



ELKHART COUNTY DEVELOPMENT ORDINANCE

ELKHART
COUNTY

INDIANA



PLANNING &
DEVELOPMENT
ELKHART COUNTY

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(4) Development and Growth

To promote the orderly, responsible, and beneficial development and growth of the areas within the County in accordance with the Elkhart County Comprehensive Plan. Additionally, this ordinance establishes the procedures of land development.

(5) Character

To protect the stability, character, economic vitality, natural features, and orderliness of all development through reasonable design standards while balancing private property rights.

(6) Compatibility

To bring about compatibility and harmony among different land uses and to protect the scale and character of existing development from the encroachment of potentially incompatible uses.

(7) Density and Intensity

To regulate the density of residential uses and the intensity of nonresidential uses.

(8) Public Ways

To lessen or avoid congestion in public ways and provide access to development by all means of transportation.

(9) Government Function

To guide public and private policy and action for land use and establish adequate and accurate records of land subdivision.

158.01(A) Short Title

This Ordinance shall be known and cited as the “Elkhart County Development Ordinance,” and hereinafter referred to as the “Ordinance” or “these regulations.”

158.01(B) Purpose

The County Council and County Commissioners adopt this ordinance with reasonable consideration to the Elkhart County Comprehensive Plan and all laws governing the use of land in Elkhart County, and hereby adopts this Ordinance for the purpose of:

(1) General Rights

To secure adequate light, air, convenience of access and safety from fire, flood, and other dangers which may include providing adequate open spaces for light, air and outdoor uses.

(2) Property Rights

To protect the rights of property owners. This includes protection from conflicting land use activities on neighboring properties and providing a reasonable balance between the property owner’s freedom to utilize their land and the general public’s interest in preservation of important natural features and vegetations, protection of views, and living in an attractive and prosperous community.

(3) General Welfare

To promote the public health, safety, comfort, convenience, and general welfare of the County.

158.01(C) Minimum Required

The provisions of the Development Ordinance are the minimum requirements necessary to achieve this ordinance’s purpose. Users of this ordinance are encouraged to go above and beyond the requirements herein to promote a better quality of life for all residents and economic vitality for the businesses of Elkhart County.

158.01(D) Zoning Districts**(1) Zoning Districts Established**

- (a) The County is hereby divided into zoning districts set forth in the table below. The subdivision of land may occur in all of these zoning districts.
- (b) Where the phrase “residential zoning district” is used in this Ordinance, it means the zoning districts listed under the “Residential Districts” heading in the table below.
- (c) Where the phrase “nonresidential zoning district” is used in this Ordinance, it means the zoning districts listed under the “Nonresidential Districts” heading in the table below.
- (d) Where the phrase “special purpose” or “overlay district” is used in this Ordinance, it means the zoning districts listed under the “Special Purpose and Overlay Districts” heading in the table below.

Zoning Districts	
Designation	Name
Residential Districts	
A-1	Agricultural District
R-1	Single-Family District
R-2	Two-Family District
R-3	Multiple Family District
R-4	Residential Mixed Use District
Non-residential Districts	
B-1	Neighborhood Business District
B-2	General Business District
B-3	Heavy Business District
M-1	Limited Manufacturing District
M-2	Heavy Manufacturing District
Special Purpose and Overlay Districts	
GPUD & DPUD	General & Detailed Planned Unit Development District
E-3	Office & Business Park District
W	Wellhead Overlay
A-3	Farmland Preservation District
A-4	Concentrated Animal Feeding Protection District
A-E	Alternative Energy District
TC	Town Character Preservation Overlay

(2) Zoning Maps

- (a) The Zoning Maps, dated February 28, 2024 are hereby incorporated by reference into this Ordinance. This incorporation readopts, reestablishes, and ratifies all PUD district ordinances for Elkhart County, Indiana, in existence at the time of repeal of the prior Zoning Ordinance of Elkhart County, Indiana; said PUD district ordinances remain in full effect until otherwise amended pursuant to this Ordinance. This incorporation also includes any amendments to the Zoning Maps that may be made from time to time.

- (b) The Zoning Maps show the areas included in the above zoning districts. All notations, references, indications and other matters shown on the Zoning Maps are as much a part of this Ordinance as if they were fully described in its text.
- (c) Two copies of the Zoning Maps are on file in the office of the County Auditor, one copy is on file in the office of the Plan Director and such maps are available for public inspection.
- (d) The Plan Director is responsible for maintaining the Zoning Maps and must post all amendments to the map as soon as possible after the effective date of the Zoning Map Amendment.

(3) Determination & Interpretation of District Boundaries

- (a) In determining the boundaries of zoning districts, and establishing the regulations applicable to each district, due and careful consideration has been given to the Comprehensive Plan, existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the County.
- (b) If uncertainty exists as to the exact boundaries of any district as shown on the Zoning Maps, the Zoning Administrator shall make a determination based on the following rules of interpretation:
 - i. If district boundaries are indicated as following the centerline of a street or alley or along lot lines, or approximately along those lines, those lines must be construed to be the district boundaries. If no centerline is established, the boundary is interpreted to be midway between the right-of-way lines.
 - ii. In un-subdivided areas, or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the Zoning Maps or by GIS mapping software.
 - iii. If the boundary remains uncertain, the Board of Zoning Appeals shall interpret the intent of the Zoning Maps to determine the location of the boundary in question.

(4) Procedure Relating to Vacated or Disannexed Area

- (a) Territory disannexed by a town or city after the adoption of this ordinance, must remain as zoned or be designated as a comparable County zoning district unless changed by a Zoning Map Amendment.
- (b) Except as provided in paragraph (c) below, if an appropriate legislative body vacates any public right-of-way, such as a street, alley, public way, railroad right-of-way or waterway, then the zoning districts adjoining each side of that public right-of-way must be extended to the center of that vacation.

- (c) If the boundary of a public right-of-way was established by ordinance and legal description, then the zoning district of the petitioner’s property must be extended to the far edge of the petitioner’s underlying fee.
- (d) All area included in the vacation must then be subject to all appropriate regulations of the extended districts.

(5) Zoning of Streets, Alleys, Public Ways, and Railroad Right-of-Ways

All streets, alleys, public ways, and railroad rights-of-way, if not otherwise specifically designated, are deemed to be in the same zoning district as the property immediately abutting upon these alleys, streets, public ways, and railroad rights-of-way. If the center line of a street, alley, public way or railroad right-of-way serves as a district boundary, the zoning of those areas, unless otherwise specifically designated, is deemed to be the same as that of the abutting property up to that center line.

158.01(E) Authority

- (1) The Board of County Commissioners of Elkhart County adopts this Ordinance pursuant to its authority under Indiana Code Section 36-7-4.
- (2) These regulations are enacted pursuant to Indiana Code 36-1-3 4 and the 36-7-4-700 Series authorizing the Elkhart County Advisory Plan Commission with exclusive control to review and approve or disapprove plats for subdivisions throughout the unincorporated area of Elkhart County and those municipalities within the County having an inter-local agreement for planning and subdivision regulation. This authority also extends to the re-subdivision of undeveloped portions of a previously recorded plat.

158.01(F) Jurisdiction & Legislative Bodies

- (1) This Ordinance applies to all land within Elkhart County, Indiana, excluding the legally established planning jurisdictions of the Cities of Goshen, Elkhart and Nappanee and excluding any future lawfully established planning jurisdictions within the County.
- (2) For the purposes of this Ordinance, the term “appropriate legislative body” means the following legislative bodies within the County.

Jurisdiction	Legislative Body
Town of Bristol	Bristol Town Council
Town of Millersburg	Millersburg Town Council
Town of Middlebury	Middlebury Town Council
Town of Wakarusa	Wakarusa Town Council
Unincorporated Areas of Elkhart County	Elkhart County Board of County Commissioners

158.01(G) Conflict or Inconsistency

- (1) **Internal Conflicts**
Unless otherwise specifically stated within this Ordinance, if two or more provisions of this Ordinance are in conflict or are inconsistent with one another, then the most restrictive provision applies.
- (2) **Federal, State, and Local Conflicts**
Unless otherwise specifically stated within this Ordinance, if a provision of this ordinance is in conflict with any other federal, state, or local code or regulation, then the most restrictive provision applies.
- (3) **Text, Illustration, and Table Conflicts**
The text material of this Ordinance controls over illustrative material. If differences are found between the meaning or implication of the text and tables, the stricter of the provisions apply.

158.01(H) Severability

If any provision or the application of any provision of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance or the application of such provision to other circumstances is not affected.

158.01(I) Repeal of Prior Ordinance

- (1) The former Zoning Ordinance, originally enacted as Ordinance No. PC 2014-20, commonly known as the Elkhart County Zoning Ordinance, as amended, and excluding the zoning maps incorporated therein by reference, is hereby expressly repealed in their entirety by this Ordinance.
- (2) The former Subdivision Ordinance, originally enacted as Ordinance No. 2009-67, commonly known as the Elkhart County Subdivision Control Ordinance, as amended is hereby expressly repealed in their entirety by this Ordinance.

158.01(J) Adoption Effects & Effective Date

The adoption of this Ordinance replaces what is formally and commonly known as the Elkhart County Zoning Ordinance and the Elkhart County Subdivision Ordinance with this Elkhart County Development Ordinance. This Ordinance shall be effective as of **APPROVAL DATE**.

158.01(K) Transitional Provisions

- (1) **General or Planned Unit Development**
A submitted application for a General or Detailed Planned Unit Development that is deemed sufficient for review prior to the adoption of this Ordinance, may continue the process to a final decision in accordance to the terms, conditions, and regulations of the Zoning Ordinance that was in place at the time of filing. However, all administrative procedures and fees must follow those established in this Ordinance.

(2) Rezoning

A submitted application for a Rezoning that is deemed sufficient for review prior to the adoption of this Ordinance, may continue through the process to a final decision in accordance to the terms, conditions and regulations of the Zoning Ordinance that was placed at the time of filing. However, all administrative procedures and fees must follow those established in this Ordinance.

(3) Recorded Commitment or Condition of Rezoning

Any recorded conditions or commitments made applicable to a property as part of a Rezoning and established prior to the adoption of this Ordinance, must remain in full effect and force regardless of allowances provided for in this Ordinance. The owner of a lot with a recorded commitment may petition for the condition or commitment to be removed or modified through the process described in the Plan Commission Rules of Procedure.

(4) Variances, Appeal of Administrative or Hearing Officer Decision, or Special Use Permit

- (a) Any Variance, Appeal of Administrative or Hearing Officer Decision, or Special Use Permit petition filed with the Board of Zoning Appeals that is deemed sufficient for review prior to the adoption of this Ordinance, may continue through the process to a final decision in accordance with the terms, conditions and regulations of the Zoning Ordinance that was in place at the time of filing, provided that the petition is still required by the terms of this Ordinance. However, all administrative procedures and fees must follow those established in this Ordinance.
- (b) Any use that was established by a Special Use Permit or a Use Variance granted by the Board of Zoning Appeals prior to the adoption of this Ordinance, must remain in full effect and force until whichever of the following occurs first:
 - i. The use is vacated or abandoned for a duration of 12 months;
 - ii. The lot is voluntarily rezoned to a district that permits the land use;
 - iii. The lot is reassigned by the Board of County Commissioners (during the adoption of this Ordinance and Official Zoning Map) to a different zoning district that permits the land use;
 - iv. The term of the use expires per the terms conditions, or commitments of approval; or
 - v. The use associated with the Use Variance or Special Use Permit is deemed non-compliant by the Board of Zoning Appeals with its terms, conditions or commitments of approval and the Variance or Special Use Permit is revoked.

(5) Recorded Commitment or Condition for Special Use Permits or Variances

Any recorded conditions or commitments made applicable to a property as a part of a Special Use Permit or Variance and established prior to the adoption of this Ordinance, must remain in full effect and force regardless of allowances provided for in this Ordinance. The owner of a lot with recorded conditions or commitments may petition for the condition or commitment to be removed or modified through process described in the Board of Zoning Appeals Rules of Procedure.

(6) Platting

Any subdivision plat that is deemed sufficient for review prior to the adoption of this Ordinance, may continue through the chain of review to Secondary Approval pursuant to the terms, conditions and regulations of the Zoning Ordinance that was in place at the time of submittal. However, all administrative procedures and fees must follow those established in this Ordinance.

(7) Improvement Location Permit

Any submitted application for an Improvement Location Permit that is deemed sufficient for review prior to the adoption of this Ordinance, may continue through the chain of review to issuance of a Certificate of Occupancy pursuant to the terms, conditions and regulations of the Zoning Ordinance that was in place at the time of submittal. However, all administrative procedures and fees must follow those established in this Ordinance.

158.01(L) Saving Provision

- (1) Any violation of the previous Zoning Ordinance that is also a violation of this Ordinance, continues to be a violation and is subject to penalties and enforcement under [Article 158.13](#). If a use, development, construction activity or other activity is consistent with the provisions of this Ordinance, but not with the previous Zoning Ordinance, then enforcement action must cease, except to the extent of collecting penalties for violations that occurred before the adoption of this Ordinance.
- (2) Except as expressly provided in this Ordinance, the adoption of this Ordinance does not:
 - (a) Affect the liability of any person, firm or corporation under, or by virtue of, any prior Zoning Ordinance;
 - (b) Waive any right of the County under any Article, Specification, Section or provision of any prior Zoning Ordinance; or
 - (c) Vacate or annul any rights obtained by any person, firm or corporation by lawful action of Elkhart County, or by virtue of, any prior Zoning Ordinance.

158.01(M) Compliance

- (1) No Structure may be located, erected, constructed, reconstructed, moved, altered, converted, enlarged or used, and no land use may be established except when in full compliance with all provisions of this Ordinance and when the permits and certificates that this Ordinance requires have lawfully been issued.

(2) Determining the Need to Undergo a Subdivision Process

Any parcel that has only a metes-and-bounds description and has not undergone a subdivision process shall be subject to the tables in the Plan Commission Rules of Procedure, Exhibit P, for determining the need to undergo the subdivision process. Any parcel determined to need to undergo the subdivision process shall not be eligible for an Improvement Location Permit until it has done so in accordance with this Elkhart County Development Ordinance only.

