

Town of Lapel Unified Development Code

# Zone Lapel

## Introduction

**Basic Provisions | Zoning Districts & Map | BZA | Administration | Processes | Definitions**

**Volume 1 of 12**

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## Introduction

This Unified Development Code shall serve to guide future development in accordance to the goals and objectives outlined in the Town of Lapel's Comprehensive Plan. Specifically, its primary purpose is to protect the general health, safety, and welfare of residents. The regulations and standards of the Code are meant to create stability within zoning districts, such that each zoning district allows a predictable range of compatible uses and building types.

Additionally, this Code will provide the Town of Lapel with the framework to guide developments and investments, enhance and protect the character and identity of the community, strengthen retail districts and the downtown core, and promote job growth and economic stability.

### V1.1.1

#### Organization

This Code is organized in such a manner as to reduce the amount of cross-referencing needed to connect each zoning district with the applicable standards and regulations. The Unified Development Code is divided into a set containing 12 individual Volumes:

- V1 – Introduction
- V2 – Ag – Agricultural District
- V3 – R1 – Single Family Residential:  
Suburban Neighborhood
- V4 – R2 – Single Family Residential:  
Traditional Neighborhood
- V5 – R3 – Multi-Family Residential
- V6 – C1 – General Commercial
- V7 – C2 – Downtown Commercial

- V8 – Is – Institutional and Social
- V9 – Ii – Light Industrial
- V10 – Ig – General Industrial
- V11 – Po – Parks and Open Space
- V12 – Subdivision Control Ordinance  
| Planned Unit Development  
Ordinance | Building Code

Each Volume contains all of the pertinent information related to the Volume topic. For example, Volume 3 will have similar sets of development standards and regulations as Volumes 4 and 5. However, finding the development regulations for the R1 district will not necessitate cross-referencing to a general set of regulations that may or may not apply – rather, the applicable regulations for each district are readily available in the corresponding Volume for which they apply.

### V1.1.2

#### How to Use the Document

As mentioned in **Section V1.1.1**, this Code is organized in such a manner as to direct the user to the applicable Volume according to area of interest. For example, if I have a home that is zoned R1 and I would like to see what the Fence Standards are for my district, I would refer to Volume 3 (R1 District) – Fence Standards.

Sections are organized according to Volume Number and then the subset for each Volume. For example, a section number of V4.1.1 would mean that the section is the first subset of the first section in Volume 4.

Questions regarding the use of this Code may be directed to the Plan Commission:

Town of Lapel Town Hall  
720 Ford Street, P.O. Box 999  
Lapel, IN 46051

Phone: (765) 534.3157

Email: info@lapelindiana.org

### V.1.1.3

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# V1.2

## Basic Provisions

### V1.2.1

#### Title

This document shall be formally known as the “Lapel, Indiana Unified Development Code,” and it may be referred to as the “Zoning Ordinance,” “Ordinance(s),” “Zoning Code,” or “Code.” The official map designating the various regulating districts shall be titled, “Town of Lapel, Zoning Map”, and shall be known and referred to as the “Zoning Map.”

### V1.2.2

#### Defined Words & Rules of Construction

Words used in a special sense in this Ordinance are defined in the Definitions section of the Lapel, Indiana Zoning Ordinance. Throughout this Ordinance, all words, other than the terms specifically defined, have the meaning inferred from their context in this Ordinance or their ordinarily accepted definition.

The following rules of construction shall apply to the text of the Ordinance:

- A. The particular will control the general.
- B. The words “shall” and “will” are always mandatory and not discretionary. The word “may” is permissive.
- C. Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neutral gender will refer to any gender as required, unless the context plainly indicates the contrary.
- D. A building or structure includes any part thereof.

- E. The phrase “used for” includes “arranged for, designed for, intended for, maintained for, or occupied for.”
- F. The word person includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and, or” or “either...or,” the use of the conjunction is defined as follows:
  - i. “And” means that all the connected items, conditions, provisions, and events apply together and not separately.
  - ii. “Or” means that the connected items, conditions, provisions, or events shall apply separately or in any combination.
  - iii. “Either...or” means that the connected items, conditions, provisions, or events shall apply separately but not in any combination.
- H. The word “includes” does not limit a term to the specified examples, but is intended to extend the term’s meaning to all other instances or circumstances of like kind or character.
  - I. The word “town” means the Town of Lapel, Indiana. The word “county” means Madison County, Indiana. The word “state” means the State of Indiana.

### V1.2.3

#### Authority

This Zoning Ordinance is adopted by the Town of Lapel pursuant to its authority under the laws of the State of Indiana, 36-7-4 et seq. Whenever codes cited in this Ordinance refer to Indiana Code which has been amended or superseded, this Ordinance shall be deemed amended in reference to the new or revisited Indiana Code.

## V1.2.4

### Purpose

This Ordinance is intended to guide the growth and development of the Town in accordance with the Town of Lapel Comprehensive Plan and for the following purposes:

- A. To secure adequate light, air, and convenience of access; and safety from fire, flood, and other dangers.
- B. To promote the public health, safety, comfort, convenience, morals, and general welfare.
- C. To plan for the future development of the Town to the end:
  - i. that the community grows only with adequate public ways, utilities, health, education, and recreation facilities;
  - ii. that the needs of agriculture, industry, and business be recognized for future growth;
  - iii. that the residential areas provide healthful surroundings for family life;
  - iv. that the growth of the community is commensurate with and promotes the efficient and economical use of public funds; and
  - v. that the community strives for high aesthetic value and quality planning and design.

## V1.2.5

### Compliance

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or existing use be expanded, except in full compliance with all provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.

## V1.2.6

### Severability

If any Section or specific provision or standard of this Ordinance or

any regulating district boundary arising from it is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## V1.2.7

### Interpretation

The provisions of this Ordinance shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. If two or more provisions within this Ordinance are in conflict or are inconsistent with one another, then the provision which is more restrictive shall control.

## V1.2.8

### Jurisdiction

This Ordinance shall apply to all land within the limits of Lapel, Indiana but not within the planning jurisdictions in the ownership of the county, state, or Federal government.

## V1.2.9

### Application

When this Ordinance along with private covenants, private contracts,

commitments, permits, agreements, state laws, federal laws, or other regulations regulates a structure or parcel of land, the greater restriction shall control. In no instance shall this Ordinance be interpreted as altering or negating any other applicable regulations.

### **V1.2.10**

#### **Saving Provision**

This Ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning ordinance. Also, this Ordinance shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

### **V1.2.11**

#### **Transition Rules**

- A. Any application for an Improvement Location Permit that has been filed with the Plan Commission or its designees and is full and complete, prior to the effective date of this Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of the filing. However, all administrative procedures and penalties shall follow those set forth by this Ordinance.
- B. Any application for a Zoning Map Amendment that was filed with the Plan Commission or its designees, and is full and complete prior to the effective date of the Ordinance, shall continue through the process to completion pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, if the proposed use would no longer be permitted in the proposed zoning district or the proposed zoning district no longer exists in this Ordinance, the Building Inspector shall amend the application such that the request for rezoning would accomplish the same end goal for the applicant.
- C. Any application before the Board of Zoning Appeals (i.e.

special use, use variance, development standards variance) that has been filed with the Board of Zoning Appeals or its designees and is full and complete, prior to the effective date of this Ordinance, shall continue the process pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing, provided that:

- i. If such application is no longer required by the terms of this Ordinance, the application will be dismissed; or
  - ii. If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of this Ordinance that were not required under the previous Ordinance, the application will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.
- D. All variances, special uses (special exception), rezonings, and other petitions regulated by this Ordinance which were approved prior to the effective date of this Ordinance and not executed through the proper receipt of an Improvement Location Permit shall expire and become void one (1) year after the effective date of this Ordinance.
- i. All Improvement Location Permits issued prior to the effective date of this Ordinance shall be void one (1) year after their date of issue if construction has not begun.
  - ii. Improvement Location Permits issued prior to the effective date of this Ordinance for which construction has begun shall become void if construction is abandoned for a period of six (6) consecutive months or if, in the opinion of the Building Inspector, construction has otherwise ceased.
  - iii. All approvals which expire and/or become void

shall comply with all applicable provisions of this Ordinance if re-issued.

**V1.2.12  
Amendments**

- A. In accordance with I.C. 36-7-4-602, the Town Council may amend or partially repeal the text of this Ordinance or they may amend the Official Zoning Map of this Ordinance as follows:
  - i. The Town Council or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of I.C. 36-7-4-602(b) and I.C. 36-7-4-602 and according to the Plan Commission Rules and Procedures.
  - ii. The Town Council, Plan Commission, or at least fifty percent (50%) of the affected property owners may initiate a petition to change the Official Zoning Map according to the procedure of I.C. 36-7-4-602(c) and I.C. 36-7-4-608 and according to the Plan Commission Rules and Procedures and the requirements of **Section V1.7, Administration**, of this Ordinance.
- B. In its review of the text and Zoning Map amendments, the Plan Commission shall pay reasonable regard to:
  - i. The public health, safety, and welfare,
  - ii. The most recently adopted Comprehensive Plan,
  - iii. Responsible development and growth,
  - vi. Current conditions and the character of structure and uses in each district,
  - v. The most desirable use for which the land in each district is adapted, and
  - vi. The conservation of property values throughout the jurisdiction.

**V1.2.13  
Effective Date**

This Ordinance shall be in full force and in effect at \_\_\_\_\_ m, on \_\_\_\_\_. The effective date is based on the passage and notice of adoption as required by law. This Ordinance was recommended for adoption by the Plan Commission of the Town of Lapel, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Vice-President

\_\_\_\_\_  
Secretary



This Ordinance was passed and adopted by the Lapel, Indiana  
Town Council on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
President

ATTEST:  
  
\_\_\_\_\_

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Town Attorney

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# V1.3

## Zoning Districts Established

### V1.3.1

#### Establishment of Standard Districts

For the purpose of this Ordinance, the planning jurisdiction is divided into the following zoning districts for the general uses as stated. These districts shall be indicated on the Official Zoning Map and labeled using the two-digit codes noted below.

#### **Ag – Agricultural**

The “Ag”, Agricultural District is intended to provide locations for agricultural operations and related land uses. This district is further intended to reduce conflicts between residential and agricultural uses, preserve the viability of agricultural operations, and limit development in areas with minimal infrastructure. This district should be used to protect agricultural operations from land uses that are incompatible with the available infrastructure.

#### **R1 – Single Family Residential: Suburban Neighborhood**

The “R1”, Single-Family Residential District is intended to provide suburban style, medium to low density residential development along with contributing infrastructure and other necessary features.

#### **R2 – Single Family Residential: Traditional Neighborhood**

The “R2”, Single-Family Residential District is intended to promote the building of pedestrian-friendly neighborhoods in a traditional development style. The Plan Commission should strive to encourage development in this zone that is of higher densities to help promote a pedestrian-friendly downtown.

#### **R3 – Multi-Family Residential**

The “R3”, Multi-Family Residential District is intended to provide for

multi-family residential developments. The provisions that regulate this land use district should promote the adequate provision of open spaces, living areas, and vehicle parking. The Plan Commission should strive to integrate this district with higher-density, single-family residential developments and neighborhood-serving and general commercial facilities. This district should be protected from conflicting land uses and be located in proximity to open space, services, and retail establishments.

#### **C1 – General Commercial**

The “C1”, General Commercial District is intended to provide a land use category for general commercial uses that provide products and services to neighborhoods. The provisions that regulate this land use district should promote appropriate commercial uses that are clearly non-conflicting with residential areas of the Town of Lapel. The Plan Commission should strive to use this district selectively, in areas where appropriately-scaled commercial centers are properly located to service the residents of Lapel.

#### **C2 – Downtown Commercial**

The “C2”, Downtown Commercial District is intended to provide for the continued viability of the historic central business district. This district is also intended to accommodate and support the use of existing structures within the downtown. It is further intended to permit the continued, contextually appropriate, development of the area through re-use, infill and mixed-used development.

#### **Is – Institutional and Social**

The “Is”, Institutional & Social District is intended to provide locations for large-scale public facilities, educational facilities, religious centers, and other institutions. This district is further intended to provide a set of setbacks and other standards that are responsive to the unique scale and other considerations common to these types of uses. This district is further intended to reduce land use conflicts and ensure that institutions are appropriately integrated into the community.

## **II – Light Industrial**

The “II”, Light Industrial District is intended to provide locations for light production, assembly, warehousing, research & development facilities, and similar land uses. This district is intended to accommodate only industrial uses that are completely contained within structures and do not involve the outdoor storage of materials or the release of potential environmental pollutants. This district should be used to support industrial retention and expansion in Lapel.

## **Ig – General Industrial**

The “Ig”, General Industrial District is intended to provide locations for general industrial manufacturing, production, assembly, warehousing, research & development facilities, and similar land uses. This district is intended to accommodate a variety of industrial uses in locations and under conditions that minimize land use conflicts. This district should be used to support industrial retention and expansion in Lapel.

## **Po – Parks and Open Space**

The “Po”, Parks and Open Space District is intended to provide for the development of recreational facilities and the designation of open space. This district should be integrated with residential districts and natural features potentially forming a community-wide open space system. The Plan Commission should strive to establish this district in appropriate residential neighborhoods and in areas of natural open space and recreational features. The Plan Commission should also strive to ensure that usable open space is provided, and that the connectivity of recreational amenities is promoted.

## **V1.3.2**

### **Standard District Uses**

Specific land uses are either Permitted, Non-permitted, or a Special Use (Special Exception) in each Zoning District. The Town of Lapel’s permitted and special uses for each district are noted in the Overall Permitted and Special Use Matrix on page XX.

## **V1.3.3**

### **Unlisted or Questionable Land Uses**

Any use not listed as a Permitted or Special Use is considered Non-permitted unless the Zoning Administrator or Plan Commission makes a determination otherwise. The Zoning Administrator or Plan Commission may determine into which category any questionable use be placed if it is not specifically listed but similar to another use that is permitted or special use. In no instance shall the Zoning Administrator’s interpretation be construed as a process for establishing a Use Variance. This determination may be appealed to the Board of Zoning Appeals.

