procedures of the Board.

D. LEGAL AND ENGINEERING SERVICES: Within the budget allotment afforded by the Town fiscal body, the Board may contract for legal and engineering services.

15-4-2 RULES OF PROCEDURE OF THE BOARD OF ZONING APPEALS

(Ordinance 258, 11/12/2014)

A. RECORD OF PROCEEDINGS: The Board shall keep minutes of its proceedings showing its decision, the reasoning upon which its decisions are based, and the vote of each member upon each decision or question, or, if absent or failing to vote, indicating such fact. The Board shall keep other records of its proceedings and other official actions, all of which shall be filed in the office of the Secretary of the Board and shall be considered public record.

B. MEETINGS: The regular meetings of the Board shall be at a date and time established by the Board. The location of the meeting shall be the Burns Harbor Town Hall, located at 1240 N. Boo Road, Burns Harbor, Indiana. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct a meeting at that time or place, the president may set an alternate date, time or place for the regular meeting, or may cancel the meeting with the unanimous consent of the members of the Board, provided that the notice requirements of Indiana Code 5-14-1.5 are complied with. The Board shall not conduct business unless a majority of the members are present. All meetings of the Board shall be open to the public unless specifically authorized by statute. A majority of the members of the Board, regardless of the number of members present, shall be required for a final decision to be rendered on any application or appeal. A majority of those members constituting a quorum of the members present shall be required on all other

business.

C. PUBLIC HEARINGS: After a preliminary hearing at which the petitioner or applicant shall present the appeal or the application for relief, the Board shall hold a public hearing. The applicant or petitioner shall comply with the notice requirements found in Section 15-4-8(B) of this Chapter.

D. CONDUCT AT HEARING: Every person appearing before the Board shall abide by the order and directions of the president and shall comply with the following rules:

1. Persons addressing the Board: Each person who addresses the Board shall do so in an orderly manner and shall not make personal, slanderous or profane remarks to any member of the Board, staff, or the general public. Any person who makes such remarks, or who utters loud threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting may be subject to being barred from further participation in the meeting. Individuals remonstrating are asked to keep their comments focused on the application and to avoid repeating comments made by other remonstrators.

2. Members of the Audience: No person in the audience shall engage in disorderly or boisterous conduct, including the uttering of loud, threatening or abusive language, or any other act which threatens to disrupt the orderly conduct of the meeting. During a public hearing, all members of the audience who wish to speak will be given an opportunity to speak.

3. Enforcement of Decorum: The presiding officer shall request that a person who fails to abide by these suggestions be orderly and silent. If a person persists in disturbing the meeting, the presiding officer shall order him or her to leave the meeting. If such person fails to remove him or herself, the presiding officer shall request that a Town of Burns Harbor police officer remove the individual from the meeting.

E. DECISIONS: The Board shall document the reasoning supporting its decisions by stating on the record, or in separate findings adopted by the Board, the factual and/or legal grounds supporting it. The Board may reverse or affirm, in whole or in part, or modify orders, decisions, or determinations of the Town's Building Commissioner and, to that end, shall have all the powers of the officer or body from whom the appeal was taken. No decision of the Board permitting the erection or alteration of a structure shall be valid for a period of longer than six (6) months unless the building permit is obtained within such period and such erection or alteration is commenced within such period.

F. DISMISSAL OF CASES: The Commission may dismiss a case for lack of prosecution or lack of jurisdiction. When a petitioner or applicant has failed, without just cause, to appear at two (2) consecutive meetings, the Commission

may dismiss the application or petition for lack pf prosecution. A petitioner or applicant who petition or application is dismissed for failure to prosecute may no refile the matter with the Commission earlier than one (1) year after the date of dismissal.

15-4-3 AUTHORITY AND DUTIES OF BOARD OF ZONING APPEALS

The Board shall have the following authority and duties:

A. HEAR AND DECIDE THE FOLLOWING APPEALS:

1. Appeals of orders, requirements, decisions, or determinations of the Building Commissioner: The Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Commissioner in the enforcement of this Chapter pursuant to and in conformity with Section 15-4-4 hereof.

2. Other appeals delegated to it by the Burns Harbor Town Code: The Board shall act upon all questions arising in the administration of the Town Code when delegated to do so by the Town Code.

B. HEAR AND DECIDE APPLICATIONS FOR VARIANCES: The Board shall hear and decide applications for Variances pursuant to and in conformity with Section 15-4-6 hereof.

C. HEAR AND DECIDE APPLICATIONS FOR SPECIAL EXCEPTIONS: The Board shall hear and decide applications for Special Exceptions pursuant to and in conformity with Section 15-4-7.

D. INTERPRET THE ZONING MAP: The Board shall hear and decide applications to interpret the zoning map in such a way as to carry out the intent and purpose of the zoning plan by determining the uses permitted:

(1) where the Street layout on the ground varies from the Street layout as shown on the zoning map; and

(2) where a lot held in single ownership at the time of the passage of this Chapter is divided into two or more Zoning Districts or classifications.

15-4-4 APPEALS TO THE BOARD OF ZONING APPEALS

Appeals to the Board may be taken by any Person aggrieved or by any officer, department, or bureau of the Town affected by any decision of the Building Commissioner. Such appeals shall be taken within a reasonable time of the aggrieved action, but not exceeding thirty (30) days from the time of such action, by filing with the Building Commissioner and with the Board an appeal or notice of appeal specifying the grounds of appeal. The Board shall be provided all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Commissioner from whom the appeal is taken certifies to the Board after the appeal or notice of appeal if filed with him, that by reason of facts stated in a certificate to the Board, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record upon

application, on notice to Building Commissioner, showing good cause for a stay of proceedings.

15-4-5 VARIANCES:

A. VARIANCES GENERALLY: In order for the Board to consider an application for a Variance, at least one of the following two conditions must exist:

   1. The application for the Variance must allege that by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary situation of the land or Building or of the use of property immediately adjoining the property in questions, the literal enforcement of this Chapter would cause undue or unnecessary hardship or would involve practical difficulty as applied to the property for which the Variance is sought; provided, however, that the Board shall not grant a Variance on lot if the Owner or members of his immediate family own or owned adjacent land which could, without undue hardship, be included as part of the lot.

   2. The application for the Variance must allege that for reasons other than those set forth in condition (1) above the strict application of the terms of this Chapter would cause undue or unnecessary hardship or would involve practical difficulties as applied to the property for which the Variance is sought and a request is made to vary such regulations or requirements so that the spirit of this Chapter shall be observed, public safety secured, and substantial justice done.

B. DEVELOPMENT STANDARD VARIANCES: The Board shall approve or deny Variances from the development Standards (such as height, bulk, or area) of this Chapter. A Variance may be Approved under this Sub-section only upon a determination in writing that:

   1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

   2. The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and;

   3. The strict application of the terms of this Chapter will result in practical difficulties in the use of the property.

C. USE VARIANCE: The Board shall approve or deny Variances of use from the terms of this chapter. A variance may be Approved under this Sub-section only upon a determination in writing that:

   1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

   2. The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner;

   3. The need for the Variance arises from some condition peculiar to the property involved. The practical difficulties must be shown as follows:

a. The strict application of the terms of this Chapter will constitute an unnecessary hardship if applied to the property for which the Variance is sought; and

b. The approval does not interfere substantially with the Comprehensive Plan.

15-4-6 SPECIAL EXCEPTION

Special Exceptions are those uses of land which are essentially compatible with the uses permitted in a particular zoning District. However, they do possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the surrounding area, public services and facilities, and adjacent uses of land.

A. CONFORMING ONCE APPROVED: Once granted a Special Exception, the use is a Permitted Use. Any use for which a Special Exception has been granted shall be deemed a conforming use permitted in the District in which such use is located provided:

1. Such permit was issued in conformity with the provisions of this Chapter;

2. Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Exception shall have been explicitly granted; and

3. The foregoing general requirements are basic and apply to all Special Exceptions. Specific requirements listed in Table 5-2: Form and Function Table relating to particular Special Uses are in addition to, and shall be required, in all applicable situations.

B. REQUIRED FINDING: In order to grant a Special Exception the Board must find that:

1. The proposed use is one listed as a Special Exception for that District which said use is proposed to be located and in the case of a residential use, that the proposed use meets the Standards of the District for which said use is a Permitted Use.

2. The Board finds before approving a Special Exception request that both:

a. The Standards of the District in which the Special Use is to be located are fulfilled; and,

b. The Standards or other requirements of this Section are fully complied with.

c. Standards: The Board shall review the particular circumstances of the Special Exception request under consideration in terms of the following Standards, and approve a Special Exception only upon a finding of compliance with each of the following Standards established elsewhere in this Chapter.

(1.) The Special Exception shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

(2.) The Special Exception shall not inappropriately change the essential character of the surrounding area.

(3.) The Special Exception shall not interfere with the general enjoyment of

adjacent property.

(4.) The Special Exception shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.

(5.) The Special Exception shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of Persons or property through the excessive production of traffic, noise, smoke, odor, fumes, or glare.

(6.) The Special Exception shall be adequately served by essential public facilities and services, or it shall be demonstrated that the Person responsible for the proposed Special Exception shall be able to continually provide adequately for the services and facilities deemed essential to the Special Use under consideration.

(7.) The Special Exception shall not place demands on public service facilities in excess of available capacity.

(8.) The Special Exception shall be consistent with the intent and purpose of this Chapter and the objectives of any currently adopted Comprehensive Plan.

15-4-7 APPLICATION PROCEDURES

An application for a Variance or Special Exception shall be submitted and acted upon in accordance with the following procedures:

A. APPLICANT: Any Persons owning or having an interest in the subject property may file an application for one or more Variances or Special Exceptions provided for in this Chapter in the zoning District in which the land is situated.

B. APPLICATION: Applications for Variances or Special Exceptions shall be submitted to the secretary to the Board at least ten (10) days prior to the next scheduled meeting. Each application shall be accompanied by th epayment of a fee in accordance with the schedule of fees adopted by the Board to cover the costs of processing the application. No part of any fee shall be refundable. If a petitioner desires a special meeting of the Board, the Petitioner shall pay a non-refundable special meeting fee of $650 to the Clerk-Treasurer prior to the calling of the meeting to cover the Board's expenses for the special meeting.
(Ordinance 258, 11/12/2014)

C. REQUIRED INFORMATION: Twelve (12) copies of an application for a Variance or Special Exception shall be presented to the Secretary of the Board. Electronic copies are encouraged in addition to the copies required by this section. Applications shall be include, but not be limited to, the following information:

1. An application form which has been completed in full by the applicant;

2. A site plan, in conformance with subsection 15-3-4(E) of this Chapter;

3. A statement and other evidence or proof by the Applicant of present and future compliance with the standards required for approval in sections 15-4-3 or 15-4-6 and other standards imposed by this chapter affecting the Variance or Special Exception; and

4. Proof of ownership and, in cases where the applicant is not the owner of the subject property, a properly executed power of attorney in the form prescribed by the Town. *(Ordinance 258, 11/12/2014)*

D. INCOMPLETE APPLICATION: An application which is incomplete or otherwise not in compliance with this Chapter shall be returned to the Applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

15-4-8 PROCESSING:

A. COPY OF APPLICATION TO THE BOARD: The secretary shall forward copies of the application for relief to the Board within seven (7) days of receiving the request. The Board shall hold a preliminary hearing on the application prior to taking official action to set the matter for a public hearing in accordance with Indiana Code 36-7-4-920. *(Ordinance 229, 11/11/2009)*

B. HEARING: After a preliminary review of the Site Plan and an application for relief, the Board shall hold a hearing.

Written notice of the hearing shall be given by the Applicant at the Applicant's expense to all interested parties by personally delivering or mailing at least ten (10) days prior to the date of the hearing, a copy of said notice of hearing to said parties.

The interested parties shall include, but are not limited to, the appellant and the Town's zoning official or body whose order, decision, or determination is being appealed, the Applicant for the relief being sought, and all Owners of real property, according to the last tax assessment roll, within three hundred feet (300') of the premises which is the subject of the hearing.

Said notice shall be published in accordance with State statutes and posted at the Town Hall. Each notice given under this Section shall: (Ordinance 219,12/17/2008)

a. Describe the nature of the relief requested;

b. Indicate the property which is the subject of the request;

c. State when, where, and at what time the public hearing on the request will be considered:

d. Indicate when and where written comments will be received concerning the request;

15-4-9 REVIEW, APPROVAL AND APPEALS:

A. REVIEW AND APPROVAL: The review of an application and Site Plan requesting a Variance or Special Exception shall be made by the Board in accordance with the

procedures and Standards specified in Sections 15-4-6 and 15-4-7. If a submitted application and Site Plan do not meet the requirement of the Chapter, they may not be Approved. However, if the Applicant agrees to make changes to the Site Plan and application in order to bring them into compliance with the Chapter, such changes shall be allowed and shall be either noted on the application or Site Plan itself, or attached to it, or these documents shall be re-submitted incorporating said changes.

A Site Plan and application for a Variance or Special Exception shall be Approved by the Board if they comply in all respects with the requirements of this Chapter and other applicable town, state or federal laws, rules or regulations. Approval and issuance of a Variance or Special Exception shall signify prior approval of the application and Site Plan therefore, including any modification and any conditions imposed where necessary to comply with the Chapter.

The Site Plan, as Approved, and any statements of conditions and modifications shall become part of the Variance or Special Exception and shall be enforceable as such.

The decision to approve or deny a request for a Variance or Special Exception shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify the basis for the decision, any changes to the originally submitted application and Site Plan necessary to insure compliance with the Chapter, and any condition imposed with approval.

Once a Variance or Special Exception is issued, all site Development and use of land on the property affected shall be consistent with the Approved Variance or Special Exception. If there is a change to an approved variance of Special Exception, the applicant will be required to seek approval of said change from the Board.

B. CONDITIONAL APPROVAL: In granting any Variance or Special Exception, the Board may prescribe appropriate and reasonable conditions and safeguards which shall be in conformity with all of the following requirements:

1. The condition or safeguard must be designed to protect natural resources the health, safety, and welfare and the social and economic well being of those who will use the land or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. The condition of safeguard must be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

3. The condition or safeguard must be necessary to meet the intent and purposes of this Chapter, be actively under consideration, and be necessary to insure compliance with those Standards.

4. The Board may require that covenants be recorded incorporating the conditions set by the Board.

5. A violation of such condition or safeguards, when made a part of the terms under which the Variance or Special Exception is granted, shall be deemed a violation of Chapter 15 and shall be punishable under the Burns Harbor Town Code and may be cause for termination of the relief granted.

C. PERFORMANCE GUARANTEES: The Board may require that a cash deposit, certified check, or irrevocable bank letter of credit be furnished by the petitioner to insure compliance with an Approved Site Plan and the Variance or Special Exception requirements. Such guarantee shall be deposited with the Town Clerk-Treasurer at the time of the issuance of the Variance or Special Exception.

In fixing the amount of such performance guarantee, the Board shall limit it to reasonable improvements required to meet the Standards of this Chapter and to protect the natural resources or the health, safety and welfare of the residents of the Town and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage.

The term “improvements” does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Act No. 288 of 1967 as amended. The Board and the petitioner shall establish an agreeable procedure for the rebate of any cash deposits required under this Section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the Variance or Special Exception.

D. APPEALS: Any Person, firm, corporation, department, board or bureau of the Town aggrieved by the decision of the Board may appeal said decision to the Porter County Circuit or Superior Court within thirty (30) days of the decision as provided by Indiana Code.

15-4-10 DECISION:

A. EFFECTIVE DATE: A Variance or Special Exception shall become effective when the application has been Approved by the Board.

1. A Building Permit shall not be issued until approval of such Variance or Special Exception by the Board.

2. Until a Building Permit has been granted pursuant to the Variance or Special Exception, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such Variance or Special Exception.

3. Land subject to a Variance or Special Exception may not be used or occupied for purposes of such Variance or Special Exception until after a Certificate of Occupancy for same has been issued pursuant to the provisions of this Chapter.

B. PERMIT VALIDITY:

1. Approval of a Variance or Special Exception shall be required to receive renewal upon change of ownership.

2. Provided however, that if more than fifty (50%) percent of the value of the Structure is destroyed, the Variance or Special Exception is no longer valid.

3. In instances where Development authorized by a Variance or Special Exception has not commenced within one (1) year from the date of issuance or the last date of review authorized by this subsection, the Board shall review the permit in relation to the applicable Standards and requirements of this Chapter. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Chapter applicable to the Variance or Special Exception under review, such that the permit is no longer in conformance with the requirements of this Chapter, the permit shall become null and void. Where it is determined that such permits are in conformance with the provisions of this Chapter, and there has not been a change in conditions affecting the validity of the permit, the Variance or Special Exception shall remain valid, subject to periodic review in accord with the provisions of this Subsection.

C. REQUIREMENT FOR COMPLIANCE -PENALTIES:

1. Compliance: It shall be the duty and obligation of the Owner(s) and occupants(s) or operator(s) of land and uses subject to a Variance or Special Exception and Approved Site Plan therefore, that the continued use of such land shall at all times be in compliance with the use requirements of this Chapter. Failure thereof shall be violation of this Chapter and subject to the penalties and remedies provided in this Chapter and the continuance thereof is declared to be a Nuisance per se. (Ordinance 162, 7/12/2000)

2. Penalties: (a) Any Person who willfully or knowingly violates any provision of this Chapter shall be fined for each offense a sum of not less than Seven Hundred and Fifty ($750) Dollars and no more than Two Thousand Five Hundred ($2,500) Dollars. (Ordinance 162, 7/12/2000)

   a. Each occurrence or violation of any provision of this Chapter shall constitute a separate offense. Each day of violation shall be deemed a separate occurrence for penalty purposes. (Ordinance 162, 7/12/2000)

3. Other Remedies: No provision of this Chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any Person for injury or damage arising from any violation of this Chapter or from other law. (Ordinance 162, 7/12/2000)

4. Attorney Fees: In any action commenced under the preceding paragraph to enforce any portions of the Town Code or in any legal proceeding initiated by any Person, firm or corporation, and if the Town entity (i.e., Plan Commission, the Board of Zoning Appeals, the Building Commissioner or any designated enforcement official) shall prevail the other party(s) shall pay the Town entity's attorney fees and staff costs incurred in connection with such proceedings, as set forth in a letter maintained on file with the Clerk-Treasurer's office.

SECTION 5: DISTRICTS - GENERAL

TABLE 5-1: ZONING DISTRICT DESCRIPTIONS.

This table provides descriptions of the character of each zoning district. Illustrations are for example purposes only.

ROS RESIDENTIAL OPEN SPACE DISTRICT

The purpose of the Residential Open Space is to preserve and protect natural open space and regulate Development of park related facilities in a sustainable, low-impact manner.

The zone primarily consists of large tracts of national, state, county and regional agency controlled natural open space such as wetlands, rivers, streams, dunes, prairies and forests with park support Buildings, Surface Parking lots and trails.