(3) Conformity with Regulations

No Improvement Location Permit or Certificate of Occupancy shall be issued for any parcel or plat of land that was created by subdivision after the effective date of, and not in conformity with, the provisions of these regulations. Also, no construction of any public or private improvement shall take place or be commenced except in conformity with the applicable standards of these regulations and the Building Code. A Certificate of Occupancy, as defined by the Development Ordinance, shall not be granted for the use of any structure within an approved subdivision until the required improvements have been bonded or constructed, inspected and approved by the responsible County officials.

158.01(N) Development without Peril

Land to be developed under this ordinance shall be of such a character that it can be developed without peril of health, flood, fire, or other menace. Developed land shall have access to available existing public facilities and improvements and shall have proper provisions for drainage, water supply, sewage disposal and other necessary public improvements and transportation facilities adequate for serving the subdivision. A private well and a septic system in lieu of public water and sewer facilities are allowable where such facilities do not exist and where permitted under this Ordinance and approved by the Elkhart County Health Department.

158.01(O) Lot Frontage

All lots or parcels must abut a public right-of-way:

- (1) That has been constructed, paved and maintained by the appropriate jurisdiction in which it is located; or
- (2) For which a surety or bond has been accepted, guaranteeing its construction and paving; or
- (3) Has indirect access to a public right-of-way through a permanent access easement:
 - (a) Approved as a Developmental Variance in accordance with [Sec. 158.11\(J\)](#); or
 - (b) Approved as part of a Detailed Planned Unit Development in accordance with [Sec. 158.11\(E\)](#).

158.01(P) Number of Buildings with Dwelling Units on a Lot

- (1) Every building erected or structurally altered to provide dwelling units must be located on a lot as defined in [Article 158.02](#).
- (2) The maximum number of buildings with dwelling units per lot shall be established by the table below.

Districts that Allow Residential Uses	Maximum Number of Residential Buildings Per Lot
A-1	1 plus 1 ADU
R-1	1 plus 1 ADU
R-2	1
R-3	Unlimited
R-4	Unlimited
B-1	1 plus 1 ADU
B-2	1
B-3	Unlimited Upper Story
E-3	Unlimited
A-3	1 plus 1 ADU
A-4	1 plus 1 ADU

158.01(Q) Minimum Dwelling Standards

The following are minimum standards for single- and two-family dwellings. These standards assure the similarity and soundness of all single- and two-family dwelling units placed or built on site.

(1) Foundation

- (a) All dwelling units must be set or constructed on an excavated area with either a crawl space or basement constructed in accordance with County building codes. The space between the floor joists of the dwelling and the excavated under-floor grade must be completely enclosed with the permanent perimeter enclosure except for the required openings.
- (b) The support system for all load bearing foundations must be permanently affixed in conformance with the manufacturer's installation specifications and the County building codes.

(2) Exceptions

The standards in subsections A and B above do not apply to mobile homes as allowed by Special Use Permit in [Sec. 158.11\(H\)](#) of this Ordinance.

(3) Mobile Structures or Vehicles

Any mobile structure or vehicle, including but not limited to travel or camping trailers, not meeting the minimum definition of a mobile home must not be used as a dwelling in any zoning district permitting dwellings.

158.01(R) Residential Development on Ponding Soils**(1) Applicability**

- (a) Except as exempted in paragraphs 2 and 3 below, the provisions of this Section apply to all residential primary structures where portions of that structure are below natural grade.
- (b) Residential primary structures that received a building permit prior to February 2, 2015, are exempt from the provisions of this Section. Permitted new construction and additions to such structures may take place without compliance with this Section.
- (c) Residential primary structures on lots that received Primary Approval in accordance with the Subdivision Control Ordinance prior to February 2, 2015, are exempt from the provisions of this Section. Permitted new construction and additions to such structures may take place without compliance with this Section.

(2) Ponding Soils Map

- (a) The Zoning Administrator must maintain a Ponding Soils Map pursuant to the Plan Commission Rules of Procedure.
- (b) The Ponding Soils Map shows soils that are likely to enable flooding of residential structures.
- (c) The Ponding Soils Map may be administratively amended, pursuant to the Plan Commission Rules of Procedure, for a particular property or portion of a property when a soil scientist, geotechnical engineer or hydrological engineer provides information to the Zoning Administrator demonstrating that the Map is in error.

(3) Residential Development

- (a) Prior to approval of an Improvement Location Permit for an applicable residential structure or residential addition on soils designated as "Ponding" on the Ponding Soils Map, the applicant must either:
 - i. Provide certified information from a soil scientist, geotechnical engineer or hydrological engineer satisfactorily demonstrating that the Ponding Soils Map is in error for the portion of property upon which the residential structure is proposed to be built;
 - ii. Receive approval of a Use Variance in accordance with [Sec. 158.11\(I\)](#) of this Ordinance; or
 - iii. Construct the home with a slab-on-grade floor and footings at frost depth, in accordance with the Building Code.
- (b) The submitted information must demonstrate that the portion of property upon which the residential structure is proposed to be built contains non-ponding soils as established on the Ponding Soils Map.

158.02 DEFINITIONS & MEASUREMENTS

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158.02(A) Interpretation

(1) Purpose

For the purposes of this Ordinance, certain numbers, abbreviations, terms, words, and phrases used herein shall be used, interpreted, and defined as set forth in this section.

(2) Undefined Words, Phrases, and Terms

Whenever any words, phrases, and terms used herein are not defined by this Ordinance but are defined in the State laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply, except when the context otherwise requires. If the undefined words, phrases, and terms are not defined by this Ordinance or in said State laws, they must be construed to have their usual and customary meanings indicated by a current dictionary of general use except where the context clearly indicates a different meaning.

(3) Interpretations

For the purposes of this Ordinance, certain words or terms used herein shall be interpreted as follows, unless the context clearly indicated otherwise:

- (a) Words in the present tense include the future and vice-versa; words in the singular number include the plural number and vice-versa.
- (b) The word “structure” includes the word “building.”
- (c) The word “shall” or “must” is a mandatory requirement, the word “may” is a permissive requirement, and the word “should” is a preferred requirement;
- (d) The word “district” means zoning district.
- (e) The word “County” means Elkhart County, Indiana.
- (f) The words “petitioner” and “applicant” are synonymous.
- (g) The word “person” includes a firm, association, organization, partnership, trust, company, or corporation or other legal entity as well as an individual;
- (h) If a feminine term is used, the masculine also applies and vice-versa.
- (i) The word “and” must be construed to include all connected items in a series or set of conditions or provisions.

- (j) The word “or” must be construed to include one or more of the items in a series or set of conditions or provisions, unless the context clearly indicates otherwise.
- (k) The use of terms such as “including,” “such as,” or similar language are intended to provide examples, not to be exhaustive lists of all possibilities, unless the context clearly indicates otherwise.
- (l) Commentaries or examples are sometimes included in this Ordinance as a means of clarifying certain provisions or providing supplemental information thought to be useful for Ordinance users. Text marked as “Commentary”, “Example”, or “Ex.” has no regulatory effect. It is intended solely as a guide for administrative officials and the public.

When commentaries or examples are provided, they will appear in this manner.

- (m) The words “used” or “occupied” include the words “intended, designed, constructed, converted, altered or arranged to be used or occupied.”
- (n) If a regulatory formula is used within this Ordinance and results in a non-whole number of an indivisible object or feature (e.g., a tree), the non-whole number must be rounded up to the next whole number.
- (o) All references to other county, state or federal regulations in this Ordinance refer to the most current version and citation for those regulations, unless expressly indicated otherwise. If the referenced regulations have been repealed and not replaced by other regulations, requirements for compliance are no longer in effect.
- (p) All references to “days” are deemed calendar days unless the time period indicated is five days or less. If the time period indicated is five days or less, then the reference is deemed working days. The time in which an act must be completed is computed by excluding the first day and including the last day. In computing working days, Saturdays, Sundays or holidays observed by the County are excluded. A day concludes at the close of business (5:00 p.m. on Mondays and 4:00 p.m. on Tuesdays through Fridays), and any materials received after that time will be deemed to have been received the following day.
- (q) Wherever a provision appears requiring the head of a department or another official or employee of the County to perform an act or duty, that provision is construed as authorizing the department head or official to delegate that responsibility to a designee.
- (r) In construing this Ordinance, all provisions are given equal weight, unless the context clearly demands otherwise.

158.02(B) Definitions

This Section contains the general definitions used throughout this Ordinance. For definitions related to Uses, see [Article 158.05](#). For definitions related to signs, see [Sec. 158.08\(C\)](#). For definitions related to floodplain regulations, see [Sec. 158.09\(B\)](#).

ABBREVIATIONS & ACRONYMS

Abbreviation or Acronym	Meaning
BZA	Board of Zoning Appeals
IDEM	Indiana Department of Environmental Management
IDNR	Indiana Department of Natural Resources
INDOT	Indiana Department of Transportation
NRCS	Natural Resource Conservation Service
GPUD	General Planned Unit Development
DPUD	Detailed Planned Unit Development
PUD	Planned Unit Development
Ft. or ‘	Feet
In. or “	Inches
Sq. Ft.	Square Feet
Max.	Maximum
Min.	Minimum
Res.	Residential
Non-res.	Non-residential
SUP	Special Use Permit
MS4	Municipal Separate Storm Sewer System
Sec.	Section
SES	Solar Energy System

A

Access Easement. See “Street, Private.”

Access Road. A street designed to provide vehicular access to abutting property and to discourage through traffic.

Acre. A measure of land area containing forty-three thousand five hundred and sixty (43,560) square feet.

Accessory Structure. A structure that:

- (a) Is devoted to an accessory use;
- (b) Is incidental to, subordinate to, and serves the primary structure;
- (c) May be subordinate in area to the primary structure; and
- (d) May be attached to the primary structure, as in the case of an attached garage.

Accessory Use. A use that may or may not be located within an accessory structure and that is:

- (a) Incidental to, subordinate to, and serves the primary use of the property; and
- (b) Customarily and commonly associated with the primary use of the property.

Address. The number or other designation assigned to a housing unit, business establishment, or other structure for purposes of mail delivery, emergency services, and so forth.

Adult Sexual Activities. Means and includes the following:

- (a) Any of the following anatomical areas not completely covered or in a discernibly state even if opaquely covered:
 - i. Human genitals;
 - ii. Pubic region; or
 - iii. Female breast below a point immediately above the top of the areola.
- (b) The following sex acts:
 - i. Human masturbation;
 - ii. Sexual intercourse;
 - iii. Sodomy; or
 - iv. Fondling or other erotic touching of genitals, pubic region, buttock, or female breast.

Alley. A right-of-way designed to provide a secondary means of access to the rear or sides of lots, and not intended for the purposes of through vehicular traffic.

Alternative Energy. Usable energy derived from naturally replenishable sources such as the Sun (solar energy), wind (wind power), rivers (hydroelectric power), hot springs (geothermal energy), and tides (tidal power).

Apartment. A room or suite of rooms in a multiple family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, shall always be included in each apartment.

Applicant. The owner of real estate or an appointed agent who makes application to the Department for action by the Plan Commission.

Application. A form completed as specified by these regulations and all accompanying documents required by these regulations for approval of the application.

Arcade. An attached and covered passageway running along the exterior wall of a building.

As-Built Drawing. A drawing that shows the actual locations, elevations, dimensions of improvements and construction deviations, compared to an approved plan, on property as sealed and certified by a professional engineer or a registered land surveyor in the State of Indiana.

Awning. A temporary roof-like cover which projects from the wall of a building and overhangs the public way or a private walkway.

B

Backlot Development. The improvement of a property that does not have waterfront access and which uses a parcel or development with shoreline frontage for waterfront access.

Basement. A story partly or wholly underground.

Block. A tract of land bounded by streets or by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shorelines of waterways or a corporate boundary line of a city or town.

Buffer. Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

Buildable Tract. A parcel of land, which is eligible for an improvement location permit.

Building. See "Structure". (Also, See [Article 158.09](#), Definitions - "Structure" for specific terms and words; applicable to the National Flood Insurance Program).

Building Code. The County Ordinance establishing and controlling the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations and related matters, within the County; also referred to as the Elkhart County Building Code Ordinance No. 36-7-8-2 and all subsequent amendments.

Building Envelope. The area available for construction on a lot; the lot area excluding well fields, on-site sewage systems, building setbacks, easements, water bodies, and other such location restrictions.

Building Permit. Written permission issued for the construction, repair, alteration, or addition to a structure.

Building, Primary. See "Structure, Primary."

Building Setback Line. A line parallel to the street line, side lot line or rear lot line, at a distance regulated by the setback requirements in this Ordinance outside which no building can be placed, unless otherwise allowed by this Ordinance.

Bulk. The size and mutual relationships of buildings and other structures, as to size; height; coverage; shape; location of exterior walls in relation to lot lines, to the center line of streets, to other walls of the same building, and to other buildings or structures, and to all open spaces relating to the building or structure.

Business. Engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of office, or recreational and amusement enterprises for profit.

Bus. A large motor vehicle for carrying passengers by road, especially one serving the public on a fixed route and for a fare. See also "School Bus."

Bus Lot. Any lot or land area used for the storage or layover of passenger buses or motor coaches.

C

Certificate of Occupancy. A document issued allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable laws of Elkhart County.

Commission. The Advisory Plan Commission of Elkhart County, Indiana established as defined under the Indiana Code 36-7-4-200.

Commissioners, Board of County. The Board of County Commissioners of Elkhart County, Indiana as established under Indiana Code 36-2.

Common Area. Land or an area of water, or combination thereof, within a development, which is designed and intended for the common use or enjoyment of the residents of the development. Common area may include complementary structures and improvements.

Comprehensive Plan. The Comprehensive Plan for Elkhart County, Indiana, prepared and approved under the 500 series of IC 36-7-4, as amended.

Construction. Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or pile driving.

Construction Plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of these regulations and the conditions of approval of the plat.

County. Elkhart County, Indiana.

Covenant. A private agreement restricting the use and occupancy of real estate, which is a part of the conveyance and is binding on all subsequent purchasers.

Cross Section. A profile of the ground surface perpendicular to the centerline of a street, sidewalk, waterway, or other improvement.

Curb Level. The level of the established curb in front of the building measured at the center of that front. If a building faces on more than one street, the "curb level" is the average of the levels of the curbs at the center of the front of each street. If no curb elevation has been established, the mean finished grade immediately adjacent to the building is the "curb level."