## **V1.3.4**

### **Overall Permitted and Special Use Matrix**

The table on pages 21 - 25 contain a matrix illustrating Permitted and Special Uses for each district.

Zoning Districts	Ag	R1	R2	R3	C1	C2	Is	Ii	Ilg	Po
<b>Agricultural Uses</b>										
Agricultural Product Distribution Facility	SU									
Agricultural Product Sales Facility	SU									
Agricultural Product Storage Facility	SU									
Animal Boarding Facility (excludes kennels)	PU									
Animal Stables (excludes kennels)	PU									
Farm (confined feeding)	SU									
Farm (general)	PU	PU		PU				PU	PU	
Farm Equipment Sales & Services	SU									
Farmer's Market (for sale of products grown off-site)	SU				PU	PU	PU			
Greenhouse (commercial)	PU							PU	PU	
Livestock Auction/Sales Facility	SU									
Plant Nursery									PU	
Winery	PU				SU		SU			
<b>Residential Uses</b>										
Assisted Living Facility				PU			PU			
Bed & Breakfast	SU	SU	SU		SU	SU				
Boarding House	SU						SU	SU		
Dwelling, Manufactured Home Type I	PU	PU	PU	PU						
Dwelling, Manufactured Home Type II	PU	PU	PU	PU						
Dwelling, Manufactured Home Type III	SU									
Dwelling, Mobile Home	SU			SU						
Dwelling, Multi-Family (more than two dwelling units)				PU						
Dwelling, Secondary (on upper floors of other use)					SU	PU				
Dwelling, Single-Family	PU	PU	PU	PU						
Fraternity/Sorority House				SU			SU	SU		
Manufactured Home Park				SU						
Mobile Home Park				SU						
Nursing Facility				PU			PU			
Residential Facility for the Developmentally Disabled Type I		PU	PU	PU	SU	SU				

Zoning Districts	Ag	R1	R2	R3	C1	C2	Is	II	Ig	Po
Residential Facility for the Developmentally Disabled Type II				PU						
Residential Facility for the Mentally Disabled Type I							PU			
Residential Facility for the Mentally Disabled Type II							PU			
Residential Facility for the Mentally III		PU	PU	PU	SU	SU	PU			
Retirement Facility				PU			PU			
<b>Communications/Utility Uses</b>										
Communication Service Exchange							PU	PU	PU	
Public Well Field	PU						PU	SU	SU	
Sewage Treatment Plant							PU		SU	
Solar Farm (large scale/commercial)	SU									
Telecommunications Facility	PU						SU	PU	PU	
Telecommunications Tower	PU						SU	PU	PU	
Utility Substation							PU	PU	PU	
Water Tower	PU	SU	SU	SU	SU	SU		PU	PU	SU
Water Treatment Facility	PU						PU	SU	SU	
Wind Farm (large scale/commercial)	SU									
<b>Institutional/Public Uses</b>										
Airport	SU							SU	SU	
Animal Shelter	SU						SU	SU	SU	
Art Gallery					PU	PU	PU			
Cemetery	SU						PU			
Church or Place of Worship	PU	SU	SU	SU	SU	SU	PU			
College/University (primary campus)							PU			
College/University (satellite facility/campus)						SU				
Community Center		SU	SU	SU	SU	SU	PU			
Correctional/Penal Facility	SU						SU	SU	SU	
Day Care Center					PU	PU	PU			
Fairgrounds	PU						PU			
Fire Station	PU	SU	SU	SU	PU	PU	PU	PU	PU	
Funeral Home					PU	PU				

Zoning Districts	Ag	R1	R2	R3	C1	C2	Is	Il	Ig	Po
Government Facility (non-office)	SU				SU	SU	PU			
Government Facility (office)					PU	PU	PU			
Heliport	SU						SU	PU	PU	
Hospital							PU			
Institution for the Developmentally Disabled				SU	SU		PU			
Institution for the Mentally Ill				SU	SU		PU			
Library					PU	PU				
Medical Center							PU			
Medical Clinic					PU	PU	PU	PU	PU	
Museum/Gallery					PU	PU	PU			
Parking Garage (as primary use)					PU	SU		PU	PU	
Parking Lot (as primary use)					PU	SU		PU	PU	
Police Station	PU	SU	SU	SU	PU	PU	PU	PU	PU	
Post Office					PU	PU	PU			
Private Club/Lodge					PU	PU				
Rescue Station	PU	SU	SU	SU	PU	PU	PU	PU	PU	
School (preschool - 12th grade)		SU	SU	SU	SU	SU	PU			
<b>Park Uses</b>										
Athletic Fields/Courts		PU		PU			PU	PU	PU	PU
Campground	SU									
Country Club	PU	PU		PU						
Driving Range	PU									
Golf Course	PU	PU		PU						
Nature Center	PU	PU	PU	PU	PU	PU	PU	PU	PU	PU
Nature Preserve	PU	PU	PU	PU	PU	PU	PU	PU	PU	PU
Park	PU	PU	PU	PU	PU	PU	PU	PU	PU	PU
Playground	PU	PU	PU	PU	PU	PU	PU	PU	PU	PU
Recreational Use (large scale)	SU				PU	SU				
Recreational Use (medium scale)	SU	PU		PU	PU	SU	PU	PU	PU	PU
Recreational Use (small scale)	PU	PU		PU	PU	SU	PU	PU	PU	PU

Zoning Districts	Ag	R1	R2	R3	C1	C2	Is	II	Ig	Po
RV Park	SU									
<b>Commercial Uses</b>										
Adult Use					SU					
Auto-Oriented Use (large scale)					PU					
Auto-Oriented Use (medium scale)					PU	SU				
Auto-Oriented Use (small scale)					PU	SU				
Bar/Pub					SU	SU			PU	
Brewery (with food service)						SU	SU	PU	PU	
Brewery (without food service)							SU	PU	PU	
Conference Center					PU	SU	SU	PU	PU	
Data Processing/Call Center					SU					
Fireworks Sales (permanent)					SU					
Health Spa	SU									
Hotel					PU	SU				
Kennel	SU				SU	SU				
Liquor/Package Store					PU					
Mass Transit Terminal/Station (excludes public bus stop)					SU	SU				
Office Use					PU	PU				
Personal Service Use					PU	PU			PU	
Restaurant					PU	PU		PU	PU	
Retail Use (large scale)					PU	PU		PU	PU	
Retail Use (medium scale)					PU	PU		PU	PU	
Retail Use (small scale)			SU		PU	PU		PU	PU	
Retreat Center	SU									
Sports Complex (recreational use, large scale)	SU				PU					
Truck Stop/Travel Center					SU					
Vineyard									PU	
Wine Tasting Facility						SU	SU	PU	PU	
<b>Industrial Uses</b>										
Agricultural Products Terminal	PU							SU	SU	



Zoning Districts	Ag	R1	R2	R3	C1	C2	Is	II	Ig	Po
Animal & Animal Products Processing Facility								SU	SU	
Beverage Production Facility								PU	PU	
Boat/RV Storage Facility (indoor)								SU	SU	
Boat/RV Storage Facility (outdoor)									SU	
Food Production Facility								PU	PU	
Industrial Assembly & Distribution Facility (heavy industrial)									PU	
Industrial Assembly & Distribution Facility (light industrial)								PU	PU	
Industrial Processing & Distribution Facility (heavy industrial)									PU	
Industrial Processing & Distribution Facility (light industrial)								PU	PU	
Junk Yard/Salvage Yard									SU	
Mineral Extraction & Processing Facilities	SU								SU	
Mini-Warehouse/Self Storage Facility								PU	PU	
Petroleum Products Sales/Storage Facility									SU	
Power Generation Facility (commercial)	SU								SU	
Printing/Publishing Establishment								PU	PU	
Research & Development Facility								PU	PU	
Sand/Gravel Extraction Operations									SU	
Sanitary Landfill									SU	
Truck Freight Terminal								SU	SU	
Truck Sales & Service Center								SU	SU	
Warehouse/Storage Facility (indoor)								PU	PU	
Warehouse/Storage Facility (outdoor)									PU	
Wholesale Facility								PU	PU	

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# V1.4

## Zoning Map

### V1.4.1

#### Official Zoning Map

The zoning map for the Town of Lapel, officially labeled “Town of Lapel Zoning Map,” is hereby included as a part of this Unified Development Code. The map may also be known as and referred to as the, “Official Zoning Map.”

### V1.4.2

#### Official Zoning Map Copies

Copies of the Official Zoning Map may be made and distributed to interested persons. The Official Zoning Map copies shall be labeled as copies and have the date which they were last modified printed on them.

### V1.4.3

#### Location of the Official Zoning Map

The Official Zoning Map will be located in the office of the Town of Lapel Plan Commission (Town Hall).

### V1.4.4

#### Zoning District Boundaries

The Zoning District Boundaries shall be shown on the Official Zoning Map. The abbreviations for the zoning districts appearing in this Unified Development Code shall be used to identify the zoning districts on the Official Zoning Map.

### V1.4.5

#### Regular Revisions

The Official Zoning Map should be formally revised on an annual basis, or as the Plan Commission determines necessary. During interim periods of time, hand drawn lines and text on the Official Zoning Map will be appropriate to note zoning changes. Copies may be made after the amendments are noted, and each copy shall be noted as an update with the “Date last changed:” noted on the map. Other revisions may be made to correct drafting errors or omissions in the prior map, but shall not have the effect of amending the Official Zoning Map except as adopted by the Plan Commission.

### V1.4.6

#### Damaged, Destroyed, or Lost Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, or lost or difficult to interpret because of the nature or number of changes or additions, the Plan Commission may, by resolution, adopt a new Official Zoning Map which shall, to the extent possible, duplicate the accuracy of the damaged, destroyed, or lost map.

### V1.4.7

#### Official Zoning Map Standards

District boundaries on the Official Zoning Map shall be interpreted as follows:

- A. District Boundaries shown within the lines of roads, easements, and transportation rights-of-way shall be deemed to follow the center lines.
- B. District boundaries indicated as following sectional or fractional sectional lines, platted lot lines, Town corporation lines shall be construed as following such lines.
- C. District boundaries indicated as parallel to or extensions of the above listed features shall be construed as so.

- D. District boundaries indicated as approximately following the center line of streams, rivers, or other bodies of water shall be construed to follow such center lines.
- E. Where a district boundary line divides a lot at the time such line is adopted, the district in which the majority of the area of the property is included shall apply to the entire property. In cases where a property is divided equally between two or more zoning districts, the most restrictive district shall apply to the entire property. the Zoning Administrator shall determine the applicable zoning for properties divided into several zoning districts consistent with this section.
- F. If the Zoning Administrator cannot definitely determine the location of a district boundary by such center lines, by scale or dimensions stated on the Official Zoning Map, or by the fact that it does not clearly coincide with a property line, immediate action on any application shall be refused and the Plan Commission shall interpret the location of the district boundary with reference to the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.
- G. Any ruling of the Zoning Administrator pertaining to the district boundaries may be appealed to the Board of Zoning Appeals.

Zoning Administrator's determination may be brought before the Board of Zoning Appeals.

## V1.4.8

### Effect of Vacation on Zoning

Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the zoning districts adjoining each side of vacated areas shall be extended automatically to the center of the vacated area. All areas included in the vacation shall then be subject to all appropriate regulations of the extended zoning districts. In the event of a particular vacation, the adjoining zoning district, or zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area. The resolution of any disputes as to the exact zoning district boundaries shall be determined by the Zoning Administrator. Appeals of the

# V1.5

## Nonconforming Structures, Lots, & Uses

### V1.5.1

#### Intent

Upon adoption of this Ordinance and Official Zoning Map, some structures, lots, and uses may no longer conform to the regulations of the zoning district in which they are located. For this reason, this Section has been generated to provide the rules, policies and regulations that apply to these structures, lots, and uses; referred to as Legal Nonconforming.

### V1.5.2

#### Distinction Between Illegal Nonconforming and Legal Nonconforming

A structure or lot which was constructed or is being used without an approved Improvement Location Permit or approval from the Board of Zoning Appeals or Plan Commission is considered illegal nonconforming. An illegal nonconforming property shall be subject to actions and penalties allowed by this Unified Development Code and all other applicable Town laws and shall be altered to conform with all applicable standards and regulations of this Code. Further, an illegal nonconforming structure, lot, or use is created at the fault of the owner, tenant, or property manager. Legal Nonconforming differs from Illegal Nonconforming in that the reason for the nonconformance is caused by the enactment of a Zoning Ordinance or a change to the Zoning Ordinance (including the Official Zoning Map). The structure, lot or use has not changed, but due to the Zoning Ordinance enactment or change, the property no longer conforms to the policies and standards of the zoning district in which it is located. When this situation occurs, the property is deemed Legal Nonconforming or “Grandfathered”.

### V1.5.3

#### Nonconforming Signs

Any sign, lawfully established prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a Legal Nonconforming Sign. For the purposes of this Section, a sign shall include the sign face and any supports, poles, or frames. A legal nonconforming sign may continue provided that it remains the same or fits within the below described tolerances:

- A. Any legal nonconforming sign shall not be enlarged or altered in terms of face area, height, or any other aspect that increases its nonconformity. However, any sign or portion thereof may be altered to decrease its nonconformity.
- B. Any legal nonconforming sign which is intentionally altered to conform to the requirements of this Ordinance shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.
- C. If a sign is moved or removed for any reason, for any distance, it shall thereafter conform to the provisions of this Ordinance.
- D. The sign faces and/or message on a legal nonconforming sign may be altered, replaced, repainted, and repaired provided that the nonconformity of the sign is not increased. Nothing in this Section shall be interpreted as requiring a sign to be brought into conformance with this Ordinance if only the face is changed, but not increased in size or altered in shape.

### V1.5.4

#### Nonconforming Structures

Any structure, lawfully established prior to the effective date of this Code, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a Legal Nonconforming Structure. A Legal Nonconforming Structure may continue provided

that it remains the same or fits within the below described tolerances:

- A. Any legal nonconforming structure shall not be enlarged or altered in a manner that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. Any legal nonconforming structure which is intentionally altered to conform to the requirements of this Ordinance shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.
- C. If a building or structure is moved for any reason, for any distance, it shall thereafter conform to the provisions of this Ordinance.