General Character: Natural landscape with limited Recreational Facilities
Building Placement: Not Applicable
Building Height: Not Applicable
Civic Space: Not Applicable

R RESIDENTIAL DISTRICT

The purpose of the Residential District is to promote the Development and management of walkable residential neighborhoods.

General Character: Lawns with landscaped yards surrounding freestanding houses
Building Placement: Large and variable setbacks
Building Height: One and Two Story
Civic Space: Greenway, neighborhood park and playground

RC 1 RESIDENITAL/COMMERCIAL 1 DISTRICT

The purpose of the Residential/Commercial 1 District is to promote the Development and management of highly walkable, medium density residential neighborhoods with a mixture of building types and functions that allow a resident to meet their daily needs on foot and bicycle.

General Character: Mix of single and multiple family residential Buildings, corner office and corner store Buildings in semi-formal arrangements with landscaped yards
Building Placement: Shallow to medium setbacks
Building Height: Up to three stories
Civic Space: Greenway, neighborhood park, playground and community green

TABLE 5-1 CONTINUED: ZONING DISTRICT DESCRIPTIONS.

This table provides descriptions of the character of each zoning district. Illustrations are for example purposes only.

RC2 RESIDENTIAL/COMMERCIAL 1 DISTRICT
The purpose of the Residential/Commercial 2 District is to promote the Development and management of identifiable multi-use and mixed use corridors and sub-Districts that allow town residents to meet their weekly needs on foot, bicycle and motor Vehicle.

General Character: Mix of Commercial, office and mixed use block Buildings; landscaped grounds, parking lots and streets
Building Placement: Variable setbacks shallow to deep
Building Height: One to three stories
Civic Space: Greenway, community green and plaza

DD DOWNTOWN DISTRICT
The purpose of the Downtown District is to promote Development and management of an identifiable, compact, pedestrian-oriented, mixed use District with a high degree of pedestrian amenities that allow community members to meet their daily and weekly needs on foot, bicycle and Motor Vehicle.

General Character: Mix of Commercial, mixed-use and multifamily residential Buildings formally arranged with landscaped grounds; streets and parking lots
Building Placement: Shallow to no Front and Side Yard setbacks
Building Height: One to three stories
Civic Space: Town Square, community green, pocket park and plaza

BP BUSINESS PARK DISTRICT
The purpose of the Business Park District is to promote Development and management of ecologically responsive, multi-use employment centers. The District consists of a mix of primarily office and Business uses with supportive Commercial and park uses. Buildings are placed with shallow Front Yards along interconnected landscaped streets with sidewalks and on-street parking and parking lots are placed to the Rear and Side Yard.

General Character: Mix of office and Commercial and Office-showroom buildings
Building Placement: Variable setbacks
Building Height: One to three stories
Civic Space: Greenway, community green and neighborhood park

SD SPECIAL USE DISTRICT
The purpose of the Special Use District is to provide allowance for pre-existing uses and Building types within designated areas of Burns Harbor. The Special Use District shall not be used as a new zoning District for future uses within Burns Harbor.

General Character: Mix of existing heavy to medium industrial facilities and Mobile Home Parks
Building Placement: Varies
Building Height: Varies
Civic Space: NA

Updated April 2016

TABLE 5-2: ZONING FORM & FUNCTION TABLE

a. RESIDENTIAL	RESIDENITAL OPEN SPACE (ROS)	RESIDENITAL (R)	RESIDENTIAL/ COMMERCIAL1 (RC1)	RESIDENTIAL/C OMMERCIAL2 (RC2)	DOWNTOWN (DD)	BUSINESS PARK (BP)	SPECIAL USE (SD)
Accessory		P	P		P		See Table 12.1
Assisted Living			P	P	P		
Freestanding House		P	P				
Group Dwelling		P	P	P	P		
Live/Work Building			P	P	P		
Mansion Apartment			P		P		
Mixed Use Block Building			S	P	P		
Mobile Home							
Town House			P		P		
Twin Home			P				
Two Flat			P				
b. LODGING							
Bed & Breakfast			P		P		
Dormitory					P	P	
Hotel						P	
Inn			S		P	P	
c. OFFICE							
Corner Office			S				
Mixed Use Block Building			S	P	P	P	
Office Building				P	P	P	
d. COMMERCIAL/RETAIL/SERVICE							
Bar or Tavern				P	P	P	
Box, Large				S			
Box, Medium			S	P	P	P	
Box, Small			P	P	P		
Commercial Strip				P	S		
Corner Store		S*	P				
Mixed Use Block Building			S		P		
Open Air Market				P	P		
Restaurant			S	P	P	P	
Storage, Self						P	
e. CIVIC							
Community Center		P	P		P		
Golf Course		P	P				
Indoor Recreation				P	P	P	
Library		P	P	P	P		
Religious Assembly, Large				P		P	
Religious Assembly, Med				P	P		
Religious Assembly, Small		P	P	P			
Surface Parking							

f. CIVIC SUPPORT	RESIDENITAL OPEN SPACE (ROS)	RESIDENITAL (R)	RESIDENTIAL /COMMERCIAL1 (RC1)	RESIDENTIAL /COMMERCIAL2 (RC2)	DOWNTOWN (DD)	BUSINESS PARK (BP)	SPECIAL USE (SD)
Cemetery		S				P	See Table 12.1
Clinic				P	P	P	
Fairgrounds						P	
Fire Department		P	P	P	P	P	
Funeral Home				P	P	P	
Hospital				P		P	
Law Enforcement				P	P	P	
Parking Garage				P	P	P	
Public Works Garage				P			
Surface Parking	P	P	P	P	P	P	
g. EDUCATION							
College						P	
Daycare		P	P	P	P	P	
Preschool		P	P	P	P	P	
School: K-8		P	P	P	P		
School: 9-12		P	P	S	S		
Trade/Vocational						P	
h. Automotive							
Fuel/Convenience					P	P	
Rec. Vehicle Sales/Service				S			
Vehicle Repair, Heavy							
Vehicle Repair, Light/Med				S			
Vehicle Sales				S			
i. AGRICULTURE							
Community Garden		P	P	P	P	P	
Greenhouse						P	
Kennel				P		P	
Live Stock							
j. INDUSTRIAL							
Agribusiness							
Contractor Shop						P	
Freight Terminal							
Industrial, Light							
Industrial, Limited						S	
Industrial, Heavy							
Office-Showroom						P	
Storage, Warehousing							
Waste Transfer							
Wastewater Treatment							
Water Treatment							
k. ACCESSORY USES							
Active Solar Equipment		P	P	P	P	P	
CommunicatioFacilities						S	
Home Occupation		P	P	P	P		
Seasonal Sales/Display				P	P	P	
Small Wind Equipment						P	
Storage, Outdoor							

P = Permitted

S = Special Exception

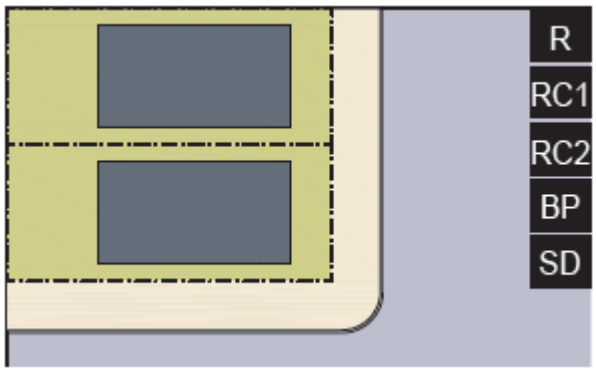
*New Subdivisions Only

TABLE 5-3: BUILDING DISPOSITION.

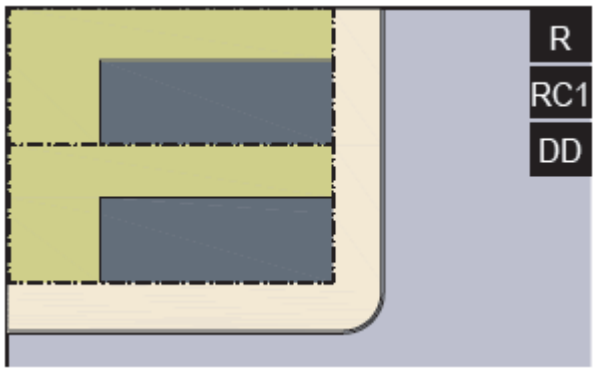
This table provides illustrations of the building locations permitted in each zoning district. Illustrations used throughout this ordinance are for example purposes only.

a. Edgeyard: Types – Freestanding Houses, Mansion Apartments, Two-Flat, Freestanding Commercial/Retail/Service Buildings, Office, Lodging, Civic, Civic Support, Educational, Automotive, Agricultural and Industrial.

A Building that generally occupies the interior of its lot with Setbacks on all sides. For residential applications, the Front Yard is intended to be visually continuous with the yards of adjacent Buildings. For non-residential Building types the front lot is comprised of landscaping and pedestrian pavements while portions of the 2nd tier (middle lot) can be used for Surface Parking.

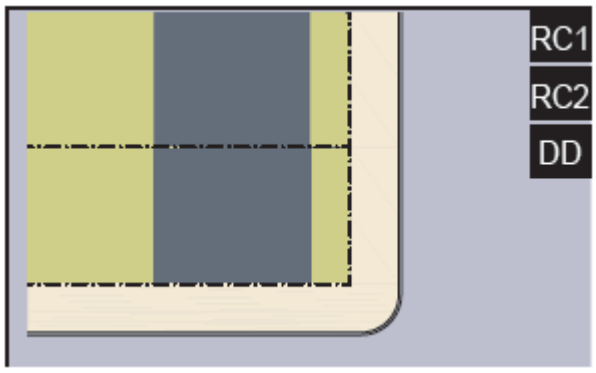


b. Sideyard: Types – Sideyard house, Two-Flat, Twin Home, Corner Store or Corner Office, Inn and Hotel. A Building that occupies one side of the lot with the Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the adjacent Buildings is similar with a blank side wall, the yard can be quite private. If a Sideyard house abuts a neighboring Sideyard house, the type is known as a Twinhome. Energy costs are reduced by sharing a party wall in this disposition. For non-residential Building types, portions of the 2nd tier and all of the 3rd tier (back lot) can be used for Surface Parking.



c. Splityard: Types – Two Flat , Twin Home, Town House, Commercial/Retail/Service and Office structures.

A Building that occupies the boundaries of its lot from side to side leaving the Front and rear of the lot as open yard. This is a more urban yard type, as it provides an open, landscaped Frontage along the Thoroughfare. For Residential applications, the Front Yard is intended to be visually continuous with the yards of adjacent buildings. The Rear Yard can be secured for privacy by combinations of plantings, fences and accessory structures, For Commercial applications it provides a greener, landscaped Frontage with opportunities for outdoor patio seating and dining, and Surface Parking within the 3rd tier.



d. Rearyard: Types – Town House, Live/Work Building, Mixed-Use Block Building, Commercial/Retail/Service, Office and Civic Building.

A Building that occupies the full frontage, leaving the rear of the lot as the side yard. This is a very urban type as the continuous façade steadily defines the public Thoroughfare. The front façade may be articulated for functional purposes such as recess entries or window bays. In its residential form, the rear if the Building includes a garage (attached or detached) as in the rowhouse. For its Commercial form, the 3rd tier can be used for Surface parking.

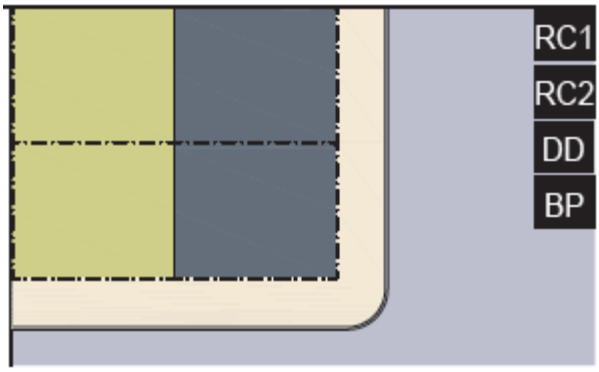


TABLE 5-4. PARKING CALCULATIONS

OVERVIEW: The Shared Parking Factor for two functions, when divided into the sum of the two (2) amounts as listed on the Require Parking Table below, produces the effective parking needed for each site involved in sharing.

Conversely, if the Sharing Factor is used as a multiplier, it indicates the amount of Building allowed on each site given the parking available. Parking calculations are expressed as maximums allowed, unless otherwise required by the Indiana Building Code or a parking demand study. See Shared Parking Calculation Example on following page for further detail.

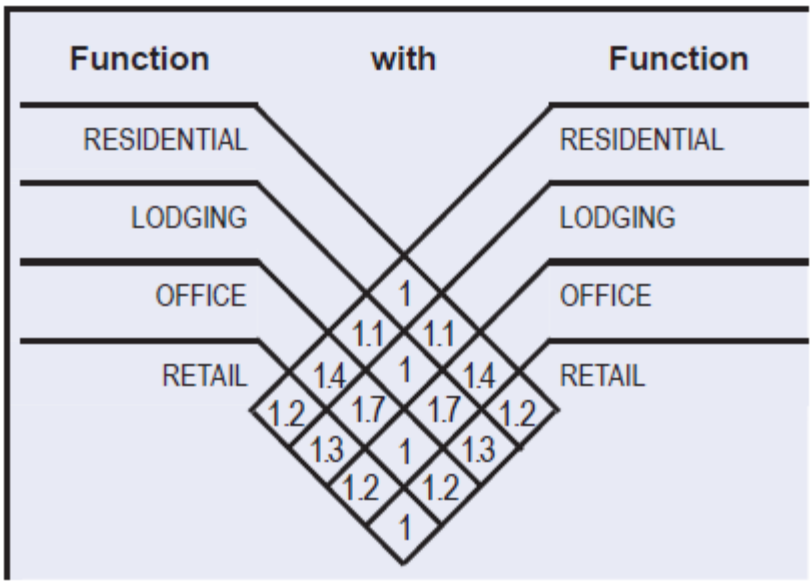
Table 5-4-1 Required Parking Table

Function	Districts					
	R	**RC1**	**RC2**	**D**	**BP**	**SD**
RESIDENTIAL	2/Dwelling	2/Dwelling	1.5/Dwelling	1.5/Dwelling	1/Dwelling	1/Dwelling
LODGING	NA	1/room	1/room	1/room	1/room	
OFFICE	NA	3 spaces max	3/1000 s.f. max	3/1000 s.f. max	3.5/1000 s.f. max	
RETAIL	4 max., 2min.	4 spaces max	4.5/1000 s.f. max	3/1000 s.f. max	3/1000 s.f. max	
CIVIC						
Community Center	One (1) space for each three hundred (300) square feet of floor area					
Golf Course	One (1) space per two (2) employees, plus three (3) per golf hole					
Indoor Recreation	One (1) space for each two hundred (200) square feet of floor area					
Library	One (1) space for each three hundred (300) square feet of floor area					
Religious Assembly	One (1) space for each four (4) permanent seats based on the design capacity of the main assembly hall					
CIVIC SUPPORT						
Cemetery	One (1) space per full-time employee					
Clinic	One (1) space for every two hundred (200) square feet of floor area					
Fairgrounds	One (1) per every four (4) seats					
Fire Department	One (1) space for each fire fighter, plus two (2) additional spaces for guests					
Funeral Home	Eight (8) spaces for each chapel or parlor, plus one (1) space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making up a funeral procession.					
Hospital	At least one (1) parking space for each three (3) hospital beds, plus one (1) space for each four (4) employees (full-time or equivalent), other than doctors, plus one (1) space for each resident and regular staff doctor					
Law Enforcement	One (1) space for each police officer, plus one (1) space for employee on longest shift, other than officers, plus two (2) spaces for visitors					
Parking Garage	NA					
Public Works Garage	NA					
Surface Parking	NA					
INDUSTRIAL	NA				To be determined	
ADULT USE						2/1000 s.f.
Parking expressed as maximums unless otherwise regulated by IN Building Code or a parking demand study.						

PARKING SETBACKS					
PRINCIPAL FRONT YARD	30 ft.	10 ft.	10 ft.	15 ft.	15 ft.
SECONDARY FRONT YARD	10 ft.	10 ft.	10 ft.	7 ft.	7 ft.
SIDE YARD	10 ft.	10 ft.	10 ft.	0 ft./ 7 ft. *	5ft.
REAR YARD	10 ft.	10 ft./15 ft.*	10 ft.	0 ft./7 ft.*	7 ft./15 ft.*

Motorcycle and Scooter parking spaces shall be based on the number of parking spaces: one (1) for every twenty (20) parking spaces, up to six (6) parking spaces max.
*For non-residential uses abutting residential uses.

Table 5-4-2 Shared Parking Factor



SHARED PARKING CALCULATION EXAMPLE:

Step 1: Locate site's District and Function from the Required Parking Table.

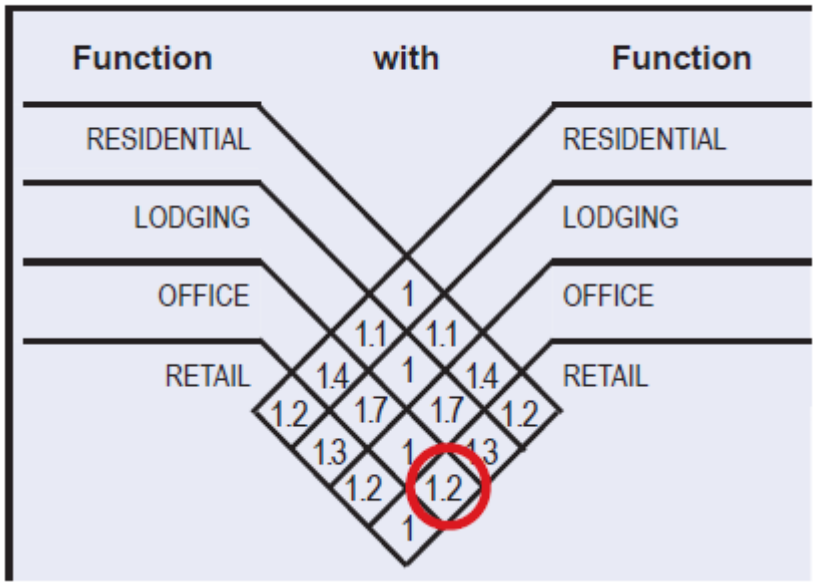
SITE: RC2 District with: *10,000 sq. ft. of Office: 3 per 1,000 sq. ft.*
10,000 sq. ft. of Retail: 4.5 per 1,000 sq. ft.

Function	Districts					
	R	**RC1**	**RC2**	**D**	**BP**	**SD**
RESIDENTIAL	2/Dwelling	2/Dwelling	1.5/Dwelling	1.5/Dwelling	1/Dwelling	1/Dwelling
LODGING	NA	1/room	1/room	1/room	1/room	
OFFICE	NA	3 spaces max	3/1000 s.f. max	3/1000 s.f. max	3.5/1000 s.f. max	
RETAIL	4 max., 2min.	4 spaces max	4.5/1000 s.f. max	3/1000 s.f. max	3/1000 s.f. max	
CIVIC	See Table 5-4-1					
INDUSTRIAL	NA				To be determined	

Step 2: Calculate the maximum parking.

