

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING CODE

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§ 150.01 TITLE.

This chapter and all ordinances supplemental or amendatory hereto, shall be known as the Building Code of the Town of Middletown, Indiana, may be cited as such and will be referred to herein as this code. (Ord. 3-20-2001, passed 4-3-01)

§ 150.02 PURPOSE.

The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures. (Ord. 3-20-2001, passed 4-3-01)

§ 150.03 AUTHORITY.

The Town Building Commissioner, hereinafter referred to as the Building Commissioner, after having been designated as the officer of a single agency to administer and enforce this code, is hereby authorized

in the name of the town to issue building permits, collect permit fees, perform inspections, order correction of violations of this code, authorize occupancy of buildings and structures within the corporate limits of the town, and to perform such other ministerial duties as are commonly performed in the execution of his office. Applications for such building permits however, shall first be approved by the Clerk-Treasurer of the town to indicate compliance with this code or other applicable ordinances of the town.

(Ord. 3-20-2001, passed 4-3-01; Am. Ord. 5-07-02, passed 6-11-02)

§ 150.04 SCOPE.

The provisions of this code apply to the construction, alteration, repair, use, occupancy, and addition to all buildings and structures, other than industrialized building systems or mobile structures certified under IC 22-15-4, in the town.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.05 ADOPTION OF RULES BY REFERENCE.

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

- (1) Article 13 - Indiana Building Codes.
- Fire and Building Safety Standards.
- (2) Article 14 - Indiana Residential Code.
- (3) Article 16 - Indiana Plumbing Code.
- (4) Article 17 - Indiana Electrical Code.
- (5) Article 18 - Indiana Mechanical Code.
- (6) Article 19 - Indiana Energy Conservation Code.
- (7) Article 20 - Indiana Swimming Pool Code.
- (8) Article 22 - Indiana Fire Code.
- Fire and Building Safety Standards.

(B) Two copies of adopted building rules, codes and standards are on file in the office of the Clerk-Treasurer of the town.

(Ord. 3-20-2001, passed 4-3-01; Am. Ord. passed 8-7-01)

§ 150.06 APPLICATIONS FOR PERMITS.

No building permit shall be issued for the forgoing purpose, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries and by plans and specifications showing the work to be done. In addition, a copy of a design release, issued by the State

Building Commissioner and the State Fire Marshal pursuant to 1C 22-15-3-1, shall be provided to the Building Commissioner before issuance of a building permit for construction covered by such design release.

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

§ 150.07 PERMIT REQUIRED.

A building permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds \$500, using the forms furnished by the Building Commissioner. All fees required therefor shall be paid to the Henry County Treasurer.

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

§ 150.08 OTHER ORDINANCES.

All work done under any permit issued by the Building Commissioner shall be in full compliance with all other town ordinances.

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

150.09 FEES AND REQUIRED INSPECTIONS.

All fees and inspections shall be as established by ordinance of Henry County for permits and inspections described herein.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.10 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this code.

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites would be reasonably safe from flooding.

(C) Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair:

- (1) Uses construction materials and utility equipment that are resistant to flood damage, and
- (2) Uses construction methods and practices that will minimize flood damage.

(D) Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes):

- (1) Is protected against flood damage;
- (2) Is designed (or modified) and anchored to prevent flotation, collapse, lateral movement of the structure, or flood damage and
- (3) Uses construction methods and practices that will minimize flood damage.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.11 INSPECTIONS.

After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to ensure full compliance with the with the provisions of this code and the terms of the permit.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.12 INSPECTION ASSISTANCE.

The Chief of the Fire Department having local jurisdiction, or his/her designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.13 ENTRY.

Upon presentation of proper credentials, the Building Commissioner or his/her duty authorized representatives may enter at reasonable times any building, structure or premises in the town to perform any duty imposed upon him/her by this code.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.14 STOP ORDER.