### V1.5.5

#### Nonconforming Lots of Record

All lots legally established and recorded prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meet any applicable provision of this Ordinance shall be deemed a Legal Nonconforming Lot of Record. Legal Nonconforming Lots of Record may be built upon only if the proposed use is permitted and all development standards of the applicable zoning district of this Ordinance are met. Any lot which met minimum lot standard area at the time it was created, shall be deemed buildable for a single-family residence.

### V1.5.6

#### Nonconforming Uses of Structures, Land, or Structures and Land in Combination

Any lawful use of structures, land, or structures and land in combination established prior to the effective date of this Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located shall be deemed a Legal Nonconforming Use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions:

- A. No structure shall be constructed in connection with an existing legal nonconforming use of land.
- B. Any legal nonconforming use of a structure may be extended throughout any parts of a building which were plainly arranged or designed for such use at the effective date of this Ordinance or its subsequent amendments, but no such use shall be extended to occupy any land outside the building.
- D. If no structural alterations are made, any non-conforming use may be changed to another non-conforming use with the approval of the Board of Zoning Appeals. The Board shall find that the proposed use is equally or more appropriate to the district in which it is located than the existing use. The Board shall consider the development standards applicable to the proposed use established by this Section and may make reasonable conditions as part of any approval.
- E. Where legal nonconforming use status applies to a structure and land in combination, the intentional removal of the structure shall eliminate the legal nonconforming status of the land.
- F. No legal nonconforming use of land shall be enlarged, increased, extended to occupy a greater area of land, or moved in whole or in part to any other portion of a lot than was occupied at the effective date of this Ordinance.
- G. If a legal nonconforming use is intentionally discontinued for one (1) year or longer, any subsequent use of such land, structure or land and structure shall conform to the provisions of this Ordinance. Uses which are required to be discontinued due to government action which impedes access to the premises, or damage resulting from fire, flood, other natural disaster, or a criminal act shall be exempt from this provision. Such exempt uses, if rebuilt or restored, shall be identical in scale, lot coverage, and all other aspects to that which was discontinued.
- H. When a legal nonconforming use is superseded by a

permitted use, it shall thereafter conform to the regulations of the district in which it is located, the legal nonconforming use may not thereafter be resumed.

- I. Any use which is legal nonconforming due to its presence in a 100-year floodplain may be altered, enlarged, or extended on a one-time only basis provided that the new construction conforms with the Flood Hazard Area Standards section included in this Unified Development Code and does not increase the value of the structure or use (excluding the value of the land) by more than 50% of its pre-improvement market value.

the Zoning Administrator pertaining to this Section may be appealed to the Board of Zoning Appeals.

### **V1.5.7**

#### **Repairs and Maintenance**

The following applies to legal nonconforming structures and legal nonconforming uses of structures, or structures and land in combination:

- A. Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, or plumbing; under the condition that the cubic content existing when the structure became nonconforming shall not be increased.
- B. If a structure becomes unsafe or unlawful due to physical condition and is razed, the structure shall be rebuilt in conformity with the district in which it is located.
- C. Nothing in this Section shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting public safety upon order of such official.

### **V1.5.8**

#### **Standards for Nonconforming Uses**

The Zoning Administrator has the discretion to apply the standards of the zoning district where the nonconforming use is permitted to the zoning district where the nonconforming use is found. Any ruling of

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# V1.6

## Board of Zoning Appeals (BZA)

### V1.6.1

#### Establishment and Membership

Pursuant with IC 36-7-4-901, Lapel Town Council establishes the Advisory Board of Zoning Appeals of Lapel which shall conduct business consistent with all requirements of the Indiana Code and this Unified Development Code. The Board of Zoning Appeals (BZA) shall consist of and continue as a five (5) member Board. Members shall be appointed pursuant to IC 36-7-4-902 and 906. Alternate Board of Zoning Appeal members may be appointed consistent with IC 36-7-4-907. If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.

### V1.6.2

#### Territorial Jurisdiction

The Board of Zoning Appeals shall have jurisdiction over all the land subject to the Town of Lapel Unified Development Code.

### V1.6.3

#### Powers and Duties

The Board of Zoning Appeals shall have exclusive subject matter jurisdiction for:

- A. Variances;
- B. Special Uses (Special Exceptions); and
- C. Administrative Appeals.

### V1.6.4

#### Rules and Procedures

- A. Rules and Procedures: The Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code Section 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices for and conduct of meetings, and public hearings.
- B. Facilities and Funding: the Town of Lapel shall provide suitable facilities for the holding of Board of Zoning Appeals meetings and hearings and for the storage of its records, documents, and accounts; and in its annual budget shall provide sufficient funds for the functioning of the Board and its staff.
- C. Filing: All applications for variances, special exceptions, and requests for administrative appeal shall be filed by the applicant with the Zoning Administrator in the form prescribed by the Board.

### V1.6.5

#### Hearings

- A. The Board shall fix a reasonable time for the hearing of administrative appeals, special exceptions, and variances.
- B. A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board.

### V1.6.6

#### Notice of Public Hearing

For all public hearings, the petitioner shall provide notice to the public consistent with the requirements of this Ordinance.

## V1.6.7

### Appeals

Every decision of the Board of Zoning Appeals shall be subject to judicial review as prescribed in IC 36-7-4-1000 series. Such appeals shall be presented to a court of jurisdiction within thirty (30) days of the Board's decision.

## V1.6.8

### Special Uses

There shall be no cases or application therefore, nor any particular situation in which this Ordinance authorizes special uses without the approval of the BZA. Further, no decisions on previous applications shall serve to set a precedence for any other application before the BZA.

- A. The Board may grant a special use approval for a use listed as such in the appropriate zoning district in this Ordinance if, after a public hearing, it makes findings of facts in writing, that:
- i. the proposal will not be injurious to the public health, safety, morals, and general welfare of the community;
  - ii. the requirements and development standards for the requested special use as prescribed by this Ordinance will be met;
  - iii. granting the special use will not subvert the general purposes served by this Ordinance and will not permanently injure other property or uses in the same district and vicinity; and
  - iv. the proposed use will be consistent with the character of the zoning district in which it is located and the Town of Lapel Comprehensive Plan.
- B. When considering a special use the Board of Zoning Appeals may examine the following items as

they relate to the proposed use:

- i. topography and other natural site features;
  - ii. zoning of the site and surrounding properties;
  - iii. driveway locations, street access, and vehicular and pedestrian traffic;
  - iv. parking amount, location, and design;
  - v. landscaping, screening, and buffering;
  - vi. open space and other site amenities;
  - vii. noise production and hours of operation;
  - viii. design, placement, architecture, and building material of the structure;
  - ix. environmental impacts;
  - x. placement, design, intensity, height, and shielding of lighting;
  - xi. traffic generation; and
  - xii. general site layout as it relates to its surroundings.
- C. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in **Section V1.6.8 (A)** above will be served.
- D. The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the Recorder's Office.
- E. Unless otherwise specified by the Board, special use approvals shall be limited to, and run with, the applicant at the location specified in the petition. The Board may also limit special uses to a specific time period and for a specific use.
- F. A use authorized as a special use may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this section for granting a special use.
- G. Approvals granted by the Board expire after one (1) year from the date of approval, if not commenced.

- The Board may grant one (1) year extensions.
- H. Any petition denied by the Board shall not be reheard for one (1) year.

### V1.6.9

#### Development Standards Variances

- A. The Board may grant a variance from the development standards of this Ordinance (such as height, bulk, area) if, after a public hearing, it makes findings of facts in writing, that:
- i. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
  - ii. 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
  - iii. the strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.
- B. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in Section 11.9(A) above will be served.
- C. The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the Recorder's Office.
- D. A developmental standards variance granted by the Board shall run with the parcel until such time as: (a) the property conforms with the Ordinance as written, or (b) the variance is terminated.
- E. Approvals granted by the Board must be commenced within one (1) year from the date of approval. The Board

- may grant one (1) year extensions of this requirement.
- F. Any petition denied by the Board may not be reheard for one (1) year.

### V1.6.10

#### Floodplain Standards Variances

- A. The Board may grant a variance from the Flood Hazard Area Standards of this Ordinance only if, after a public hearing, it makes findings of facts in writing, that:
- i. there exists a good and sufficient cause for the requested variance;
  - ii. the strict application of the terms of this Ordinance will constitute an exceptional hardship to the applicant; and
  - iii. the granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- B. The Board of Zoning Appeals may only issue a variance to the terms and provisions of the Flood Hazard Area Standards of this Ordinance subject to the following conditions:
- i. No variance for a residential use within a floodway subject to the Floodway Standards of this Code may be granted;
  - ii. Any variance granted in a floodway subject to this Ordinance will require a permit from the Indiana Department of Natural Resources;
  - iii. Variances to the Building Protection Standards of the Floodway Standards of this Code may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing

structures constructed below the flood protection grade;

- iv. Variances may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
- v. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
- vi. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in **Section V1.6.10 (A) and (B)** above will be served.

- D. The Board may require the owner of the property to make written commitments concerning the use or development of the property and have such commitments recorded in the Recorder's Office.
- E. A floodplain standards variance granted by the Board and executed in a timely manner as described in this section shall run with the parcel until such time as: (a) the property conforms with the Ordinance as written, or (b) the variance is terminated.

## V1.6.11

### Use Variances

The Town of Lapel Board of Zoning Appeals shall under no circumstances grant a variance or take any action to establish a use on any property within its jurisdiction that is neither a listed permitted use nor a listed special use in the district in which it is located as established by **Section V1.3** of this Ordinance.

## V1.6.12

### Special Use and Variance Execution and Termination

- A. If the Board grants a special use or variance, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with all established requirements and this Ordinance, an Location Improvement Permit for the execution of the approved variance or special use shall be issued.
- B. A special use or variance ceases to be authorized and is terminated if an Improvement Location Permit for the execution of the approval has not been obtained within one (1) year of the date the variance or special use is granted. The variance or special use shall also be terminated if the approved construction has not been completed and approved by the Zoning Administrator as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within two (2) years of the date the special use or variance is granted.
- C. A variance or special use may be terminated by the Board of Zoning Appeals under the following procedure:
  - i. Upon determination by the Building Inspector that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.
  - ii. At the public hearing the variance or special use

shall be terminated if a finding is made by the Board that one or more of the following is true:

1. the execution of the approval is not consistent with any requirement of this Ordinance,
  2. the execution of the approval is not consistent with any condition of approval,
  3. the execution of the approval is not consistent with any written commitment, or
  4. the approved was the result of fraud or the misrepresentation of facts.
- iii. No special use or variance may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one (1) year period.

### **V1.6.13**

#### **Administrative Appeals**

- A. The Board may grant an appeal of any decision, interpretation, or determination made by the Zoning Administrator, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance.
- B. The Board shall only grant an appeal of such an administrative decision based on a finding, in writing, that the decision of the administrative person or board was inconsistent with the provisions of this Ordinance.
- C. The approval of an administrative appeal may be terminated by the Board of Zoning Appeals under the following procedure:
  - i. Upon determination by the Zoning Administrator that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.
  - ii. At the public hearing the approval shall be

terminated if a finding is made by the Board that the approved was the result of fraud or the misrepresentation of facts.

- ii. No administrative appeal may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one (1) year period.
- D. If an administrative appeal is granted, the Board may refund any application fees which have been paid to the Town by the applicant in petitioning for the appeal. In no way shall this provision be interpreted as providing the applicant with the ability to seek the refund of any other fees or costs associated with the appeal or the application which is the subject of the appeal.

### **V1.6.14**

#### **Exclusion**

Nothing in this Ordinance shall be deemed to restrict or regulate the power of eminent domain by the State of Indiana or by any state agency. Nor shall they be deemed to authorize any unit of government, legislative body, plan commission, or board of zoning appeals to restrict or regulate the power of eminent domain by the State of Indiana or a state agency. As used in this section, the term “state agency” shall mean and include all agencies, boards, commissions, departments, and institutions, including state educational institutions of the State of Indiana.

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# V1.7

## Administration

### V1.7.1

#### Administrative Officer

The Lapel, Indiana Zoning Administrator, including his/her designee(s), will have the principal responsibility for administration and enforcing and/or coordination of the enforcement of this Ordinance. The duties of the Zoning Administrator, or his/her designee shall include, but not be limited to:

- A. Reviewing, approving, or disapproving all Improvement Location Permits and keeping permanent records of applications made and actions taken;
- B. Conducting inspections of structures and properties to determine compliance with the requirements of this Ordinance and all approvals granted by the Plan Commission and Board of Zoning Appeals;
- C. Maintaining permanent and current records documenting the application of this Ordinance including, but not limited to, all maps, amendments, special uses, variances, and appeals;
- D. Receiving, processing, and referring to the Plan Commission all amendment applications;
- E. Receiving, processing, and referring to the Board of Zoning Appeals all appeals, variances, special uses, and other matters upon which it is authorized to act under this Ordinance and Indiana State Code.
- F. Provide all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Town Council, or other body in the execution of its duties as established by this Ordinance and Indiana State Code.

### V1.7.2

#### Summary of Powers and Duties of the Town Council

The powers and duties of the Town Council are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

- A. Town Council's duties include:
  - i. Adopt, reject, or amend the comprehensive plan, strategic plans, zoning ordinance, or subdivision control ordinance that has been certified and submitted by the Plan Commission;
  - ii. Adopt, reject, or amend proposals to amend or partially repeal the text of the comprehensive plan, strategic plans, zoning ordinance, or subdivision control ordinance that has been certified and submitted by the Plan Commission;
  - iii. Adopt, reject, or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission;
  - iv. Adopt, reject, or amend proposals for rezoning to a planned unit development district that have been certified and submitted by the Plan Commission;
  - v. Adopt, reject, or amend proposals to adopt or amend a fee schedule that have been certified and submitted by the Plan Commission;
  - vi. Approve or deny final plats or re-plats of subdivisions, thereby accepting or declining public improvements; and
  - vii. All additional duties as permitted by Indiana State Code.
- B. Town Council's powers include:
  - i. Initiate amendments to the text of the comprehensive plan, strategic plans, zoning ordinance, or subdivision control ordinance;

- ii. Initiate amendments to the Official Zoning Map; and
- iii. All additional powers as permitted by Indiana State Code.