D

Dedication. The setting apart of land or interest in land for public use by the recording of the plat, an ordinance, resolution, entry in the official minutes, or express manifestation on the part of the owner.

Deed Restriction. See "Covenant."

Design Standards. A set of guidelines defining parameters to be followed in a site or building design and development.

Department. The Elkhart County Planning and Development Department.

Detailed Planned Unit Development (DPUD) District. A zoning district for which a Detailed Planned Unit Development Ordinance has been adopted and that complies with this Ordinance.

Detailed Planned Unit Development (DPUD) Ordinance. A zone map amendment ordinance adopted by the Legislative Body with jurisdiction over the subject property creating a DPUD after certification of the proposal from the Elkhart County Plan Commission.

Detailed Planned Unit Development (DPUD) Plat/Site Plan. A drawing submitted with the application for a Detail Planned Unit Development and, upon approval, made part of the Detailed Planned Unit Development Ordinance. Detailed Planned Unit Development plats/site plans must be signed and sealed by a registered Indiana Land Surveyor and must contain all information specified by the Development Ordinance and Rules of Procedure adopted by the Plan Commission.

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

- (a) Construction, reconstruction, or placement of any addition to a building;
- (b) Installing a mobile home on site, preparing a site for a mobile home or installing a recreational vehicle on site for more than 180 days;
- (c) Installing utilities, erection of walls and fences, construction of roads;
- (d) Construction of flood control structures such as levees, dikes, channel improvements, etc;
- (e) Mining, dredging, filling, grading, excavation, or drilling operations;
- (f) Construction and/or reconstruction of bridges or culverts;
- (g) Outside 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; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings. (Also, See [Article 158.09](#), Definitions - "Development" for specific terms and words; applicable to the National Flood Insurance Program).

Development Review Application. A petition, that must be submitted on forms and in such numbers as required by the Rules of Procedure of the Plan Commission or Board of Zoning Appeals, as appropriate, to undertake a development activity on a property.

Director. The Plan Director of the Elkhart County Planning and Development Department, or their duly authorized representatives.

Drain, Regulated. Also called a legal drain. An open drain, a tiled drain, or a combination of the two, having been accepted by and being under the authority and control of the Elkhart County Drainage Board, and is subject to the provisions of the Indiana Drainage Code, IC 36-9-27.

Drainage. Surface water runoff and the removal of water from land by drains, grading or other means during and after construction or development.

Drainage Facility. Any improvement on a property constructed to collect and convey stormwater, including, but not limited to, retention and detention areas, swales, tilling or culverts.

Driveway. A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure intended for motor vehicle access.

Dry Hydrant. A non-pressurized permanent pipe assembly system installed into a water source that permits the withdrawal of water by suction to provide all weather access to an available water source for fire suppression.

Dwelling, Unit. One or more rooms in a residential structure or apartment, designed for occupancy by one family.

Dwelling Unit, Accessory. A detached independent dwelling unit located on the same property as the primary dwelling unit.

E

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Egress. An exit.

Elevation. A vertical distance above or below sea level or a flat scale drawing of the front, rear, or side of a building.

Escrow. The arrangements for the handling of instruments or money not to be delivered until specific conditions are met.

Excavation. Removal by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the land surface thereof, whether exposed or submerged.

F

Family. One or more persons (including children) who are all related by blood, marriage or adoption, or a group of not more than five persons who are not related by blood, marriage or adoption, living together and maintaining a common household.

Facade, Primary. A building facade that is visible from a public ROW or from a residentially zoned property.

Facade, Secondary. A building facade that is not a primary facade.

Farm Product. Fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, eggs, honey, flowers, nursery stock, livestock food products (including meat, milk, yogurt, cheese and other dairy products), and seafood.

Farm Product, Value-Added. Any product processed by a producer from a farm product, such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or prepared foods.

Finished Elevation. The proposed elevation of the land surface of a site after completion of all site preparation work.

Foundation Plantings. A vegetative strip at the base of a building planted with a mixture of ground cover, ornamental trees and shrubs.

G

General Development Plan. The conceptual drawings submitted with the application for a General Planned Unit Development that, upon approval, will be attached to the General Planned Unit Development District Ordinance and enforced as a condition of GPUD approval. The General Development Plan must contain all information specified by this Ordinance and Rules of Procedure adopted by the Plan Commission.

Grade. The slope of a road, street, swale, storm sewer, or other public improvements, specified in terms of gradient percentage (%). For example: One foot of rise in 100 feet would be one-percent grade.

General Planned Unit Development (GPUD) District. A zoning district for which a General Planned Unit Development Ordinance has been adopted and where a Detailed Planned Unit Development must be adopted prior to any further development. A GPUD is a zoning district created with a conceptual General Development Plan that will, if approved, establish site-specific design and use standards for future detail and marketing.

General Planned Unit Development (GPUD) Ordinance. A zone map amendment ordinance adopted by the Legislative Body with jurisdiction over the subject property creating a GPUD after certification of the proposal from the Elkhart County Plan Commission.

Green Roof System. A roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.

H

Hazardous Material. Those pollutants or combinations of pollutants, including disease-causing agents as defined by the Environmental Protection Agency or the state, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in those organisms or their offspring.

Homeowner's Association. A corporation or other entity that is organized and operated exclusively for the benefit of two (2) or more persons who each own a dwelling in fee simple and acts in accordance with the articles, bylaws, and other documents governing the entity. Community Association and Business Park Associations are included in this definition.

I

IDEM. Indiana Department of Environmental Management.

IDNR. Indiana Department of Natural Resources.

Impervious Coverage. Any material or structure that fully or predominately prevents absorption of stormwater into the ground.

Improvement. Any alteration to the land or other physical constructions associated with subdivision and building site development.

Improvement Location Permit. A permit certifying that the site plans of a proposed building, structure, or use of land complies with all requirements of this Ordinance.

Improvement Plan. See “Construction Plan.”

INDOT. Indiana Department of Transportation.

Ingress. Access or entry.

J

Jurisdiction. The unincorporated area of the County and those jurisdictions within the County, which have by mutual agreement surrendered jurisdiction to the County.

K**L**

Landscaping. An expanse of organic scenery including the addition of lawns, trees, plants, and other natural and decorative features of land.

Legal Drain. See “Drain, Regulated.”

Legislative Body. The Board of County Commissions for Elkhart County in the unincorporated areas and in the incorporated areas the Town Council of Wakarusa, Town Council of Bristol, Town Council of Middlebury and Town Council of Millersburg.

Loading Space, Off-Street. An open hard-surfaced area of land other than a street or public way, which is principally used for the standing, loading and unloading of trucks, tractors, and trailers to avoid undue interference with the public use of streets and alleys.

Lot, Corner. A parcel of land situated at the intersection of two or more streets or adjoining a curved street at the end of a block.

Lot, Interior. A lot other than a corner lot.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

Lot Line. The property lines defining the legal boundary of a lot. Property lines may be designated as front, side or rear property lines.

Lot Line, Front. The front property line of a lot.

Lot Line, Interior. A side lot line common with another lot.

Lot Line, Rear. The rear lot line is the lot line or lot lines most nearly parallel to and most remote from the front lot line. Lot lines other than front or rear lot lines are side lot lines.

M

Maintenance Guarantee. Any security, which may be required and accepted by the Board of County Commissioners to assure that necessary improvements will function as required for a specific period of time.

Major Subdivision. See “Subdivision, Major.”

Manufacture. The making of anything by hand or machine.

Minor Subdivision. See “Subdivision, Minor.”

Mixed Use. A type of development that has both residential and nonresidential uses in the same building or the same general area.

Mobile Home Tie Down. Sufficient anchorage as per the manufacturer’s specifications.

Monument. Any permanent marker either of concrete, galvanized steel pipes, or iron or steel rods used to identify the location of a property corner or other survey point.

MS4. Municipal Separate Storm Sewer System. A requirement of the Federal Environmental Protection Agency and the basis for the operations of the Elkhart County Department of Storm Water Management.

N

Night. The period of time from one half hour before sunset to one half hour after sunrise.

Natural Resource Conservation Service (NRCS). A governmental agency that provides advice to communities, agencies and individuals within its jurisdiction, and reviews development proposals for soil erosion and sediment control measures.

Non-access Easement. An easement specifically provided that prohibits access to a road or street by vehicular traffic on a regular basis. Driveways shall not be constructed across this easement, but utility company vehicles servicing adjoining lines may cross.

Nonconforming Use, Structure, Sign, or Lot/Parcel of Record.

Any use, structure, sign or lot of record lawfully occupied, erected or established on or before February 2, 2015, that does not conform with the provisions of this Ordinance or that becomes nonconforming due to an amendment to this Ordinance.

O

On-site Sewage Disposal System. All equipment and devices necessary for the proper on-site conduction, collection, storage, and treatment of sewage and on-site disposal of sewage, from a residence or commercial facility. The related drainage field for an on-site sewage system and a replacement area equal in size to that originally approved is also considered part of the system.

Open Space. Land used for recreation, greenways, resource protection, amenity, and/or buffer yards. In no event shall any area of a lot constituting neither the minimum lot area of said lot, nor any part of an existing or future road or right-of-way be counted as constituting open space except that buffer yard areas may be included in the area of a lot constituting the minimum lot area.

P

Parcel. A piece or portion of land separated from other pieces or portions by legal description as on a subdivision plat, deed or other legal instrument recorded in the office of the Elkhart County Recorder, and under single and separate legal ownership.

Parent Tract. The tract of land from which a new tract of land is being taken.

Parking Area, Off-Street. An open, surfaced area of land, other than a street or public way, designed, arranged, and made available for the storage of private passenger vehicles only, of occupants, employees or customers of the building or buildings for which the parking area is developed and is accessory.

Path. Any pedestrian way that is not a sidewalk.

Permitted Use. A use specifically enumerated as permissible by the regulations of a particular zoning district upon satisfaction of the standards and requirements of this Ordinance.

Permanent Erosion Control Measure. Any measure, vegetative or otherwise, that resists sediment migration and/or movement and shall remain unaffected by weather or atmospheric conditions.

Plan Commission. See "Commission."

Plan Commission Staff. See "Staff."

Plan Commission Technical Advisory Committee. The Plan Commission Technical Advisors shall consist of the following County officials or their designated representative: Director of Planning and Development Department; County Highway Manager; Director of Environmental Health; and County Surveyor and such other representatives as the Director may invite to aid in the review of scheduled petitions.

Plat. A diagram drawn to scale representing a tract of land, showing the boundaries and location of individual properties and streets; including the subdivision or re-subdivision of land intended to be filed for record.

Plat, Primary. An initial diagram of a subdivision of land that is presented to the Technical Review Committee for review and to the Plan Commission for primary approval.

Plat Committee. The Plan Commission Plat Committee shall consist of five (5) persons appointed from the commission membership; one (1) shall be the Secretary of the Plan Commission, who shall serve as chairman, one shall be the County Surveyor or representative and three (3) other members of the Plan Commission. Members of the Plat Committee shall serve a term of one (1) year, beginning January 1.

Plat, Secondary. The final diagram of all or a portion of a subdivision that is presented for secondary approval.

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

Primary Approval. An approval granted to an applicant by the Plan Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in these regulations as defined by Indiana Code 36-7-4-702, prior to secondary approval.

Primary Structure. See "Structure, Primary."

Primary Use. The main or predominant permitted use of any lot, building, or structure.

Producer. A person or entity that:

- (a) Raises farm products on land that the person or entity farms and owns, rents or leases; or
- (b) Creates (by cooking, canning, baking, preserving, roasting, etc.) value-added farm products.

Public Improvement. Any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services, and maintained by the proper agencies.

Public Hearing. A meeting announced and advertised in advance, and open to the public, with the public given an opportunity to appear and be heard.

Public Meeting. A meeting announced and advertised in advance and open to the public. The public may or may not be heard, as determined by the hearing body.

Public Utility. Any person, firm, or corporation or municipal department duly authorized to furnish electricity, gas, steam, telephone, telegraph, or transportation service or water to the public.

Public Way. An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

Q

R

Railroad Right-of-Way. A strip of land with tracks and auxiliary facilities for track operation, which may include depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, or water towers.

Recreation Vehicle (RV). A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Not designed for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.

(Also, See [Article 158.09](#), Definitions - "Structure" for specific terms and words; applicable to the National Flood Insurance Program).

Regulated Drain. See "Drain, Regulated."

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

Replat. A change to a portion of a recorded plat, generally dealing with lot line locations, building setback lines, or easements.

Restrictive Covenant. See "Covenant."

Right-of-Way. A strip of land owned or held by the County or other public agency and used for the purpose of a road, railroad or other public way, or to accommodate public utilities.

Road. See "Street."

Rules of Procedure. The Rules of Procedure adopted by the Elkhart County Advisory Plan Commission.

Runoff. The waters derived from melting snow or rain falling within a tributary drainage basin that exceed the infiltration capacity of the soils of that basin, flow over the surface of the ground, or are collected in channels or conduits.

S

School Bus. Any licensed, state inspected and operable motor vehicle designed or constructed for the accommodation of more than 10 passengers, which is used for the transportation of Indiana school children.

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

Septic System. See "On-site Sewage Disposal System."

Setback Line, Building. See "Building, Setback Line."

Sidewalk. A paved, surfaced or leveled area, usually parallel to and separate from the street, used as a pedestrian walkway.

Site. Any geographical area.

Soil Scientist. An individual registered as a professional soil scientist with the Indiana Registry of Soil Scientists (IRSS) as provided for under IC 25-31.5.

Solar Array. Multiple solar panels combined together to create one system.

Solar Energy Systems (SES). The components and subsystems required to convert solar energy into electric or thermal energy suitable for use.

Solar Panel or Module. A device for the direct conversion of sunlight into usable solar energy (including electricity or heat).

Special Use. Any use of land or buildings, or both, that requires a Special Use Permit in accordance with [Sec. 158.11\(H\)](#).

Specification. A detailed instruction, which designates the quality and quantity of materials, and workmanship, expected in the construction of a structure.

Staff. All employees of the Elkhart County Planning and Development Department holding positions identified within the budget classifications for the Planning Division and the Code Enforcement Division of the annual budget as approved and as amended by the Elkhart County Council.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be deemed an additional story for each 14 feet or fraction of it.