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

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

§ 150.15 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure constructed after the adoption of this code shall be issued unless such building or structure was constructed in compliance with the provisions of this code. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

§ 150.16 WORKMANSHIP.

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

§ 150.17 VIOLATIONS.

It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure other than fences, in the town or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

(Ord. 3-20-2001, passed 4-3-01) Penalty, see § 150.99

§ 150.18 RIGHT OF APPEAL.

All persons shall have the right to appeal any order of the Building Commissioner first through the Board of County Commissioners and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of IC 22-13-2-7 and IC 4-21.5-3-7.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.19 REMEDIES.

The Building Commissioner may in the name of the town bring actions in the Circuit or Superior Courts of Henry County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code.

(Ord. 3-20-2001, passed 4-3-01)

§ 150.20 MINIMUM REQUIREMENTS FOR WIRING INSTALLATIONS AND ELECTRICAL IMPROVEMENTS.

(A) *Minimum standards.* The installation, repair or replacement of electrical wiring within any structure in the Town of Middletown, shall comply with the conditions and standards set forth in the NFPA National Electrical Code, as amended, the NFPA National Electrical Safety Code, as amended, the Indiana Electrical Code (675 IAC 17-1.8), as amended, and any other requirement imposed under the Henry County, Indiana Code and the Middletown Town Code. All new connections to Middletown's electric utility service must be approved by the Town's Utility Superintendent or the Utility Superintendent's designee.

(B) *Direct metered service.* All connections to the town's electric utility through a direct metered service must comply with the following conditions:

(1) The property owner shall furnish a meter base that is sufficient for installation with the type of meter that is utilized by the town; and

(2) The location of the meter base shall be on the exterior of a building and must be placed so that the center of the meter rests at a height between five feet and six feet above the final grade; and

(3) All services shall be grounded at the meter base with a six gauge (or greater) copper conductor enclosed in PVC conduit at least one-half inches in thickness from the meter base to the grounding electrode; and

(4) The grounding electrode shall be constructed of steel with a copper weld jacket and must be at least five-eighths inch in diameter and eight feet in length; and

(5) The ground wire must be connected to the grounding electrode by use of a JT Weaver ground clamp or its equivalent.

(C) *Overhead service connections.* Overhead service connections and facilities shall be installed and maintained in accordance with the following conditions:

(1) All service risers shall be firmly attached to a building; and

(2) An overhead service riser shall be no smaller than trade size two inch galvanized rigid conduit schedule 40; and

(3) All overhead service risers shall have a properly installed weather-head with the service entrance conductors extending a minimum of 24 inches outside of the weather-head; and

(4) Overhead services shall be installed such that the point of attachment is no less than 12 feet above the final grade; and

(5) All service risers must be located at least two and one-half feet above the roof line of any building. If a service riser penetrates the roof, a properly sized roof flashing shall be installed; and

(6) If a service riser extends above the roof line and does not penetrate the roof, or extends more than three and one-half feet above the roof, the service riser shall be installed in a manner to relieve stress caused by the attachment of the service drop.

(D) *Underground service connection.* All structures or improvements connecting to the town's electricity utility through an underground connection must comply with the following conditions and requirements;

(1) The property owner must supply a PVC schedule 80 conduit, with male adapter and steel locknut, of sufficient length to attach to the meter base and extend two feet below final grade; and

(2) In no event, shall the conduit be smaller than two and one-half inches.

(E) *Minimum ampere service.* All newly constructed buildings or improvements shall have electrical service of no less than 100 amperes. Any property that is connected to the town's electrical utility through an underground connection shall have an electrical service of no less than 200 amperes.

(F) *Distribution panels.* All newly installed distribution panels shall be of the "circuit breaker" type. If the distribution panel is not located directly behind the location where utility services are connected to a building, a disconnect means shall be located at the location where utility service connects with the building.