- viii. subdivision control ordinance, and Official Zoning Map;
- viii. Certify and submit recommendations to the Town Council for adopting a Planned Unit Development District;
- ix. Maintain monetary and fiscal records of the Plan Commission;
- x. Prepare and submit an annual budget to the Town Council;
- xi. Approve or deny preliminary plats, re-plats, and the vacation of plats of subdivisions;
- xii. Assign street numbers to new lots and structures, renumber lots and structures, assign street names, and approve or deny proposed street names in new developments;
- xiii. Establish and maintain a Town Council approved fee schedule that assigns a fee to permits, processes, and official actions of the Plan Commission in order to defray the administrative costs of such duties and powers;
- xiv. Enforce regulations and procedures of the comprehensive plan, zoning ordinance, and subdivision control ordinance to the extent of local resolutions, ordinances, and State of Indiana Law; and
- xv. Grant or deny requests for waivers of the requirements of the subdivision control ordinance; and
- xvi. All additional duties as permitted by Indiana State Code.

### V1.7.3

## Summary of Powers and Duties of the Plan Commission

The powers and duties of the Plan Commission are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

#### A. Plan Commission duties include:

- i. Adopt and maintain a Town Council approved comprehensive plan, zoning ordinance and subdivision control ordinance as authorized under Indiana State Law;
- ii. Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administrating and enforcing the comprehensive plan, zoning ordinance, and subdivision control ordinance;
- iii. Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission;
- iv. Record and file bonds and contracts for development and land use activities;
- v. Publish and make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission;
- vi. Adopt and maintain a permitting process and seal used to certify official or approved documents;
- vii. Certify and submit recommendations to the Town Council including new versions of, and revisions to the comprehensive plan, zoning ordinance,

#### B. Plan Commission powers include:

- i. Hire, remove, and determine job descriptions for support staff to the Plan Commission;
- ii. Determine the compensation for support staff and Plan Commission members as provided



- iii. within the annual budget of the Plan Commission; Establish advisory committees as necessary, made up of county officials and the general public;
  - iv. Establish an executive committee;
  - v. Seek funding assistance through grant programs as necessary;
  - vi. Distribute copies or summaries of the comprehensive plan, zoning ordinance, or subdivision control ordinance to the general public and development community; and
  - vii. All additional powers as permitted by Indiana State Code.
- iv. this Ordinance and Indiana State Code; and All additional duties as permitted by Indiana State Code.
- B. Board of Zoning Appeals powers include any powers as permitted by Indiana State Code.

#### V1.7.4

### Summary of Powers and Duties of the Board of Zoning Appeals

The powers and duties of the Board of Zoning Appeals are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated. The powers, duties, rules, and procedures are further described in **Section V1.6** of this Ordinance.

- A. Board of Zoning Appeals duties include;
  - i. Review and hear appeals of decisions made under this Ordinance or in the enforcement of this Ordinance by the Building Inspector or other Plan Commission staff, committees or administrative boards or any other body except the Plan Commission;
  - ii. Review, hear, and approve or deny all petitions for special uses based on the provisions of this Ordinance and Indiana State Code;
  - iii. Review, hear, and approve or deny all petitions for variances from development standards (such as height, bulk, or area) based on the provisions of

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# V1.8

## Processes, Permits, & Fees

### V1.8.1

#### Types of Petitions and Permit Applications

- A. The Town of Lapel hereby requires that an application be submitted for the following types of petitions:
  - i. Variance (development and flood hazard area standards),
  - ii. Special Use,
  - iii. Administrative Appeal,
  - iv. Zoning Map Amendment,
  - v. Planned Unit Development (subject to the requirements of Volume 12 of this Code), and
  - vi. Site Development Plan (subject to the requirements of Volume 12 of this Code).
- B. The Town of Lapel hereby requires that an application be submitted for the following types of permit applications:
  - i. Sign Permit (permanent and temporary)
  - ii. Improvement Location Permit, and
  - iii. Certificate of Occupancy.
- C. All applications shall be obtained through the Building Inspector's office. Fees shall be paid at the Building Inspector's office at the time petition and permit applications are submitted.
  - i. All applications shall be made on forms provided by the Building Inspector. All petitioners and permit applicants shall submit original applications which are completed in their entirety either in ink or typed. All applications shall be signed and notarized (if required).
  - ii. All petitioners and applicants shall submit copies of

applications and necessary attachments as required by the adopted policies of the Building Inspector and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.

- iii. All petitions and permit applications shall be assigned reference and/or docket numbers by the Building Inspector. Petition applications shall be scheduled by the Building Inspector for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Section and the appropriate adopted calendars of filing and meeting dates for the Board of Zoning Appeals, Plan Commission, and Town Council.

### V1.8.2

#### Fee Schedule

The Town Council shall maintain an official Fees Schedule for permits and processes outlined in this Ordinance. The Fees Schedule shall be available to the public in the office of the Town Council, Building Inspector, and the Plan Commission. The fees schedule may be amended by a recommendation submitted to the Town Council by the Planning Commission followed by the Town Council approving said amendments by ordinance. Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal, or petition. Any person or persons who initiates construction of a structure or the alteration of land prior to obtaining an Improvement Location Permit or any other required permit shall pay a fine equal to 2 times the amount of the fee, in addition to the standard fee amount.

### V1.8.3

#### Variance Process

The following procedure shall apply to all variance petitions;

- A. Application: The petitioner shall submit a variance application, affidavit and consent of property owner (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:
- i. A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the variance request.
  - ii. A letter of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required findings of fact described by **Section V1.6** of this Ordinance. The letter should include any written commitments being made by the petitioner.
  - iii. A letter from the Madison County Board of Health indicating that the variance will not negatively affect the operation of a septic system.
- B. Notification: Notification for the scheduled public hearing regarding the variance request shall be completed consistent with the Rules and Procedures of the Lapel Board of Zoning Appeals (BZA).
- C. Public Hearing: The BZA will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the variance application and required supportive information.
- i. Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.
  - ii. The Board shall consider a report from the Building Inspector / Zoning Administrator, testimony from the petitioner, and testimony from the public and interested parties at the hearing.
  - iii. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Board.
  - iv. The BZA may approve, approve with conditions, deny, or table the petition.
    1. The petition shall be approved if findings of fact are made consistent with the requirements of **Section V1.6** of this Ordinance and Indiana State Code.
    2. The petition shall be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made if certain conditions are applied to the petition. The Board may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.
    3. The petition shall be denied if findings of fact consistent with the requirements of **Section V1.6** of this Ordinance and the Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the Board for a period of one (1) year from the date of denial.
    4. The petition shall be tabled consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.

#### V1.8.4

#### Special Use Process

The following procedure applies to special use petitions:

- A. Application: The petitioner shall submit a special use

application, affidavit and consent of property owner (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:

- i. A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the special use request.
  - ii. A letter of intent to the Board of Zoning Appeals describing the details of the special use request including but not limited to:
    1. The ways in which the special use shall comply with the applicable development standards of this Ordinance,
    2. The ways in which the special use shall be consistent with the required findings of fact described by **Section V1.6** of this Code, and
    3. Any written commitments being made by the petitioner.
  - iii. A letter from the Madison County Board of Health indicating that the special use will make acceptable use of an existing or proposed septic system, or a letter from the public sewer provider stating that the proposed special use shall be served by its utility.
- B. Notification: Notification for the scheduled public hearing regarding the special use request shall be completed consistent with the Rules and Procedures of the Lapel Board of Zoning Appeals.
- C. Public Hearing: The BZA will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the special use application and required supportive information.
- i. Either the petitioner or a representative of the

petitioner must be present at the public hearing to present the petition and address the required findings of fact.

- ii. The Board shall consider a report from the Building Inspector / Zoning Administrator, testimony from the petitioner, and testimony from the public and interested parties at the hearing.
- iii. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Board.
- iv. The BZA may approve, approve with conditions, deny, or table the petition.
  1. The petition shall be approved if findings of fact are made consistent with the requirements of **Section V1.6** of this Ordinance and Indiana State Code.
  2. The petition may be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made only if certain conditions are applied to the petition. The Board may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.
  3. The petition shall be denied if findings of fact consistent with the requirements of **Section V1.6** of this Ordinance and the Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the Board for a period of one (1) year from the date of denial.
  4. The petition shall be tabled consistent

with the adopted Rules and Procedures of the Board of Zoning Appeals.

## V1.8.5

### Administrative Appeal Process

The following procedure shall apply to all appeals of administrative decisions;

- A. Application: The petitioner shall submit an administrative appeal application and required supportive information. Supportive information shall include, but not be limited to the following:
  - i. Copies of all materials submitted to the staff member or administrative board upon which the decision being appealed was based.
  - ii. Copies of any written decisions which are the subject of the appeal.
  - iii. A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standard applicable to the Town of Lapel upon which the appeal is based.
- B. Notification: Notification for the scheduled public hearing regarding the administrative appeal shall be completed consistent with the Rules and Procedures of the Lapel Board of Zoning Appeals.
- C. Public Hearing: The BZA will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the administrative appeal application and supportive information.
  - i. Either the applicant or a representative of the applicant must be present at the public hearing to present the appeal and address any questions from the Board.
  - ii. The Board shall consider a report from the Building Inspector, testimony from the applicant, and testimony from any interested

parties at the hearing.

- iii. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Board.
- iv. The BZA may grant, grant with modifications, deny, or table the appeal.
  - 1. The appeal shall be approved if findings of fact are made consistent with the requirements of **Section V1.6** of this Ordinance and Indiana State Code.
  - 2. The appeal shall be granted with modifications if the Board of Zoning Appeals determines that the proper interpretation of the provision(s) which are subject to the appeal is not consistent with neither the administrative decision nor the requested interpretation of the applicant.
  - 3. The petition shall be denied if findings of fact are made supporting the administrative decision.
  - 4. The petition shall be tabled consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.

## V1.8.6

### Zoning Amendment Process

The following procedure shall apply to all zoning map amendment (“rezoning”) petitions:

- A. Petition Initiation: Proposals for zoning map amendments may be initiated by either the Plan Commission, the Town Council, or through a petition signed by property owners of at least 50% of the land involved.
  - i. The Plan Commission shall prepare the petition for



- iii. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Commission.
- iv. The Commission shall either forward the petition to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation, or table the request.
  - 1. The petition shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed below in **Subsection H** below.
  - 2. The petition shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed below in **Subsection H** below.
  - 3. The petition may be forwarded with no recommendations if, by a majority vote of the Commission, it is determined that petition includes aspects which the Commission is not able to evaluate.
  - 4. The petition shall be tabled consistent with the adopted Rules and Procedures of the Commission.

- i. The Council shall provided notification of action on the ordinance consistent with Indiana State Code.
  - ii. The Council may either approve or deny the ordinance. If the Commission fails to act within the 90 day time frame specified above, the ordinance shall become affective or be defeated consistent with the provisions of IC 36-7-4-608. The Council may also seek modifications or additions to any written commitments as described in **Section V1.8.6(I)** below.
- H. Decision Criteria: In reviewing the rezoning petition, the Plan Commission and Town Council shall pay reasonable regard to the following:
- i. The Lapel Comprehensive Plan and any other applicable, adopted planning studies or reports;
  - ii. The current conditions and the character of current structures and uses in each district;
  - iii. The most desirable use of which the land in each district is adapted;
  - iv. The conservation of property values throughout the Town of Lapel; and
  - v. Responsible growth and development.
- I. Written Commitments: The petitioner in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-615.
- i. Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made through the Plan Commission's initial meeting, or in response to any modifications requested by the Plan Commission during the public hearing.
  - ii. All commitments shall be considered by the Plan

- F. Certification: The Plan Commission shall certify its recommendation by resolution to the Town Council. The Plan Commission staff shall forward to the Council appropriate copies of the Plan Commission resolution, the original application and all supportive information, any staff reports regarding the petition, and an ordinance for the Council's consideration.
- G. The Town Council's Hearing: The Lapel Town Council shall hold a public hearing and vote on the proposed rezoning ordinance within 90 days of its certification by the Plan Commission.



Commission in its review of the petition. Commitments shall be included as an element of the rezoning ordinance prepared by the Commission following action taken at the public hearing.

- iii. The Town Council shall consider the written commitments in its review of the rezoning application. Any deletion, addition, or alteration of the written commitments proposed by the Town Council shall be referred back to the Plan Commission for consideration and inclusion in a revised or affirmed recommendation regarding the application.
- iv. Following final action being taken on the rezoning application, the rezoning ordinance, written commitments included, shall be recorded in the office of the Recorder.
- v. The written commitments shall be considered part of this Ordinance binding on the subject property.
  - 1. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
  - 2. The written commitments shall be enforceable by the Lapel Plan Commission consistent with the adopted provisions for the enforcement of any aspect of this Code.
  - 3. The written commitments may be modified only through the Zoning Map Amendment process described by this section. Any written commitment shall be

terminated if the Official Zoning Map applicable to the subject property is amended or if a zoning text amendment contradictory to the written commitment is adopted.

## V1.8.7

### Improvement Location Permit

The following procedure applies to improvement location permit applications:

- A. Permits Required: No structure or major infrastructure shall be erected, moved, or added to, without an Improvement Location Permit issued by the Building Inspector. No Improvement Location Permit shall be issued unless the project is in conformity with the provisions of this Ordinance, the Subdivision Control Ordinance, and other applicable regulations of the Town of Lapel.
- B. Lapel hereby requires that an Improvement Location Permit be obtained for the following:
  - i. any structure, for any use that exceeds 120 square feet in area and/or has a permanent foundation (including buildings and structures other than buildings such as towers, antennas, and satellite dishes),
  - ii. any temporary use of land or temporary structure,
  - iii. signs (as specified by the **Sign Permit Section of this Volume - V1.8.9**),
  - iv. swimming pools (in ground or above ground),
  - v. additions to any structures,
  - vi. demolition,
  - vii. surface and sub-surface drainage work and/or grading (including land alteration) excluding agricultural uses,
  - viii. removal of trees and plants within buffer yards and approved landscaping areas otherwise

- ix. required by this Ordinance, adding or subtracting dwelling units or leased space in multifamily or commercial structures,
- x. placement or replacement of manufactured or mobile homes,
- xi. parking lot construction or alteration,
- xii. ponds or lakes over 1.5 acres,
- xiii. mineral extraction,
- xiv. telecommunication facilities, and
- xv. any exterior construction that adds to or alters the height of the existing structure.

