

CHAPTER 152 IMPROVEMENT LOCATION PERMITS AND ADMINISTRATION

152.01 PURPOSE.

The intent of this Section is to define the procedures and requirements for applications for building permits, amendments to the zoning ordinance, variance and special exception requests, and the powers and procedures for Plan Commission and Board of Zoning Appeals approvals for such requests.

152.02 BUILDING COMMISSIONER.

The Building Commissioner, selected by the Town Council and appointed to serve for one (1) year, is hereby designated and authorized to enforce this ordinance under the rules prescribed by the Town Council of Bremen, Indiana.

152.03 IMPROVEMENT LOCATION PERMITS.

- (A) Within the jurisdiction of the Bremen Plan Commission, no structure, improvement or use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvement or use conform to the Ordinances of the Town of Bremen, and an improvement location permit has been issued for that structure, improvement or use.
- (B) The Building Commissioner of the Town of Bremen shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement, or use, and its location, conform in all respects to the Ordinances of the Town of Bremen. The Improvement Location Permit shall be issued within fifteen (15) days of the application and submission of all required and requested information.
- (C) For an Improvement Location Permit to be valid, work on construction of the improvement must begin within ninety (90) days of the date of issue of the permit, and must be completed within one (1) year of the date of issue of the permit. Upon written request from the property owner or an authorized representative for such, the Building Commissioner may grant extensions to the building permit, each to be no longer than three (3) months from the effective termination date of the permit.
- (D) Commercial/industrial construction: With respect to the performance standards for industrial and commercial uses, the Building Commissioner will accept, as proof of compliance with such standards, the certificate of an architect or structural engineer licensed by the State of Indiana, stating that the building or structure and the proposed use thereof does conform with the performance standards for the district in which it is located.

Improvement Location Permits for commercial or industrial buildings or structures that are required to receive approval from the State of Indiana Department of Fire and Building Codes must supply a copy of the approved State Release Form for review of the Building Commissioner, prior to issue of the building permit.

For all commercial and industrial structures, the Building Commissioner may request from the applicant additional information regarding specific elements of the proposed improvements, and may direct that information for review to the Town Engineer, or any Department Directors or Superintendents of the Town of Bremen. A copy of the complete set of construction plans, stamped and

approved by the State of commercial/industrial construction.

Upon receipt of a Certificate of Approval for Building Design from the State of Indiana, and if all other relevant requirements of this Ordinance are met, the Building Commissioner shall approve and authorize an Improvement Location Permit within fifteen (15) days of submission of all required information.

- (E) Each parcel or lot of land is eligible to be issued one (1) building permit for a residential dwelling or primary structure or use on that parcel or lot. Only one dwelling unit may be located on each parcel or lot, and the lot shall conform to the minimum lot requirements for the district in which such lot is located.

152.04 DETAILED SITE PLAN.

An application for an improvement location permit shall be accompanied by a Detailed Site Plan which will include the following:

- (A) The boundaries of the subject property, all existing easements, section lines and property lines, existing streets, buildings, water courses, water-ways and lakes, and other physical features in or adjoining the property.
- (B) Location and dimension of all existing and proposed buildings and structures, and the structural features of those improvements including; height, elevation, size volume, setbacks, screening, landscaping, open space, signs and outdoor lighting.
- (C) Location, dimensions and type of construction of existing and proposed streets, alleys, driveways, curb cuts, entrances and exists, loading and parking areas, numbers of parking and loading spaces, internal circulation patterns, and any permanent utility equipment or infrastructure located on the property.
- (D) Evidence of adequate storm water removal through connections to the municipal storm water collection system, or design of an appropriate system of swales, culverts, water retention areas, or any other devices approved by the Engineer of the Town of Bremen to accommodate removal of storm water from the property.
- (E) Evidence of appropriate sewage disposal through connections to the municipal sewage disposal system or an individual septic system application approved by the Marshall County Health Department.
- (F) Certain elements of the requirements set forth in this Section regarding specific items present in the detailed site plan may be waived at the discretion of the Building Commissioner.

152.05 CERTIFICATES OF OCCUPANCY.

- (A) No land shall be occupied or used, no building hereafter erected, reconstructed, or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy has been issued by the Building Commissioner stating that the building and use comply with all of the provisions of this Ordinance applicable to the building, premises, or the use prescribed in the district in which it is to be located. Permanent utility service shall not be extended to the property without a certificate of occupancy here been issued.

- (B) The Certificate of Occupancy shall not be issued by the Building Commissioner unless the improvements meet all provisions of this Ordinance, and all other Ordinances of the Town of Bremen, or until the Board of Zoning Appeals has granted a variance from specific requirements of this Ordinance. The Certificate of Occupancy application shall accompany the Improvement Location Permit application, and approved applications shall be issued within ten (10) days of affirmation of meeting property development requirements.