10,000/1,000 = 10. 10x3 = 30 spaces max. for Office
10,000/1,000 = 10. 10x4.5 = 45 spaces max. for Retail
30+45=75 spaces max. Office and Retail

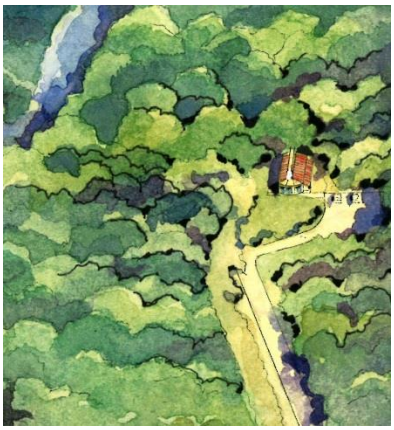
SHARED PARKING FACTOR



Step 3: Determine sharing factor multiplier by locating site's Function(s) from Shared Parking Factor.

Step 4: Calculate effective parking.

75 spaces/1.2(sharing factor multiplier) = 62 shared parking spaces
(75-62=13 spaces saved due to sharing)



SECTION 6: ROS RESIDENTIAL OPEN SPACE DISTRICT

15-6-1 PURPOSE

The purpose of the Residential Open Space District is to preserve and protect natural open space and regulate Development of park related facilities in a sustainable, low-impact manner. The zone primarily consists of large tracts of national, sate, county and regional agency controlled natural open space such as Wetlands, rivers, streams, dunes, prairies and forests with park support Buildings, Surface Parking lots and trails.

15–6–2 PERMITTED USES

Permitted Uses, which are identified in Table 5-2 are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing that all Development Standards identified herein have been met.

15–6–3 SPECIAL EXCEPTIONS

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exceptions.

15–6–4 ACCESSORY BUILDINGS

Accessory Buildings which are defined as a subordinate Building located on the same lot with an existing main Building, shall not be allowed. Subordinate structures, such as trash enclosures or Storage or maintenance sheds under 20 square feet are permitted and shall not be considered as Accessory Buildings for the ROS District.

15–6–5 PRE-EXISTING STANDARDS

Any Development, Farm operation, previously approved planning application, Lot of Record or structure legally operated prior to the effective date of this Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exception Standards as described in this Zoning District

SECTION 7: R RESIDENTIAL DISTRICT

15–7–1 PURPOSE

The purpose of the Residential District is to promote the Development and management of walkable, residential neighborhoods. The District consists of Freestanding Houses, neighborhood and community parks, greenways, landscaped interconnected Streets with limited on Street parking, sidewalks and trails.

15–7–2 PERMITTED USES

Permitted Uses, which are identified in Table 5-2 are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing that all Development Standards identified herein have been met.

15–7–3 SPECIAL EXCEPTIONS

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new Development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exceptions.

15–7–4 ACCESSORY BUILDINGS

Accessory Buildings, which are defined as a subordinate Building located on the same lot with an existing main Building, shall be allowed a maximum of sixty percent (60%) up to seven hundred (700) square feet whichever is greater of the residential Building as measured at the ground floor. If additional square footage is sought as part of an application, a Variance request may be issued provided the Standards of Section 15-4-6 have been met. Subordinate buildings, such as garden sheds, playhouses, or storage or maintenance sheds under one-hundred sixty (160) square feet shall not be considered as part of the overall accessory building calculation. A maximum Lot Coverage of forty-five percent (45%) shall be permitted for all Buildings within this Zoning District with up to a maximum of three (3) Accessory Buildings. *(Ordinance 229, 11/11/2009)*

15–7–5 PRE-EXISTING STANDARDS

Any Development, Farm operation, Lot of Record or structure legally operated prior to the effective date of this Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exceptions Standards as described in this Zoning District.

15-7-6 INTERPRETATION OF STANDARDS

A. MINIMUM SQUARE FEET OF RESIDENTIAL UNIT: Minimum square feet of a single floor residential unit shall be 1,200 square feet. Minimum square

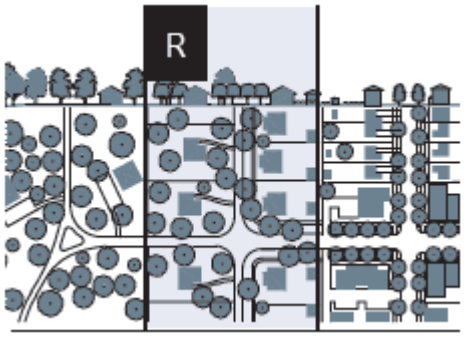
feet of a multiple floor residential unit shall be 1,800 square feet.

B. CORNER STORE: One Corner Store per one-quarter (¼) mile radius (single Pedestrian Shed) of neighboring residences may be included by Special Exception within a new Subdivision Development in the R District. The Corner Store shall be located on a Corner Lot.

C. RESIDENTIAL DRIVEWAYS : Residential Driveways serving front and side loading attached and detached garages accessed from the Street shall be no wider than twenty-two (22) feet and located in the 1st and 2nd tier. Residential Driveways serving attached and detached garages accessed from an Alley shall be no wider than twenty-two (22) feet and located in the 3rd tier.

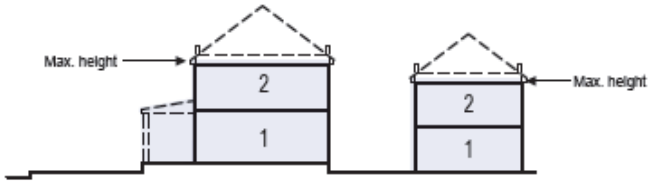
D. Parking Requirements for this District are found under Parking Provisions. Any deviation from the required parking standards shall require a Variance.

E. MAXIMUM DEVELOPMENT DENSITY: No subdivision of land platted after the adoption of this Ordinance shall have a density exceeding three (3) lots per acre, as measured by the number of lots divided by the number of acres comprising the subdivision.



BUILDING CONFIGURATION

1. Building height shall be measured in number of stories, excluding attics and raised Basements.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, excluding vaulted spaces.



a. BUILDING CONFIGURATION	
Principal Building	2 stories max.
Accessory Building	2 stories max.

b. LOT OCCUPATION	
Lot Width	70 ft. min.
Lot Coverage	45% max.
Lot Depth	120 ft. min.

c. BUILDING DISPOSITION (see Table 5-3)	
Edgeyard	Permitted
Sideyard	Not permitted
Splityard	Not permitted
Rearyard	Not permitted

d. SETBACKS – PRINCIPAL BLDG	
d.1 Principal Front Setback	20 ft. min.
d.2 Secondary Front Setback	20 ft. min.
d.3 Side Setback	7 ft. min.
d.4 Rear Setback	20 ft. min.

e. SETBACKS – ATTACHED ACCESSORY BLDG*	
e.1 Front Setback	Principal bldg setback + 3 ft. min.
e.2 Side Setback	7 ft. min.
e.3 Rear Setback	20 ft. min.

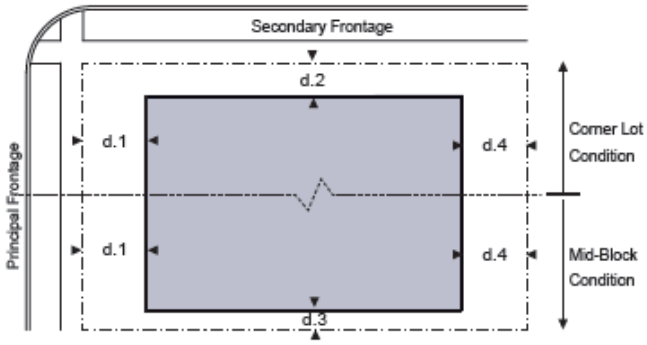
f. PARKING PROVISIONS**	
Residential	2/dwelling
Lodging	na
Corner Store	2 min.
Civic	See Table 5-4-1
Industrial	na

*See 15-13-6 for detached Accessory Building Requirements

**Parking Setbacks see Table 5-4-1. Parking calculations are expressed as maximums allowed, unless otherwise required by the Indiana Building Code or a parking demand study.

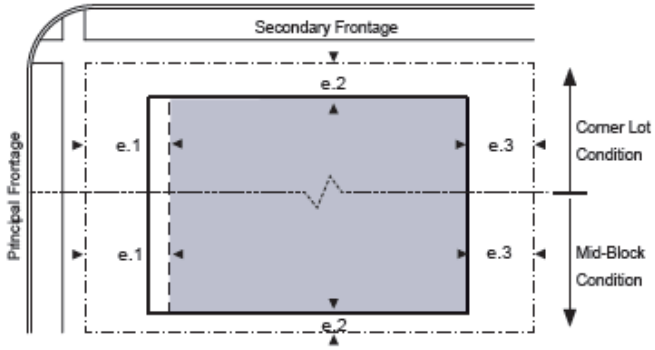
SETBACKS PRINCIPAL BLDG

1. Principal Buildings shall be distanced from the lot line as shown.
2. All attached front Porches shall be allowed to encroach a maximum of 10 feet within the required Principal Front Yard Setback.
3. Encroachment into the Side Yard Setback shall require a Special Exception.



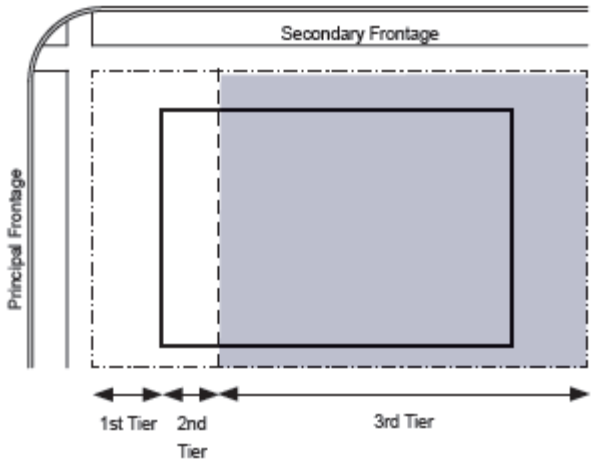
SETBACKS ATTACHED ACCESSORY BLDG

1. Accessory Buildings shall be distanced from the lot lines as shown.



PARKING PLACEMENT

1. Parking spaces for Corner Store shall be provided within the 3rd tier as shown in diagram.



SECTION 8: RC1 RESIDENTIAL/COMMERICAL 1 DISTRICT

15–8–1 PURPOSE

The purpose of the Residential/Commercial 1 District is to promote the Development and management of highly walkable, medium density residential neighborhoods with a mixture of Building types and functions that allow a resident to meet their daily needs on foot and bicycle.

15–8–2 PERMITTED USES

Permitted Uses, which are identified in Table 5-2 are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing that all Development Standards identified herein have been met.

15–8–3 SPECIAL EXCEPTION

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new Development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exceptions.

15–8–4 ACCESSORY BUILDINGS

Accessory Buildings which are defined as a subordinate Building located on the same lot with an existing main Building, shall be allowed a maximum of fifty percent (50%) of the residential Building as measured at the ground floor. If additional square footage is sought as part of an application, a Variance request may be issued provided the Standards of Section 15-4-6 have been met. The architectural style and Building materials of all Accessory Buildings within the RC1 Zoning District shall be consistent in architecture, building materials and design as those found within the Principal Building of the Lot. Subordinate buildings, such as garden sheds, playhouses, or storage or maintenance sheds under one hundred sixty (160) square feet shall not be considered as part of the overall accessory structure calculation. A Lot Coverage requirement of sixty percent (60%) shall be permitted for all Buildings within this Zoning District. A maximum of one (1) accessory structure shall be permitted. *(Ordinance 229, 11/11/2009)*

15–8–5 PRE-EXISTING STANDARDS

Any Development, Farm operation, Lot of Record or structure legally operated prior to the effective date of this Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exceptions Standards as described in this Zoning District.

15–8–6 INTERPRETATION OF STANDARDS

A. MINIMUM SQUARE FEET OF RESIDENTIAL UNIT: The minimum square feet of a residential unit shall be 960 square feet.

B. BUILDING DISPOSITION MIX: New subdivisions or development projects, of three (3) acres or greater, in the RC1 District shall contain at least three (3) Building Disposition types. Each Building Disposition type shall comprise at least twenty percent (20%) of the total lots in the completed Subdivision. No single Building Disposition type shall exceed sixty percent (60%) of the total lots in the completed Subdivision.

C. CORNER STORE: One Corner Store per one-quarter (¼) mile radius (single Pedestrian Shed) of neighboring residences may be included within Development of any subdivision approved after the date of this Ordinance as a Special Exception in the RC1 District. The Corner Store shall be located on a Corner Lot.

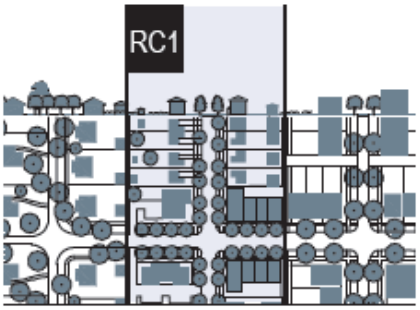
D. CORNER OFFICE: Up to two (2) Corner Offices may be located on Corner Lots within a ¼ mile radius (single Pedestrian Shed) of neighboring residences.

E. DRIVEWAYS: Residential Driveways serving front and side loading attached and detached Garages accessed from the Street shall be no wider than twenty-two (22) feet and located in the 1st and 2nd tier. Residential Driveways serving attached and detached garages accessed from an Alley shall be no wider than twenty-two (22) feet and located in the 3rd tier. One (1) driveway maximum allowed per lot.

F. Parking Requirements for this District are found under Parking Provisions. Any deviation from the required parking standards shall require a variance.

G. Front Building facades in the RC1 District shall face the Street and be built parallel to the Street or the tangent of a curved Street.

H. See 15-13-7 for Detached Accessory Building Standards. Trash containers shall be stored within the 3rd tier.



a. BUILDING CONFIGURATION	
Principal Building	3 stories max.
Accessory Building	2 stories max.

b. LOT OCCUPATION	
Lot Width	20 ft. min. Town House 30ft. min. Twin Home & Two Flat 40 ft. min. freestanding house
Lot Coverage	60% max.
Lot Depth	100 ft. min.

c. BUILDING DISPOSITION (see Table 5-3)	
Edgeyard	Permitted
Sideyard	permitted
Splityard	permitted
Rearyard	permitted

d. SETBACKS – PRINCIPAL BLDG	
d.1 Principal Front Setback	10 ft. min.
d.2 Secondary Front Setback	10 ft. min.
d.3 Side Setback	0/5 ft. min. setback 5 ft. min. bldg separation (edgeyard)
d.4 Rear Setback	5 ft. min.

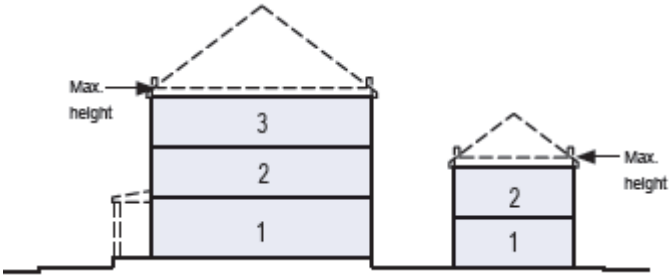
e. SETBACKS – ATTACHED ACCESSORY BLDG*	
e.1 Front Setback	Principal bldg setback + 3 ft. min.
e.2 Side Setback	5 ft. min. bldg separation (all sides)
e.3 Rear Setback	5 ft. min.

f. PARKING PROVISIONS**	
Residential	2 spaces max
Lodging	1/ room
Office	3 spaces max.
Retail	4 spaces max.
Civic	See Table 5-4-1
Industrial	Na

**Parking Setbacks see Table 5-4-1. Parking calculations are expressed as maximums allowed, unless otherwise required by the Indiana Building Code or a parking demand study.

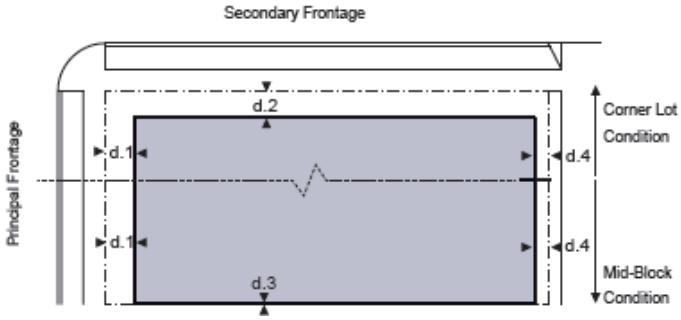
BUILDING CONFIGURATION

1. Building height shall be measured in number of stories, excluding attics and raised Basements.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, excluding vaulted spaces, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 25 feet.



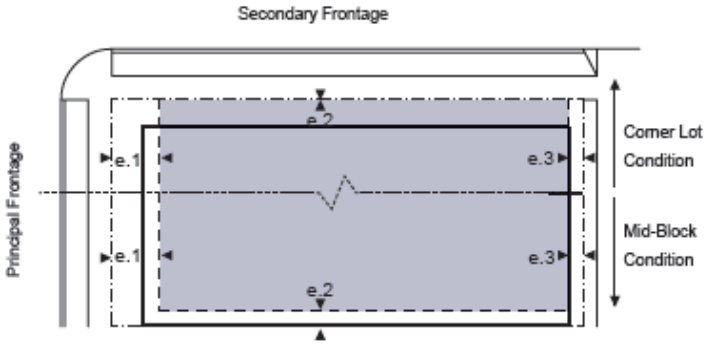
SETBACKS PRINCIPAL BLDG

1. Principal Buildings shall be distanced from the lot lines as shown.



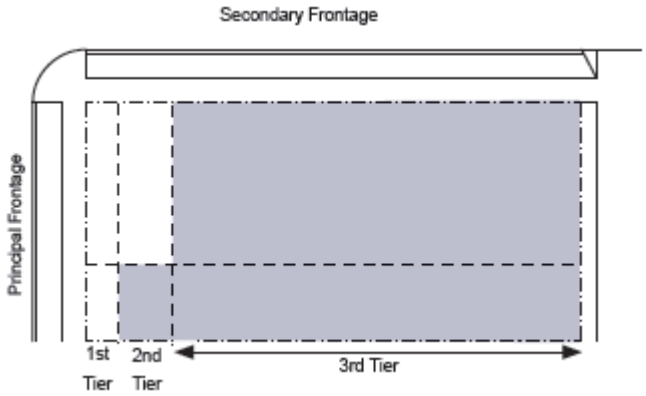
SETBACKS ATTACHED ACCESSORY BLDG

1. Accessory Buildings shall be distanced from the lot lines as shown.



PARKING PLACEMENT

1. Parking spaces shall be provided within the 3rd tier as shown in the diagram.
2. Parking spaces may also be provided within one-third of the 2nd tier as shown in the diagram.