(G) *Correction of defective installations and wiring.* The Utility Superintendent may require the owner or occupant of any building or premises to make changes to, alterations to or to remove dead wires, defective conduits, faulty installations, defective apparatuses or appliances for the transmission and use of electric current or power as necessary to render the equipment and premises safe.

(H) *Discontinuation of service.* In the event the Utility Superintendent determines that any electrical utility connection, or other condition on a property fails to comply with this code or otherwise presents a threat to persons or property, the Utility Superintendent may disconnect or discontinue the supply of electric current from the town's electric utility service to the premises or property until such time as the installation is compliant with this Code or the dangerous condition is remedied.

(I) *Review of decisions of Utility Superintendent.*

(1) The owner of any property affected by a decision of the Utility Superintendent pursuant to the provisions of this code shall be entitled to appeal determinations and orders made by the Utility Superintendent.

(2) To appeal a decision of the Utility Superintendent, the property owner must deliver, to the Town Clerk-Treasurer, written notice of an appeal of the decision and include a description of the specific decision and why the property owner believes the decision of the Utility Superintendent does not comply with the terms of this code or is otherwise an abuse of discretion. Written notice of an appeal must be delivered within ten days following a decision of the Utility Superintendent. If a timely notice of appeal is not received by the town, the decision or order of the Utility Superintendent shall be final and binding.

(3) The Town Council shall consider a timely filed appeal at its next regular meeting, or at a special meeting. All appeals will be determined within 30 days after receipt of timely notice of appeal. The Town Council shall provide a written response to the appeal in which it may either affirm, modify or vacate an order or determination of the Utility Superintendent.

(4) In its discretion, the Town Council may hear written comments from the Utility Superintendent and the appellant, and any other person, in determining an appeal. Any decision or order of the Utility Superintendent shall be effective during the pendency of any appeal and a property owner shall comply with such order or determination until the appeal is determined by the Town Council.

(5) All determinations of the Town Council shall be final, subject only to review as provided by applicable law.

(J) *Penalty.* The owner of any property on which electrical systems or improvements are installed that do not comply with this code may be fined in an amount of up to \$2,500. Each day that a violation exists shall be deemed a separate offense.

(K) *Definitions.* The following definitions shall apply in this section:

DIRECT METERED SERVICE. Any service in which all voltage and current is routed through an electric meter.

POINT OF ATTACHMENT. The location where the service drop attaches to a service riser.

SERVICE DROP. Overhead electrical line running from a utility pole to a building or premises.

SERVICE INTEREST CONDUCTORS. The conductors from the service drop to the point of the first service disconnect.

SERVICE RISER. The conduit that encloses the service entrance conductors.

(Ord. 2019-04, passed --19)

Cross-reference:

Electric service, see Ch. 53

§ 150.99 PENALTY.

If any person, firm or corporation shall violate any of the provisions of this code, or shall do any act prohibited herein, or shall fail, neglect, or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this code for each such violation, failure or refusal, such person, firm, or corporation shall be fined in any sum not less than \$50, nor more than \$500. Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offence.

(Ord. 3-20-2001, passed 4-3-01)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

- 151.01 Statement of purpose
- 151.02 Definitions
- 151.03 Basis for establishing floodplain districts
- 151.04 Designation and duties of the Administrator
- 151.05 Permitted uses in the floodplain district
- 151.06 Other uses in the floodplain district
- 151.07 Nonconforming uses
- 151.08 Variances
- 151.09 National Flood Insurance Program regulations
- 151.10 Disclaimer

§ 151.01 STATEMENT OF PURPOSE.

The development of the flood hazard areas of the town could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community and since these lands are suitable for open space uses that do not require structures or fill, the Town Council does ordain the following regulations.

('66 Code, § 4.16.010) (Ord. 3-85, passed 6-18-85)

§ 151.02 DEFINITIONS.

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

DEVELOPMENT. Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structure, mining, dredging, filling, grading, paving, excavation, or drilling operations.

FLOODPLAIN. The area adjoining the river or stream which has been or may hereafter be covered by floodwaters.