Stop Work Order. An administrative order, which directs a person not to continue or not to allow the continuation of an activity that is in violation of this code.

Street. A public right-of-way under the jurisdiction of and maintained by Elkhart County or a Municipal entity.

Street, Cul-de-sac. A street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles.

Street, Dead End. A street temporarily having only 1 outlet for vehicular traffic and which is designed and intended to be extended or continued in the future.

Street, Limited Access. A street which allows only indirect access to abutting properties primarily by distributing traffic to intersecting lesser volume streets or some other means as needed to allow for efficient local circulation.

Street, Private. A privately owned easement established to provide access to private properties. Also, see "Easement."

Street Line. A line separating an abutting lot, piece or parcel, from a street.

Structure. Anything constructed or erected with a fixed location, or attached to something having a fixed location. Among other things, structures may include, but are not limited to buildings, mobile homes, towers, walls, fences, swimming pools, signs. (Also, See [Article 158.09](#), Definitions - "Structure" for specific terms and words; applicable to the National Flood Insurance Program).

Structure, Primary. A building in which is conducted the primary use of the lot on which it is situated.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the exterior walls or the roof, excepting any alteration required for the safety of the building.

Subdivision. The division of a parcel of land into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of land opened for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. The following kinds of division of existing parcels of land are exempt from this Ordinance:

- (a) A division of land for the sale or exchange of tracts to correct errors in an existing legal description, provided that no additional building sites other than for accessory buildings are created by the division;
- (b) A division of land for the acquisition of street right-of-way;
- (c) A division of land for the sale or exchange of tracts between adjoining landowners, provided that no additional building sites are created by the division;
- (d) A division of land into cemetery plots for the purpose of burial of corpses; and
- (e) A division of land to be subdivided for agricultural use only, provided that no additional building sites are created by this division.

Subdivision, Administrative. A subdivision process allowed for a parcel at least 3 acres, only for immediate, residential development, and with no new improved right-of-way, see [Sec. 158.11\(G\)](#).

Subdivision, Major. A subdivision of a parcel of land into more than three building lots or any size subdivision requiring any new street.

Subdivision, Minor. The subdivision of a parent parcel into any combination of not more than three contiguous or non-contiguous new residential, commercial, or industrial building sites, or the reconfiguration of existing lots that create new building sites, and which does not involve the construction or extension of public or private streets, or substantially affect existing drainage systems. To qualify as a minor subdivision, the proposal must meet all of the conditions set forth in this Ordinance for minor subdivisions.

T

Thoroughfare Plan. A formally adopted plan that indicates the location of existing or proposed thoroughfares, including their functional classification, alignment, and rights-of-way as an amendment to the Elkhart County Comprehensive Plan.

Topography. The configuration of a surface area showing relative elevations set to mean sea level.

Tract. See "Parcel."

Travel or Camping Trailer. A vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation and vacation uses.

U

Unit. A single, determinate quantity.

Use. The purpose for which land or a building on it is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Usable. The portion of a property that is developable after eliminating portions of the property that are ineligible due to slope, soil, vegetation and other natural features that would prevent or significantly inhibit construction.

Utilities. Infrastructure services, including those basic utilities, and the structures necessary to deliver those services. Those services may be provided by public or private agency. Examples include water, sanitary sewer, electricity, natural gas, and telephone.

V

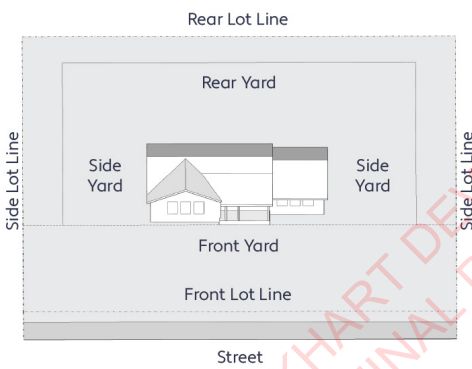
Vicinity Map. A drawing which sets forth by dimensions or other means, the relationship of the proposed development or use to other nearby developments or landmarks and community facilities and services within the County in order to better locate and orient the area in question.

W

Wetland. The most current definition as defined by the United States Army Corps of Engineers or Indiana Department of Natural Resources.

X**Y**

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a principal structure from the ground upward, except as otherwise provided herein.



Yard, Front. A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

Yard, Rear. A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

Yard, Side. A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

Z

Zone. See “Zoning District.”

Zoning Administrator. For purposes of this Ordinance, the term Zoning Administrator shall mean the Zoning Administrator of Elkhart County, Indiana.

Zoning District. Any territory within the County for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land and open spaces about buildings, are established by this Code section.

Zoning Maps, Official. The Zoning Map or Maps incorporated by reference into this Ordinance.

158.02(C) Measurements & Special Cases**(1) General**

- (a) The provisions of this Section provide the method of measurement and set forth any special cases that warrant flexibility in the developmental standards in this Ordinance.

(2) Lot Area**(a) Measurement Methodology**

Lot area is measured as the total area of buildable or usable ground within the boundaries of the lot excluding all unusable areas such as wet/dry detention basins, areas below normal pool level of lakes and ponds, floodplains, wetlands, cliffs and other slopes of 20% or greater, easements for high pressure petroleum pipelines and electric transmission and/or distribution lines.

(b) Special Cases

- i. If two or more parcels of land, each of which lacks adequate area to qualify for a permitted use under the requirements of the zoning district in which they are located, and are contiguous and held by the same owner, then the parcel may be deemed one lot for that use if the parcels are combined under a single deed or if a structure is built or is proposed to be built on a property line that separates the parcels under common ownership.
- ii. Individual lots in a subdivision receiving primary approval after the adoption of this Ordinance, with public wastewater service or other approved wastewater treatment system may deviate up to 10% from the minimum required lot area, provided that the average lot area in the project equals or exceeds the minimum required lot area for the zoning district. In no case may the maximum density for the zoning district be exceeded due to such reduced lot size.

Ex.) A 3- lot subdivision in the A-1 zoning district, with a minimum lot size of 15,000 square feet, could have a 13,500 square foot lot, a 15,000, and a 16,500, thus resulting in an overall average of 15,000 square feet for the subdivision. A Developmental Variance or DPUD would not be needed.

(3) Lot Width**(a) Measurement Methodology**

Lot width is measured as the horizontal distance between the side lot lines measured parallel to the front property line at the required front setback. In the case of a curvilinear front property line the "Arc Length" shall be the measurement considered for the lot width.

(b) Special Cases

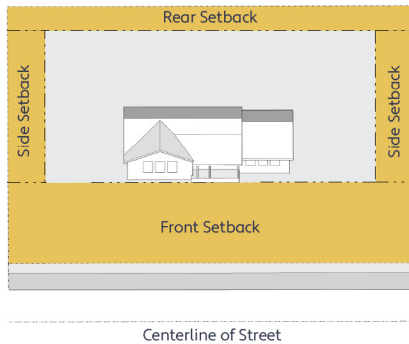
If two or more parcels of land, each of which lacks adequate width to qualify for a permitted use under the requirements of the zoning district in which they are located, and are contiguous and held by the same owner, then the parcel may be deemed one lot for that use if the parcels are combined under a single deed or if a structure is built or is proposed to be built on a property line that separates the parcels under common ownership.

(4) Setbacks**(a) Open and Unobstructed**

Every part of a required setback must be open and unobstructed from the ground to the sky except as authorized in this Ordinance.

(b) Measurement Methodology

A setback is measured as the minimum distance between the nearest part of the foundation of a structure and a road centerline, right-of-way line, or the front, side or rear property line of the lot on which the structure is located, as applicable.

**(c) Front Setback Location (Except in the E-3 District)**

A front setback extends across the full width or depth of the lot and lies between the center line of the adjacent street and the nearest part of the foundation of a structure. Corner lots will have two front setbacks for each street frontage.

(d) Front Setback Location in the E-3 District

In the E-3 zoning district, a front setback lies between the right-of-way line of the lot and the nearest part of the foundation of a structure. Corner lots will have two front setbacks for each street frontage.

(e) Side Setback Location

A side setback lies between the nearest part of the foundation of a structure and a side lot line, and extends from the required front setback line, or from the front lot line if there is no required front setback, to the required rear setback line. On corner lots, side setback will be determined by the building orientation.

(f) Rear Setback Locations

A rear setback extends across the full width or depth of the zoning lot and lies between the rear property line of the lot and the nearest part of the foundation of a structure. On corner lots, rear setback will be determined by the building orientation.

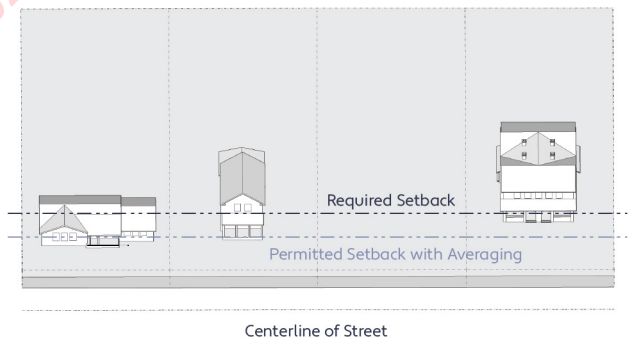
(g) Encroachment Allowed in the Required Setback

- i. Except where a minimum side setback is less than 5 feet, cornices, canopies, gutters, eaves, or other architectural features may project into required setbacks up to 2.5 feet.
- ii. Balconies, decks, and porches without a roof or walls may project into a front or rear setback a maximum of 10 feet.

- iii. Attached structures under 30 inches in height may encroach into half of the required side setback.
- iv. An uncovered wheelchair ramp or stairway and necessary landings may project into required setbacks, provided they are setback a minimum of 3 feet from all property lines.
- v. Bay windows and chimneys may project into required setbacks up to 2 feet, provided that such features do not occupy, in the aggregate, more than 1/3 of the length of the building wall on which they are located and provided they are set back a minimum of 3 feet from all property lines.
- vi. Outdoor seating associated with a Restaurant Use Category may project a maximum of 12 feet into required setbacks, provided the space is at grade and is separated from the right-of-way by landscaping or a human-made barrier, subject to Building Permit review.

(h) Front Setback Averaging

If 25% or more of the lots in a block, or within a 300-foot span, whichever is less, on streets other than federal and state highways and designated major roads are occupied by buildings, the average front building line of those buildings determines the required front setback of the block. In nonresidential blocks, setback averaging must not result in a requirement that the front setback be greater than 50 feet from the street centerline.

**(i) Platted Front Setback**

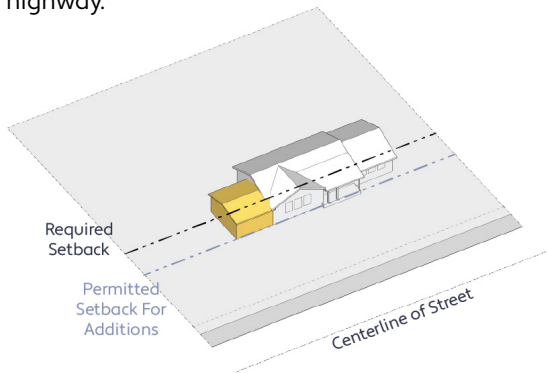
The minimum front setbacks required in this Ordinance apply except when the front setback established in a recorded subdivision is greater than those required for the zoning district, in which case the platted setback controls.

(j) Residential Additions

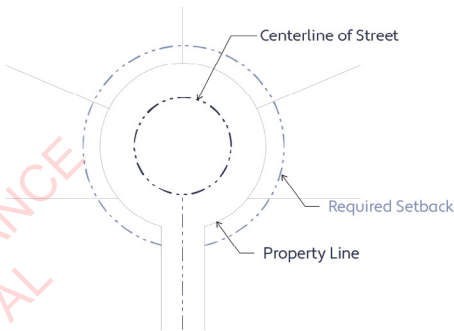
The Zoning Administrator may approve an Improvement Location Permit for a residential addition within the front setback if the primary residential structure is nonconforming because of its location in the required front setback, subject to all of the following criteria:

- i. The existing building line established by the primary residential structure is more than 40 feet from the centerline of the adjacent road and is not presently within any public rights-of-way.
- ii. The proposed addition will be at or behind the existing building line.

- iii. The gross floor area of the portion of the addition situated between the existing building line and the required setback is 20% or less of the gross floor area of the primary residential structure.
- iv. The yard in question is not adjacent to a designated major road or federal or state highway.



- (o) **Cul-de-sac Lots**
 - i. On lots with frontage on the turnaround of a cul-de-sac, the street centerline encircles the center point of the turnaround, halfway between the center point and the front property line.
 - ii. In no case may the front setback for a cul-de-sac lot be less than 35 feet from the front property line.
 - iii. On lots with frontage on a roundabout the applicable setback is a minimum of 35 feet from the property line.



(k) Front Setbacks Along Major Road

Road Name	Applicable Segment
County Road 6 (CR 6)	Beginning at West County Line Road on the west end to County Road 17 on the east end.
County Road 17 (CR 17)	Beginning at the IN/MI state line on the north end to County Road 142 on the south end.
County Road 20 (CR 20)	Beginning at the west County line on the west end to U.S. 33 on the east end.
Old U.S. 33	Beginning at the west County line on the west to the Elkhart city limits on the east.
Old U.S. 20	Portion of the road within County jurisdiction.

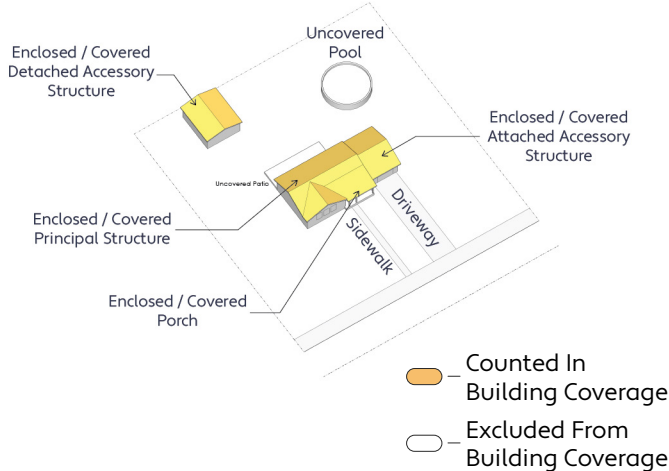
- (l) **Rear Setbacks Along Alleys**
One-half of an alley abutting the rear lot may be included as part of the property in the required rear setback.
- (m) **Corner Lots**
On corner lots, a front setback is required adjacent to each street. Additionally, the side and rear setback correspond to orientation of the building.
- (n) **Through Lots**
On lots extending through from one street to another, a front setback is required adjacent to each street.