C. Application Requirements: All applications for Improvement Location Permits shall be accompanied by:

- i. a detailed site plan, drawn to scale with the dimensions indicated showing the following:
  1. The entire property and the features of the property including all rights-of-way, easements, property lines, required buffer yards, and setbacks;
  2. All existing and proposed structures or other site improvements with dimensions of such improvements;
  3. The distances from all existing and proposed improvements to the property lines;
  4. The location of any existing or proposed septic/leach field;
  5. The location of any existing or proposed driveway and/or parking area;
  6. Elevations of all existing and proposed structures or alterations;
  7. Natural, physical, or hazardous conditions existing on the lot;
  8. The location of any required landscaping, labeled according to size and species,

and  
9. The location, type, and dimensions of any storm water structures or conduits.

- ii. Either a septic permit from the Madison County Health Department or a sewer access (tapon) permit from the appropriate public sewer provider (if applicable);
- iii. A driveway permit (if applicable);
- iv. A floodplain checklist from the Madison County Surveyors Office;
- v. A detailed description of the existing or proposed uses any, structures on the land; and
- vi. An indication of the number of dwelling units, or rental units the building is designed to accommodate (if applicable).
- vii. Drainage Board approval for ponds (if applicable).

D. Copies: A copy of all submitted plans and application materials shall be retained by the Building Inspector for the permanent records of the Lapel Plan Commission.

E. Expiration of Permits:

- i. Initiation of Work: If the work described in any Improvement Location Permit has not begun within six (6) months from the date of issuance, said permit shall expire; no written notice shall be given to the persons affected.
- ii. Completion of Work: If the work described in any Improvement Location Permit has not been completed within two (2) years of its date of issuance, said permit shall expire; no written notice of expiration shall be given to the persons affected. The Building Inspector may grant three (3) extensions for up to six (6) months each for work completion. Requests for extensions must be received within one (1) month of the expiration. No extension shall be granted unless all

appropriate extension fees as defined by the adopted fee schedule are paid to the Building Inspector.

- F. Construction According to Permits and Permit Applications: Improvement Location Permits issued on the basis of plans and applications only authorize the use, arrangement, and construction set forth in such approved plans and applications. Any other use, arrangement, or construction not authorized shall be deemed a violation of this Ordinance and subject to an order of removal, mitigation, or penalty fees.

### V1.8.8

#### Certificates of Occupancy

The following procedure applies to certificates of occupancy: It shall be unlawful and in violation of the provisions of this Ordinance for any builder or property owner to allow any new or significantly remodeled structure to become occupied or utilized prior to:

- A. legally obtaining an Improvement Location Permit;
- B. passing all required inspections, including the final inspection; and
- C. receiving a Certificate of Occupancy from the Building Inspector.

### V1.8.9

#### Sign Permits

The following procedure applies to improvement location permits for signs (sign permits):

- A. Sign Permit Review for Permanent Signs: The following procedure applies to permanent sign permit review.
  - i. Application: Application for a permit shall be filed with the Building Inspector / Zoning Administrator and shall be accompanied by information as may be required to assure compliance with the laws

and regulations of the Town, including:

- 1. Clear and legible drawings with descriptions showing the location of the sign which is the subject of the permit. All signs on the same parcel or owned by the same business must be noted.
  - 2. A dimensioned drawing showing the size of the sign face area and the height of the sign.
- ii. Effect of Sign Permit Issuance: A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.
  - iii. Nullification: A sign permit shall become null and void if work has not been started within 12 months of the date the permit is issued or completed within 18 months of the date the permit is issued.
- B. Sign Permit Review for Temporary Signs: The following procedure applies to Sign Permit Review for Temporary Signs.
    - i. Application: Application for a permit shall be filed with the Building Inspector and shall be accompanied by information as may be required to assure compliance with the laws and regulations of the Town, including:
      - 1. Type of temporary sign to be used.
      - 2. Period of time the temporary sign is to be used.
      - 3. Location at which the temporary sign is to be used.
    - ii. Effect of Sign Permit Issuance: A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization

to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

- iii. Nullification: A sign permit shall become null and void if the sign has not been placed within one (1) month of the date the permit is issued.

**Temporary Signs shall only require a permit if they do not meet the regulations for the District in which they are to be located.**

# V1.9

## Enforcement & Penalties

### V1.9.1

#### Authority

The Plan Commission, Board of Zoning Appeals, Town Council, and/or Building Inspector (and their designees) are designated to enforce the provisions, regulations, and intent of this Ordinance. All remedies and enforcement shall comply with the powers set forth in IC 36-7-4-1000 et. al. and all other applicable state laws.

### V1.9.2

#### Violations

Complaints made pertaining to this Ordinance shall be investigated by the Building Inspector / Zoning Administrator. Also, any violations suspected by the Plan Commission, Board of Zoning Appeals, Town Council, or Building Inspector shall be investigated. Action may or may not be taken depending on the findings. The degree of action will be to the discretion of the Building Inspector and should reflect what is warranted by the violation.

### V1.9.3

#### Inspection of Property

Investigations of property may be done by the Building Inspector either from a right-of-way without permission of the property owner, or adjacent property (with permission), or from the property suspected of a violation once he/she has presented sufficient evidence of authorization and described the purpose of the inspection to the owner, tenant, or occupant at the time of the inspection. In the event that the Building Inspector is denied entry to the subject property, he/she may apply to the court of jurisdiction to invoke legal, applicable, or special remedy for the inspection of property and

enforcement of this Ordinance or any applicable ordinances adopted under Indiana State Code. The application shall include the purpose, violation(s) suspected, property address, owner's name if available, and all relevant facts. Additional information may be necessary as requested by the court. Pursuant to applicable regulations and the orders of the court of jurisdiction the owner, tenant, or occupant shall permit entry by the Building Inspector.

### V1.9.4

#### Responsibility for Violations

The owner of any property or building, or part thereof, shall be responsible for the violation. Architects, builders, developers, or agents thereof may also be held responsible for the violation if evidence of their involvement or negligence is found. Ultimately, if fault is not clearly found in whole or in part in persons other than the owner, the owner shall be held responsible in whole or in part as warranted by the findings of the Plan Commission, Board of Zoning Appeals, Town Council, or Building Inspector.

### V1.9.5

#### Liability

A structure that is raised or converted, or land used in violation of this Ordinance or its subsequent amendments may be deemed a common nuisance, and the owner or possessor of the structure or land is liable for the nuisance.

### V1.9.6

#### Violations During the Construction/Building Process

The Building Inspector may place a Stop-Work-Order or Violation Notice on any land/property improvement process. Stop-Work-Orders shall be issued by written letter which shall state the violation and that work or illegal activity must stop immediately until the matter is resolved. This letter shall be posted in a conspicuous place or be

delivered/mailed to the owner, developer, property manager, tenant, or occupant.

- A. The Building Inspector must meet with the person(s) served the Stop-Work-Order notice within seven (7) days of any such meeting being requested. A memorandum of agreement shall be drafted stating the conditions by which construction or action may be resumed. This memorandum of agreement must be signed by the owner, developer, property manager, tenant, or occupant that has caused, or is responsible for the violation and the Building Inspector.
- B. Reasons for a Stop-Work-Order include, but are not limited to:
  - i. Not complying with development standards and/or any regulations of this Ordinance or the Subdivision Control Ordinance;
  - ii. Not obtaining an Improvement Location Permit prior to the start of construction of any improvement for which a permit is required by this Ordinance;
  - iii. Not completing structures or other improvements consistent with any approved Improvement Location Permit, variance, special use, or other approval;
  - iv. Not meeting the conditions or commitments of a special use, variance, or zoning amendment;
  - v. Not meeting the conditions of site development plans, planned unit development detailed plans, covenants, or written commitments which are enforceable by the Plan Commission; and
  - vi. Illegal use or expansion of use of structures, or structures and land in combination.

## **V1.9.7**

### **Types of Violations**

The following items shall be deemed civil zoning violations, enforceable by the Plan Commission, Board of Zoning Appeals, Town Council, and/or Building Inspector. Penalties may be imposed based on the provisions set forth in this Section.

- A. The placement or erection of a primary structure, accessory structure, sign, or any other element determined by the Building Inspector to not conform to the provisions or explicit intent of the Zoning Ordinance;
- B. The maintenance of a primary structure, accessory structure, sign, or any other element determined by the Building Inspector to not conform to the provisions or explicit intent of the Zoning Ordinance;
- C. Failure to obtain an Improvement Location Permit when required by this Ordinance;
- D. Conducting a use or uses that do not comply with the provisions or explicit intent of this Ordinance;
- E. Any failure to comply with the development standards and/or any regulations of this Ordinance;
- F. Proceeding with work under a Stop-Work-Order or a violation of a memorandum of agreement; and
- G. Any failure to comply with commitments or conditions made in connection with a rezoning, special use, variance or other similar or documentable commitment, including verbal agreements during official Plan Commission, Board of Zoning Appeals, and/or Town Council meetings.

## **V1.9.8**

### **Procedure for Violations**

There shall be a three (3) step procedure for violations of this Ordinance. These steps are as follows:

- A. The Building Inspector shall issue a Notice of Violation to the person(s) who has committed, in whole or in part, a

violation. The Notice of Violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within 15 days of the mailing date or posting of notice.

- B. If the person(s) in violation refuses to correct the violation after the Notice of Violation has been given, the Plan Commission may issue a minimum fine of \$25 per day on the first offense for any given violation. Subsequent violations of the same infraction that take place within 12 months of the first violation, committed by the same person(s) will not be given a second Notice of Violation. The fine for subsequent violations will increase twofold, never to exceed more than \$2,000.00 per day for each violation.
- C. If the person(s) in violation refuses to pay the fine, the Plan Commission or Town Council may pursue court action through a court of jurisdiction. Fines and liens against the property may also be pursued until the matter is resolved.

***The fines mentioned in this section shall not supersede any fines, fees, or other penalties listed in the Official Fee Schedule.***

## **V1.9.9**

### **Immediate Public Risk Violations**

Any violation of this Ordinance which presents an immediate risk to the health, safety, or welfare of the public, or to property within Lapel may be corrected by the Building Inspector, or a person, firm, or organization selected by the Building Inspector, without prior notice to the property owner or other person responsible for the violation.

- A. Immediate public risk violations shall include:
  - i. Signs, structures, landscaping or other materials placed in a public right-of-way, easement, or sight visibility triangle in violation of this Ordinance;
  - ii. Any sign, structure, landscaping, or other material located on private property which serves to distract

or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; and

- ii. Any other immediate threat to public welfare as determined by the Town Council, Plan Commission, Board of Zoning Appeals, Building Inspector, Town Council President, County Surveyor, County Engineer, or other public official.

B. Any sign, structure, landscaping or other material which constitutes an immediate public risk violation may be seized by the Building Inspector in a manner that results in minimal damage to the material and the property upon which it is located.

C. The Building Inspector shall provide notice to the owner of the property upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this Ordinance, by either placing a notice in a conspicuous place on the property or by letter.

- i. The notice shall be sent to the property owner via certified mail within 24 hours of the seizure.
- ii. The notice shall include the following:
  - 1. a description of the materials seized,
  - 2. a citation of the sections of the Ordinance which were violated and the characteristics of the violation which posed an immediate threat to public welfare,
  - 3. the address and phone number of the Planning Commission office and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized item; and
  - 4. instructions describing how, where, and

when the seized items may be claimed.

- D. The Building Inspector shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was provided to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of a \$25 fine and the establishment of a memorandum of agreement between the property owner and Building Inspector regarding the future use of the item in a manner consistent with this Ordinance.
- E. Neither the Building Inspector, Town of Lapel, or any other official or entity involved in the seizure shall be liable for any damage to the seized item or the property from which it was taken.

## V1.9.10

### Fines and Penalties

The Building Inspector by mandatory injunction in the Circuit or Superior Court of the county against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this Ordinance, or the removal of any use or condition in violation of this Ordinance.

- A. Monetary fines may be imposed for each civil violation determined upon a single inspection. Fines shall be assessed for each day that the violation is present following the provision of any Notice of Violation to the property owner or other responsible party.
- B. No fine for any single violation shall exceed \$2,000.00 per day. Payment of any violation shall be made to the Town Treasurer who shall deposit the funds in the General Fund. A receipt of payment must be recorded and a receipt issued to the person making payment.

## V1.9.11

### Appeals or Trials

- A. Any person receiving a notice of Violation may appeal the violation and/or fine to the Board of Zoning Appeals or to a court of jurisdiction. A written statement from the person in violation, either filing an administrative appeal consistent with **Section V1.6** of this Ordinance or giving notice of the filing of an action with a court, shall be submitted to the Building Inspector via Certified Mail at least three (3) days prior to the date any fine is due.
- B. Fines due will be postponed until the BZA or court of jurisdiction has made a ruling as to the violation and/or fine. The person(s) in violation shall have 30 days to file for a hearing with the BZA or court of jurisdiction. Also, the person(s) in violation shall have a maximum of six (6) months to complete the hearing process with the BZA. Failure to meet these deadlines will reinstate all fines due by the person(s) in violation.
- C. No additional notices will be issued by the Building Inspector if the person(s) in violation has (have) submitted an appeal or notice of court review.