SECTION 9: RC2 RESIDENTIAL/COMMERCIAL 2 DISTRICT

15–9–1 PURPOSE

The purpose of the Residential/Commercial 2 District is to promote the Development and management of identifiable multi-use and mixed use corridors and sub-Districts that allow Town residents to meet their weekly needs on foot, bicycle and Motor Vehicle. The District consists of a mixture of community retail, office, lodging and multi-family residential Building types in a mixture of sizes and assemblages, with interconnected, landscaped Surface Parking lots, community greens, greenways, landscaped interconnected Streets and multi-lane Thoroughfares with sidewalks and trails.

15–9–2 PERMITTED USES

Permitted Uses, which are identified in Table 5-2 are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing that all Development Standards identified herein have been met.

15–9–3 SPECIAL EXCEPTION

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new Development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exceptions.

15–9–4 ACCESSORY BUILDINGS

Accessory Buildings which are defined as a subordinate Building located on the same lot with an existing main Building, shall be allowed a maximum of thirty percent (30%) of the residential Building as measured at the ground floor. The architectural style and Building materials of all Accessory Buildings within the RC2 Zoning District shall be consistent in architecture, building materials and design as those found within the Principal Building of the lot. If additional square footage is sought as part of an application, a Variance request may be issued provided the Standards of Section 15-4-6 have been met. Subordinate buildings, such as garden sheds, playhouses, or storage or maintenance sheds under eighty (80) square feet shall not be considered as part of the overall accessory structure calculation. Accessory Buildings are not permitted for Commercial, industrial or retail Building types within this Zoning District. Structure Standards for trash enclosures are defined in Section 15-13-7 of this Ordinance.

15–9–5 PRE-EXISTING STANDARDS

Any Development, Farm operation, Lot of Record or structure legally operated prior to the effective date of this Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exceptions Standards as described in this Zoning District.

15–9–6 INTERPRETATION OF STANDARDS

A. MINIMUM SQUARE FEET OF RESIDENTIAL UNIT: The minimum square feet of a residential unit shall be 960 square feet.

B. BUILDING DISPOSITION MIX: Subdivisions or development projects of five (5) acres and greater shall include at least two (2) Building Disposition types with at least twenty percent (20%) comprising any one type. At least twenty-five percent (25%) of all Blocks shall contain at least two (2) Building Disposition types.

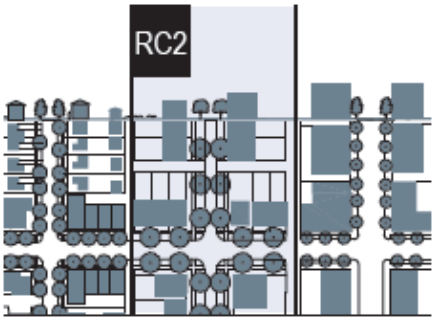
C. Parking Requirements for this District are found under Parking Provisions. Any deviation from the required parking standards shall require a variance.

D. Maximum Block size in the RC2 District shall not exceed 600 feet by 500 feet.

E. Front Building facades in the RC2 District shall face the Street and be built parallel to the Street.

F. Attached and detached garages (Accessory Buildings) for residential Building types shall be accessed from Alleys with Driveways no wider than twenty-four (24) feet and located in the 3rd tier.

G. Trash containers shall be stored within the 3rd tier.



a. BUILDING CONFIGURATION	
Principal Building	3 stories max.
Accessory Building	2 stories max.

b. LOT OCCUPATION	
Lot Width	25 ft. min residential functions
Lot Coverage	75% max.
Lot Depth	100 ft. min.

c. BUILDING DISPOSITION (see Table 5-3)	
Edgeyard	Permitted
Sideyard	Not permitted
Splityard	Permitted
Rearyard	Permitted

d. SETBACKS – PRINCIPAL BLDG	
d.1 Principal Front Setback	10 ft. min.
d.2 Secondary Front Setback	5 ft. min.
d.3 Side Setback	0ft. min.* sideyard or rearyard 10 ft. total, 3ft. min. one side
d.4 Rear Setback	25 ft. min.

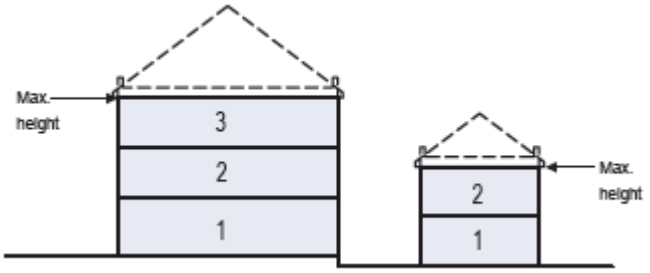
e. SETBACKS – ATTACHED ACCESSORY BLDG*	
e.1 Front Setback	Na
e.2 Side Setback	0ft. min.* sideyard or rearyard 10 ft. total, 3ft. min. one side
e.3 Rear Setback	5 ft. min.

f. PARKING PROVISIONS**	
Residential	1.5/dwelling
Lodging	1/ bedroom
Office	3/1000 sq. ft. max.
Retail	4.5/1000 sq. ft. max.
Civic	See Table 5-4-1
Industrial	Na

**Parking Setbacks see Table 5-4-1. Parking calculations are expressed as maximums allowed, unless otherwise required by the Indiana Building Code or a parking demand study.

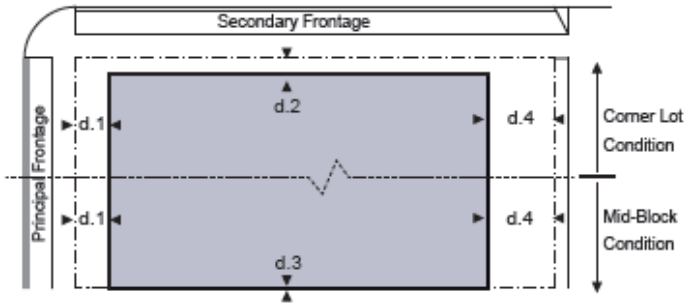
BUILDING CONFIGURATION

1. Building height shall be measured in number of stories, excluding attics and raised Basements.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 25 feet.



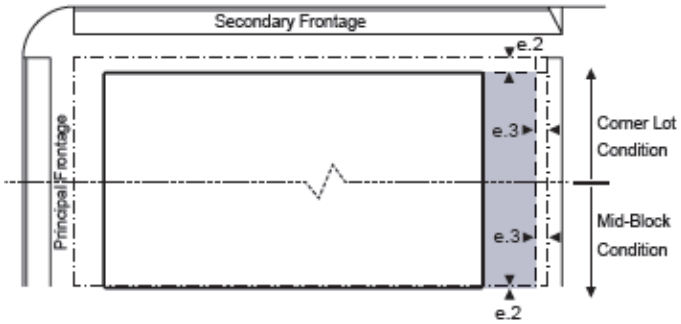
SETBACKS PRINCIPAL BLDG

1. Principal Buildings shall be distanced from the lot lines as shown.
2. All attached front Porches shall be allowed to encroach a maximum of 10 feet within the required Principal Front Yard Setback.
Encroachment into the Side Yard Setback shall require a special exception.



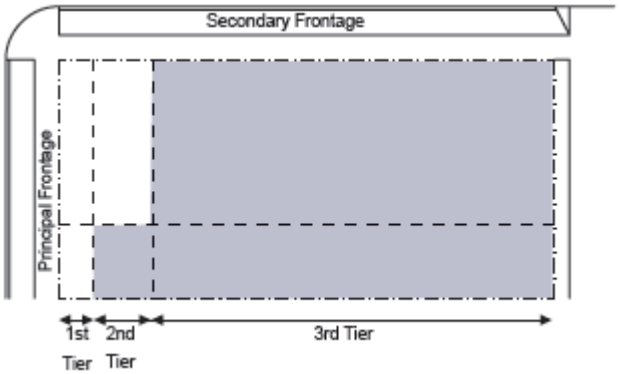
SETBACKS ATTACHED ACCESSORY BLDG

1. Accessory Buildings shall be distanced from the lot lines as shown.
2. Accessory Buildings shall be located to the back of the principal Rear Building line.



PARKING PLACEMENT

1. Parking spaces shall be provided within the 3rd tier as shown in the diagram.
2. Parking spaces may also be provided within one-third of the 2nd tier as shown in the diagram.



SECTION 10: DD DOWNTOWN DISTRICT

15–10–1 PURPOSE

The purpose of the Downtown District is to promote Development and management of an identifiable, compact, pedestrian-oriented mixed-use District with a high degree of pedestrian amenities that allows community members to meet their daily and weekly needs on foot, bicycle and Motor Vehicle. The District consists of neighborhood retail/Commercial uses, professional and civic offices, residential and office above ground floor Commercial uses, Town House/rowhouse, town square, plazas, playgrounds, small Surface Parking lots and landscaped interconnected Streets with on Street parking.

15–10–2 PERMITTED USES

Permitted Uses, which are identified in Table 5-2 are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing that all Development Standards identified herein have been met.

15–10–3 SPECIAL EXCEPTION

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new Development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exceptions.

15–10–4 ACCESSORY BUILDINGS

Accessory Buildings which are defined as a subordinate Building located on the same lot with an existing main Building, shall be allowed a maximum of thirty percent (30%) of the residential Building. The architectural style and Building materials of all Accessory Buildings within the DD Zoning District shall be consistent in architecture, building materials and design as those found within the Principal Buildings of the Lot. If additional square footage is sought as part of an application, a Variance request may be issued provided the Standards of Section 15-4-6 have been met. Subordinate Buildings, such as garden sheds, playhouses, or Storage or maintenance sheds under eighty (80) square feet shall not be considered as part of the overall Accessory Building calculation. Accessory Buildings are not permitted for Commercial, industrial or retail Building types within this Zoning District. Structure Standards for trash enclosures are defined in Section 15-13-7 of this Ordinance.

15–10–5 PRE-EXISTING STANDARDS

Any Development, Farm operation, Lot of Record or structure legally operated prior to the effective date of the Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exceptions Standards as described in this Zoning District.

15–10–6 INTERPRETATION OF STANDARDS

A. MINIMUM SQUARE FEET OF RESIDENTIAL UNIT: The minimum square feet of a residential unit shall be 960 square feet.

B. Parking Requirements for this District are found under Parking Provisions. Any deviation from the required parking standards shall require a variance. The Building Commissioners shall determine an adequate amount based upon the request by the applicant and those that have been established by the American Planning Association.

C. Attached and detached garages (Accessory Buildings) for residential Building types shall not be accessed from an Alley.

D. Residential Driveways serving attached and detached garages accessed from Alley shall be no wider than twenty-two (22) feet and located in the 3rd tier.

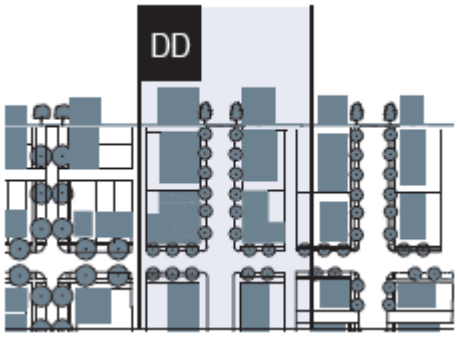
E. At least seventy-five percent (75%) of Building facades in the DD District shall face the Street and be built parallel to the Street.

F. A minimum of forty percent (40%) façade transparency shall be provided for ground floor, Street facing facades of Commercial Buildings.

G. Reflective and opaque window glazing shall be prohibited.

H. Non-Commercial Buildings shall have primary entrance doors facing the Street accessible from a public sidewalk.

I. Trash containers shall be stored within the 3rd tier.



a. BUILDING CONFIGURATION	
Principal Building	3 stories max.
Accessory Building	2 stories max.

b. LOT OCCUPATION	
Lot Width	20 ft. min
Lot Coverage	80% max.
Lot Depth	100 ft. min.

c. BUILDING DISPOSITION (see Table 5-3)	
Edgeyard	Not Permitted
Sideyard	Permitted
Splityard	Permitted
Rearyard	Permitted

d. SETBACKS – PRINCIPAL BLDG	
d.1 Principal Front Setback	0 ft. min.
d.2 Secondary Front Setback	0 ft. min.
d.3 Side Setback	0ft. min.
d.4 Rear Setback	20 ft. min.

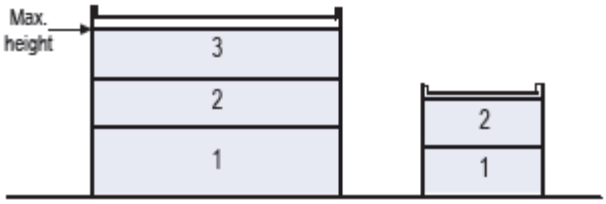
e. SETBACKS – ATTACHED ACCESSORY BLDG*	
e.1 Front Setback	20 ft. min. + bldg Setback
e.2 Side Setback	5 ft. min.
e.3 Rear Setback	5 ft. min.

f. PARKING PROVISIONS**	
Residential	1.5/dwelling
Lodging	1/room
Office	3/1000 sq. ft. max.
Retail	3/1000 sq. ft. max.
Civic	See Table 5-4-1
Industrial	Na

**Parking Setbacks see Table 5-4-1. Parking calculations are expressed as maximums allowed, unless otherwise required by the Indiana Building Code or a parking demand study.

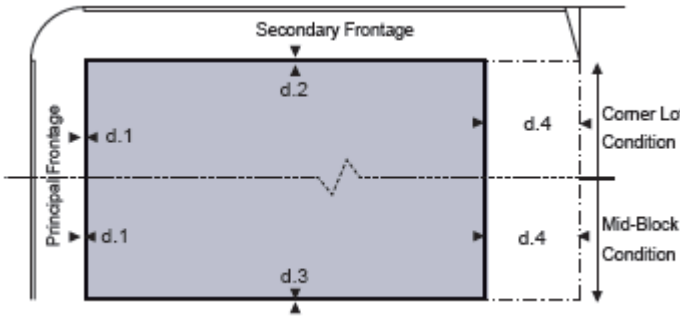
BUILDING CONFIGURATION

1. Building height shall be measured in number of stories, excluding attics and raised Basements.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, excluding vaulted spaces, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 25 feet.



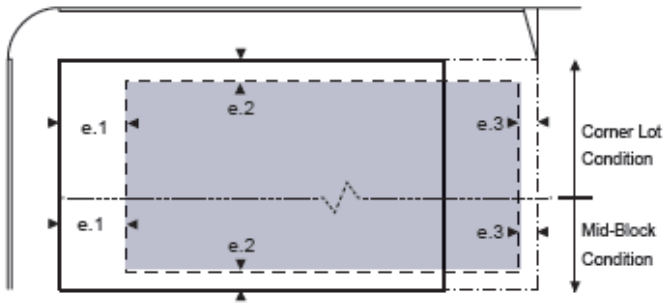
SETBACKS PRINCIPAL BLDG

1. Principal Buildings shall be distanced from the lot lines as shown.



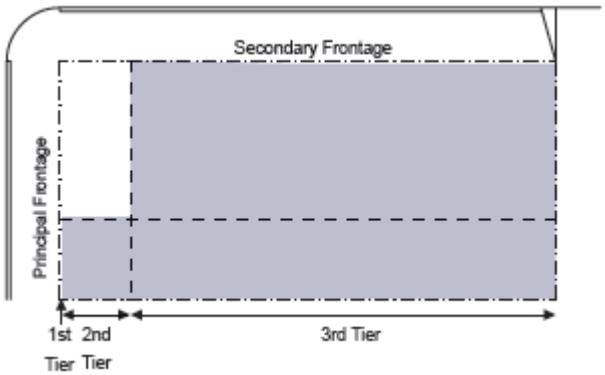
SETBACKS ATTACHED ACCESSORY BLDG

1. Accessory Buildings shall be distanced from the lot lines as shown.



PARKING PLACEMENT

1. Covered parking may be provided within one third of the 2nd tier shown in the diagram.
2. Uncovered parking spaces shall be provided within the 3rd tier as shown in the diagram.



SECTION 11: BP BUSINESS PARK DISTRICT

15-11-1 PURPOSE

The purpose of the Business Park District is to promote the Development and management of ecologically responsive, multi-use employment centers. The District consists of a mix of primarily office and Business uses with supportive Commercial and park uses. Buildings are placed with shallow Front Yards along interconnected landscaped Streets with sidewalks and on-Street parking and parking lots are placed to the Rear and Side Yard.

15-11-2 PERMITTED USES

Permitted Uses, which are theses uses not specifically permitted, are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing all Development Standards identified herein have been met.

15-11-3 SPECIAL EXCEPTION

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new Development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exceptions.

15-11-4 ACCESSORY BUILDINGS

Accessory Buildings are not permitted for Commercial or Industrial Building types within this Zoning District. Structure Standards for trash enclosures are defined in Section 15-13-7 of this Ordinance.

15-11-5 PRE-EXISTING STANDARDS

Any Development, Farm operation, Lot of Record or structure legally operated prior to the effective date of the Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exceptions Standards as described in this Zoning District.

15-11-6 INTERPRETATION OF STANDARDS

A. MINIMUM SQUARE FEET OF RESIDENTIAL UNIT: The minimum square feet of a residential unit shall be 3,000 square feet.

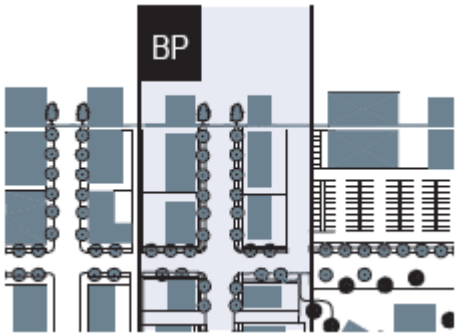
B. Business Park Developments of seven (7) acres and greater shall include at least two (2) Building Disposition types with at least twenty percent (20%) comprising any one (1) type, and at least thirty percent (30%) of all Blocks containing at least two (2) Building Disposition types.

C. Parking Requirements for this District are found under Parking Provisions. Any deviation from the required parking standards shall require a variance.

In instances where parking is to be determined, the Building Commissioners shall

Determine an adequate amount based upon the request by the applicant and those that have been established by the American Planning Association.

D. Trash containers shall be stored within the third tier.



a. BUILDING CONFIGURATION	
Principal Building	3 stories max.
Accessory Building	2 stories max.

b. LOT OCCUPATION	
Lot Width	25 ft. min building type, 200 ft. min.
Lot Coverage	80% max.
Lot Depth	100 ft. min.

c. BUILDING DISPOSITION (see Table 5-3)	
Edgeyard	Not Permitted
Sideyard	Permitted
Splityard	Permitted
Rearyard	Permitted

d. SETBACKS – PRINCIPAL BLDG	
d.1 Principal Front Setback	0 ft. min.
d.2 Secondary Front Setback	0 ft. min.
d.3 Side Setback	0ft. min.
d.4 Rear Setback	20 ft. min.

e. SETBACKS – ATTACHED ACCESSORY BLDG*	
e.1 Front Setback	20 ft. min. + bldg Setback
e.2 Side Setback	5 ft. min.
e.3 Rear Setback	5 ft. min.