Building Coverage, Gross & Net Floor Area

(5) Building Coverage

(a) Measurement Methodology

Building coverage is measured as the area of a lot occupied by the primary structure and accessory structures.



(b) Green Building Density Bonus

- i. Properties that utilize green building criteria (published by the United States Green Building Council for the purpose of Leadership in Energy and Environmental Design certification or by the National Association of Home Builders in ICC-700 National Green Building Standard) including but not limited to green roofs or solar panels are allowed an increase in maximum building coverage. An increase of 5% of allowable building coverage is permitted for every 5% of lot area that employs such systems.

Ex.) A one-acre nonresidential lot with a 1,500 square-foot green roof area and 700 square feet of solar panels would be allowed 55% building coverage, rather than 50%.

- (c) The square footage of structures that house permitted agricultural uses does not count toward the maximum building coverage limitation.

(6) Gross Floor Area (GFA)

(a) Measurement Methodology

Gross floor area is measured as the total area of all the floors of a building, including intermediately floored tiers, mezzanine, basements, etc., as measured from the exterior surfaces of the outside walls of the building.

(7) Net Floor Area (NFA)

(a) Residential Buildings

Net floor area of a residential building is measured as the square foot area used or intended to be used for livable or habitable space. NFA of a residential building does not include:

- i. Garages;
- ii. Open porches;
- iii. Breezeways;
- iv. Terraces; and
- v. Exterior stairways.

(b) Non-Residential Buildings

Net floor area of a non-residential building is measured as the square foot area used or intended to be used for service to the public as customers, patrons, clients, patients or tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise. NFA of a non-residential building does not include any area used for:

- i. Accessory storage to the primary use of a building;
- ii. Incidental repairs;
- iii. Accessory processing or packaging of merchandise;
- iv. Show windows, or offices incidental to the management or maintenance of a store or building;
- v. Restrooms;
- vi. Utilities; or
- vii. Dressing, fitting or alteration rooms.

(8) Building Height**(a) Measurement Methodology**

- i. Building height is measured as the vertical distance from the highest established curb elevation of the public right-of-way immediately adjacent to the building to the highest point of the roof.
- ii. If buildings are set back from the street line, the height of the building is measured from the average elevation of the finished lot grade at the front of the building.

(c) Special Cases

- i. Spires, steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, water towers, transmission towers, and other essential mechanical appurtenances may be erected to any height not prohibited by any other law, regulation, or ordinance.
- ii. For all detached single- and two-family dwellings, the height of the primary structure may be increased above 30 feet but not higher than 40 feet, if two side yards a minimum of 15 feet each are provided.
- iii. In nonresidential zoning districts, a building may be increased beyond the maximum permitted height if the front and rear setbacks are increased one foot for each two feet of height above the maximum permitted height.
- iv. If more than one-half of the height of a basement is above the established curb level or above the average level of the adjoining finished lot grade, where curb level has not been established, a basement is deemed a story for purposes of height measurement.

- (c) The developer of any property contiguous to a shoreline shall submit with its rezoning, Special Use or development plan application a certified survey depicting the shoreline and calculating the shoreline length, and said application may be granted only after such submission.
- (d) A parcel or lot with shoreline frontage that does not meet the shoreline frontage requirement for the first residential unit but was legally established and recorded prior to February 1, 2016, may be developed in accordance with [Sec. 158.12\(B\)](#) of this Ordinance.

(9) Density**(a) Measurement Methodology**

Density is measured by the number of dwelling units per net acre.

(11) Waterfront Development**(a) Applicability**

Any residential development, or mixed-use development with a residential component, other than a single-family home, campground, club, or neighborhood association occurring on property that has water frontage or access to waterfrontage.

(b) Minimum Required Shoreline Frontage

Minimum Required Shoreline Frontage
The minimum required shoreline frontage for waterfront developments is the sum of the following:

- i. 65 feet of shoreline for the first residential unit;
- ii. 35 feet of shoreline for the second residential unit; and
- iii. 20 feet of shoreline for each additional residential unit.

158.03 STANDARD DISTRICTS

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ELKHART DEVELOPMENT ORDINANCE
FINAL DRAFT FOR APPROVAL
2-13-2024



Photo: Elkhart County Convention & Visitors Bureau

158.03(A) A-1 AGRICULTURAL DISTRICT

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158.03(A) A-1 Agricultural District

(1) Purpose

The purpose of the A-1, Agricultural, zoning district is to accommodate family farms, modestly scaled agricultural operations, agri-businesses, large lot single-family detached dwellings not associated with an agricultural use, residential subdivisions and other compatible and supporting uses.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) Use Definitions & Use-Specific Standards

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

(g) Accessory Uses

Accessory use standards can be found in Sec. [158.05\(C\)](#).

(h) Temporary Uses

Temporary use standards can be found in Sec. [158.05\(D\)](#).

(i) Unlisted Use

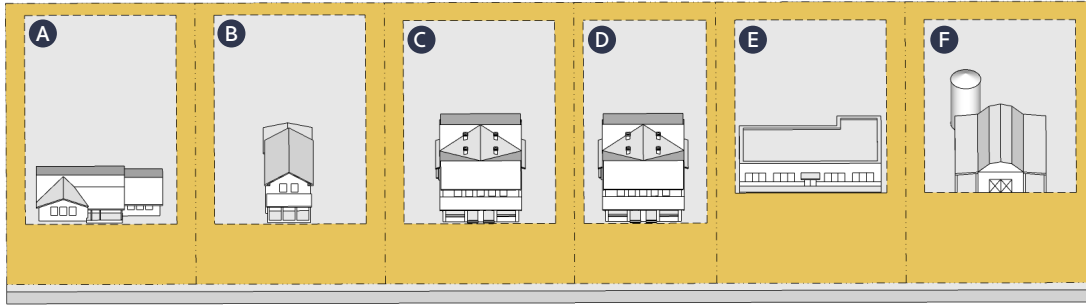
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses (cont.)

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Residential Uses	
Agri-Business	■ 158.05(B)(1)(a)	Stadium/Arena	■ 158.05(B)(5)(g)
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Vehicle Race Track, Large	■ * 158.05(B)(5)(h)
Agriculture, Livestock	■ * 158.05(B)(1)(c)	Vehicle Race Track, Small	■ * 158.05(B)(5)(i)
Concentrated Animal Feeding Operation	* See Sec. 158.04(D)	Retail & Service Uses	
Greenhouse, Retail	■ 158.05(B)(1)(e)	Barber or Beauty Shop	■ 158.05(B)(7)(c)
Livestock Sale or Auction	■ 158.05(B)(1)(f)	Bed & Breakfast Inn	■ * 158.05(B)(7)(d)
Roadside Stand, Tree Farm, U-Pick Produce, Community-Supported Agriculture Pickup	■ 158.05(B)(1)(g)	Buildings or Home Improvement Supplies	■ 158.05(B)(7)(e)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Farmers Market, Indoor	■ 158.05(B)(7)(g)
Stable, Public or Commercial	■ 158.05(B)(1)(i)	Farmers Market, Outdoor	■ 158.05(B)(7)(h)
Winery	■ 158.05(B)(1)(j)	Garden & Landscaping Supplies	■ 158.05(B)(7)(k)
Industrial Uses		Kennel	■ * 158.05(B)(7)(m)
Contractor Offices & Yards	■ 158.05(B)(2)(c)	Resort	■ 158.05(B)(7)(p)
Fertilizer Manufacturing & Storage	■ * 158.05(B)(2)(d)	Restaurant or Catering Establishment, with Drive-In or Drive-Through	■ * 158.05(B)(7)(q)
Resource Extraction	■ * 158.05(B)(2)(h)	Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ 158.05(B)(7)(r)
Warehousing & Freight Movement	■ 158.05(B)(2)(i)	Retail & Service	■ * 158.05(B)(7)(t)
Welding, Tool Repair, or Machine Shop	■ 158.05(B)(2)(k)	Self-Service Storage	■ 158.05(B)(7)(t)
Wholesale Trade	■ 158.05(B)(2)(l)	Veterinary Clinic	■ * 158.05(B)(7)(x)
Office Uses		Transportation Uses	
TV Studio or Radio Station	■ 158.05(B)(3)(b)	Airport/Heliport	■ 158.05(B)(8)(a)
Public & Civic Uses		Parking Lot or Structure, Commercial	■ 158.05(B)(8)(b)
Assembly Hall	■ 158.05(B)(4)(a)	Truck, Tractor, Trailer, or Bus Storage or Parking Yard, Lot, or Garage	■ * 158.05(B)(8)(d)
Cemetery	■ 158.05(B)(4)(b)	Utility Uses	
Community Center	■ 158.05(B)(4)(c)	Solar Energy System	* See Sec. 158.04(F)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)	Utilities, Major	■ 158.05(B)(9)(a)
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)	Utilities, Minor	■ 158.05(B)(9)(b)
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)	Wireless Communication Facility	* 158.05(B)(9)(c)
Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)		
Place of Worship	■ 158.05(B)(4)(k)		
School, Pre-K/Nursery	■ 158.05(B)(4)(l)		
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)		
Social Service Establishment	■ 158.05(B)(4)(n)		
University, College, or Seminary	■ 158.05(B)(4)(o)		
Recreation & Entertainment Uses			
Campground (Not Part of Park & Open Space)	■ 158.05(B)(5)(a)		
Casino	■ 158.05(B)(5)(b)		
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(d)		
Recreation/Entertainment, Indoor	■ 158.05(B)(5)(e)		
Recreation/Entertainment, Outdoor	■ 158.05(B)(5)(f)		

(3) Building Placement & Form

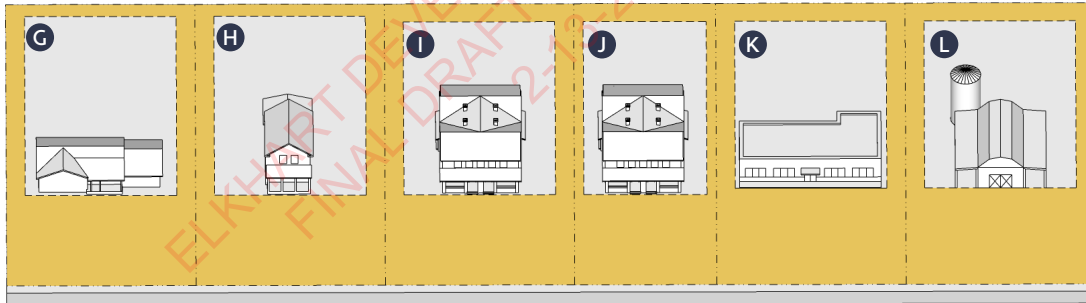
Named Road or Street



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	A	50'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	B	50'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Two-Family (w/o Sewer)	C	50'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two-Family (w/ Sewer)	D	50'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Non-Residential Uses	E	75'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	F	75'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

Numbered County Road or Street

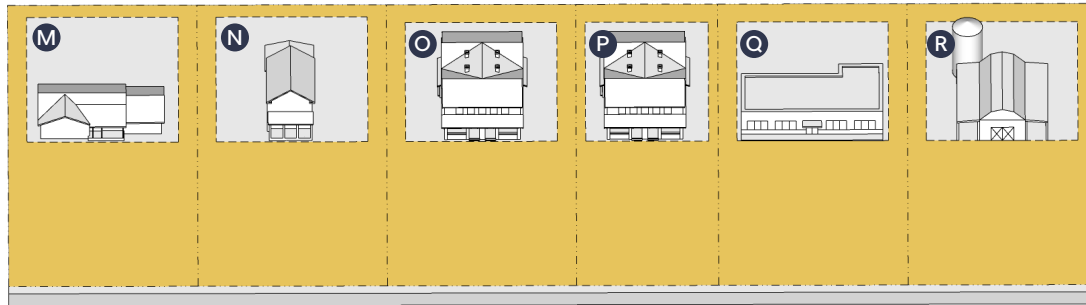


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	G	75'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	H	75'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Two-Family (w/o Sewer)	I	75'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two-Family (w/ Sewer)	J	75'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Non-Residential Uses	K	75'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	L	80'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	M	120'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	N	120'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Two-Family (w/o Sewer)	O	120'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two-Family (w/ Sewer)	P	120'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Non-Residential Uses	Q	120'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	R	120'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.**(4) General Standards****(a) Large Vehicles**

No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1.5 tons carrying capacity, or which has a bed more than 8 feet long, may be parked in any platted subdivision in the A-1 zoning district where lots are less than three acres, or on any unnumbered County Road in an A-1 Subdivision.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).**(5) Access, Parking, & Loading**

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).**(7) Buffering****(a) Non-Agricultural or Nonresidential Uses**

Non-agricultural or nonresidential uses in the A-1 district are required to provide a Class 1 boundary buffer, as outlined in [Sec. 158.06\(E\)](#), when adjacent to a residential use in an R-1, R-2, R-3, or R-4 district.

(b) Agricultural or Residential Uses

No buffering is required for agricultural or residential uses in the A-1 Agricultural District, unless specifically stated in [Sec. 158.05\(B\) Use-Specific Standards & Definitions](#) or [Article 158.06 Buffering & Screening](#).

(8) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).



Photo: Abonmarche

158.03(B) R-1 Single-Family District

Sections

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158.03(B) R-1 Single-Family District

(1) Purpose

The purpose of the R-1, Single-Family Residential, zoning district is to accommodate single-family detached dwellings and other compatible and supporting uses on medium sized lots within a subdivision. The district should be applied within a municipality, generally in close proximity to a municipality or adjacent to another residential zoning district or use.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).

- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).