## V1.9.12

### Enforcement, Remedies and Injunctive Relief

- A. The Building Inspector or any enforcement official designated by this Ordinance may bring an action in the Circuit or Superior Court of Madison County to evoke any legal, equitable, or special remedy, for the enforcement of any ordinance or regulation created under IC 36-7-4, and its subsequent amendments. This includes but is not limited to this Ordinance and the Subdivision Control Ordinance. The Plan Commission or any enforcement official designated by this Ordinance may also bring an action in the Circuit or Superior Court of the County to enforce:
  - a. All agreements with the Plan Commission or its



- designees which have been recorded as covenants or written commitments in connection with a subdivision plat, a site development plan, or a planned unit development;
- b. All commitments made in accordance with IC 36-7-4 et al; and
  - c. All conditions imposed in accordance with IC 36-7-4 et al.
- B. The Building Inspector, or any enforcement official designated by this Ordinance may bring action in the Circuit or Superior Court of the County to restrain a person violating IC 36-7-4 et al. or any ordinance adopted under IC 36-7-4 et al. which includes but is not limited to this Ordinance and the Subdivision Control Ordinance.
  - C. The Building Inspector, or any enforcement official designated by this Ordinance may also bring an action in the Circuit or Superior Court of the County for a mandatory injunction, directing to remove a structure erected in violation of this Ordinance or applicable state code.
  - D. If the Building Inspector, or other enforcement official is successful in its action, the respondent shall bear all costs of the action.
  - E. An action to enforce a written commitment made in accordance with IC 36-7-4 et al. may be brought in the Circuit or Superior Court of the County by any specially affected person who was designated in the written commitment.

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# V1.10

## Definitions

### V1.10.1

#### Title

This document shall be formally known as the “Lapel, Indiana Unified Development Code,” and it may be referred to as the “Zoning Ordinance,” “Ordinance(s),” “Zoning Code,” or “Code.”

### V1.10.2

#### Defined Words & Construction

- A. The definitions contained in this Section shall be observed and applied in the interpretation of all Ordinances included in this Code, except where the context clearly indicates otherwise. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular; words used in the masculine gender shall include the feminine.
- B. The following rules of construction shall apply to this Code:
  - a. This document includes, but is not limited to the Town of Lapel Unified Development Code, Town of Lapel Subdivision Control Ordinance, and the Town of Lapel Building Code.
  - b. Each Ordinance included in this document has been adopted as a stand-alone Ordinance and may exist outside of this document if appropriate definitions are provided. The effective date and other basic and administrative provisions of each of the included ordinances is defined in those ordinances.

### V1.10.3

#### Jurisdiction

This Code shall apply to all land within the jurisdiction of the Lapel Plan Commission, being all portions of the Town not in the ownership of the county, state, or federal government.

### V1.10.4

#### Purpose

The purpose of this Code is to provide a common means of organizing the regulations that apply to land use and development in Lapel. This Code provides a unified format and consistent definitions which are applicable to each Ordinance which it includes. Further, the organization of related Ordinances and definitions provided by this Code is intended to create efficiencies in the administration of land use and development regulations in the Town of Lapel and ease of use for affected administrators, elected and appointed officials, developers, Realtors, attorneys, and citizens.

### V1.10.5

#### Glossary of Defined Words

Definitions not specifically set forth herein shall be as defined by Indiana Code or the Indiana General Assembly and may be modified.

**Abandonment:** The relinquishment of property or a cessation of the use of the property for a continuous period of one (1) year by the owner with neither transferring rights to the property to another owner nor of resuming the use of the property.

**Accessory Structure:** A structure which is subordinate to a primary structure in area, intent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the primary building, structure, or principal use; does not alter or change the character of the premises; is located on the same lot as the primary building, structure, or use.

**Adequate Public Facilities:** Those public facilities included in the context of the Adequate Public Facilities Ordinance that have the capacity to serve development without decreasing levels of service below a locally established minimum standard.

**Adequate Public Facility Letter of Understanding:** A letter from the Planning Commission to the developer which sets forth all terms, conditions and restrictions which must be satisfied for a finding of adequacy.

**Administrator:** The individual or group responsible for the implementation and enforcement of the ordinances. The Planning Director shall be the administrator for the Zoning and Subdivision Control Ordinances.

**Adult Bookstore:** An establishment having more than ten percent (10%) of its stock in trade or its dollar volume in books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or sexual anatomical areas.

**Adult Entertainment Business:** An establishment having up to twenty-five percent (25%) of its stock in trade or its dollar volume in trade as an adult bookstore, adult motion picture theater, adult cabaret, or adult live entertainment arcade, or like uses.

**Adult Motion Picture Theater:** A facility for audio and visual productions and performing arts specifically for adult motion pictures and adult entertainment.

**Adult Retail Store:** An establishment having more than ten percent (10%) of its stock in trade or its dollar volume in devices, toys, audio or visual recordings, games, attire, or other items intended for adult sexual activities or used for erotic, pornographic, or related sexual

activities.

**Adult Strip Club:** A facility (indoor or outdoor; and private or public) for audiences or individuals to observe nudity or partial nudity of any person, or any other services appealing to or designed to appeal to erotic or sexual appetites or inclinations.

**Advisory Plan Commission:** A plan commission serving a single local government jurisdiction established as defined under the Indiana Code, 36-7-1-2 (1983) as amended. The Commission is an advisory plan commission.

**Agriculture:** The use of land for agriculture purposes, including farming, dairying, pasturage, apiculture, agriculture, horticulture, floriculture, viticulture, forestry and animal and poultry husbandry, and the necessary accessory uses, all of which are directly related to the production of food. The operation of any accessory uses shall be secondary to that of the normal agricultural activities. Agriculture shall not include stock yards, or the commercial feeding of garbage or offal to swine or other animals.

**Agricultural Zoning District:** The Ag, Agricultural Zoning District.

**Alley:** A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property.

**Amend or Amendment:** Any repeal, modification, or addition to a regulation; or any new regulation.

**Antenna:** A structure or device that is used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni-directional antennas, panels, and microwave or satellite dishes.

**Apartment:** One (1) or more rooms in an apartment building or

combination apartment and commercial building, arranged, intended, designed, or occupied on a rental basis as a dwelling unit of a single family, an individual, or a group of individuals.

**Apartment Building:** A multi-family housing structure designed and constructed to accommodate three (3) or more apartments, in contrast to single or two-family dwellings converted for multi-family use.

**Applicant:** The owner, owners, or legal representative of real estate who makes application to Lapel for action affecting the real estate owned thereby.

**Arterial Road:** See Road, Arterial

**Attached Building:** A building that is structurally connected to another building by a foundation, wall, or roof line. Carports, garages, porch awnings and the like shall be considered attached buildings.

**Auto Repair:** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; and overall painting of vehicles.

**Automobile Gas (Service) Station:** Any building or premises used for the dispensing, sale, or offering for sale at retail to the public, automobile fuels stored only in underground tanks and located wholly within the lot lines; lubricating oil or grease for the operation of automobiles; and the sale and installation of tires, batteries, other minor accessories, and minor auto repair, but not including a bulk plant, conducting of major auto repairs, automobile wrecking, automobile sales.

**Bed and Breakfast Facility:** An owner occupied or owner employee occupied residence containing no more than six (6) guest rooms for hire, for lodging by prearrangement for periods not to exceed three

(3) consecutive weeks and providing for occasional meals daily (usually breakfast) and not a hotel, boarding, lodging house, or motel.

**Berm:** A man-made, formed, earth mound of definite height and width used for landscaping and obscuring purposes, the intent of which is to provide a transition between uses of differing intensity.

**Billboard:** See Sign, Off-Premise.

**Block:** Property abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead end street.

**Board of Zoning Appeals (BZA):** The Lapel Board of Zoning Appeals or any division thereof.

**Boarding House:** A building or part of a building that contains accommodation facilities for lodging, and typically with meals reserved solely for the occupants thereof for a fee. Boarding houses do not include bed and breakfasts, multi-family dwellings, hotels or motels.

**Bond:** See Surety

**Buffer Landscaping:** Any trees, shrubs, walls, fences, berms, space, or related landscaping features required by Ordinance on private lots, and privately maintained, for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing visual or other aspects of privacy and aesthetics.

**Buffer Yards:** An area adjacent to front, side and rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to provide attractive spaces to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffers also help to maintain existing trees or natural vegetation, to block or reduce noise,

glare or other emissions and to maintain privacy. Buffer yards are in addition to (separate from) front, rear, or side yard setbacks.

**Building:** A structure having a roof, supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals; and when separated by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

**Building Area:** The horizontal area of the buildings on a lot, measured from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project less than two feet.

**Building Code:** The Indiana Building Code establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within the Town of Lapel. Also referred to herein as the Lapel Building Code.

**Building Envelope:** The area on a lot, established by the setback lines, in which building can occur.

**Building Height:** See Structure Height

**Building Inspector:** The person delegated, by the Plan Commission, to enforce the Ordinances in the Zoning Code. See Zoning Administrator.

**Business:** The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, or the maintenance or operation of offices, recreational, or amusement enterprises.

**Business District:** Refers to the C1 and C2 Zoning Districts.

**BZA:** See Board of Zoning Appeals

**Campground:** Any site, lot, field, or tract of land designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

**Capital Improvement Plan:** A proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Cellular Communication Equipment:** Antennas and other transmitting and/or receiving device or other associated devices used in the provision of telecommunications service.

**Cemetery:** Includes any crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

**Certificate of Occupancy:** A certificate stating that the occupancy and use of a structure complies with the provisions of the Town of Lapel Building Code and all other applicable regulations of the Town of Lapel.

**Child Care Home:** As defined by IC 12-7-2-28.6 and for the purposes of the Code, an establishment providing non-overnight care, supervision, and protection of children in private residences which is ancillary to the primary use as residential. A residential structure in which at least six (6) and no more than sixteen (16) children (not including the children for whom the provider is parent, stepparent, guardian, custodian, or other relative; or those which are at least age 7) at any time receive child care from a provider: (1) while unattended by a parent, legal guardian or custodian; (2) for regular compensation; and (3) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. The term includes class I child care home and class II child care home as defined in IC 12-7-2-33.7 and IC 12-7-2-33.8

**Child Care Institution:** As defined by IC 12-7-2-29 and for the purposes of the Zoning Ordinance

- A. a residential facility that provides child care on a twenty-four (24) hour basis for more than ten (10) children; or
- B. a residential facility with a capacity of not more than ten (10) children that does not meet the residential structure requirements of a group home; or
- C. operates under a license issued under IC 12-17.4; provides for delivery of mental health services that are appropriate to the needs of the individual; and complies with the rules adopted under IC 4-22-2 by the Division of Family and Children.

**Clinic:** An establishment in which human patients are admitted for medical or dental study or treatment and in which the services of at least two physicians or dentists are provided.

**Collector Road:** See Road, Collector

**Co-location Site:** A site on an existing or proposed telecommunication tower that can be used for the installation and/or mounting of antennas or radio or cellular communication equipment that operates on a different frequency from the initial user.

**Commission:** See Advisory Plan Commission

**Comprehensive Plan:** Refers to the Town of Lapel Comprehensive Plan. The plan includes goals, objectives and strategies for land use, growth management, transportation/thoroughfares, community facilities and services, environment concerns, infrastructure, aesthetics and identity, economic development, and parks and recreation. The plan was developed and adopted by the Town pursuant to the I.C. 36-7-4-500 series and includes any part and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

**Condition of Approval:** Stipulations or provisions set forth as a prerequisite for approval of a petition.

**Condominium:** Real estate lawfully subject to I.C. 32-1-6 (1-31), (the Horizontal Property Law), by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

**Confined Feeding:** The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

- A. Animals are confined, fed and maintained for at least forty-five (45) days during any twelve (12) month period; and
- B. ground cover or vegetation is not sustained over at least fifty (50%) of the confinement area. The term does not include
  - i. a livestock market where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision; or
  - ii. A livestock sale barn or auction market where animals are kept for not more than ten (10) days.

**Confined Feeding Operation:** Any confined feeding of at least three hundred (300) cattle; six hundred (600) swine or sheep or thirty thousand (30,000); or animal feeding operations electing to be subject to IC 13-18-10; or animal feeding operations that causes a violation of the Indiana water pollution control laws or any rules of the Water Pollution Control Board or of IC 13-18-10. The confined feeding operation includes:

- A. manure storage structures;
- B. manure treatment systems;
- C. feedlot;
- D. confinement buildings; or
- E. waste liquid handling, storage and treatment systems.

**Construction Plan(s):** The maps or drawings showing the specific location and design of improvements to be installed for a subdivision in accordance with the applicable requirements of the Town of Lapel.

**County:** Madison County, Indiana.

**Covenants:** Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider, that are recorded with the plat and deed. Covenants are not enforceable by the Plan Commission or its designees. However, they are enforceable in civil court by interested or affected parties.

**Cul-De-Sac:** A street having one (1) end open to traffic and being permanently terminated by a vehicular turnaround.

**Day Care Center:** see Child Care Center

**Dedication:** The setting apart of land or interests in land for use by the municipality or public by ordinance, resolution, or the recording of a plat.

#### **Demand Management Strategies or Transportation Demand**

**Management Strategies (TDM):** Strategies aimed at changing travel behavior rather than at expanding the transportation network to meet travel demand. Such strategies can include the promotion of work-hour changes, ride-sharing options, parking policies, or telecommuting.

**Detached Building:** A building that has no structural connection with the principal building.

**Developer:** An individual, partnership, corporation (or agent thereof), or other entity that undertakes the responsibility for land development, particularly the designing of a subdivision plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term “developer” is intended to include the term “subdivider”, even though the personnel involved in successive stages of the project

may differ.

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

- A. construction, reconstruction, or placement of a structure or any addition to a structure;
- B. installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
- C. installing utilities, erection of walls and fences, construction of roads, or similar projects;
- D. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- E. mining, dredging, filling, grading, excavation, or drilling operations;
- F. construction and/or reconstruction of bridges or culverts;
- G. storage of materials; or
- H. any other activity that might change the direction, height, or velocity of flood or surface waters. “Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; or gardening, plowing, and similar agricultural practices.

**District:** A section of the Town of Lapel for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, are established by the Zoning Code.