152.06 NOTICE OF VIOLATION.

When written notice of violation of any of the provisions of this Ordinance (Stop Work Order) has been served by the Building Commissioner or any other designated official, on the property owner, agent, occupant, contractor, or builder, the violation shall be discontinued immediately.

152.07 RIGHT OF INJUNCTION.

The Town Plan Commission, Board of Zoning Appeals, Town Council, Building Commissioner, or any other designated enforcement official, may institute a suit for injunction in the Circuit or Superior Court of Marshall County to restrain an individual or corporation from violating the provisions of this Ordinance. The Town Plan Commission, Board of Zoning Appeals, Town Council, or Building Commissioner may also institute a suit for mandatory injunction directing an individual or corporation to remove a use, or structure erected in violation of any provisions of this Ordinance or the requirements thereof.

152.08 PENALTIES.

- (A) Any person or corporation who shall violate any of the provisions of this Ordinance, shall, for each and every violation or noncompliance, be guilty of a Misdemeanor. Upon conviction, said party shall be fined not less than ten (\$10) dollars and not more than three hundred (\$300) dollars per offense. Each day that such violation or noncompliance exists constitutes a separate offense.
- (B) In addition to injunction, the court may enter an order of abatement as part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed or that any other action be taken that is necessary to bring the property into compliance with this Ordinance.
- (C) If the defendant fails or refuses to comply with the injunction or with the order of abatement within the time allowed by the court, the offending party may be cited for contempt, and the Town of Bremen may execute the order of abatement. The Town shall invoice the violator for the cost of labor, materials, or any other expense necessary in executing the order of abatement, or shall file a lien against the property to the value of the cost of the execution of the order of abatement.

152.20 BOARD OF ZONING APPEALS: ESTABLISHMENT.

A Board of Zoning Appeals is hereby established in accordance with Public Law 178, Acts of 179, of the Indiana General Assembly, and all Acts amendatory thereto.

152.21 COMPOSITION AND APPOINTMENT.

The composition and appointment of Board members shall be in accordance with

Public Law 178, Acts of 179, of the Indiana General Assembly, and all Acts amendatory thereto.

152.22 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals of the Town of Bremen shall have the following powers and it shall be its duty to:

- (A) Hear, review and make a determination on appeals from any specific order, requirement, decision, or determination made by the Building Commissioner in the enforcement of this Ordinance.
- (B) Hear and decide on approvals for special uses, or variances from the provisions of this Ordinance as they relate to property development standards, permitted uses, or procurement of Improvement Location Permits.
- (C) Approve or deny requests for extensions to completion requirements for Improvement Location Permits
- (D) To establish a schedule of fees for improvement location permits; inspection petitions for rezoning and submission of plats, subject to confirmation of the Town Council
- (E) To assume any other duties assign by the Town Council.

152.23 VARIANCES, PROCEDURE.

- (A) The Board of Zoning Appeals may authorize, upon appeal, in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship to the property owner. No nonconforming use of neighboring buildings, structures or land in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Ordinance would result in unnecessary hardship to the property owner.
- (B) A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for the variance is submitted to the Building Commissioner and the Board of Zoning Appeals containing:
 - (1) Name, address, and telephone number of applicants;
 - (2) Name, address and telephone number of property owner of record;
 - (3) Location of property; address, lot number and subdivision name;
 - (4) Legal description of the property in question;
 - (5) Description of nature of the variance requested;
- (C) The variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which supports conclusions that all the standards and conditions here and after imposed by Section 2.10, subsection B have been met by the applicants.
 - (1) There are special circumstances relating to the property or intended use that do not generally affect other property or other

uses of the same kind in the same district and vicinity.

(2) The special circumstances create hardship in that, if the Variance is not granted, a substantial property right that is enjoyed by other properties in that district and vicinity.

(3) The granting of the variance will not be materially detrimental to the public welfare or materially injurious to other property or uses in that district and vicinity; and

(4) The granting of the variance will not materially change the character of the district and vicinity, materially lower the market value of adjacent property, or materially increase congestion in the streets.

152.24 SPECIAL EXCEPTION USES, PROCEDURE.

(A) A special use may be permitted if an application for such approval is submitted to the Board. Special uses listed in the appropriate zoning district may be considered for approval, however the Board may approve any special use request if they deem it to be similar in nature to specified special exception uses for that district. Approval of the permitted use shall run with the property, however, approval of the special exception use shall be voided if the use is discontinued or abandoned for a period of six (6) months or more. Any change to a different special exception use shall require a new petition and hearing.