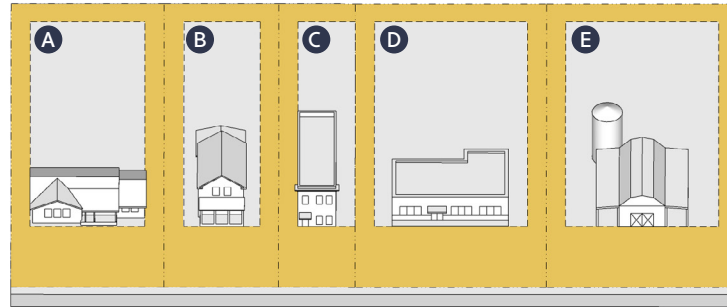
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses (cont.)

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Retail & Service Uses	
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Barber or Beauty Shop	■ 158.05(B)(7)(c)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Kennel	■ * 158.05(B)(7)(m)
Roadside Stand, Tree Farm, U-Pick Produce, Community-Supported Agriculture Pickup	■ 158.05(B)(1)(f)	Resort	■ 158.05(B)(7)(p)
Stable, Private and Noncommercial	■ 158.05(B)(1)(g)	Utility Uses	
Public & Civic Uses		Solar Energy System	* See Sec. 158.04(F)
Assembly Hall	■ 158.05(B)(4)(a)	Utilities, Major	■ 158.05(B)(9)(a)
Cemetery	■ 158.05(B)(4)(b)	Utilities, Minor	■ 158.05(B)(9)(b)
Community Center	■ 158.05(B)(4)(c)	Wireless Communication Facility	* 158.05(B)(9)(c)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)		
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)		
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)		
Place of Worship	■ 158.05(B)(4)(k)		
School, Pre-K/Nursery	■ 158.05(B)(4)(l)		
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)		
Social Service Establishment	■ 158.05(B)(4)(n)		
University, College, or Seminary	■ 158.05(B)(4)(o)		
Recreation & Entertainment Uses			
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(d)		
Stadium/Arena	■ 158.05(B)(5)(g)		
Residential Uses			
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)		
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)		
Group Home, 8 Residents or Fewer	■ 158.05(B)(6)(g)		
Group Home, More than 8 Residents	■ 158.05(B)(6)(h)		
Group Home, State Regulated	* See 158.05(B)(6)(i)		
Manufactured Home (Permanent Foundation)	■ 158.05(B)(6)(j)		
Manufactured Home (Temporary Foundation), Park or Subdivision	■ * 158.05(B)(6)(k)		

(3) Building Placement & Form

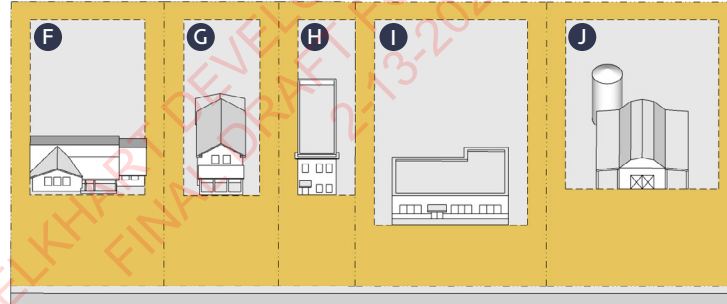
Named Road or Street



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	A	50'	10'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single-Family (w/ Sewer)	B	50'	10'	15'	7,200 sq. ft.	60'	30'	30%	35%
Single-Family (Attached)	C	50'	10'/0'	15'	5,000 sq. ft.	40'	30'	25%	30%
Non-Residential Uses	D	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Uses	E	75'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

Numbered County Road or Street

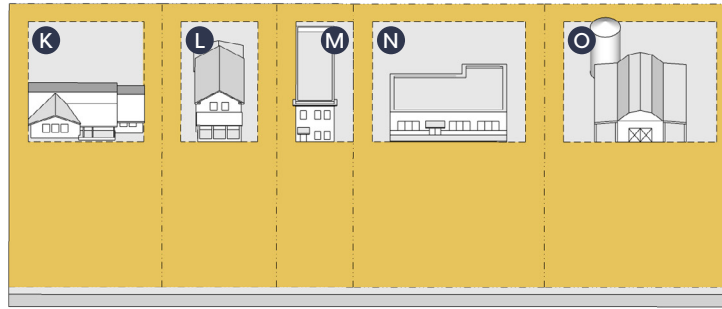


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	F	75'	10'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single-Family (w/ Sewer)	G	75'	10'	15'	7,200 sq. ft.	60'	30'	30%	35%
Single-Family (Attached)	H	75'	10'/0'	15'	5,000 sq. ft.	40'	30'	25%	30%
Non-Residential Uses	I	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Uses	J	80'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	K	120'	10'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single-Family (w/ Sewer)	L	120'	10'	15'	7,200 sq. ft.	60'	30'	30%	35%
Single-Family (Attached)	M	120'	10'/0'	15'	4,000 sq. ft.	40'	30'	25%	30%
Non-Residential Uses	N	120'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Uses	O	120'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(4) General Standards

(a) Large Vehicles

No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1.5 tons carrying capacity, or which has a bed more than 8 feet long, may be parked in any platted subdivision in the R-1 zoning district where lots are less than three acres, or on any unnumbered County Road in an R-1 Subdivision.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).



158.03(C) R-2 Two-Family District

Sections

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158.11(I)	Use Variance.....	11-24
158.11(J)	Developmental Variance.....	11-25
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158.11(P)	Certificate of Occupancy.....	11-33

158.03(C) R-2 Two-Family District

(1) Purpose

The purpose of the R-2, Two-Family Residential, zoning district is to accommodate single- and two-family dwellings (duplexes) and other compatible and supporting uses on medium sized lots within a subdivision. The district should be applied within a municipality, generally in close proximity to a municipality or adjacent to another residential zoning district or use.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

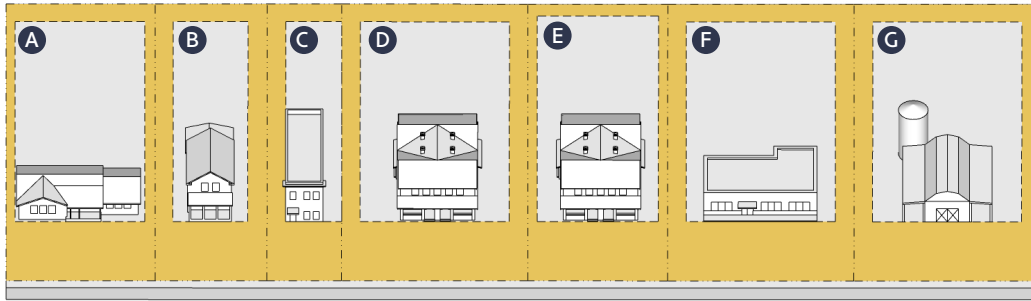
- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (■)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**
Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.
- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).
- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses (cont.)

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Retail & Service Uses	
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Barber or Beauty Shop	■ 158.05(B)(7)(c)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Bed & Breakfast Inn	■* 158.05(B)(7)(d)
Roadside Stand, Tree Farm, U-Pick Produce, Community-Supported Agriculture Pickup	■ 158.05(B)(1)(f)	Resort	■ 158.05(B)(7)(p)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Utility Uses	
Public & Civic Uses		Solar Energy System	* See Sec. 158.04(F)
Assembly Hall	■ 158.05(B)(4)(a)	Utilities, Major	■ 158.05(B)(9)(a)
Cemetery	■ 158.05(B)(4)(b)	Utilities, Minor	■ 158.05(B)(9)(b)
Community Center	■ 158.05(B)(4)(c)	Wireless Communication Facility	* 158.05(B)(9)(c)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)		
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)		
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)		
Place of Worship	■ 158.05(B)(4)(k)		
School, Pre-K/Nursery	■ 158.05(B)(4)(l)		
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)		
Social Service Establishment	■ 158.05(B)(4)(n)		
University, College, or Seminary	■ 158.05(B)(4)(o)		
Recreation & Entertainment Uses			
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(d)		
Stadium/Arena	■ 158.05(B)(5)(g)		
Residential Uses			
Assisted Living Facility	■ 158.05(B)(6)(a)		
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)		
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)		
Dwelling, Two-Family	■ 158.05(B)(6)(e)		
Group Home, 8 Residents or Fewer	■ 158.05(B)(6)(g)		
Group Home, More than 8 Residents	■ 158.05(B)(6)(h)		
Group Home, State Regulated	* See 158.05(B)(6)(i)		
Manufactured Home (Permanent Foundation)	■ 158.05(B)(6)(j)		
Manufactured Home (Temporary Foundation), Park or Subdivision	■* 158.05(B)(6)(k)		

(3) Building Placement & Form

Named Road or Street

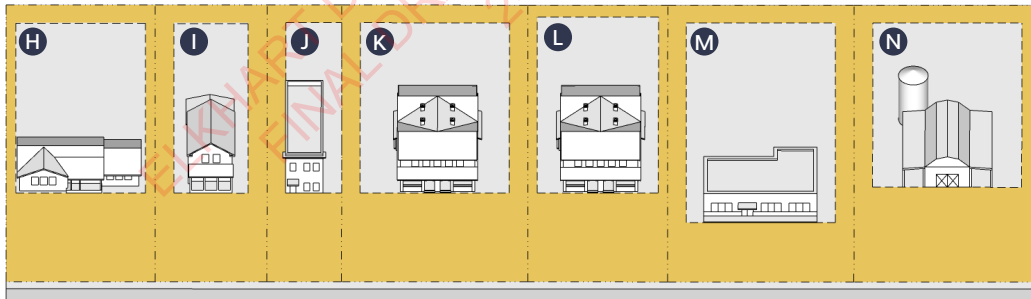


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	A	50'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	B	50'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	C	50'	10'/0'*	15'	5,000 sq. ft.	40'	30'	25%	30%
Two Family w/o Sewer	D	50'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	E	50'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Nonresidential Use	F	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	G	75'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

Numbered County Road or Street



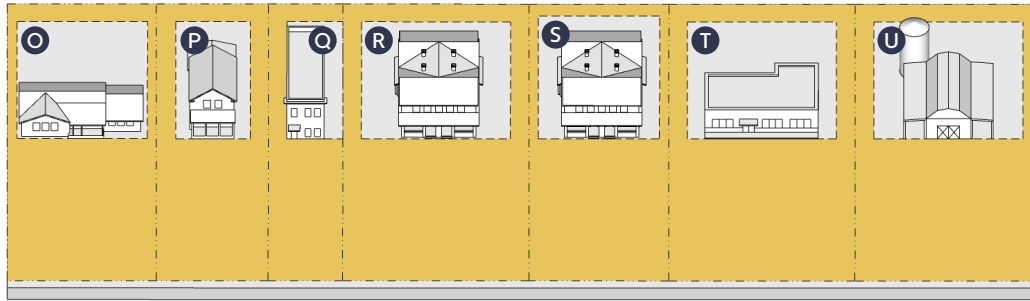
Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	H	75'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	I	75'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	J	75'	10'/0'*	15'	5,000 sq. ft.	40'	30'	25%	30%
Two Family w/o Sewer	K	75'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	L	75'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Nonresidential Use	M	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	N	80'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	O	120'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	P	120'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	Q	120'	10'/0'*	15'	5,000 sq. ft.	40'	30'	25%	30%
Two Family w/o Sewer	R	120'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	S	120'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Nonresidential Use	T	120'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	U	120'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

(4) General Standards

(a) Large Vehicles

No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1.5 tons carrying capacity, or which has a bed more than 8 feet long, may be parked in any platted subdivision in the R-2 zoning district where lots are less than three acres, or on any unnumbered County Road in an R-3 Subdivision.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).



Photo: Abonmarche

158.03(D) R-3 Multiple Family District

Sections

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Common Procedures

158.11(B)	Common Review Procedures.....	11-2
158.11(C)	Rezone (Zone Map Amendment).....	11-6
158.11(D)	General Planned Unit Development (GPUD).....	11-7
158.11(E)	Detailed Planned Unit Development (DPUD).....	11-8
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158.11(G)	Administrative Subdivision.....	11-20
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158.11(K)	Administrative Adjustment.....	11-26
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158.11(O)	Sign Permit.....	11-32
158.11(P)	Certificate of Occupancy.....	11-33

158.03(D) R-3 Multiple Family District

(1) Purpose

The purpose of the R-3, Multiple Family Residential, zoning district is to accommodate a variety of housing types, including multiple-family dwellings (apartments) and other compatible and supporting uses. The district should be applied within or in close proximity to a municipality.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

- (g) **Accessory Uses**

Accessory use standards can be found in Sec. [158.05\(C\)](#).

- (h) **Temporary Uses**

Temporary use standards can be found in Sec. [158.05\(D\)](#).

- (i) **Unlisted Use**

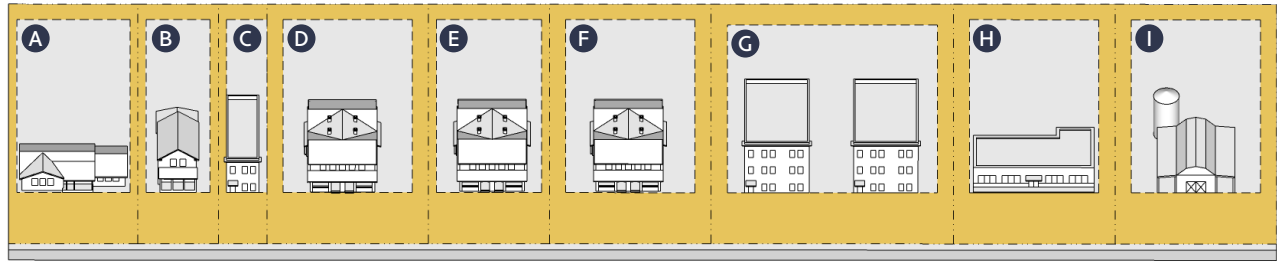
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses (cont.)