**Domestic Pets:** Animals commonly used as household pets, protection, companions, and for the assistance of disabled persons. Domestic pets shall include animals that are cared for and treated in a manner acceptable for pet dogs, cats, and birds. Domestic pets shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, aquarium fish, pot belly pigs, ferrets, and snakes if cared for in the



manner described above.

**Drives, Private:** See Road, Private

**Duplex:** See Dwelling, Two-Family

**Dwelling:** A building or structure or portion thereof, conforming to all requirements applicable to the residential use districts of the Zoning Ordinance and the Town of Lapel Building Code/ Indiana Building Code used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multi-family dwelling units, but excluding hotels, boarding houses, and lodging houses.

**Dwelling Site:** A site within a manufactured home park and/or mobile home park with required improvements and utilities that is leased for the long term placement of manufactured homes and/or mobile homes.

**Dwelling Unit:** Any structure or portion thereof designed for or used for residential purposes as a self-sufficient or individual unit by one (1) family or other social association of persons and having permanently installed sleeping, cooking, and sanitary facilities.

**Dwelling, Manufactured Home Type I:** A dwelling unit built in a factory bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C.A. 5401 et seq.) which is at least twenty-three (23) feet in width for its entire length, has at least nine-hundred fifty (950) square feet of occupied space, and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are of materials customarily used for site constructed dwellings.

**Dwelling, Manufactured Home Type II:** A dwelling unit built in a factory bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards which has at least

three-hundred twenty (320) square feet of occupied space and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are of materials customarily used for site constructed dwellings.

**Dwelling, Manufactured Home Type III:** A dwelling unit built in a factory bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards which has at least three-hundred twenty (320) square feet of occupied space and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are not of materials customarily used for site constructed dwellings.

**Dwelling, Mobile Home:** A transportable dwelling unit which is a minimum of 8 feet in width and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained therein, and which was manufactured either: Prior to June 15, 1976 and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council: or, Subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards.

**Dwelling, Multi-Family:** A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling, Single-Family:** A detached residential dwelling unit designed for and occupied by one (1) family.

**Dwelling, Two-Family:** A residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families.

**Easement:** A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the Zoning Code.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Family:** An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than four (4) persons, not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

**Farm:** An area used for agricultural operations, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry as well as those properties classified by the Internal Revenue Service as a farm.

**Farm Animals:** Animals commonly used for transportation, food, skins, and other by-products. Farm animals include, but are not limited to, horses, cattle, pigs, sheep, goats, mules, donkeys, miniature horses, miniature donkeys, camels, emu, ostrich, llamas, alpacas, rabbits, mink, fox, buffalo, chickens, turkeys, quail, pheasants, and other animals or fowl of similar characteristics.

**Farm Animal Unit:** A method of measuring the relative impact of different types of animals.

**FBFM:** Flood Boundary and Floodway Map.

**FEMA:** Federal Emergency Management Agency.

**FHBM:** Flood Hazard Boundary Map.

**Filter Strip:** A filter strip is a relatively uniform and maintained vegetated area used for collecting sediment and cleansing run-off.

**Final Plat:** The final map, drawing or chart upon which the subdivider's plan of subdivision is presented land which, if approved, will be submitted for recording among the land records for the Town of Lapel.

**Financial Commitment:** That sources of private or public funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

**Finished Floor Area:** See Floor Area, Finished

**FIRM:** Flood Insurance Rate Map.

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

**Flood Protection Grade or the (FPG):** The elevation of the regulatory flood plus two feet at any given location in the SFHA.

**Floodplain:** The relatively flat area 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, floodway, and floodway fringe. Flood plain boundaries are to be determined by using the Floodway-Flood Boundary Maps of the Federal Insurance Administration/ Federal Emergency Management Administration.

**Floodway Fringe:** Those portions of the floodplain lying outside the floodway.

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

**Floor Area:** The sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or to the centerline(s) of party walls separating such buildings or portions thereof. Floor area of a building shall exclude exterior open balconies and open porches.

**Floor Area, Finished:** That portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space linking rooms, areas for personal hygiene, or combination thereof. Floor area or portion thereof used only for storage purposes and not equipped for the facilities mentioned above shall not be considered Finished Floor Area.

**Floor Area, Ground:** That portion of Finished Floor Area located on the first (or nearest ground level) floor of the dwelling unit. The Main Floor Area of a primary structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

**Foundation:** The supporting member of a wall or structure.

**Front Line:** With respect to a building, the foundation line that is

nearest the front lot line.

**Front Lot Line:** For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way or a lake or watercourse; and For a corner lot, the line marking the boundary between the lot and each of the abutting streets. For the purpose of determining the required front yard, the proposed right-of-way shall be used where it is greater than the existing right-of-way.

**Front Yard:** The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line.

**Frontage:** See Lot Frontage

**Garage:** An attached or detached structure whose principal use is to house motor vehicles or personal property for the accommodation of related dwelling units or related business establishments.

**Government Projects:** Any building, structure, or alteration thereof paid for and used by the local, state or federal government entities.

**Ground Floor Area:** See Floor Area, Ground

**Hardship:** A difficulty with regard to one's ability to improve land stemming from the application of the development standards of the Zoning Code, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of the Zoning Code; any result of land division requiring variance from the development standards of this Ordinance in order to render that site

buildable.

**Height:** See Structure Height

**Home Occupation #1:** A business based in the dwelling of its owner or operator which results in minimal (no impact to structure or surroundings) business practices within certain residential zoning districts. Further, the intent is not to allow the loss of the residential district's character or function as a residential area or neighborhood.

**Home Occupation #2:** A business based in the dwelling of its owner or operator which results in moderate home business practices within certain residential zoning districts. Further, the intent is not to allow the loss of the residential district's character or function as a residential area or neighborhood.

**Hospital:** An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for three (3) or more unrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital" does not apply to institutions operating primarily for treatment of insane persons, drug addicts, liquor addicts, and other types of cases necessitating restraint of patients, and the term "hospital" shall not include convalescent, nursing, shelter, or boarding homes.

**Hotel:** A building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

**Impervious Surface:** Any material that prevents absorption of stormwater into the ground.

**Improvement Location Permit:** A permit allowing a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure or before

starting any construction, excavation, or work within a subdivision within its jurisdiction, or the pursuit of changes to the condition of the land.

**Incidental:** A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

**Indiana Statewide Transportation Improvement Plan (INSTIP):** An annual document prepared by the Indiana Department of Transportation (INDOT) indicating state transportation projects which are planned for the following three (3) year period.

**Industrial District, Light:** Refers to the II, Light Industrial Zoning District.

**Industrial District, General:** Refers to the Ig, General Industrial Zoning District.

**Industry, General:** The assembly, fabrication or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that otherwise do not constitute light manufacturing, and which may include open uses and outdoor storage. General manufacturing generally includes processing and fabrication of products made from extracted or raw materials.

**Industry, Light:** The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fume, odors, glare or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing of goods are housed entirely within an enclosed building. Light manufacturing generally includes processing and fabrication of finished products predominantly from previously prepared materials.

**Institutional & Social District:** Refers to the Is, Institutional and

Social Zoning District.

**Institutional Facility for the Developmentally Disabled/Mentally**

**III:** A residential facility that provides care, supervision and protection and operates under a license issued under IC 12-16.4; provides for delivery of mental health services that are appropriate to the needs of the individual; and, complies with the rules adopted under IC 4-22-2 by the Division of Family and Children (For reference see Indiana Code 12-7-2)

**Interested Party:** Interested parties shall include, but are not limited to, those persons, groups, property owners, or other entities which are considered or consider themselves to be affected by a change in land use or the intended results of a petition.

**Interior Lot:** See Lot, Interior

**Interstate:** See Limited Access Highway

**Junk:** Scrap material, including but not limited to the following:

- A. automotive or machinery equipment or parts, including used automotive tires;
- B. cloth and clothing;
- C. manufactured clay and porcelain products;
- D. manufactured plastic products;
- E. manufactured rubber products;
- F. paper and paper products;
- G. recyclable products of all kinds;
- H. scrap metal, including copper, brass, iron, steel, ferrous and nonferrous material;
- I. wood and wood products;
- J. wrecked and/or dismantled automotives;
- K. inoperable and exposed appliances;
- L. building debris;
- M. unused fill;

N. old cable or cordage.

**Junk Yard:** A place, usually outdoors, where waste or discarded property, other than organic matter, including but not limited to automobiles and farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as, but not limited to, wood, paper, rags, garbage, tires, bones and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as a junk yard.

**Jurisdiction:** All land within the limits of the Town of Lapel, Indiana but not the planning jurisdictions of property owned by Madison County, the State of Indiana, or Federal government.

**Kenel:** Any lot or premises or portion thereof on which more than four (4) dogs, cats, or other household animals or any combination adding up to four (4), over four (4) months of age are kept.

**Landscaping:** The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, berms, fountains and other similar natural and man-made objects designed and arranged to produce an aesthetically pleasing effect.

**Legal Nonconforming Lot of Record:** Any legally established and recorded lot prior to the date specified in the Subdivision Control Ordinance, or its subsequent amendments, that no longer meet the lot-specific development standards.

**Legal Nonconforming Sign:** Any sign lawfully existing on the effective date of the Zoning Ordinance, or amendment thereto, that does not conform to all the standards and regulations of the Zoning Ordinance.

**Legal Nonconforming Use:** Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of the Zoning Code or its subsequent amendments that is no longer a permitted use in the district where it is located.

**Letter of Map Amendment (LOMA):** An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

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

**Level of Service (LOS):** An established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need.

**Limited Access Highway:** Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic and is generally classified as part of the interstate system.

**Local Road:** A road designed primarily to provide access to abutting properties and discourage through traffic.

**Local Street:** See Local Road

**Lodging House:** See Boarding House.

**Lot:** A contiguous area of land separated from other areas of land by separate description for purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one (1) lot.

**Lot Coverage:** The area of a zoning lot occupied by the principal

building and any accessory structures.

**Lot Depth:** The horizontal distance between the front and rear lot lines.

**Lot Frontage:** All property of a lot fronting on a street right-of-way or common, private drive, as measured between side lot lines.

**Lot of Record:** A lot which is a part of a subdivision recorded in the office of the Recorder, or a parcel or lot described by metes and bounds, and a description of what has been so recorded.

**Lot Width:** The distance as measured between the side lot lines at the front set back line.

**Lot, Buildable:** Any lot upon which a building or structure is allowed to be constructed and occupied by the regulations of Lapel. Generally, the lot shall have frontage on and access to an improved street, meet minimal setbacks, and have all necessary utilities available. The lot to be buildable shall have been created in accordance with the provisions of the ordinance in effect at the time the lot was recorded.

**Lot, Corner:** A lot situated at the intersection of two (2) streets or which fronts a street on two (2) or more sides forming an interior angle of less than one-hundred and thirty-five (135) degrees.

**Lot, Developed:** A lot with buildings or structures.

**Lot, Improved:** See Lot, Buildable

**Lot, Interior:** A lot other than a corner lot or a through lot.

**Lot, Through:** A lot fronting on two (2) parallel or approximately parallel streets, or abutting two (2) streets which do not intersect at the boundaries of the lot. Also includes lots fronting on both a street

and a watercourse or Lake.

**Lowest Floor:** The lowest of the following:

- A. the top of the basement floor;
- B. the top of the garage floor, if the garage is the lowest level of the building;
- C. the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings;
- D. the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless: the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; or such enclosed space shall be usable for the parking of vehicles and building access.

**Major Plat:** See Subdivision, Major

**Major Subdivision:** See Subdivision, Major

**Maneuvering Space:** An open space in a parking area which is immediately adjacent to a parking space; is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but is not used for the parking of or storage of motor vehicles.

**Manufactured Home Park:** A parcel of land containing two (2) or more dwelling sites, with required improvements and utilities, that are leased for long term placement of Mobile Home Dwellings and/or Manufactured Home Dwellings, and shall include any street used

or intended for use as part of the facilities of such Mobile Home Park. A Manufactured Home Park does not involve sales of Mobile Home Dwellings or Manufactured Home Dwellings in which unoccupied units are parked for inspection or sale.

**Manufactured Home:** See Dwelling, Manufactured Home.

**Manure:** Any liquid or solid animal excreta or any used bedding, litter, waste liquid, or contaminated runoff.

**Marker (survey):** A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

**Master Plan:** See Comprehensive Plan.

**Mobile Home:** See Dwelling, Mobile Home.

**Mobile Home Park:** See Manufactured Home Park.

**Monument (survey):** A permanent physical structure which marks the location of a corner or other survey point.

**Motel:** An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. A motel furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture.

**Motor Home:** See Recreational Vehicle.

**Motor Vehicle:** Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

**Mural:** A painting on the side of a building, wall, or structure; or a painting on the ground or the ceiling of a building or structure. A mural that does not function as a sign is not regulated by this Ordinance. Murals that function as a sign are regulated in this Ordinance as a Wall Sign.

**New Manufactured Home Park or Subdivision:** Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the Zoning Code.

**Nonconforming Building:** A building, structure, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

**Nonconforming Lot of Record:** A lot which was created such that it does not conform to the regulations of the zoning district in which it is located.

**Nonconforming Sign:** A sign or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

**Nonconforming Use:** A use which does not conform with the use regulations of the zoning district in which it is located.

**Nursing Home:** A private home for the care of the aged or infirm, or any other person in need of nursing care and which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients or alcoholics.

**Official Zoning Map:** A map of Lapel, Indiana, that legally denotes the boundaries of zoning districts as they apply to the properties

within the planning jurisdiction.

**Official Zoning Map Copies:** A map of Lapel, Indiana, that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction. These maps may be out of date.

**Off-site Improvements:** Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval, upon which is located improvements required by or related to the property to be subdivided.

**Open Space:** An area of land not covered by buildings, parking structures, or accessory uses except for recreational structures. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open Space does not include street rights-of-way, platted lot area, private yard, patio areas, or land scheduled for future development.

**Outdoor Storage:** See Storage, Outdoor.

**Owner:** Any person, group, of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land, or their legal representative.