(B) A application for a special exception use must be filed with the Building Commissioner, and must contain the following:

- (1) Name, address, and phone number of applicants;
- (2) Name, address and phone number of property owner of record;
- (3) Location of property; address, lot number and subdivision name;
- (4) Legal description of the property in question;
- (5) Description of nature of the special exception use requested;
- (6) A detailed site plan conforming to the guidelines prescribed in Section 152.04.

(C) The special exception use shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which supports conclusions that all the standards and conditions have been met by the applicants as follows:

- (1) The proposed Special Exception is to be located in a District wherein such use may be permitted, and
- (2) The requirements set forth in the District and this Section for such Special Exception will be met, and
- (3) The Special Exception is consistent with the spirit, purpose and intent of these regulations, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare.

152.25 PUBLIC HEARING PROCEDURES.

All meetings and hearings of the Board of Zoning Appeals shall be open to the public

as required by Public Law and no action will be taken by the Board without a quorum. In the event that a quorum is not present at any meeting of the Board, the meeting shall be rescheduled by the President to the earliest practical date, and in accordance with applicable rules in this Chapter. Provided however, that the Board of Zoning may appoint a hearing officer to conduct the hearing and submit findings to the next meeting at the Board of Zoning.

152.50 PLAN COMMISSION: ESTABLISHMENT.

A Town Plan Commission is hereby established in accordance with Public Law 178, Acts of 179, of the Indiana General Assembly, and all Acts amendatory thereto.

152.51 COMPOSITION AND APPOINTMENT.

The composition and appointment of Plan Commission members shall be in accordance with Public Law 178, Acts of 179, of the Indiana General Assembly, and all Acts amendatory thereto.

152.52 POWERS AND DUTIES OF THE PLAN COMMISSION.

The Plan Commission of the Town of Bremen shall have the following duties:

- (A) To initiate proposals to amend this ordinance.
- (B) To review proposals to amend this ordinance that were not initiated by the Plan Commission.
- (C) To review and approve, modify or deny the site plan for a rezoning amendment approved, but subject to final approval.
- (D) To review and make recommendations to the Town Council regarding petitions for rezoning.
- (E) To review for approval, and to make recommendations to the Town Council on preliminary and final plats for subdivision requests.

152.53 AMENDMENTS TO THE ZONING ORDINANCE.

All amendments to this Ordinance will be heard by the Bremen Town Council after referral to the Plan Commission. Any and all amendments to the Zoning Ordinance or to the Official Zoning Map must be approved by the Town Council after referral and recommendation from the Plan Commission according to the procedure established in this Chapter.

152.54 ORIGIN OF PETITION:

Petitions, duly signed, shall be submitted to the Building Commissioner requesting an amendment or repeal of the Ordinance or the Official Zoning Map by the Plan Commission or by the Town Council, or by the owners of at least fifty-one percent (51%) of the area involved in the petition.

152.55 APPLICATION PROCEDURES:

A proposal for amendment to the Ordinance or the Official Zoning Map not initiated by the Plan Commission must be reviewed by the Plan Commission and recommendations made prior to review by the Town Council. Before submission of a

proposal to the Town Council, a petition must be filed with the Building Commissioner 30 days prior to the Plan Commission meeting date, and containing the following information:

- (A) Name, address and telephone number of the applicants;
- (B) Name address and telephone number of the property owner of record;
- (C) Legal description of the property in question;
- (D) Identification of the present zoning of the property;
- (E) The requested zoning for the property;
- (F) The date the application is filed;
- (G) Signature of the property owners of record;
- (H) A detailed site plan as described in Section 152.03 of this Chapter;
- (I) Indication of all applicable fees paid in full to the Town of Bremen.

152.56 LIMITATION ON REAPPLICATION.

The Town Council shall not consider any proposed amendment to the Ordinance or the Official Zoning Map that is substantially the same as any other proposed amendments submitted within the previous twelve (12) months and which had been rejected by the Town Council.

152.57 DUE CONSIDERATION.

When considering a petition to amend the Ordinance or the Official Zoning Map, the Plan Commission and the Town Council shall pay reasonable regard to:

- (A) Existing conditions;
- (B) The character of the buildings in each district;
- (C) The most desirable use for which the land in each district may be adapted;
- (D) The conservation of property values throughout the municipality or county.

152.58 PUBLIC HEARING PROCEDURES.

All meetings and hearings shall be open to the public as required by Public Law, and no action will be taken by the Plan Commission without a quorum. In the event that a quorum is not present at any meeting of the Plan Commission, the meeting shall be rescheduled by the President to the earliest practical date, and in accordance with applicable rules in this Title. Plan Commission may appoint.....

152.59 EFFECT OF ANNEXATIONS.

On and after the effective date of this Ordinance, all parcels of land annexed into the Town of Bremen shall retain it's previous zoning designation. The petitioner or the Plan Commission may initiate an amendment to establish any other zoning classification for the property according to the regulations of this Chapter.