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Retail & Service Uses	
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Barber or Beauty Shop	■ 158.05(B)(7)(c)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Bed & Breakfast Inn	■* 158.05(B)(7)(d)
Roadside Stand, Tree Farm, U-Pick Produce, Community-Supported Agriculture Pickup	■ 158.05(B)(1)(g)	Resort	■ 158.05(B)(7)(p)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Utility Uses	
Public & Civic Uses		Solar Energy System	* See Sec. 158.04(F)
Assembly Hall	■ 158.05(B)(4)(a)	Utilities, Major	■ 158.05(B)(9)(a)
Cemetery	■ 158.05(B)(4)(b)	Utilities, Minor	■ 158.05(B)(9)(b)
Community Center	■ 158.05(B)(4)(c)	Wireless Communication Facility	* 158.05(B)(9)(c)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)		
Day Care, Adult or Child	■* 158.05(B)(4)(f)		
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)		
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)		
Place of Worship	■ 158.05(B)(4)(k)		
School, Pre-K/Nursery	■ 158.05(B)(4)(l)		
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)		
Social Service Establishment	■ 158.05(B)(4)(n)		
University, College, or Seminary	■ 158.05(B)(4)(o)		
Recreation & Entertainment Uses			
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(d)		
Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)		
Stadium/Arena	■ 158.05(B)(5)(g)		
Residential Uses			
Assisted Living Facility	■ 158.05(B)(6)(a)		
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)		
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)		
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)		
Dwelling, Two-Family	■ 158.05(B)(6)(e)		
Group Home, 8 Residents or Fewer	■ 158.05(B)(6)(g)		
Group Home, More than 8 Residents	■ 158.05(B)(6)(h)		
Group Home, State Regulated	* See 158.05(B)(6)(i)		
Manufactured Home (Permanent Foundation)	■ 158.05(B)(6)(j)		
Manufactured Home (Temporary Foundation), Park or Subdivision	■* 158.05(B)(6)(k)		

(3) Building Placement & Form

Named Road or Street

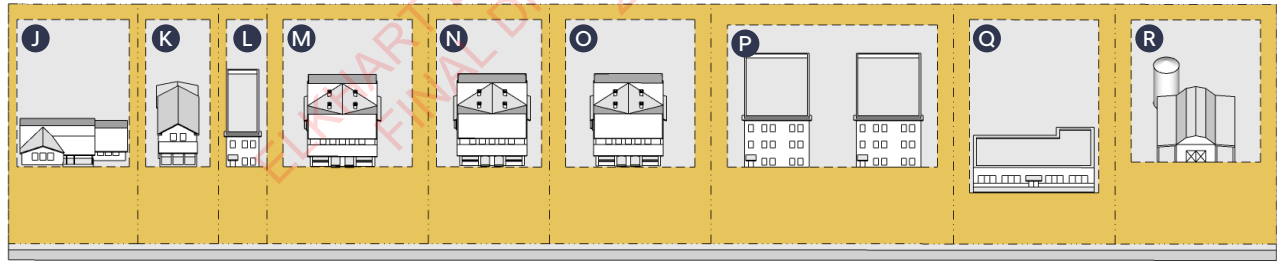


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	A	50'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	B	45'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	C	50'	5'/0'*	15'	4,000 sq. ft.	30'	30'	25%	30%
Two Family w/o Sewer	D	50'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	E	50'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	F	50'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	G	50'	10'	20'	6,000 sq. ft.	150'	40'	30%	40%
Nonresidential Use	H	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	I	75'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

Numbered County Road or Street



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	J	75'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	K	75'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	L	75'	5'/0'*	15'	4,000 sq. ft.	30'	30'	25%	30%
Two Family w/o Sewer	M	75'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	N	75'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	O	75'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	P	75'	10'	20'	6,000 sq. ft.	150'	40'	30%	40%
Nonresidential Use	Q	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	R	80'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	S	120'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	T	120'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	U	120'	5'/0'*	15'	4,000 sq. ft.	30'	30'	25%	30%
Two Family w/o Sewer	V	120'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	W	120'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	X	120'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	Y	120'	10'	20'	6,000 sq. ft.	150'	40'	30%	40%
Nonresidential Use	Z	120'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	AA	120'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

(4) General Standards

(a) Large Vehicles

No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1.5 tons carrying capacity, or which has a bed more than 8 feet long, may be parked in any platted subdivision in the R-3 zoning district where lots are less than three acres, or on any unnumbered County Road in an R-3 Subdivision.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).



Photo: Adobe Stock

158.03(E) R-4 Residential Mixed Use District

Sections

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158.03(E) R-4 Residential Mixed Use District

(1) Purpose

The purpose of the R-4, Residential Mixed Use, zoning district is to accommodate a variety of housing types, public and civic uses, and smaller-scale commercial uses. The district should be applied in areas with existing or proposed public wastewater service and where the existing or desired future character of development is a mix of residential and lower-impact nonresidential uses.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

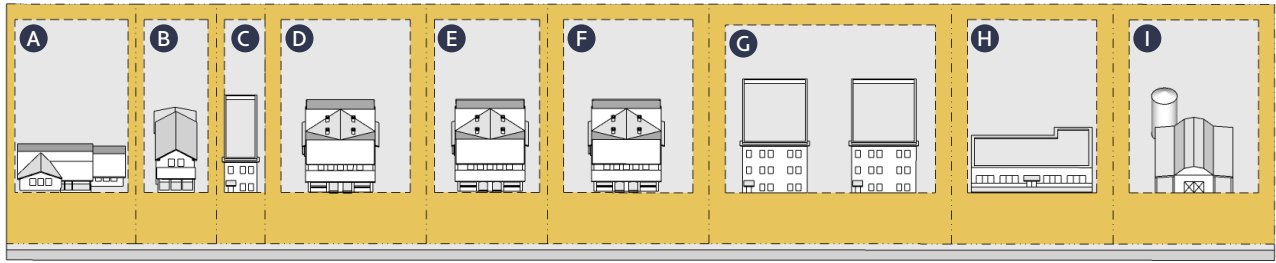
- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**
Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.
- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).
- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses (cont.)

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Retail & Service Uses	
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Barber or Beauty Shop	■ 158.05(B)(7)(c)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Bed & Breakfast Inn	■* 158.05(B)(7)(d)
Roadside Stand, Tree Farm, U-Pick Produce, Community-Supported Agriculture Pickup	■ 158.05(B)(1)(g)	Funeral Home	■ 158.05(B)(7)(j)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Resort	■ 158.05(B)(7)(p)
Office Uses		Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ 158.05(B)(7)(q)
Professional Offices	■* 158.05(B)(3)(a)	Retail & Service	■ 158.05(B)(7)(s)
Public & Civic Uses		Utility Uses	
Assembly Hall	■ 158.05(B)(4)(a)	Solar Energy System	* See Sec. 158.04(F)
Cemetery	■ 158.05(B)(4)(b)	Utilities, Major	■ 158.05(B)(9)(a)
Community Center	■ 158.05(B)(4)(c)	Utilities, Minor	■ 158.05(B)(9)(b)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)	Wireless Communication Facility	* 158.05(B)(9)(c)
Day Care, Adult or Child	■* 158.05(B)(4)(f)		
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)		
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)		
Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)		
Place of Worship	■ 158.05(B)(4)(k)		
School, Pre-K/Nursery	■ 158.05(B)(4)(l)		
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)		
Social Service Establishment	■ 158.05(B)(4)(n)		
University, College, or Seminary	■ 158.05(B)(4)(o)		
Recreation & Entertainment Uses			
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(e)		
Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)		
Stadium/Arena	■ 158.05(B)(5)(g)		
Residential Uses			
Assisted Living Facility	■ 158.05(B)(6)(a)		
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)		
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)		
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)		
Dwelling, Two-Family	■ 158.05(B)(6)(e)		
Dwelling, Upper-Story	■ 158.05(B)(6)(f)		
Group Home, 8 Residents or Fewer	■ 158.05(B)(6)(g)		
Group Home, More than 8 Residents	■ 158.05(B)(6)(h)		
Group Home, State Regulated	* See 158.05(B)(6)(i)		
Manufactured Home (Permanent Foundation)	■ 158.05(B)(6)(j)		
Manufactured Home (Temporary Foundation), Park or Subdivision	■* 158.05(B)(6)(k)		

(3) Building Placement & Form

Named Road or Street

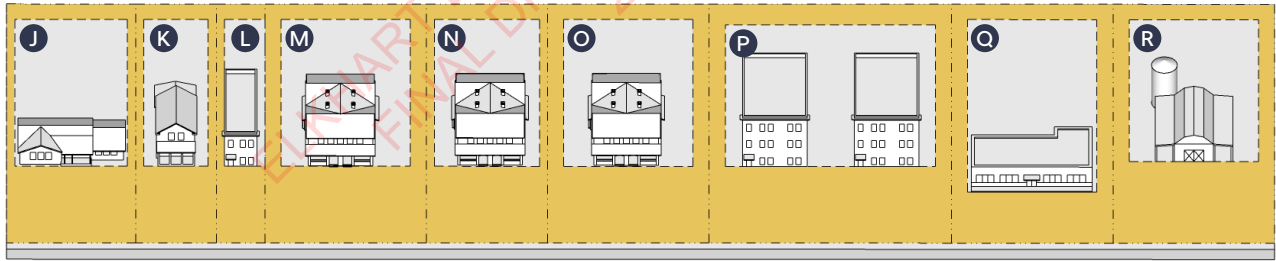


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	A	50'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	B	45'	5'	10'	6,000 sq. ft.	50'	30'	40%	45%
Single Family Attached	C	45'	5'/0'*	10'	3,000 sq. ft.	30'	30'	30%	35%
Two Family w/o Sewer	D	50'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	E	50'	5'	10'	10,000 sq. ft.	75'	30'	30%	35%
Three Family w/o Sewer	F	50'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	G	50'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	H	50'	5'	10'	10,000 sq. ft.	75'	30'	30%	35%
Agricultural Use	I	75'	5'	10'	10,000 sq. ft.	75'	30'	30%	35%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

Numbered County Road or Street



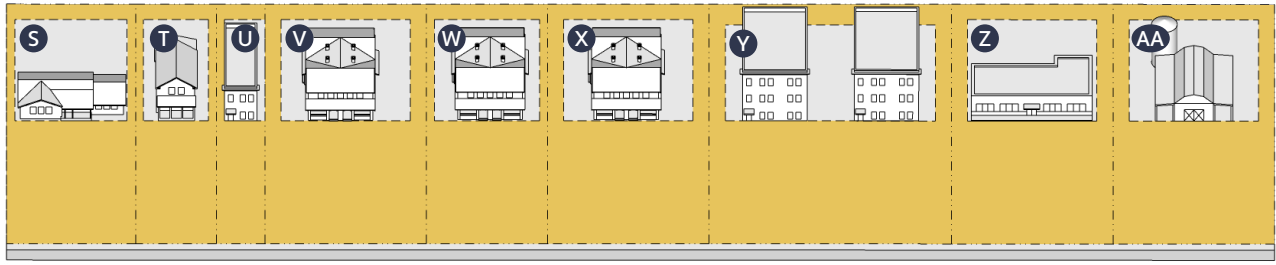
Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	J	75'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	K	75'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Single Family Attached	L	75'	5'/0'*	15'	4,000 sq. ft.	30'	30'	25%	30%
Two Family w/o Sewer	M	75'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	N	75'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	O	75'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	P	75'	10'	20'	6,000 sq. ft.	150'	40'	30%	40%
Nonresidential Use	Q	50'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%
Agricultural Use	R	80'	10'	15'	15,000 sq. ft.	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	S	120'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	T	120'	5'	10'	6,000 sq. ft.	50'	30'	40%	45%
Single Family Attached	U	120'	5'/0'*	10'	3,000 sq. ft.	30'	30'	30%	35%
Two Family w/o Sewer	V	120'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	W	120'	5'	10'	10,000 sq. ft.	75'	30'	30%	35%
Three Family w/o Sewer	X	120'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	Y	120'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	Z	120'	5'	10'	10,000 sq. ft.	75'	30'	30%	35%
Agricultural Use	AA	120'	5'	10'	10,000 sq. ft.	75'	30'	30%	35%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Interior side setback.

(4) General Standards

(a) Large Vehicles

No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1.5 tons carrying capacity, or which has a bed more than 8 feet long, may be parked in any platted subdivision in the R-4 zoning district where lots are less than three acres, or on any unnumbered County Road in an R-4 Subdivision.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).



Photo: Elkhart County Convention & Visitors Bureau

158.03(F) B-1 Neighborhood Business District

Sections

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Common Procedures

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158.03(E) B-1 Neighborhood Business District

(1) Purpose

The purpose of the B-1, Neighborhood Business, zoning district is to accommodate low intensity commercial uses that are compatible with residential development and serve the shopping and service needs of such residential areas. The zoning district may serve as a transitional district between residences and more intense commercial uses. The scale of uses is restricted to limit adverse impacts on nearby residential areas.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (■)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (*)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

(g) Accessory Uses

Accessory use standards can be found in Sec. [158.05\(C\)](#).

(h) Temporary Uses

Temporary use standards can be found in Sec. [158.05\(D\)](#).

(i) Unlisted Use

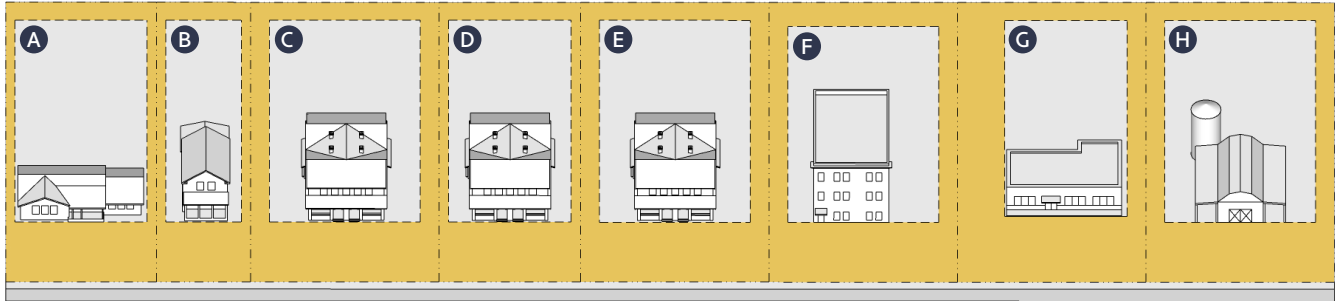
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses (cont.)