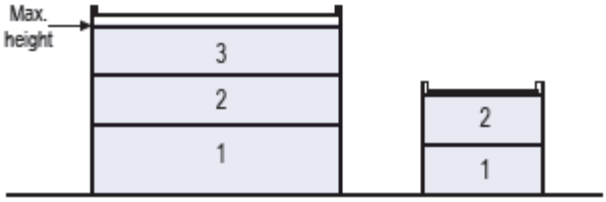
f. PARKING PROVISIONS**	
Residential	1.5/dwelling
Lodging	1/room
Office	3/1000 sq. ft. max.
Retail	3/1000 sq. ft. max.
Civic	See Table 5-4-1
Industrial	Na

**Parking Setbacks see Table 5-4-1. Parking calculations are expressed as maximums allowed, unless otherwise required by the Indiana Building Code or a parking demand study.

BUILDING CONFIGURATION

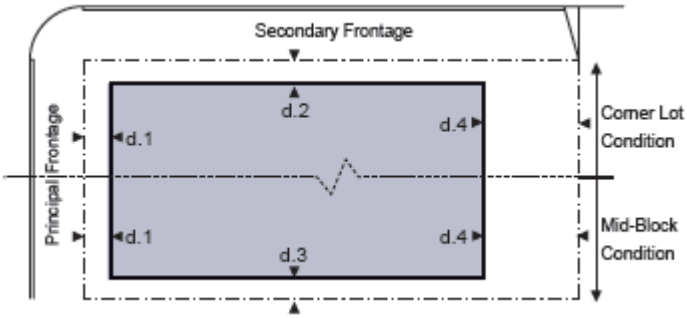
1.1. Building height shall be measured in number of stories, excluding attics and raised Basements.

2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 ft with a maximum of 25 ft.



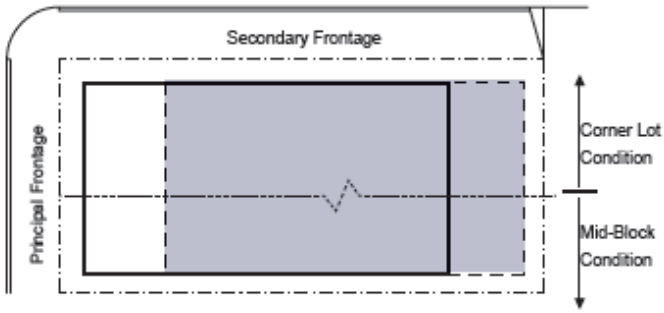
SETBACKS PRINCIPAL BLDG

1. Principal Buildings shall be distanced from the lot lines as shown.



SETBACKS ATTACHED ACCESSORY BLDG

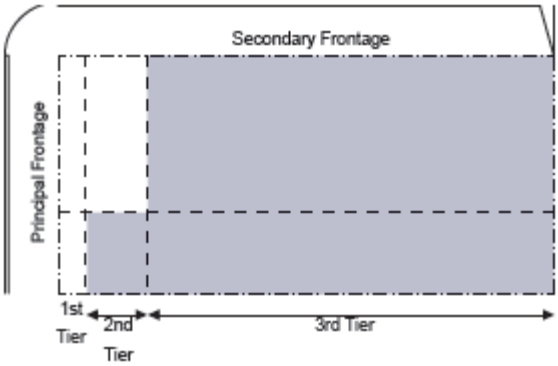
1. Accessory Buildings shall be distanced from the lot lines as shown.



PARKING PLACEMENT

1.1. Covered parking may be provided within the 2nd tier shown in the diagram.

2. Uncovered parking spaces shall be provided within the 3rd tier as shown in the diagram.



SECTION 12: SPECIAL USE DISTRICT

15–12–1 PURPOSE

The purpose of the Special Use District is to provide allowance for specific preexisting Uses and Building types within designated areas of Burns Harbor. Those areas have been identified within the Official Zoning Map, as amended. The Special Use District shall not be used as a new Zoning District for future Uses within Burns Harbor. Changes, modifications or additions to preexisting Buildings or grounds within existing Special Use Districts shall adhere to existing Building types and uses, Building Disposition, Setbacks and maximum height limits as of the effective date of the Ordinance. Site expansion within each Special Use District shall require a rezoning. Any change of Use, Building function, Building Disposition, Setback and maximum height limits shall require a Use Variance which is subject to Section 15-4-6. Any redevelopment within any Special Use District Redevelopment that does not conform to the Building Function Standards within Table 12-1 shall require a rezoning pursuant to Section 15-4-6 of the Zoning Ordinance.

SD1-INDUSTRIAL NORTH: The purpose of the District is to provide for the production and ongoing operations of a fully integrated steel mill. The District consists of docks, industrial buildings, office buildings, construction yards, railroad yards, an extensive internal road network and open space.

SD2-U.S. 12 LIGHT INDUSTRIAL WEST: The purpose of the District is to provide for the existing Uses and operations related to steel production. The District consists of industrial Buildings, Office Buildings, construction yards, and a sanitary sewer plant. Note: The sanitary sewer plant provides the treatment of Waste collected by the Burns Harbor Sanitary Sewer collection system.

SD3-U.S. 12 LIGHT INDUSTRIAL EAST: The purpose of the District is to provide for the existing Uses and operations related to steel production. The District consists of a guard house and parking lot.

SD4-MOBILE HOME PARK WEST: The purpose of the District is to provide for existing uses and building types related to a mobile home park, accessory buildings related to the operation of a mobile home park, a park and a training center.

SD5-MOBILE HOME PARK EAST: The purpose of the District is to provide for existing uses and building types related to a Mobile Home park, Accessory Buildings related to the operation of the Mobile Home park and a park.

SD6-LIGHT INDUSTRIAL SOUTH: The purpose of the District is to provide for existing Uses and Building types related to light industrial Buildings, Office Buildings, construction and storage yards, a rail spur, a single-family dwelling, a private road and open space.

SD7-ADULT USE: The purpose of the District is to provide for Adult Uses.

15–12–2 PERMITTED USES

Permitted Uses, which are identified in Table 5-2, are those which are allowed by right within the Town of Burns Harbor. New Development or redevelopment will require a Site Plan drawn to scale showing that all Development Standards identified herein have been met.

15–12–3 SPECIAL EXCEPTION

Special exceptions (identified in Table 5-2), which are Uses not specifically permitted, are those which are allowed after specific conditions have been met. All Special Exceptions shall conform to the Standards set forth in Section 15-4-7. In all cases, a Site Plan, drawn to scale will be required for all new Development and redevelopment within Burns Harbor. A public hearing shall be required for all Special Exception.

15–12–4 ACCESSORY BUILDINGS

Accessory Buildings which are defined as a subordinate Building located on the same lot with an existing main Building, shall be limited to no more than a maximum of eighty percent (80%) of the square footage of the primary Building as measured at the ground floor. If additional square footage is sought as part of an application, a Variance request may be issued provided the Standards of Section 15-4-6 have been met. The architectural style and building materials of all Accessory Buildings within the SD Zoning District shall be consistent in architecture, building materials and design as those found within the Principal Building of the Lot. Structure Standards for trash enclosures are defined in Section 15-13-7 of this Ordinance.

15–12–5 PRE-EXISTING STANDARDS

Any Development, Lot of Record or structure legally operated prior to the effective date of the Ordinance shall be considered a Permitted Use and legally conforming within this Zoning District. Any redevelopment or addition to a Development, Lot of Record or structure shall be required to conform to the Building and Development Standards found within this Zoning District. Any change in Building function or use shall conform to permitted and Special Exceptions Standards as described in this Zoning District.

TABLE 12-1. SPECIAL DISTRICT STANDARDS	INDUSTRIAL NORTH	US 12 LIGHT INDUSTRIAL WEST	US 12 LIGHT INDUSTRIAL EAST	MOBILE HOME PARK WEST	MOBILE HOME PARK EAST	LIGHT INDUSTRIAL SOUTH	ADULT USE
a. Building Function (See Table 4-2)	SD1	SD2	SD3	SD4	SD5	SD6	SD7
Mobile Home				P	P		
Storage, Self		P	P			P	
Daycare				S	S		
Rec. Vehicle Sales & Service		P	P			P	
Vehicle Repair, Heavy	P	S	S			S	
Vehicle Repair, Light & Med		P	P			P	
Community Garden				P			
Greenhouse	P	P	P			P	
Livestock	P						
Agribusiness	P	S	S			S	
Contractor Shop	P	P	P			P	
Industrial, Light		P	P			P	
Industrial, Limited	P	P	P				
Industrial, Heavy	P						
Storage, Warehousing	P	S	S			S	
Waste Transfer	S						
Wastewater Treatment	S						
Water Treatment	S						
Storage, Outdoor	P						
Adult Use							P
Communications Facility	S	S	S			S	S
Surface Parking	P	P	P	P	P	P	P

Building Config.	Principal Bldg	60ft. 5 stories max	60ft. 5 stories max	60ft. 5 stories max	35 ft. 2.5 story max	35 ft. 2.5 story max	60ft. 5 stories max	20 ft. 1 story max
	Accessory Bldg	60 ft.	60 ft.	60 ft.	18 ft.	18 ft.	60 ft.	Not permitted
Building Disposition	Edgeyard	permitted	permitted	permitted	permitted	permitted	permitted	permitted
	Sideyard	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted
	Splityard	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted
	Rearyard	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted	Not permitted
Lot Occupation	Lot Width	-	-	-	50 ft. min. single-family 60 ft. min. multi-family		-	100 ft. min. 150 ft. max
	Lot Coverage	60%	60%	60%	50%	50%	60%	30% max
	Lot Size	-	-	-	6,000 sf. min. single-family 9,600 sf. min. two-family 4,000 sf. min. multi-family (per unit)		-	12,000 sf. min 18,000 sf. max
Setbacks	Principal Front	50 ft.	50 ft.	50 ft.	30 ft.	30 ft.	50 ft.	20 ft.
	Secondary Front	50 ft.	50 ft.	50 ft.	30 ft.	30 ft.	50 ft.	20 ft.
	Side Yard	15 ft.	15 ft.	15 ft.	10% of lot width	10% of lot width	15 ft.	10 ft.
	Rear Yard	10% of lot depth	10% of lot depth	10% of lot depth	20 ft.	20 ft.	10% of lot depth	20 ft.

P = Permitted S = Special Exception

SECTION 13: DEVELOPMENT STANDARDS

Performance Standards related to parking, lighting, height limitations, porches, garages, loading and related uses and Standards shall be found in this Section.

15–13–1 HOME OCCUPATIONS

RESIDENTIAL DISTRICTS: Home Occupations are allowed in residential Districts provided the following conditions are met:

A. No Person, other than members of the family residing on the premises, shall be engaged in such occupation;

B. The use of the Dwelling unit for the Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and no more than twenty five percent (25%) of the combined Floor Area of the Dwelling unit and Accessory Buildings shall be used in the conduct of the Home Occupation;

C. There shall be no change in the outside appearance of the Building and premises, or other visible evidence of the conduct of such Home Occupation other than one (1) sign, not exceeding three (3) square feet in area, non-illuminated and affixed to the Building;

D. No traffic shall be generated by such Home Occupation in greater volume than would normally be expected in a residential neighborhood, and the need for parking generated by the conduct of such Home Occupation shall meet the off-Street parking requirements as determined by Table 5-4-1; and,

E. No equipment or process shall be used in such Home Occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable off the lot, if the occupation is conducted in a single-family residence, or outside the Dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises.

15–13–2 BUSINESS AND INDUSTRIAL PARK RESTRICTIONS:

A. AIR EMISSIONS: The emission of smoke, dust, fumes, gases, odors, mists, vapors and similar matter, or any combination thereof, which can cause damage to human or animal health or vegetation, or other forms of property, or which can cause soiling or staining of Persons or property at the point beyond the lot line of the use creating the emission is prohibited.

B. PROHIBITED USES: No portion of a lot in a BP and SD District shall be used in any manner as to create a Nuisance to adjacent Districts.

C. THE FOLLOWING USES ARE PROHIBITED:
   1. Slaughtering of Live Stock, the processing of meat, hides, leather, or fish and meat products, vinegar, yeast, and the rendering of refining of fats and oil.

   2. The incineration, reduction or treatment of garbage

   3. The manufacture of asphalt, coke, charcoal, synthetic fuels, cement, explosives, oilcloth, paint, paper, soap, or cinder block.

4. The refining, Storage, or distribution of petroleum.

5. The smelting or reduction of ferrous or non-ferrous metal.

6. The operation of a Junk Yard or automobile salvage facility.

15–13–3 HEIGHT EXCEPTIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, and grain elevators not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, silos, windmills, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve. Radio and television antennas shall conform to standards within Communication Facilities 17-E-7 of the Town Code.

15–13–4 PATIOS

A paved patio may not be considered as part of a yard and shall be considered as coverage unless such patio is without a roof, walls, parapets, or other form of enclosure.

A. UN-ENCLOSED PORCHES, SCREENED ONLY: An un-enclosed, one-Story Porch or deck, even though it has a roof and/or a screened enclosure, may project into a required Front, Side or Rear Yard area a distance not to exceed six (6) feet and shall not be considered as part of the Lot Coverage; provided, however, that such a Porch shall not be closer than eight (8) feet from any lot line, and that no Building shall have such Porches projecting into the required Side Yard on more than one (1) side.

B. PROJECTING ARCHITECTURAL FEATURES: Such features as window sills, bay windows, belt courses, cornices, eaves and other architectural features, shall not project more than eighteen inches (18”) into any required Front, Rear or Side Yard.

15–13–5 FIRE ESCAPES

Open fire escapes may extend into any required Front, Rear or Side Yard not more than four feet six inches.

15–13–6 DETACHED ACCESSORY BUILDING

Detached Accessory Buildings shall conform to the standards found within each corresponding zoning district, provided that the development standards contained in this section shall not apply to detached accessory structures used for storage, so long as the structure is on hundred sixty (160) square feet or less in total size. *(Ordinance 229, 11/11/2009)*

A. All detached Accessory Building shall be behind the Rear Principal Building Line and may be erected within five (5) feet of a side or five feet (5) of a Rear Lot Line so long as it is not within a recorded Easement.

B. The design of the Accessory Building shall be in character with the Principal Building and constructed of the same quality permanent materials as the Principal Building including structurally sufficient concrete floor. The Accessory Building shall be located on the same lot and within close proximity to the Principal Building. Where such

Buildings exceed 200 square feet in area, at least a third of the Building's exterior perimeter shall be landscaped in the same manner as the principal facility.

15–13–7 TRASH RECEPTACLES

Trash Receptacles in all Districts must be screened from view from all public rights-of way at all times except they may be moved closer to the curb no more than twenty-four (24) hours before pickup.

15–13–8 SWIMMING POOLS

All swimming pools shall conform to the following restrictions:

A. No swimming pool shall be located closer to the Front Lot Line than the Front Line of the Building;

B. Swimming pools shall observe the same side and rear Setbacks as primary Buildings in their District; and,

C. Swimming pools shall be securely fenced as required by State Statute.

D. Notice shall be given to the Town's Sanitary Superintendent prior to draining a Swimming Pool with a capacity of more than five hundred (500) gallons.

15–13–9 CORNER LOT TRANSITION

On every Corner Lot the minimum Setback from both Streets shall be the Building Setback for that District as established in this Ordinance.

15–13–10 SPECIAL USE DISTRICT TRANSITIONAL YARDS (SD1, SD2, SD3, SD6)

When a side or Rear Lot Line in Special District 1, 2, 3, or 6 coincides with either a side or Rear Lot Line of a residential use, a yard shall be provided along such lot line. Such yard shall be not less than three hundred (300') feet in width.

15–13–11 BP BUSINESS PARK DISTRICT – TRANSITIONAL YARDS

No Principal or Accessory Building, parking or loading area, shall be located less than two hundred (200') feet or the width of any existing greenbelt, whichever is greater, from the boundary of any residential use.

15–13–12 OFF-STREET PARKING

Off-Street parking spaces shall be provided and satisfactorily maintained, by the Owner of the property, for each Building which is erected, enlarged or altered for use for any of the following purposes. Off-Street parking areas shall be subject to barrier-free design criteria of the State of Indiana.

A. NUMBER OF SPACES: For uses not specified above, parking spaces shall be provided in a number equal to the number required in Table 5-4-1.

1. Motorcycle and Scooter parking spaces shall be provided one (1) for every twenty (20) parking spaces, up to six (6) spaces max.

2. Secure bicycle racks and/or Storage shall be provided in a number equal to:

a. Five (5) percent or more of all Building users, measured at peak periods for Commercial or institutional uses.

b. Fifteen (15) percent or more of all Building occupant for multi-family residential uses.

B. SIZE OF PARKING SPACE: For purposes of this Ordinance, a parking space shall be an area ten (10') feet wide and eighteen (18') feet long, exclusive of Driveways, and each parking space shall be accessible from a Street without having to pass over another space. Each space and access thereto shall be paved with either concrete, paver or asphalt surfacing, and satisfactorily maintained by the Owner of the property. Off-Street parking areas shall include properly marked and designated handicapped parking spaces subject to barrier-free design criteria of the State of Indiana.

1. Motorcycle and Scooter parking stalls shall be four and one-half feet (4.5') wide and eight feet (8') long and shall be paved with concrete.

C. SCREENING FROM RESIDENTIAL USE: Parking spaces on any lot adjacent to a residential District shall be screened from view from that District. The screening shall be accomplished with evergreen landscaping, earth berms, or a combination of these items as described in Table 13-2.

D. BUSINESS PARK SCREENING: In the BP Zone, parking facilities in the Side Yard shall be screened from view from the front of the lot. The screening shall be accomplished with evergreen landscaping, earth berms, or a combination of these items as described in Table 13-2.

15–13–13 OFF-STREET LOADING

On the same premises with every Building or structure erected hereafter and occupied within the CR and BP Districts, shall provide adequate space for Vehicles while standing, loading and unloading in order to avoid undue interference with public use of the Street or Alley. Such space, unless otherwise adequately provided for, shall include a twelve (12') foot by fifty (50') foot loading space with a fourteen (14') foot height clearance for every twenty thousand (20,000) square feet or fraction thereof in excess of three thousand (3,000) feet of Floor Area or land areas used for the above mentioned purposes.

15–13–14 NON-CONFORMING USES

Within the Districts established by this Ordinance, or any subsequent amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their continuation.

It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, not used as grounds for adding other structures or uses prohibited elsewhere in the same District.

Non-Conforming Uses are declared by this Ordinance to be incompatible with Permitted Uses in the Districts involved. A Non-Conforming Use of land or a Non-Conforming Use of building and land in combination shall not be extended or enlarged after passage of this Ordinance.

A. REPAIRS & MAINTENANCE: Except as provided by Section 15-13-14, any non-conforming structure or portion thereof, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding the current assessment value of the non-conforming structure or non-conforming portion of the content existing when it became non-conforming shall not be increased.