NATURAL RESOURCES. The Indiana Natural Resources Commission.

REGULATORY FLOOD. That flood having a peak discharge that can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. This flood is

equivalent to a flood having the probability of occurrence of 1% in any given year.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes, and other similar items.

('66 Code, § 4.16.020) (Ord. 3-85, passed 6-18-85)

§ 181.03 BASIS FOR ESTABLISHING FLOODPLAIN DISTRICTS.

The floodplain districts as identified by the Federal Insurance Administration on the Flood Insurance Rate Map (FIRM) dated August 19, 1985, along with any subsequent revisions are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Rate Map is on file at the office of the Clerk-Treasurer.

('66 Code, § 4.16.030) (Ord. 3-85, passed 6-18-85)

§ 181.04 DESIGNATION AND DUTIES OF THE ADMINISTRATOR.

The Zoning Administrator for the town is appointed to review all development and subdivision proposals to insure compliance with this chapter.

('66 Code, § 4.16.040) (Ord. 3-85, passed 6-18-85)

§ 181.05 PERMITTED USES IN THE FLOODPLAIN DISTRICT.

The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted by right within the Floodplain District to the extent that they are not prohibited by any other provision of this code or ordinance of the town and provided they do not require structures, fill or storage of materials or equipment:

(A) Agricultural uses such as general farming, pasture grazing, orchards, plant nurseries, and vineyards.

(B) Forestry, wildlife areas, and nature preserves.

(C) Parks and recreational uses, such as golf courses, driving ranges, and play areas.

('66 Code, § 4.16.050) (Ord. 3-85, passed 6-18-85)

§ 181.06 OTHER USES IN THE FLOODPLAIN DISTRICT.

All development applications located in the Floodplain District that are not permitted by right will require the review and approval by Natural Resources prior to the issuance of a local permit. The Zoning Administrator shall forward all these applications along with plans and specifications to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any local permit.

('66 Code, § 4.16.060) (Ord. 3-85, passed 6-18-85)

§ 151.07 NONCONFORMING USES.

Any building, structure, or use of land in the Floodplain District that is not in conformance with this chapter constitutes a nonconforming use. All applications to repair, extend or enlarge a nonconforming use shall be forwarded to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any local permit.
(‘66 Code, § 4.16.070) (Ord. 3-85, passed 6-18-85)

§ 151.08 VARIANCES.

Applications for variances to the provisions of this chapter shall be forwarded to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any local permit. In addition to incorporating all terms and conditions of Natural Resources, the Board of Zoning Appeals shall do the following:

(A) 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

(B) 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 excessive flood insurance premiums.
(‘66 Code, § 4.16.080) (Ord. 3-85, passed 6-18-85)

§ 151.09 NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS.

The Zoning Administrator, during his review of improvement location permits, shall assure that all National Flood Insurance Program (NFIP) regulations (contained in CFR 44, Chapter 60 3(d)) and as specified on Attachment A (Section 10 Review Sheet for NFIP Regulations) which are hereby made a part of this chapter pertaining to state and federal permits, subdivision review, building permit review, flood-proofing nonresidential structures, mobile home tie-downs standards, utility construction, record keeping (including lowest floor elevations), and water course alteration and maintenance have been met.
(‘66 Code, § 4.16.090) (Ord. 3-85, passed 6-18-85)

§ 151.10 DISCLAIMER.

Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the community, Natural Resources, or the state for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(‘66 Code, § 4.16.100) (Ord. 3-85, passed 6-18-85)

CHAPTER 182: MOBILE HOMES AND TRAILER PARKS

Section

152.01 Recommendation for mobile homes

Cross-reference:

Town recognizes County Planning Commission, see § 32.15

§ 182.01 RECOMMENDATION FOR MOBILE HOMES.