**Parcel:** See Lot.

**Parent Tract:** A Parent Tract's actual location, shape and size is determined by the parcel number and by the official record of the last transfer prior to that splits it shall be considered two (2) Parent Tracts.

**Parking Space, Automobile:** Space within a public or private parking area for the storage of one (1) passenger automobile or commercial vehicle under a one and one-half (1-1/2) ton capacity.



**Paved:** A durable surface for parking, driving, riding or similar activities that utilizes asphalt, concrete, brick, paving blocks or similar material. Crushed gravel, stone, rock, or dirt, sand or grass are not permitted as a paved surface.

**Performance Surety:** An amount of money or other negotiable security paid by the subdivider, developer, or property owner or his surety to the Town which guarantees that the subdivider will perform all actions required by the Town regarding an approved plat or other land development, and provides that if the subdivider, developer, or property owner defaults and fails to comply with the provisions of approval, the subdivider, developer, or property owner or his surety will pay damages up to the limit of the surety, or the surety will itself complete the requirements of the approval.

**Permanent Foundation:** A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**Person:** A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

**Petitioner:** Any person or group of persons, developer or developers, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land, or their legal representative.

**Plan:** See Comprehensive Plan.

**Plan Commission:** See Advisory Plan Commission.

**Planned Unit Development:** A large-scale unified development meeting the requirements of the Zoning Code, specifically the Planned Unit Development Ordinance. Generally a planned unit development consists of a parcel or parcels of land, controlled by

a single landowner, to be developed as a single entity which does not correspond in size of lots, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any district of this Zoning Code. This may result in more attractive and affordable development than conventional developments would allow. Clustered housing (dwellings built in innovative lot arrangements around common open space) and zero lot line housing (dwellings built immediately adjacent to lot lines) are possible as part of planned unit developments.

**Planning Department:** A department within the county government that performs the administrative function for the Planning Commission and other functions as directed by the Planning Commission and/or Town Council.

**Planning Director:** The person appointed by and/or delegated the responsibility for the administration of the Zoning and Subdivision Control Ordinance regulations by the Advisory Plan Commission, or his designees. The duties of the Planning Director will be carried out by the Building Inspector / Zoning Administrator (as designated in this Ordinance)

**Planning Jurisdiction:** The area that a municipality has planning authority as drawn by each community in compliance with IC 36-7-4 et al. For the planning jurisdiction of The Town of Lapel, see Jurisdiction Area.

**Plat:** A map or chart that shows a division of land and is intended to be filed for record.

**Plat, Final:** The Final Plat, pursuant to I.C. 36-7-4-700 series, is the plat document in recordable form. A Final Plat shall substantially conform with the preceding Primary Plat, or section thereof. The Final Plat and plans are not subject to public notices and public hearings. Final Plat approval is an administrative function to be carried out in the manner prescribed by the written rules of the Advisory Plan

Commission.

**Plat, Preliminary:** The preliminary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision are based. The preliminary plat and plans shall be subject to public notice and public hearing according to law and according to Plan Commission rules.

**Porch:** A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

**Practical Difficulty:** A difficulty with regard to one's ability to improve land stemming from regulations of the Zoning Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Development Standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

**Preliminary Plat:** See Plat, Preliminary.

**Primary Building/Structure:** The building or structure in which the primary use of the lot or premises is located or conducted, with respect to residential uses, the primary building or structure shall be the main dwelling.

**Primary Use:** The main use of land or buildings as distinguished from an accessory use. A principal use may be either a permitted use or a special use.

**Private Road:** See Road, Private

**Professional Office:** An office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and Realtors or

insurance agents and brokers.

**Property Owner of Record:** The person(s) identified as the property owner on the most recent list prepared and maintained by the Town of Lapel or Madison County Assessor's Office.

**Public Improvements:** Any storm drainage facility, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, utility, 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.

**Public Sewerage System:** A community sewer system including collection and treatment facilities owned and maintained by a municipality of sewer utility.

**Public Road:** All property dedicated or intended for public highway, freeway, or roadway purpose and subject to public easements therefore.

**Public Utility:** Any person, firm, or corporation duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.

**Public Water System:** A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities owned and maintained by a municipality of utility.

**Public Works Agreement:** A contract, between the developer and the Town to complete the necessary improvements in accordance with the approved plans and specifications by a given date.

**Public/Private Parking Area:** A group of parking spaces in an open area not including any part of a street or alley, designed or used for

temporary parking of motor vehicles.

**Racetrack:** Any venue for the sport of racing or competing where participants drive, ride, or control motorized vehicles. A racetrack may or may not have areas for spectators. Racetrack includes, but is not limited to oval track racing, drag racing, motocross, tractor pulling, go-carts racing, remote control airplane flying, and similar uses.

**Rear Lot Line:** The lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot, the line ten feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the lot line.

**Rear Yard:** The horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

**Recreational Vehicle Park:** Any site, lot, field, or tract of land under single ownership, or ownership of two or more people, designed with facilities for short term occupancy for recreational vehicles only.

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

**Regional and Local Transportation Plans:** The Transportation Plan for the regionally (or county) designated transportation system which is produced by the regional transportation planning organization.

**Regional Transportation Plan Organization:** The Metropolitan Planning Organization (MPO) is the designated transportation

planning agency for the region or county consisting of local governments within the region containing one or more counties which have common transportation interest.

**Registered Land Surveyor:** A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

**Registered Professional Engineer:** An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

**Regulatory Flood:** The flood having a one percent (1%) probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The “Regulatory Flood” is also known by the term “Base Flood.”

**Regulatory Floodway:** The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

**Replat:** If any change in a map of an approved or recorded subdivision plat.

**Residential District:** Refers to the R1, R2, and R3 Zoning Districts.

**Residential Facility for the Developmentally Disabled/Mentally Ill:** A residential facility which provides residential services for mentally ill individuals as described in I.C. 12-28-4 (7-10). No two (2) Residential Facilities for the Mentally Ill shall be within three thousand (3,000) feet of one another in the Lapel planning jurisdiction as stated

in Indiana Code.

**Re-subdivision:** A change in a recorded subdivision plat if such change affects any street layout or area reserved thereon for public use or any lot line or easement; or if it affects any map or plan legally recorded.

**Right-of-Way:** A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. Rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

**Road:** Any vehicular route that:

- A. is an existing state, county, or municipal roadway;
- B. is shown upon a plat approved pursuant to law;
- C. is approved by other official action; or
- D. is shown on a plat duly filed and recorded in the office of the Recorder prior to the appointment of a planning board and the grant to such board to review plats; includes the land between the street lines, whether improved or unimproved.

**Road, Collector:** A road designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.

**Road, Primary Arterial:** A road with access control, restricted parking, and that collects and distributes traffic to and from collectors.

**Road, Private:** Vehicular streets and driveways which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s). Driveways that serve only one (1) lot and are contained on that lot shall not be considered private roads.

**Road, Public:** All property dedicated or intended for public highway, freeway, or roadway purpose or subject to public easements therefore.

**Roof Mounted Antenna:** Any device attached to a building, or structure that is used for wireless telecommunications service. ( not included in these definitions are AM radio, non commercial but residential type radio, TV, ham two-way radio, short-wave radio, antennas and satellite dishes but which may be included in other sections of the Zoning Code)

**ROW:** See Right-of Way.

**Satellite Dish/Antenna:** An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit, or broadcasted signals from transmitting towers.

**School:** A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana School Laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

**Scrap Metal Yard:** A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for storage, sale or shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards, dumps, or automobile graveyards.

**Sensitive Area:** A sensitive area is a site where conditions pose a specific water quality threat to one (1) or more of the following:

- A. public water supply wells,
- B. wellhead protection areas,
- C. drinking water supply wells,
- D. identified wetlands, except for wetlands constructed for manure management,
- E. habitat of endangered species,
- F. natural areas including parks, natural preserves, historic sites, and public lands.

**Setback:** The minimum horizontal distance between the building line and a lot line or right-of-way.

**SFHA or Special Flood Hazard Area:** Those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. The SFHAs of the Town are generally identified as such on the Flood Insurance Rate Map of the County prepared by the Federal Emergency Management Agency and dated May 3, 2011.

**Shared Housing:** Any dwelling unit which the owner allows to be occupied by unrelated persons living as a single housekeeping unit, provided that the number of occupants does not exceed twice the number of bedrooms, and that the total number of unrelated occupants does not exceed four (4) regardless of the number of bedrooms.

**Side Lot Line:** A lot boundary line other than a front or rear lot line.

**Side Yard:** The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

**Subdivision:** The division of a lot, tract or parcel of land into two (2) or more lots, parcels, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or for building development. It includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or territory subdivided.

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

**Surety:** An amount of money or other negotiable security paid by the subdivider, developer, or property owner or his surety to the Town which guarantees that the subdivider will perform all actions required by the Town regarding an approved plat or in other situations, and provides that if the subdivider, developer, or property owner defaults and fails to comply with the provisions of his approval, the subdivider, developer, or property owner or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approval.

**Swimming Pool:** A self-contained body of water at least eighteen (18) inches deep and eight (8) feet in diameter or width and used for recreational purposes. It may be above or below ground level, and shall be considered an accessory structure/ use.

**Temporary Use/Structure:** A land use or structure established for a limited and fixed period of time with the intent to discontinue such use or structure upon the expiration of the time period.

**Theater:** A facility for audio and visual productions and performing arts, excluding adult motion picture theaters and adult entertainment businesses.

**Thoroughfare Plan:** The goals, recommendations, and action plan adopted as part of the Town of Lapel Comprehensive Plan (Chapter 5: Transportation), which includes a street plan, access management, street scaping, bikeways, and identification of existing and proposed streets, and other thoroughfares. All proposed right-of-way widths shall be treated as front property lines for the purpose of determining front yards and front setbacks except where the existing right-of-way is greater than the proposed right-of-way in which case the existing right-of-way shall be used. In no case shall there be any structures or signs located in the proposed right-of-way.

**Thoroughfare Plan/Street Classification Widths:** The following widths shall be used to determine the proposed rights-of-way for the Town of Lapel unless a specific width is delineated by another section of the development code: Arterial-100 feet; Collector-80 feet; Local-60 feet.

**Tower:** A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus above ground for use as a wireless telecommunications facility. (Not included in these definitions are AM radio, non commercial but residential type radio, TV, ham two-way radio, shortwave radio, antennas and satellite dishes but which may be included in other sections of this zoning code.)

**Sign:** Any name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business.

**Sign, Ground:** A sign in which the bottom edge of the sign is permanently affixed to the ground. A monument sign is another name for a Ground Sign.

**Sign, Mural:** A sign painted onto the side of a building, wall, ground, or structure. A mural sign is regulated as a wall sign in the Zoning Code. Mural's not meeting the definition of a sign are not regulated by the Zoning Ordinance.

**Sign, Off-Premise:** A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. This includes billboard and outdoor advertising signs.

**Sign, Portable:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.

**Sign, Temporary:** An on-premise advertising or identification device not fixed to a permanent foundation, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

**Site Development Plan (Site Plan):** The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping, buffer, and screening within a site proposed for development which is to be submitted to the plan commission and/or staff for approval prior to the release of improvement location permits on the site.

**Solid Fill:** Any substantial operation, which adds earth, concrete, or other inert material primarily to raise the grade of a parcel of ground. This in no way permits the use of samitary landfill material, hazardous waste material or any other substance regulated by the State of Indiana. the intent of this Special Use is to regulate the filling of land by earthen material to change the contour of the ground.

**Special Flood Hazard Area:** See SFHA

**Special Use:** A use that is designated by the Zoning Code as being permitted in the district concerned if it meets special conditions, is found to be appropriate and upon application, is specifically authorized by the Board of Zoning Appeals. Also know as a special exception.

**Staging:** Staging means the temporary placement of manure in a pile at the site where the manure will be land applied.

**Storage, Outdoor:** The outdoor accumulation of goods, junk, cars, busses, tractor trailers, railroad cars, equipment, products, or similar materials for permanent or temporary holding.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor.

**Structural Adequacy:** Determination by a Highway Engineer that the pavement cross section (or bridge design) is of sufficient depth and design to carry the increased traffic volume generated by the proposed development, including the heavy construction vehicles which will be present, without causing undue failure of the infrastructure.

**Structural Alterations:** Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space. Also, substantial roofing and siding work when repairs are made to the structure beneath.

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

**Structure Height:** The vertical distance measured from the lot ground level to the highest point of the roof.

**Transportation Facilities:** Capital facilities related to air, water, or land transportation.

**Transportation Improvement Plan (TIP):** An annual document prepared by the Madison County Council of Governments (MCCOG) indicating local and state transportation projects which are planned for the following three (3) year period.

**Transportation Level of Service Standards:** A measure that describes the operational condition of the travel stream and acceptable adequacy requirements. Such standards may be expressed in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. For example, a transportation measure of capacity is a standardized index of relative service provided by a road or highway ranging from “A” to “F” with “A” representing free, unobstructed flow and “F” representing a forced flow beyond capacity of the facility as defined in the Highway Capacity Manual published by the Transportation Research Board (HCM2010).

**Use:** The purposes of which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

**Variance, Development Standards:** A specific approval granted by a Board of Zoning Appeals in the manner prescribed by the Zoning Code, to deviate from the development standards (such as height,

bulk, area) that the Ordinance otherwise prescribes.

**Zoning Map:** See Official Zoning Map

**Variance, Use:** The approval of a use other than that prescribed by the Zoning Ordinance.

**Variety Store:** A retail establishment that sells a multitude of consumer goods.

**Vehicle:** A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles and like devices.

**Vehicle, Inoperable:** A vehicle which due to mechanical defect or failure or incorrect or unapparent licensing is not physically or legally able to be operated.

**Wireless Telecommunications Facility:** A wireless telecommunications facility consists of the tower, antennas, electronics equipment and all other structures in conjunction with the tower and antenna.

**Wireless Telecommunications Services:** Licensed public commercial telecommunications services, including but not limited to cellular, digital, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging, and other similar services that are marketed to the general public.

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

**Zoning Administrator:** The person delegated, by the Plan Commission, to enforce the Ordinances in the Zoning Code. See Building Inspector.

**Zoning District:** See District