B. UNSAFE BUILDINGS: If a non-conforming structure or portion of a structure containing a Non-Conforming Use becomes physically unsafe, as defined in Chapter 14, or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the District in which it is located.

C. ALTERATIONS: A Non-Conforming Building may not be reconstructed or structurally altered at a cost exceeding in aggregate cost of the current assessed value of the Building unless such Building is changed to a conforming use.

D. EXTENSION: Extension of Buildings found to be Non-Conforming by reason of height, yard setback or Lot area may be permitted, provided the structure's non-conformity is not increased and the extension complies with the performance standards of the Ordinance.

E. RESTORATION: No Building damaged by fire or other causes to the extent of more than fifty (50%) percent of its replacement cost shall be repaired or rebuilt except in conformity with the regulations of this Ordinance.

F. ABANDONMENT: Whenever a Non-Conforming Use has been discontinued for a period of six (6) months or more, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Ordinance.

G. DISPLACEMENT: No Non-Conforming Use shall be extended to displace a conforming use.

15–13–15 DISTRICT CHANGE

Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District of a different classification, the foregoing provisions shall also apply to any Non-Conforming Uses existing therein.

15–13–16 TEMPORARY PERMITS

The Building Commissioner may authorize, by written permit in a residential District for a period of not more than one year from the date of such permit, a temporary Building for Commercial or industrial use incidental to the residential construction and Development of said District.

15–13–17 SIGNS

A. GENERAL RULES: Business Signs on-premises shall conform to the following rules:

1. A sign permit shall be required prior to the erection of an structure regulated by this Section. A sign permit shall not be required for the following:

a. A cornerstone or name of a Building inscribed in stone or bronze as part of the

Building or Structure unless larger than six (6) square feet gross surface area for each display surface.

b. Necessary traffic or directional signs erected or approved by government units.

c. All non-illuminated signs within Buildings not closer than twenty-four (24) inches to an exterior window.

d. Flags of the Town, the State of Indiana, the United States of America, or official historic plaques of any governmental jurisdiction or agency.

e. Temporary signs advertising a Town-wide or community event, subject to the restrictions in Section 15-13-17(D)(5).

f. Small informational signs to inform the public, including, but not limited to, “No Trespassing,” “No Dumping,” “Beware of Dog” and the like, provided such signs do not exceed two (2) feet in gross surface area each.

g. Sidewalk sale signs, directional signs for real estate open houses, garage and yard sales, and the like, provided said signs are located within a reasonable distance from the event and provided there shall not be more than six (6) such events in any six (6) month period. Said signs shall not be placed more than six (6) days prior to the event and shall be removed no more than five (5) days after the event.

h. One (1) non-illuminated temporary sign pertaining to the sale or lease of the premises upon which the sign is located subject to the restrictions in Section 15-13-17(D)(1).

i. Temporary political signs intended to be viewed from public sidewalks and streets supporting a candidacy for office or urging action on any other matter on the ballot of a primary, general or special election, provided the sign is limited in its display to no more than thirty (30) days prior and ten (10) days after the election, is less than six (6) square feet in gross surface area, and is not placed on Town property or utility poles. Signs in excess of six (6) square feet in gross surface area shall require a permit fee of ten (10) dollars per sign.

2. LOCATION: No Business Sign shall be erected or maintained at any location where by reason of its position, wording, size, shape, color or illumination it may obstruct, obscure, impair, or interfere with the view of, or be confused with any traffic control device, signal or sign.

B. DISTRICTS PERMITTED IN: On premises business Signs shall be permitted in the RC1, RC2, D, BP and SD Districts. *(Ordinance 248, 10/17/2009)*

1. Height (above Buildings): No part of any sign attached to the exterior wall of a Building shall be higher than the top of the vertical wall.

2. Illuminated Signs (residential Districts): No illuminated sign shall be permitted within fifty (50’) feet of any Residential District unless it is so designed that it does not reflect or shine light onto said District.

3. Height (freestanding signs): No part of any free-standing sign shall be erected to a height greater than that specified for other structures in the District in which it is located. The height shall be measured from the centerline of the Street or highway from which it is to be viewed, or the natural elevation at the base of the sign, whichever is lower.

4. Setback (freestanding signs): The minimum Setback of freestanding signs from the Street right-of-way shall not be less than ten (10') feet.

5. Size of Signs: The size of a Business Sign shall not exceed one hundred (100) square feet, and Business Signs shall not exceed a total of three hundred (300) square feet per Business site.

6. Portable Signs: Pennants, banners, portable signs, inflatable and/or similar devices may be permitted for special events lasting no more than thirty (30) days per calendar year, provided they are displayed so as not to obstruct a clear view of traffic, traffic lights and/or signals. Such displays are to be placed entirely within the confines of the property displaying the devices and shall be placed off all right-of-ways. These portable devices shall not emit any flashing lights and/or lighted moving devices. No more than one (1) portable device shall be displayed on the same Parcel of Property unless there is a minimum of sixty (60') feet between each device. Any or all displays shall be constructed and/or installed and shall be maintained and kept in orderly condition and good repair. No portable sign face shall exceed thirty-two (32) square feet. A permit must be obtained from the Building Commissioner.

7. Number of Signs: Only one (1) Business Sign structure may be erected on each Street Frontage of a lot.

C. BUSINESS SIGNS, OFF-PREMISES -DISTRICTS PERMITTED IN: Off-premise signs shall be permitted in SD Zoning Districts.

1. Area of Signs: Off-premise signs shall not exceed eight hundred (800) square feet and shall contain no more than two (2) signs per facing.

2. Height: The maximum height of an off-premise sign, including any attachments thereto, shall not exceed forty-five (45') feet. The height shall be measured from the centerline of the Street or highway from which it is to be viewed or the natural elevation at the base of the sign, whichever is lower.

3. Separation Between Off-Premise Signs: The distances between lawfully erected off-premise sign structures shall be a linear measure taken along the right-of-way lines on both sides of the Street or highway on which the sign is to be located.

   a. Separation of one off-premise sign to another off-premise sign shall be one thousand five hundred (1,500') feet.

   b. Separation from an off-premise sign to any platted residential Development shall be three hundred (300') feet.

   c. Separation from an off-premise sign to any school or church shall be three hundred (300') feet.

d. The separation requirement stated in item (a) need not be met where a physical obstruction exists which prevent viewing two off-premise sign structures at the same time.

4. Setback: The perpendicular distance from the right-of-way line to the leading edge of an off-premise sign structure shall be ten (10') feet.

5. Illuminated Signs: Lighting for off-premise signs shall be non-flashing and directed against the sign surface only.

6. No pff-premises sign shall be permitted on any parcel located on or adjacent to U.S. Highway 20 from the westernmost boundary of the town east to Lions Drive or on any parcel located on or adjacent to Indiana State Road 149 from the southernmost boundary of the town north to U.S. Highway 12. *(Ordinance 248, 10/17/2009)*

D. SIGNS, GENERAL PROVISIONS: All signs shall conform to the following provisions:

1. For Sale or Rent Signs: One (1) "For Sale" or "For Rent" sign not more than twelve (12) square feet in area for each Dwelling unit, garage, or other quarters where appropriate shall be permitted, provided said sign is located on the premises.

2. Agricultural Signs: One (1) sign, not more than twelve (12) square feet in area, pertaining to the sale of agricultural products raised on the premises shall be permitted.

3. Government Signs: Signs established by, or by order of, any governmental agency shall be permitted.

4. Construction Signs: One (1) sign, not more than sixty-four (64) square feet in area, for new construction, giving the name of the contractors, engineers, or architects, shall be permitted, but only during the time that new construction is actively under way, provided said sign does not advertise the sale of the property on which the sign is located.

5. Event Signs: For an event of public interest such as a county fair, or church event, one (1) sign, not over thirty-two (32) square feet in area and located upon the site of the event shall be permitted. Such sign shall not be erected more than thirty (30) days before the event in question and shall be removed immediately after such event. Also directional signs, not more than three (3) square feet in area, showing only a directional arrow and the name of the event of public interest. Such signs shall not be erected more than fourteen (14) days before the event in question and shall be removed immediately after such event. Street banners shall be permitted subject to the approval of the Town Council.

6. Real Estate Development Signs: For each real estate Development that has been Approved in accordance with the subdivision Control Ordinance, one (1) sign, not over three hundred (300) square feet in area, advertising the sale of property in such subdivision shall be permitted, but only when located on some portion of the subdivision being advertised for sale. Such sign may be illuminated. Such sign shall be maintained only during such time as some portion of the land advertised for sale

remains unsold. Permits for such signs shall be issued by the Building Commissioner for one (1) year periods and may be renewed for additional one (1) year periods to allow time for reasonable display.

7. Flashing or Animated Signs: No intermittent flashing, or animated signs shall be permitted.

8. Numbers Required on Structures: All structures constructed after January 1, 2007 which have been assigned a mailing address for the receipt of mail through the U.S. Postal Service system must have numerals at least five inches (5”) high in a color which contrasts with the color of the surface they are mounted upon near the front door of each structure in the Town or such other location as is Approved by the Plan Commission or Building Commissioner, visible from the Street, showing the Street number of the mailing address for such structure. (Ordinance 198, 12/13/2006) All structures must meet the requirements of the Town of Burns Harbor Ordinance No. 108 (1985) and its amendment, Ordinance No. 89-123.
9. Signs in Residential Districts: The following signs are permitted in all residential Districts:

    a. Name Plate -Single Family Dwellings: A name plate which shall not exceed three (3) square feet in area is permitted for each Dwelling unit of a single-family, or row house structure; such name-plate shall indicate nothing other than name and/or address of the occupant, and/or customary Home Occupation. No other sign shall be allowed.

    b. Name Plate -Multiple-family Dwellings: Multiple-family residences and residential projects of all types may display identification signs indicating nothing other than name and/or address of the premises and/or the name of the management. Such sign shall not exceed twelve (12) square feet in area.

    c. Information Signs: For uses other than those listed in it above, bulletin boards or identification signs indicating nothing other than name and/or address of the premises, and schedule or services or other information relevant to the operation of the premises; such signs shall not exceed thirty-two (32) square feet in area.

    d. Information Signs (number): For each use of items (a) and (b) eligible to display a sign, only one (1) sign per Street Frontage shall be permitted; except that uses occupying extended Frontages shall be permitted one such sign per five hundred (500) feet of Frontage or major fraction thereof.

10. Maintenance: All signs and sign structure shall be kept in repair and in proper state of preservation.

11. Removal: Signs which are no longer functional, or are abandoned, shall be removed, or relocated, in compliance with the provisions of this Ordinance within thirty (30 days following such dysfunction at the expense of the Owner of the sign and/or property Owner on which such sign is located.

12. Non-conforming: Any legally established non-conforming sign shall be permitted without Alteration in size or location. If such a sign is damaged, exceeding sixty percent (60%) of its gross surface area, it shall not be rebuilt; provided, however,

that nothing herein shall prevent maintenance, re-painting, or posting of legally established non-conforming signs.

E. DYNAMIC SIGNS: All dynamic signs shall conform to the following regulations: *(Ordinance 248, 10/17/2012)*

1. All dynamic signs shall conform to all other provisions of this ordinance applicable to business signs.

2. A dynamic sign shall not be permitted where such sign will create a public nuisance or result in unsafe driving conditions.

3. A dynamic sign shall not contain images that flash, scroll, turn, twinkle, or have any other type of movement. All images must be still.

4. The display screen on a dynamic sign shall not changes images more frequently than once every eight (8) seconds. Changes from one image to the next shall fade gradually in a timeframe of not less than two (2) seconds.

5. All dynamic signs shall come equipped with automatic dimming technology which automatically adjusts the brightness based on ambient light conditions. No dynamic sign shall exceed 0.3 foot candles above ambient light as measured using a foot candle (lux) meter at a present distance depending on the sign area to be measured as follows:

Area of Sign Sq. Feet	Measurement Distance (feet)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
55	74
60	77
65	81
70	84
75	87
80	89
85	92
90	95
95	97
100	100

For signs with an area in square feet other than specifically listed in the table, the measurement distance shall be calculated using the following formula: Measurement Distance = Square root of (area of sign x 100)

Not withstanding Subsection E.5, no dynamic sign shall cause glare.

1. All dynamic signs shall be equipped with adjustable light sensors capable of adjusting light intensity according to ambient light levels (i.e., day and night). If the light intensity of the dynamic sign is glaring, the building commissioner, or his designee, shall notify the owner or the owner's representative, and the light intensity shall be corrected within 24 hours of notification to the owner or the owner's representative. The owner shall maintain at all times the current notification, contact information in the office of the building commissioner.

F. VEHICULAR ADVERTISING SIGNS. *(Ordinance 248, 10/17/2012)*

Vehicular advertising signs shall be prohibited. Vehicular advertising signs shall be defined as: any business sign affixed, painted, attached or displayed upon a motor vehicle or semi-trailer, with or without tractor, which can be seen from the street if circumstances, including the absence of vehicle use, and/or the fact that the vehicle or semi-trailer carries no current motor vehicle registration or license plate, demonstrate the primary use for said vehicle or semi-trailer is the advertisement of a business, product, or service of a business located on the premises on which the vehicle or semi-trailer is parked. Trailers used for construction purposes during construction performed, pursuant to a valid improvement location permit and parked at the site where construction is being performed, are exempt from this section.

15–13–18 WETLANDS

A. PURPOSE: The purpose of this section of this Ordinance is to protect designated Wetlands as a natural resource.

B. APPLICABILITY: This section shall apply to all lands in or within twenty-five feet (25') of a Wetland located within the jurisdiction of Burns Harbor.

C. DESIGNATION OF WETLANDS: Areas shown on the Official Wetlands Map, published by the U.S. Fish and Wildlife Service, as being Wetlands are presumed to be Wetlands consistent with the definitions thereof. Wetlands not shown on the Official Wetlands Map are presumed to exist and are hereby designated as such and are protected under all of the terms and provisions of this section.

D. CERTIFICATION OF NO ADVERSE IMPACT: Persons applying for subdivision or Planned Unit Development approval or for a Building Permit must certify that the proposed Subdivision, Planned Unit Development or structure or use for which a Building Permit is being sought, is in full compliance with all federal, state and county laws protecting Wetlands. Any action within a Wetland, such as, but not limited to, grading, dredging, draining and filling may require a permit from the Indiana Department of Natural Resources, the Indiana Department of Environmental Management or the U.S. Army Corps of Engineers or other state or federal agency. The Applicant shall obtain the necessary permits or obtain certification from the appropriate county, state and federal agencies that said permits are not applicable.

15–13–19 LANDSCAPING, FENCES AND SCREENING

Landscaping, fences and screening shall be located in accordance with the following rules:

A. LANDSCAPING: The Front, Side and Rear Yards of each site not utilized for parking (where permitted) shall be landscaped utilizing an effective combination of Street trees, grass, ground cover and shrubbery and undeveloped areas in the interior of the site shall be seeded with appropriate grasses and maintained neat and orderly. All tree trimmings, stumps, and construction debris shall be promptly removed and not be accumulated or stored on-site.

B. FRONT YARD FENCES: No fences more than three (3) feet high or more than fifty (50%) percent solid may be located nearer to the Street line than the front wall of the main Building on a site.

C. FENCES OTHER THAN FRONT YARD: Fences less than six (6) feet high may be erected within the third tier. On corner lots, no fence more than three feet (3) high and fifty percent (50%) sold and no shrubbery, hedge or other view-obstructing object more than two and one half feet (2.5) high may be located within twenty feet (20) of a street right-of-way line.

D. FENCE POST: Fence posts shall be installed on the inside of a fence. (Ordinance 198, 12/13/2006)

E. FENCING MATERIALS: Barbed wire and razor wire shall be permitted in SD1, SD2, SD3, SD6 only.

F. LOADING AND REFUSE COLLECTION AREAS: Loading areas and refuse collection areas shall be screened from view from the front of the lot. The screening shall be accomplished with evergreen landscaping, earth berms, or a combination of these items as described in Table 13-2.

15-13-20 SITE RESTORATION AND PLANTING

All properties within the Town subject to subdividing, Development, redevelopment or renovation in excess of fifty percent (50%) of site area or Building square footage shall be subject to the following requirements as a part of plan approval: *(Ordinance 260, 2015)*

A. All disturbed site areas including public rights-of-way and private lots shall be finished graded to control the quantity and quality of storm water runoff and be restored with appropriate ground cover, herbaceous and woody vegetation as specified in Table 13-1.

B. For the purpose of this Section, “parkway areas” shall mean the area located between the sidewalk and the street. Trees may not be planted in the parkway areas unless the owner submits proof that the owner and all subsequent grantees of record shall assume liability for the care and maintenance of said trees. Any tree planted in the parkway areas of the Town shall meet Town specifications for trees, which shall be on file in the office of the Building Commissioner.

C. In every instance where a property is renovated where such renovation includes disturbance of more than fifty percent (50%) of a building site area or the remodeling or renovation or more than fifty percent (50%) of the square footage of a principal structure, the owner of the property shall remove any existing trees located in the parkway area unless the owner enters into an agreement with the Town assuming liability for the care and maintenance of the trees.

D. All owners of property abutting parkway areas where trees have been planted and exist as of the effective date of this Ordinance shall assume liability for the care and maintenance of said trees unless the property owner enters into an agreement with the Town registering the tree as a tree owned by the Town within sixty (60) days following the effective date of this Ordinance.

E. All trees within the parkway areas which are determined, after inspection by the Building Commissioner or his designee, to be unsafe or maintained in such a manner which constitutes a danger to the public safety, obstructs light from any publicly-owned street lamp, obstructs motorists' view of any street or intersection or any traffic control signal or sign, or endangers passing vehicles or pedestrians, are hereby declared to be public nuisances and shall be abated by pruning or removal. The Burns Harbor Building Commissioner shall be authorized to administer and proceed under the provisions of this Section and shall have authority to order the pruning or removal of any tree located in the parkway areas.

F. If any person, firm, or corporation shall violate any of the provisions of this Section, or shall do any act prohibited herein, or shall fail to comply with any order issued by the Building Commissioner under this Section within the time prescribed, such person, firm, or corporation may be fined pursuant to the general penalty provisions of Section 1-9 of the Town Code. If the Building Commissioner finds any violation of this Section, he shall be authorized to bring an action in the name of the Town of Burns Harbor to secure compliance with any order or orders made. In any action commenced to enforce the provisions of this Section, and in the event the Town prevails, the Town shall recover, in addition to any penalty, its attorney's fees and staff costs incurred in connection with such proceedings at the rates on file with the Clerk-Treasurer.

15–13–21 PLANTING PLAN

A plantings plan shall be submitted as part of the Improvement Location Permit. The planting plan shall be prepared and signed by a Landscape Architect licensed in the State of Indiana. The planting plan shall be prepared on the proposed
site grading plan and shall indicate the location, quantity and common name of all proposed plantings as well as other pertinent landscape features such as retaining walls, berms, swales, lighting, irrigation extents etc. as well as a plant list summarizing all proposed plant materials by common and botanical name, size,root characteristics and quantity. Plantings specified in this section represent minimum requirements. Applicants are encouraged to exceed these requirements.