The Town Council believes that there should be more restrictions placed upon permits for house trailers and mobile homes in the town, therefore, the Town Council resolves that the County Planning Commission not issue additional trailer or mobile home permits within the corporate limits of the town unless the applicant for said permit first obtains approval from the Town Council that such permit be issued, and that the applicant for such permit obtain a petition on behalf of the permit from all of the adjoining property owners within an area of 500 feet from the proposed site of the mobile home or house trailer.

('66 Code, § 2.08.020) (Res. passed 3-4-69)

CHAPTER 183: SUBDIVISION REGULATIONS

Section

153.01 New construction

§ 183.01 NEW CONSTRUCTION.

In subdivisions, the following restrictions shall apply to new construction:

(A) Sidewalks shall be five feet in width where possible and feasible. They shall have a height of at least six inches higher than the center of the adjoining street.

Material: (1) Cement four inches in thickness.
 (2) Asphalt 1-1/2 inches in thickness.

(B) Curbs shall be six inches higher than the elevation of the center of the street. A combination of a curb and sidewalk may be used. A curbed, median, sidewalks combination may be used.

(C) Streets shall be a width of 34 feet with parking on both sides. A street with no parking shall be 20 feet minimum width. The pavement shall meet the Henry County Code, Section 7.4-2(1).

(D) Easements shall be 50 feet for the purpose of the public utilities to service lines.

(E) Sewers. Both sewage and surface water shall be the responsibility of the developer. Specification shall be that of the Henry County Zoning and Subdivision Control.

The above-stated units shall be the responsibility of the developer.
(Ord. 11-19-96, passed 12-17-96)

CHAPTER 184: ZONING CODE

[Reserved for future legislation]

CHAPTER 155: WIND ENERGY CONVERSION SYSTEMS

Section

- 155.01 Statutory authorization
- 155.02 Purpose
- 155.03 Definitions
- 155.04 Applicability and scope
- 155.05 Prohibition
- 155.06 Enforcement

§ 155.01 STATUTORY AUTHORIZATION.

This chapter is enacted as an exercise of the Town's police power to regulate the use or possession of property that might endanger the public health, safety or welfare, pursuant to IC 36-8-2-4 and the Indiana Home Rule Law, IC 36-1-3.
(Ord. 2019-1, passed 2-5-19)

§ 155.02 PURPOSE.

This chapter is adopted for the following purpose: to prevent the development of wind energy conversion systems in the Town of Middletown in order to preserve the public health, safety and welfare.
(Ord. 2019-1, passed 2-5-19)

§ 155.03 DEFINITIONS.

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

COUNCIL. The Town Council of the Town of Middletown, Indiana.

COUNTY. Henry County, Indiana.

TOWN. The Town of Middletown, Indiana, including its four-mile extraterritorial jurisdiction outside its corporate boundaries pursuant to state statute.

WIND ENERGY CONVERSION SYSTEM(S) ("WECS"). All necessary devices that together convert wind energy into electricity to an electric utility's transmission lines, including but not limited to one or more rotors, nacelles, generators, WECS towers, electrical components, WECS tower foundations, substations, electrical cabling from WECS towers to Substations, meteorological towers, communications facilities, and other related facilities and equipment.
(Ord. 2019-1, passed 2-5-19)

§ 155.04 APPLICABILITY AND SCOPE.

This chapter governs WECS projects that generate electricity to be sold to wholesale or retail markets, except owners of WECS with an aggregate generating capacity of 100 kilowatts (KW) or less and a WECS tower height not exceeding 100 feet, who locate a WECS entirely on their own property.
(Ord. 2019-1, passed 2-5-19)

§ 155.05 PROHIBITION.

No person or entity shall construct or operate a WECS in the town, or within the town's four-mile extraterritorial jurisdiction.
(Ord. 2019-1, passed 2-5-19) Penalty, see § 10.99

§ 155.06 ENFORCEMENT.

This chapter shall be enforced by the town in the same fashion as enforcement of other ordinances of the town.
(Ord. 2019-1, passed 2-5-19)