15–13–22 TYPES AND SPECIES OF TREES

All plant species shall be non-invasive, indigenous and or native to the appropriate hardiness zone and physical characteristics for Northwest Indiana.

The compliment of woody shrubs and trees fulfilling requirements for the screening of off-Street parking and loading described in this Ordinance shall be not less than forty percent (40%) evergreen and not less than twenty percent (20%) deciduous.

A. ROS DISTRICT:
   1. Limit disturbance from vegetation removal, public and private utility installation and site grading to within twenty-five (25) feet of roads, Driveways and Building footprints and ten (10) feet of parking areas, utility trenches and pedestrian walks and trails.

2. Plantings: indigenous native species of grasses, herbaceous groundcovers, woody shrubs and trees.

15–13–23 MINIMUM PLANTING SIZES

- Deciduous trees: Two and one-half (2.5) inches in diameter measured six (6) inches above the ground.
- Coniferous trees: Six (6) feet in height.
- A minimum of twenty percent (20%) of the required minimum number of trees for multi-residential and Commercial developments shall be long-lived deciduous trees, three and one-half (3.5) inches in diameter measured six (6) inches above the ground.
- Evergreen shrubs used for screening purposes including those used in conjunction with berming shall be a minimum of three (3) feet in height.

Table 13-1: Sample Plant List

Quantity	Common Name	Scientific Name	Size	Root	Spacing
DECIDUOUS TREES					
X	SWAMP WHITE OAK	QUERCUS BICOLOR	2.0” CAL.	B&B	PER PLAN
CONIFEROUS TREES					
X	WHITE PINE	PINUS STROBUS	8’ HT	B&B	PER PLAN
SHRUBS					
X	CLETHRA	CLETHRA ALNIFOLIA	#2	CONT.	4’ O.C.
PERENIALS					
X	BEE BALM, JACOB CLINE	MONDARA DIDYMA ‘JACOB CLINE’	#1	CONT.	1.5’ O.C.

15–13–24 SLOPES AND BERMS

Final slope Grades steeper than the ratio of three to one (3:1) shall not be permitted without special approval of adequate slope stabilization measures such as groundcover plantings and retaining walls.

15–13–25 ALTERNATIVE LANDSCAPING

Where lot size restricts the area to accommodate landscaping as required per Table 13-2, vegetative green roofs may be substituted for a minimum of fifty (50) percent of the available roof area.

15–13–26 EXCAVATION

A. PERMIT REQUIRED: It shall be unlawful for any person, firm or corporation to remove or add any sand, soil, earth, or any other material from or to the surface of any land within the corporate limits of the Town of Burns Harbor or in any other manner change the contours of any land within said limits unless said person, firm or corporation shall first have procured from the Plan Commission or the Town Council, a permit for such purposes.

1. All applicants shall make reasonable provisions to prevent sand, dirt or other loose material from blowing or spilling over and upon the premises of others or upon any public way during any operation or while any sand, dirt or loose material is being transported to or from the site.

2. No permit shall be issued for any operation, which shall be unduly detrimental to the adjoining or surrounding properties or shall be unduly detrimental to safety, health or general welfare of the public.

B. APPLICATION: Any person, firm or corporation desiring to fill, excavate or change the contours of any land within the corporate limits of the Town of Burns Harbor shall make a written application to the Plan Commission. The application shall contain at least the following information:

1. The street address where operations will be conducted.

2. A copy of the most recent recorded Deed for the site; which shall contain the legal description of the site upon which the operations will be constructed which shall include the full name, street address and post office address of the owner of the site.

3. The full name, street address and post office address of the person, firm or corporation who will be conducting the proposed operations on the site. If the operator is different than the owner of the site, a copy of the contract or agreement between the parties must be provided.

4. A licensed engineer's drawing of the proposed operation site, including clearly marked details, the elevations before and after the proposed operations, and the elevations of adjoining properties including any adjoining streets or highways, or ditches and such drawings shall bear the name, address and the license number of said engineer.

5. The purpose for which the proposed operations are being undertaken.

6. The plan to control or limit access to the site during the period of the proposed operations.

7. What provision will be made to control the blowing and spilling of materials upon the properties of others.

8. What routes will be used for hauling materials to or from the site of the operations.

9. A written plan describing the proposed state of the site after operations have been completed.

10. In the case of an application for subsurface excavation, a statement of what benefit will be realized by the public as a result of the excavation, and a statement of what specific and continuing provisions will be made for protection of the public health, safety and welfare, and for the aesthetic screening of the excavation activities from adjoining properties.

11. A description of how any accumulated surface water or run-off will be handled or treated including any changes proposed for the existing drainage patterns in the area of the site.
12. The estimated cost of the operations contemplated by the application.

13. The names and mailing addresses of all adjoining landowners.

14. Each application shall be signed and dated by the Applicant(s), signature provision thereon shall recite, under penalties for perjury, that the Applicant(s) has read this Section and understands and accepts the obligations hereby imposed.

After reviewing the application, the Plan Commission shall set the matter for a public hearing and the Petitioner will give published and posted notice of the hearing date in the manner required by law and at least ten (10) days prior to the hearing shall send notice to all adjacent property owners by certified mail, return receipt requested, all at the applicant's expense.

After the public hearing, the Plan Commission shall approve or deny the application. Any party aggrieved by the Plan Commission's decision shall thereafter have a period of ten (10) days in which to file a written notice with the Plan Commission and the Town Council of an appeal to the Town Council which appeal shall be determined at a public meeting of the Council. The party appealing the decision shall give ten (10) days notice of the Council meeting at which the matter will be considered to all parties who appeared at the public hearing before the Plan Commission, which notice shall be certified mail, return receipt requested. Any party aggrieved by the Council's decision shall be thirty (30)days in which to file a Writ of Certiorari with the Porter County Courts which Writ shall be filed and served in the same manner as provided by statute for appeals from decisions for a Board of Zoning Appeals.

C. PERMIT FEE: With the application for a permit, the applicant shall pay the sum of One Hundred Dollars ($100.00) for each permit for each parcel of land to be modified to the Town Clerk/Treasurer.

D. PERFORMANCE BOND AND INSURANCE

1. PERFORMANCE BOND: Upon approval of an application, an applicant shall post a bond issued by an insurance company in good standing with the Commissioner of Insurance for the State of Indiana, in an amount established by the Plan Commission, and sufficient to provide for the cost of the restoration of the site as contemplated by the original application and/or to replace or repair any streets or highways within the corporate limits of the Town of Burns Harbor which may be damaged by the hauling of equipment or materials. Said surety bond shall be further conditioned that the person, firm or corporation conducting the operation and the owner of the property shall conform with the ordinance, specifications, rules, regulations and conditions prescribed by the Plan Commission or Town Council and shall protect and save harmless the Town of Burns Harbor from any and all liability, damages and expenses which said Town may sustain by reason of granting of such permit. The form of said bond shall be approved by the Town Attorney.

2. PROOF OF INSURANCE: After the approval of an application and prior to the issuance of a permit or the commencement of applications, the applicant shall provide proof of liability insurance by which the Town of Burns Harbor, its agents, employees, elected and appointed officials are named as additional insured, in an amount not less than Three Hundred Thousand Dollars ($300,000.00) per incidence and One Million Dollars ($1,000,000.00) aggregate which liability insurance insures against all forms of loss arising from the permitted operations including the hauling of equipment and materials to and from the site of the operation and any related activities of the applicant.

E. LAND TO BE RESTORED: Upon compliance with the preceding sections of this Ordinance, and the obtaining of all approvals provided therein, said permit shall be issued, and the permittee named in said permit may, thereafter, conduct operations as per the terms of said permit and all applicable ordinances, rules, regulations and conditions prescribed as a condition precedent to issuance thereof. Upon completion of the operation for which a permit is granted or when the permit therefor has expired, by the passage of time or otherwise, permittee shall, within the time fixed by the Plan Commission or Town Council cause said land to be left in the finished condition contemplated by the permit.

F. EXPIRATION OF PERMIT: Any permit issued pursuant to the Section shall expire and be of no further force and effect, upon the first to occur of the following:

1. Three (3) months of inactivity at the site of operations; or,

2. One (1) year after date of issuance.

No “renewals” of permits shall be allowed, but a new permit must be sought according to the procedures of this Section upon expiration of the existing permit. It shall be permissible to commence the application procedure prior to expiration of the existing permit, in order to avoid a lapse between permits.

G. PERMIT UNNECESSARY: The provisions of 15-5-3 shall not apply to excavation done as part of the erection or alteration of a residential building or structure pursuant to a valid building permit issued by the Building Commissioner or to excavation at an improved location unless the final grade varies two (2) or more feet from the grade prior to the excavation or disrupts the drainage patterns of the area to the detriment of adjoining property, provided that such persons shall diligently and without unnecessary or unreasonable delay prosecute said work to completion. (Ordinance 219, 12/17/2008)

H. ENFORCEMENT

1. PENALTIES

a. Any person who willfully or knowingly violates any provision of this Section shall be fined not more than Twenty-Five Hundred Dollars ($2,500.00).

b. Each occurrence or violation of any provision of this Section shall constitute a separate offense.

2. INJUNCTION: The Plan Commission, the Town Council or any designated enforcement official may institute a suit for injunction in the Circuit or Superior Court of the County to restrain a violation of terms of this Section. A suit for a mandatory injunction directing conformity with Town Ordinances and the correction of any actions done contrary to a permit issued hereunder or any Town Ordinance may also be instituted.

3. FORFEITURE: In addition to the other remedies provided, if any person shall violate any of the provisions of this Section, the Town may, after five (5) days notice to such person, take all appropriate legal action to call and collect upon any surety bond posted.

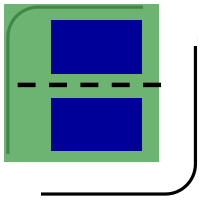
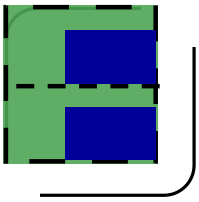
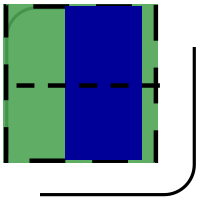
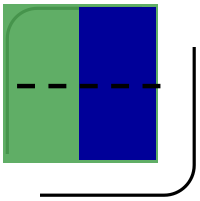
4. ATTORNEY FEES: In any action commenced by the Town to enforce the provisions of this Section or in any legal proceeding initiated by any person, firm or corporation, and if the Town shall prevail therein, the other party(ies) shall pay the Town's attorney fees incurred in connection with such proceedings, at the rate customarily charged by the Town's attorney to non-municipal clients.

5. No provision of the Section shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this Section or from other law.

TABLE 13-2. SITE RESTORATION & PLANTING

Minimum landscape Standards in this table are prescribed on a per lot basis. Illustrations are use for example purposes only.

BUILDING DISPOSITIONS

		 EDGEYARD	 SIDEYARD	 SPLITYARD	 REARYARD
Non-Residential	R	**Right-of-way:** hardy turf grass, 1 shade tree **Front Yard:** hardy turf grass, 1 shade tree, 3 woody shrubs, 2 evergreen shrubs **Side Yards:** hardy turf grass **Rear Yard:** hardy turf grass	**Right-of-way:** hardy turf grass, 1 shade tree **Front Yard:** hardy turf grass, 1 shade tree, 3 woody shrubs, 2 evergreen shrubs **Side Yards:** hardy turf grass **Rear Yard:** hardy turf grass	Not Permitted	Not Permitted
Non-Residential	RC1	**Right-of-way:** hardy turf grass, 1 shade tree **Front Yard:** hardy turf grass, 1 shade tree, 3 deciduous shrubs, 2 evergreen shrubs **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass	**Right-of-way:** hardy turf grass, 1 shade tree **Front Yard:** hardy turf grass, 1 shade or ornamental tree, 3 deciduous shrubs, 1 evergreen shrub **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass	**Right-of-way:** hardy turf grass, 1 shade tree **Front Yard:** hardy turf grass, 1 shade or ornamental tree, 3 deciduous shrubs, 1 evergreen shrub **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass	**Right-of-way:** hardy turf grass, 1 shade tree **Rear Yard:** hardy turf grass
Non-Residential	RC2	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade or ornamental tree per 5,000 sq. ft. of Building sq. ft., 2 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade or ornamental tree per 5,000 sq. ft. of Building sq. ft., 2 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade or ornamental tree per 5,000 sq. ft. of Building sq. ft., 2 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter
Residential	RC2	Not Permitted	**Right-of-way:** hardy turf grass, 1 shade tree per 40 linear feet **Front Yard:** hardy turf grass, 1 shade or ornamental tree per 4 Dwelling units, 2 deciduous or evergreen shrubs per Dwelling unit **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 40 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 40 linear feet **Front Yard:** hardy turf grass, 1 shade or ornamental tree per 4 Dwelling units, 1 deciduous or evergreen shrubs per Dwelling unit **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 40 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 40 linear feet **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 40 linear feet of lot perimeter
Residential	DD	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade tree per 1,000 sq. ft. of Building sq. ft., 2 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade tree per 1,000 sq. ft. of Building sq. ft., 2 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade tree per 1,000 sq. ft. of Building sq. ft., 4 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter
Residential	BP	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade tree per 1,000 sq. ft. of Building sq. ft., 4 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade tree per 1,000 sq. ft. of Building sq. ft., 4 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Front Yard:** hardy turf grass, 1 shade tree per 1,000 sq. ft. of Building sq. ft., 4 deciduous or evergreen shrubs per 1,000 Building sq. ft. **Side Yard:** hardy turf grass **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter	**Right-of-way:** hardy turf grass, 1 shade tree per 50 linear feet **Rear Yard:** hardy turf grass and/or herbaceous ground cover, 1 shade tree per 50 linear feet of lot perimeter

15–13–27 LANDSCAPE AND SCREENING OF OFF STREET PARKING AND LOADING FACILITIES

Figure 13-1: Screening Diagram

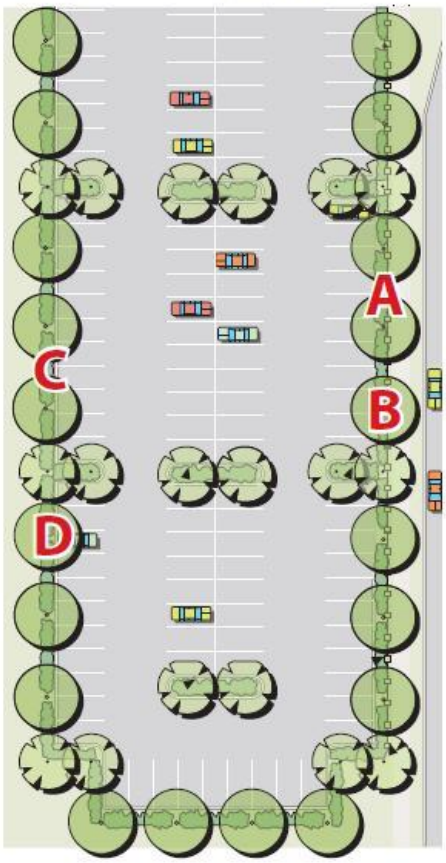
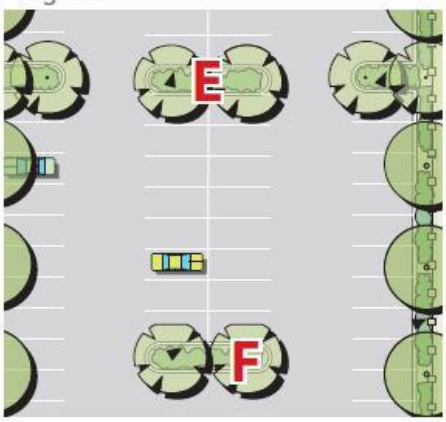


Figure 13-2: Parking Lot Landscaping Diagram



1. Off Street parking facilities containing five (5) or more spaces and all loading facilities shall be screened from the following:

   - Enfronting sidewalks and Streets
   - Lots used for any residential purpose either sharing a common property line or within 50 feet.

2. Said distance shall be the shortest distance between parking and or loading facility and the nearest residential or residential mixed-use lot line.

3. All screening shall consist of a combination of the following elements so as to provide a minimum eighty (80) percent opacity throughout the year.

4. Screening adjacent to public sidewalks and Streets:

   - A landscape screening strip at least five (5) feet wide (A)
   - One (1) deciduous shade tree per every thirty (30) linear feet of perimeter (B)
   - A continuous shrub boarder or hedge no less than three (3) feet and no more than four (4) feet in height comprised of deciduous and or evergreen shrubs
   - Earth berm (if space permits)
   - Decorative, metal railing system with masonry columns
   - Decorative masonry wall no taller than four (4) feet in height

5.Screening for residential, residential mixed-use properties within fifty (50) feet:

- A landscape screening strip at least ten (10) feet wide (C)
- One (1) tree per every thirty (30) linear feet of perimeter with at least forty (40) percent of trees being coniferous varieties (D).
- A continuous shrub boarder or hedge no less than five (5) feet and no more than eight (8) feet in height comprised of deciduous and or evergreen shrubs
- Earth berm (if space permits)
- Solid, board fence six (6) feet in height

INTERNAL PARKING LOT LANDSCAPING: Parking bays over twelve (12) spaces in length shall be subdivided by intermediate landscape islands (E). Landscape islands shall provide at least one parking space width of landscape area (10 x 18 for a single bay or 10 x 36 for a double bay). Double parking bays shall terminate with a planting area of a minimum of a double parking space of landscape area.

A minimum of one deciduous shade tree or two ornamental trees, salt tolerant low shrubs and/ or perennial grasses or flowers shall be planted

in each island (F). Where possible, planting islands should be depressed and surrounded by flat, ribbon curbs to facilitate storm water filtering.

SECTION 14: ADULT USE DISTRICT

15-14-1 SEXUALLY ORIENTED BUSINESSES *(Ordinance 226, 8,12,2009)*

A. INTENT OF REGULATION - The purpose of this section is to preserve the integrity and character of residential neighborhoods in the Town of Burns Harbor, to prevent the concentration of sexually oriented businesses or uses in areas where the adverse effects of such businesses would have a deleterious impact upon property values, and to protect minors from the objectionable operational characteristics of such businesses and uses by restricting their close proximity to churches, parks, schools and residential areas. In adopting this section, the Town of Burns Harbor recognizes that there are important and substantial government interests that require reasonable regulation of the time, place and manner of such businesses within the Town's jurisdiction. These important and substantial government interests include adverse secondary effects such as increased crime and urban blight, diminished property values, and the spread of sexually transmitted diseases.

B. DEFINITIONS – The following words, term and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. **"Entranceway or Gateway"** shall mean an intersection of streets or thoroughfares that mark entry into the town or more specifically into certain areas of the town. The location of such "entranceways or gateways" include:
(1) East/West boundaries of Town on U.S. 20;
(2) North/South boundaries of Town on Highway S.R. 149;
(3) East/West boundaries of Town on U.S. 12; and (4) Intersection of S.R. 149 and 20.

2. **"Lewd matter"** means any matter which:
   a. the average person finds, when applying contemporary community standards and when considered as a whole, appeals to the prurient interest; and

   b. depicts or describes patently offensive representations simulated; or
      i. ultimate sexual acts, normal, perverted, or actual; or
      ii. masturbation, excretory functions, or the exhibition of the genitals or genital area.

Nothing herein is intended to include or proscribe any matter which, when considered as a whole and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

3. **"Motion picture film"** shall mean any:
   a. film or plate negative; or

   b. film or plate positive; or

c. film designed to be projected on a screen for exhibition;

d. films, glass slides or transparencies, either in negative, positive, or digital form, designed for exhibition by projection on a screen; or

e. video tape or any other medium used to electronically or digitally reproduce images on a screen.

4. **"Nudity"** or "State of Nudi**ty"** shall mean:
   a. the appearance of bare human buttocks, anus, male or female genitals,or the areola or nipple of the female breast; or

   b. a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

5. **"Semi-Nude"** or **"Semi-Nudity"** shall mean a state of dress in which clothing covers no more than the genitals, anus, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

6. **"Sexually Oriented Business"** shall mean an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio, each of which are more particularly defined as follows:

   a. **"Adult arcade"** shall mean an establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

   b. **"Adult bookstore," "Adult novelty shop"** or **"Adult video store"** shall mean a commercial establishment which has a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising to the sale, rental or viewing, for any form of consideration, of any one (1) or more of the following:

      i. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

      ii. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

      iii. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or

describing "specified sexual activities" or "specified anatomical areas," and still be categorized as adult bookstore, adult novelty shop or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as adult bookstore, adult novelty shop or adult video store, so long as one (1) of its principal business purposes is the offering for sale, rental or viewing, for any form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

c. **"Adult cabaret"** shall mean a nightclub, bar, restaurant "bottle club," or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

i. persons who appear nude or in a state of nudity or semi-nudity;

ii. live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or

iii. films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

d. **"Adult motel"** shall mean a motel, hotel or similar commercial establishment which

i. offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets, leaflets, radio or television; and

ii. offers a sleeping room for rent for a period of time less than ten (10) hours or allows a tenant or occupant to sub-rent the sleeping room for a period of less than ten (10) hours.

e. **"Adult motion picture theater"** shall mean a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

f. **"Adult theater"** shall mean a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear nude, in a state of nudity or semi-nudity, or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."

g. **"Escort"** shall mean a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

h. **"Escort agency"** shall mean a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

i. **"Massage parlor"** shall mean any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of, or in connection with, "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in or by any licensed hospital, licensed physician, surgeon, chiropractor, osteopath, or any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, or by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, or by any person so licensed to perform such activities.

j. **"Nude model studio"** shall mean any place where a person who regularly appears in a state of nudity or displays "specified anatomical areas" for money or any form of consideration and is to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

k. **"Sexual encounter establishment"** shall mean a business or commercial establishment that, as one (1) of its primary business purposes offers, for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of engaging in "specified sexual activities" or the exposure of "specified anatomical areas," or activities when one (1) or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

7. **"Specified Anatomical Areas"** shall mean any of following:

   a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or

   b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

8. **"Specified Sexual Activities"** shall mean any of the following:

   a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;

b. Sexual acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

c. Masturbation, actual or simulated;

d. Human genitals in a state of sexual stimulation, arousal or tumescence;

e. Excretory functions as part of, or in connection with, any of the activities set forth in subdivisions (a) though (d) of this subsection.

C. PROHIBITIONS - No sexually oriented businesses shall be permitted unless such business site or proposed site is located in a district identified as “SD-7", subject to the following further restrictions:

1. No such use shall be located within a one thousand foot (1,000’)radius of any other such use.

2. No such use shall be located within a one thousand foot (1,000’) radius of any parcel used for residential purposes, or a parcel located in a residential zoning district or any portion of a planned unit development designated for residential purposes.

3. No such use shall be located within a one thousand foot (1,000’) radius of any school, child care center, child care home, nursing shelter, care or rest home, religious institution, park, playing field, pool or billiard hall, coin operated amusement center, dance center, ice or roller skating rink, park or other public recreational facility typically catering to minors, indoor or outdoor theater, art gallery, museum, library, or other area where large numbers of minors travel or congregate.

4. No such use shall be located within a one thousand foot (1000’) foot radius from the intersection of any two streets that constitute an Entranceway or Gateway into the Town, as defined by this Section.

5. The distance between one sexually oriented business and another such use shall be measured in a straight line, with regard to intervening structures or objects, from the closest exterior structural wall of each such business. The distance between a sexually oriented business and any church, school, park, or other establishment referenced in Section 15-14-1 shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the sexually oriented business to the nearest property line of the church, school, park or other such use. If a sexually oriented business is part of or included within an integrated center, only the portion of said center or leased space occupied by such sexually oriented business shall be included in determining the closest exterior structural wall of said establishment.

6. No such use shall be permitted to operate as an accessory use unless it is permitted by this Section.

D. EXTERIOR DISPLAY - No sexually oriented business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to

specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public view.

E. SIGNS - Signs for such establishments shall not display any pictures, photographs, silhouettes, drawings or other pictorial representations of a sexually oriented nature, and may contain only the legal name and address of said establishment. The total number of business wall signs for any single establishment shall not exceed two (2).

1. Sign Surface Area - The sign surface area of a business wall sign for a sexually oriented business shall not exceed an amount equal to five (5) percent of the front building facade of the first floor elevation (first ten (10) feet) of the premises occupied by the sexually oriented business, or forty (40) square feet, whichever is the lesser, of all signs combined. The maximum sign surface area of a freestanding sign, where permitted, shall not exceed forty (40) square feet gross per side.

2. Lighting - Signs and sign structures may be illuminated, provided, however, such illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or floodlights), or any flashing or animated lights (either interior to the sign, on the exterior of the sign, or as a border to the sign).

15-14-2 VIOLATIONS AND PENALTIES

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any structure or land in violation of any of the provisions of this Ordinance. In addition to the penalties provided herein, the Plan Commission, BZA or the Town Council may institute a suit for injunction directing removal of a structure erected in violation of this Ordinance or for the remedying of any other violation of this Ordinance. Any person, firm, or other legal entity who violates any provision of this Ordinance may be cited into a court of law and subject to the General Penalty provisions of the Town Code, which are found at Section 1-9, and provides for a fine not to exceed $2,500.00 per day for each day that the violation exists. Each day the violation continues shall constitute a separate offense.

SECTION 15: ASSEMBLY

(Ordinance 243, 6/8/2011)

15-15-1. The following definitions shall apply to this Section:

A. "Assembly" shall mean any show, concert, or gathering of any nature, for which one hundred (100) or more persons are present and/or at which alcoholic beverages will be sold. (*Ordinance 266 January 2015)*

B. "Town" shall refer to the area within the incorporated town limits of the Town of Burns Harbor, as may change from time to time.

C. "Permit" shall mean the document issued by the Town of Burns Harbor's Police Department, which allows the applicant to carry on or transact an event approved under this ordinance.

D. "Permittee" shall mean an individual, partnership, corporation, or any other association of individuals, partnerships or corporations who has been issued a permit pursuant to this Section.

E. "Person" shall have the meaning set forth in 15-2-2(153) of this Ordinance.

F. "Premises" shall mean a parcel of land with a continuous boundary, whether publicly or privately owned, occupied, or possessed for which activities permitted under this Section shall be permitted.

15-15-2. No person shall conduct, maintain, operate, promote, organize, manage, advertise, or sell or give tickets of admission to any Assembly; except pursuant to a valid permit issued under this Ordinance.

15-15-3.

A. Applications for a permit shall be made in writing to the Town of Burns Harbor Clerk-Treasurer on the appropriate form and shall be subject to the approval by the Town Council. Applications shall be verified under oath, are subject to the penalty of perjury, and must be accompanied by the appropriate permit fee, insurance and/or investigative fee, as required by this Ordinance. The applications must be received at least forty-five (45) days prior to the date of the event.

B. The application must include the following:

1. The full name, age, residence, and mailing address of the applicant; including the names and addresses of all partners if the applicant is a partnership, or the names and addresses of all officers and all persons owning more than a ten percent (10%) stock or member interest, if the applicant is a corporation or limited liability company.

2. A legal description and common address of the premises upon which the assembly will occur, together with the names and mailing addresses of all persons owning an interest in the premises, stating the nature of the interest and identifying the size of the premises on which the assembly will occur.

3. The nature and purpose of the assembly, the proposed dates and times during which the assembly will be conducted, and a detailed statement of the manner in which it will be conducted.

4. The maximum number of persons that the applicant will permit to assemble on the premises at any time during the assembly.

5. The plans of the applicant to limit and control admission to the premises to the maximum number of persons permitted.

6. A description of the existing infrastructure, together with plans for the proposed construction and management of sewage, garbage and waste disposal; the source of water supply and plans for water distribution; the provision and management of health care services; the methods of fire protection; the means and plans for emergencies and emergency evacuation and traffic control to be implemented during the assembly and approved by the Town of Burns Harbor Fire Chief.

7. The number, location, and power levels of amplifiers and speakers, and the plans for sound control during the assembly, if applicable, identifying the inclusive times during which music will be played or loudspeakers will be in use.

8. The proposed method of lighting to be used during the assembly, and plans for lighting control during the assembly, if applicable.

9. Plans for the maintenance of security and order on the premises, including the proposed number, deployment, and hours of availability of security by a sworn police officer. It shall also be required that one such officer for every fifty (50) persons on the premises be provided prior to, during, and immediately after the close of the assembly, at the applicant's sole expense.

10. Plan for the preparation and distribution of food and refreshments on the premises, along with a copy of the appropriate health department permit.

11. Plans for communications to the premises are made reasonably available to persons attending the assembly, and also to law enforcement and security personnel, and agents of the County.

12. A list of adjoining property owners within five hundred (500) feet of the property intended to be used for the assembly.

13. Proof of liability insurance in an amount not less than $1,000,000.00 of liability insurance, issued by a company acceptable to the Town of Burns Harbor, Indiana, in favor of the applicant and naming the Town of Burns Harbor as an additional insured.

14. A permit fee for the purpose of defraying the costs of administration in reviewing the permit application as set forth in section 15-15-5(B).

15-15-5. An application for an assembly pursuant to the terms and provisions of this Ordinance shall be reviewed and approved in the following manner:

A. The application with all other required documents shall be submitted to the Town Clerk-Treasurer.

B. A permit fee shall be paid based upon the following schedule:

Number of attendees	Permit fee
More than 100 but less than 1,000	$100
More than 1,000 but less than 2,000	$200
More than 2,000 but less than 5,000	$300
More than 5,000 but less than 10,000	$400
10,000 or more	$500

C. The Clerk-Treasurer shall deliver a copy of the application to the Town Marshal, the Town Fire Chief, the Town Street Commissioner, and each member of the Town Council.

D. The Town Marshal, the Town Fire Chief, and the Town Street Commissioner shall, within ten (10) days of receipt of said application, investigate the adequacy of the plans of the applicant and be prepared to make recommendations with respect to said plans to the Town Council.

E. The Clerk-Treasurer shall schedule the applicant and the application on the agenda of the next meeting of the Town Council, which will occur more than fifteen (15) days after submission of the application. The applicant shall provide notice that the application will be heard by the Town Council to the adjoining property owners listed by the applicant in accordance with Section 15-15-3(B)(12) and shall present proof of such service to the Town Council.

F. The Town Council shall discuss the application with the applicant at its next Town Council meeting scheduled for more than fifteen (15) days after submission of the application and either approve the application as submitted, approve the application as modified, or reject the application.

15-15-6. The provisions of this Ordinance shall not apply to any indoor or outdoor assembly at an established and permanent stadium, banquet hall, auditorium, arena, or place of worship.

15-15-7. Exemptions. The provisions of this Ordinance shall not apply to private parties held on a residential property. (*Ordinance 266 January 2015)*

SECTION 15: OFFICIAL ZONING MAP

15-15-2 OFFICIAL ZONING MAP

The following map is the official zoning map, showing the Zoning Districts of the Town of Burns Harbor, Indiana.

15-15-2 AN ORDINANCE AMENDING THE ZONE MAP OF THE TOWN OF BURNS HARBOR, INDIANA

WHEREAS, there are six (6) Special Districts established as part of the Town of Burns Harbor, Indiana Zoning Map. Each Special District is identified by a Property Identification Number (PIN) within the updated zoning map. Below are the PIN descriptions for each Special District:

SD 1 – (12 parcels – 11 PINS 1 No PIN)
640328100001000024, 640320100001000024, 640332201001000024, 640328100002000024, 640329100001000024, 640321300004000024, 640320300002000024, 640320300001000024, 640320200001000024, 640320200002000024, 640320400001000024, NO PIN (1)

SD 2 – (4 parcels – 4 PINS)
640332101002000024, 640332101003000024, 640332101001000024, 640332202001000024

SD 3 – (4 parcels & 3 PINS)
640332276001000024, 640333102001000024, 640328300003000024

SD 4 (15 parcels – 12 PINS)
640332151007000024, 640332151003000024, 640332152002000024, 640332151006000024, 640332152003000024, 640332151005000024, 640332151004000024, 640332153001000024, 640332152002000024, 640332152001000024, 640332152002000024, 640332151001000024

SD 5 (1 parcel - 1 PIN)
640333476002000024

SD 6 (23 parcels – 22 PINS 1 No PIN)
640605476003000024, 640605451005000024, 640605476009000024, 640605476008000024, 640605476007000024, 640605476002000024, 640605476006000024, 640605476005000024, 640605451006000024, 640605476004000024, 640605451004000024, 640605451003000024, 640605476001000024, 640605428004000024, 640605428003000024, 640605428002000024, 640605403002000024, 640605403003000024, 640605428001000024, 640605451002000024, 640605451001000024, 640605403001000024, NO PIN (1)

WHEREAS, as part of the Town of Burns Harbor Zoning Update, the Official Zoning Map was updated to include zoning classifications as described within Section 15, Zoning Ordinance.

WHEREAS, the Planning Commission, after holding a public hearing on _____,2009 Approved the Official Zoning Map with updated Zoning Districts and Special Districts.

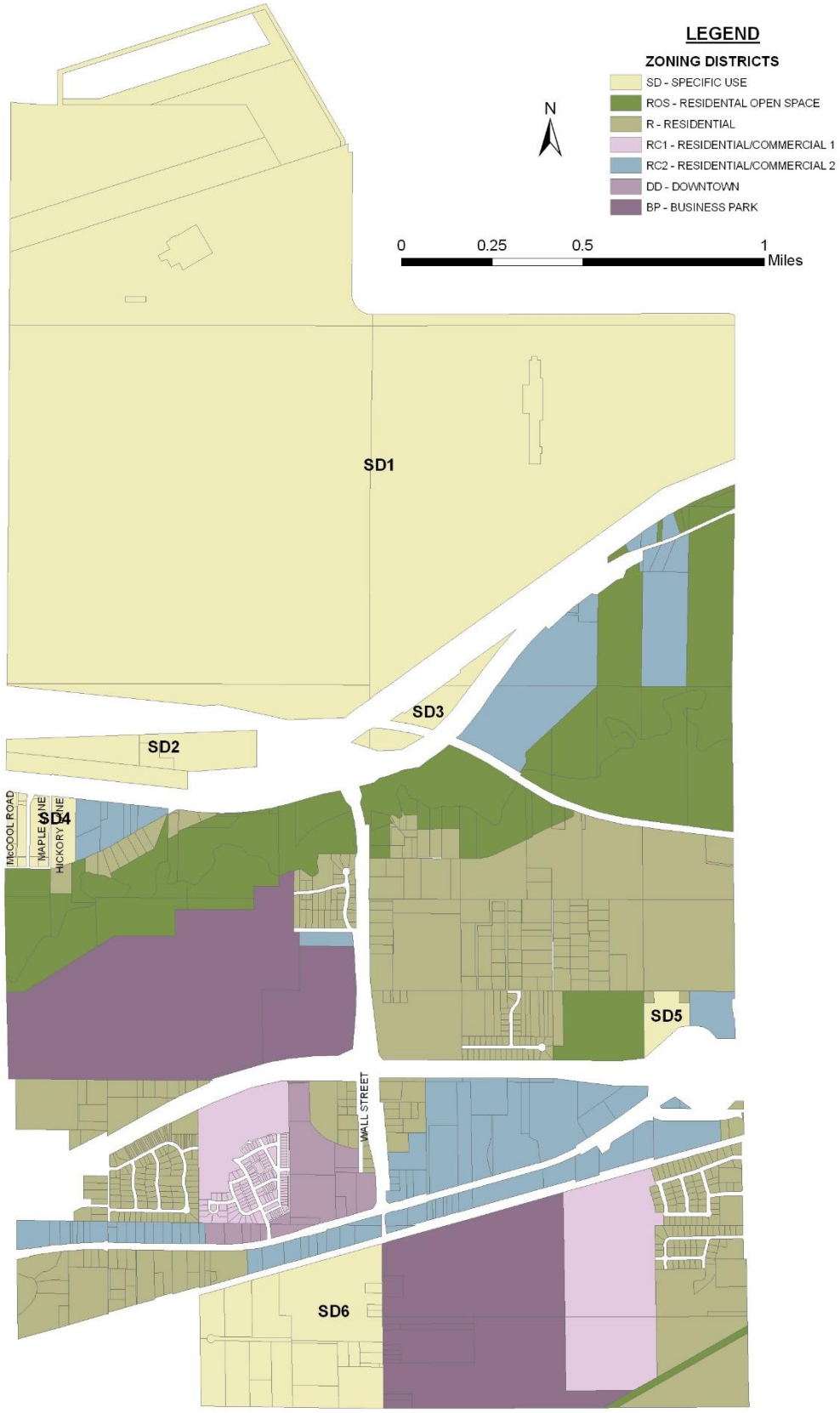
NOW THEREFORE BE IT ORDAINED by the Town Council of Burns Harbor, Porter County, Indiana, under the authority of Public Law 309, Acts of 1981, and all Acts Amendatory and Supplemental thereto, General Assembly of the State of Indiana, that the Burns Harbor, Indiana Official Zoning Map, being a part of Chapter 15 being the Zoning Ordinance of the Burns Harbor Town Code is hereby amended.
PASSED BY ORDINANCE ON _____, 2009. APPROVED BY

_____, Town Council

_____, Town Council

ATTEST BY:

_____, TOWN CLERK-TREASURER


LEGEND
ZONING DISTRICTS
SD - SPECIFIC USE
ROS - RESIDENTAL OPEN SPACE
R - RESIDENTIAL
RC1 - RESIDENTIAL/COMMERCIAL 1
RC2 - RESIDENTIAL/COMMERCIAL 2
DD - DOWNTOWN
BP - BUSINESS PARK
N
0
0.25
0.5
1
Miles
SD1
SD2
SD3
SD4
SD5
SD6
McCOOL ROAD
MAPLE LANE
HICKORY LANE
WALL STREET