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Retail & Service Uses	
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Manufactured Home (Permanent Foundation)	■ 158.05(B)(6)(j)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Manufactured Home (Temporary Foundation), Park or Subdivision	■ * 158.05(B)(6)(k)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Transportation Uses	
Office Uses		Barber or Beauty Shop	■ 158.05(B)(7)(c)
Professional Offices	■ 158.05(B)(3)(a)	Bed & Breakfast Inn	■ * 158.05(B)(7)(d)
Public & Civic Uses		Building or Home Improvement Supplies	■ 158.05(B)(7)(e)
Assembly Hall	■ 158.05(B)(4)(a)	Farmers Market, Indoor	■ 158.05(B)(7)(g)
Cemetery	■ 158.05(B)(4)(b)	Farmers Market, Outdoor	■ 158.05(B)(7)(h)
Community Center	■ 158.05(B)(4)(c)	Funeral Home	■ 158.05(B)(7)(j)
Correctional Facility	■ 158.05(B)(4)(d)	Hotel/Motel	■ 158.05(B)(7)(l)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)	Kennel	■ * 158.05(B)(7)(m)
Day Care, Adult or Child	■ * 158.05(B)(4)(f)	Pet Store	■ 158.05(B)(7)(o)
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)	Resort	■ 158.05(B)(7)(p)
Hospital	■ 158.05(B)(4)(h)	Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ 158.05(B)(7)(q)
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)	Retail & Service	■ 158.05(B)(7)(s)
Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)	Veterinary Clinic	■ 158.05(B)(7)(x)
Place of Worship	■ 158.05(B)(4)(k)	Utility Uses	
School, Pre-K/Nursery	■ 158.05(B)(4)(l)	Solar Energy System	* See Sec. 158.04(F)
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)	Utilities, Major	■ 158.05(B)(9)(a)
Social Service Establishment	■ 158.05(B)(4)(n)	Utilities, Minor	■ 158.05(B)(9)(b)
University, College, or Seminary	■ 158.05(B)(4)(o)	Wireless Communication Facility	* 158.05(B)(9)(c)
Recreation & Entertainment Uses			
Casino	■ 158.05(B)(5)(b)		
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(d)		
Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)		
Recreation & Entertainment, Outdoor	■ 158.05(B)(5)(f)		
Stadium/Arena	■ 158.05(B)(5)(g)		
Vehicle Race Track, Small	■ * 158.05(B)(5)(i)		
Residential Uses			
Assisted Living Facility	■ 158.05(B)(6)(a)		
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)		
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)		
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)		
Dwelling, Two-Family	■ 158.05(B)(6)(e)		
Dwelling, Upper-Story	■ 158.05(B)(6)(f)		
Group Home, 8 Residents or Fewer	■ 158.05(B)(6)(g)		
Group Home, More than 8 Residents	■ 158.05(B)(6)(h)		
Group Home, State Regulated	* See 158.05(B)(6)(i)		

(3) Building Placement & Form

Named Road or Street

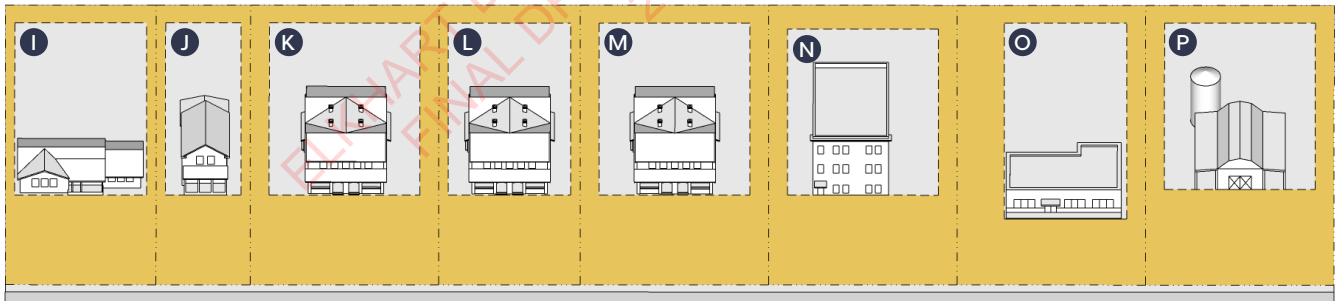


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	A	50'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	B	50'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Two Family w/o Sewer	C	50'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	D	50'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	E	50'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	F	50'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	G	55'	10'/25'*	15'	None	None	40'	50%	50%
Agricultural Use	H	75'	10'/25'*	15'	None	None	40'	50%	50%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

Numbered County Road or Street



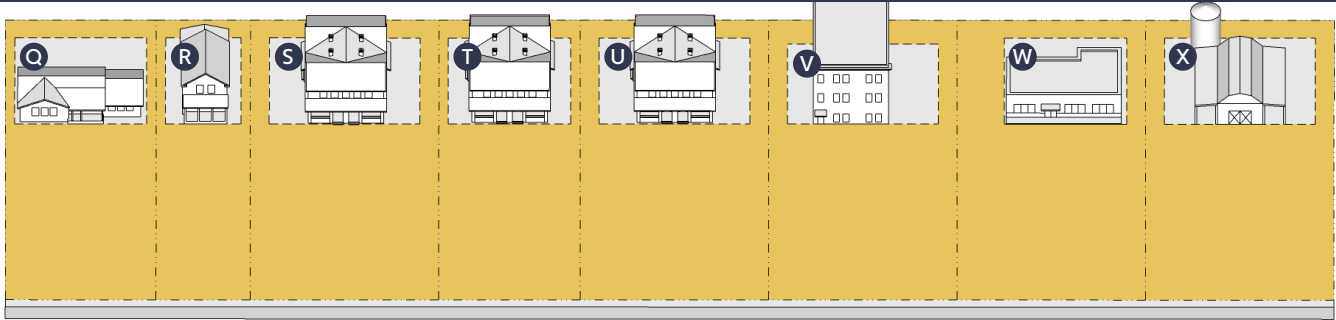
Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	I	75'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	J	75'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Two Family w/o Sewer	K	75'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	L	75'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	M	75'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	N	75'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	O	55'	10'/25'*	15'	None	None	40'	50%	50%
Agricultural Use	P	80'	10'/25'*	15'	None	None	40'	50%	50%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	Q	120'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	R	120'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Two Family w/o Sewer	S	120'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	T	120'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	U	120'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	V	120'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	W	120'	10'/25'*	15'	None	None	40'	50%	50%
Agricultural Use	X	120'	10'/25'*	15'	None	None	40'	50%	50%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
■	■	■	■	■	■

For all sign standards see [Article 158.08](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).



Photo: Elkhart County Convention & Visitors Bureau

158.03(G) B-2 General Business District

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158.03(G) B-2 General Business District

(1) Purpose

The purpose of the B-2, General Business, zoning district is to accommodate a variety of medium intensity retail, commercial, service, dining and entertainment uses. The uses should be expected to take place in stand-alone buildings or in strip centers. The zoning district may serve as a transitional district between less intense commercial uses and limited manufacturing uses.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).

- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).

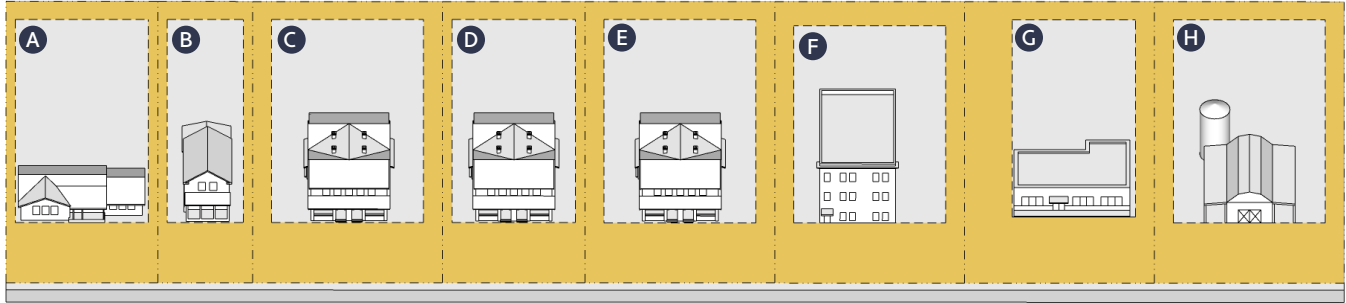
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Industrial Uses	
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Contractor Offices and Yards	■ 158.05(B)(2)(c)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Office Uses	
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Professional Offices	■ 158.05(B)(3)(a)
Winery	■ 158.05(B)(1)(j)	TV Studio or Radio Station	■ 158.05(B)(3)(b)
Industrial Uses		Public & Civic Uses	
Contractor Offices and Yards	■ 158.05(B)(2)(c)	Assembly Hall	■ 158.05(B)(4)(a)
Office Uses		Cemetery	■ 158.05(B)(4)(b)
Professional Offices	■ 158.05(B)(3)(a)	Community Center	■ 158.05(B)(4)(c)
TV Studio or Radio Station	■ 158.05(B)(3)(b)	Correctional Facility	■ 158.05(B)(4)(d)
Public & Civic Uses		County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)
Assembly Hall	■ 158.05(B)(4)(a)	Day Care, Adult or Child	■ * 158.05(B)(4)(f)
Cemetery	■ 158.05(B)(4)(b)	Emergency Services, Fire or Police	■ 158.05(B)(4)(g)
Community Center	■ 158.05(B)(4)(c)	Hospital	■ 158.05(B)(4)(h)
Correctional Facility	■ 158.05(B)(4)(d)	Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)	Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)
Day Care, Adult or Child	■ * 158.05(B)(4)(f)	Place of Worship	■ 158.05(B)(4)(k)
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)	School, Pre-K/Nursery	■ 158.05(B)(4)(l)
Hospital	■ 158.05(B)(4)(h)	School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)	Social Service Establishment	■ 158.05(B)(4)(n)
Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)	University, College, or Seminary	■ 158.05(B)(4)(o)
Place of Worship	■ 158.05(B)(4)(k)	Recreation & Entertainment Uses	
School, Pre-K/Nursery	■ 158.05(B)(4)(l)	Casino	■ 158.05(B)(5)(b)
School, Public or Private Elementary, Middle, or High	■ 158.05(B)(4)(m)	Marina	■ 158.05(B)(5)(c)
Social Service Establishment	■ 158.05(B)(4)(n)	Parks & Open Space	■ 158.05(B)(5)(d)
University, College, or Seminary	■ 158.05(B)(4)(o)	Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)
Recreation & Entertainment Uses		Recreation & Entertainment, Outdoor	■ 158.05(B)(5)(f)
Casino	■ 158.05(B)(5)(b)	Stadium/Arena	■ 158.05(B)(5)(g)
Marina	■ 158.05(B)(5)(c)	Vehicle Race Track, Small	■ * 158.05(B)(5)(i)
Parks & Open Space	■ 158.05(B)(5)(d)	Residential Uses	
Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)	Assisted Living Facility	■ 158.05(B)(6)(a)
Recreation & Entertainment, Outdoor	■ 158.05(B)(5)(f)	Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)
Stadium/Arena	■ 158.05(B)(5)(g)	Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)
Vehicle Race Track, Small	■ * 158.05(B)(5)(i)	Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)
Residential Uses		Dwelling, Two-Family	■ 158.05(B)(6)(e)
Assisted Living Facility	■ 158.05(B)(6)(a)	Retail & Service Uses	
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Bar, Microbrewery, or Tavern	■ 158.05(B)(7)(b)
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Barber or Beauty Shop	■ 158.05(B)(7)(c)
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Bed & Breakfast Inn	■ * 158.05(B)(7)(d)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Building or Home Improvement Supplies	■ 158.05(B)(7)(e)
Residential Uses		Car Wash	■ 158.05(B)(7)(f)
Assisted Living Facility	■ 158.05(B)(6)(a)	Farmers Market, Indoor	■ 158.05(B)(7)(g)
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Farmers Market, Outdoor	■ 158.05(B)(7)(h)
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Funeral Home	■ 158.05(B)(7)(j)
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Garden and Landscaping Supplies	■ 158.05(B)(7)(k)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Hotel/Motel	■ 158.05(B)(7)(l)
Residential Uses		Kennel	■ 158.05(B)(7)(m)
Assisted Living Facility	■ 158.05(B)(6)(a)	Manufactured Home Sales or Rental	■ 158.05(B)(7)(n)
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Pet Store	■ 158.05(B)(7)(o)
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Resort	■ 158.05(B)(7)(p)
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Restaurant or Catering Establishment, with Drive-In or Drive-Through	■ 158.05(B)(7)(q)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ 158.05(B)(7)(r)
Residential Uses		Retail & Service	■ 158.05(B)(7)(s)
Assisted Living Facility	■ 158.05(B)(6)(a)	Self-Service Storage	■ 158.05(B)(7)(t)
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Vehicle Repair, Minor	■ 158.05(B)(7)(v)
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Vehicle Sales or Rental	■ 158.05(B)(7)(w)
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Veterinary Clinic	■ 158.05(B)(7)(x)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Transportation Uses	
Residential Uses		Parking Lot or Structure, Commercial	■ 158.05(B)(8)(b)
Assisted Living Facility	■ 158.05(B)(6)(a)	Passenger Terminal, Bus or Train	■ 158.05(B)(8)(c)
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage	■ 158.05(B)(8)(d)
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Utility Uses	
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Solar Energy System	* See Sec. 158.04(F)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Utilities, Major	■ 158.05(B)(9)(a)
Residential Uses		Utilities, Minor	■ 158.05(B)(9)(b)
Assisted Living Facility	■ 158.05(B)(6)(a)	Wireless Communication Facility	* 158.05(B)(9)(c)
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Utility Uses	
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Solar Energy System	* See Sec. 158.04(F)
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Utilities, Major	■ 158.05(B)(9)(a)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Utilities, Minor	■ 158.05(B)(9)(b)
Residential Uses		Wireless Communication Facility	* 158.05(B)(9)(c)
Assisted Living Facility	■ 158.05(B)(6)(a)	Utility Uses	
Dwelling or Complex, Multiple-Family	■ 158.05(B)(6)(b)	Solar Energy System	* See Sec. 158.04(F)
Dwelling, Single-Family (attached)	■ 158.05(B)(6)(c)	Utilities, Major	■ 158.05(B)(9)(a)
Dwelling, Single-Family (detached)	■ 158.05(B)(6)(d)	Utilities, Minor	■ 158.05(B)(9)(b)
Dwelling, Two-Family	■ 158.05(B)(6)(e)	Wireless Communication Facility	* 158.05(B)(9)(c)

(3) Building Placement & Form

Named Road or Street

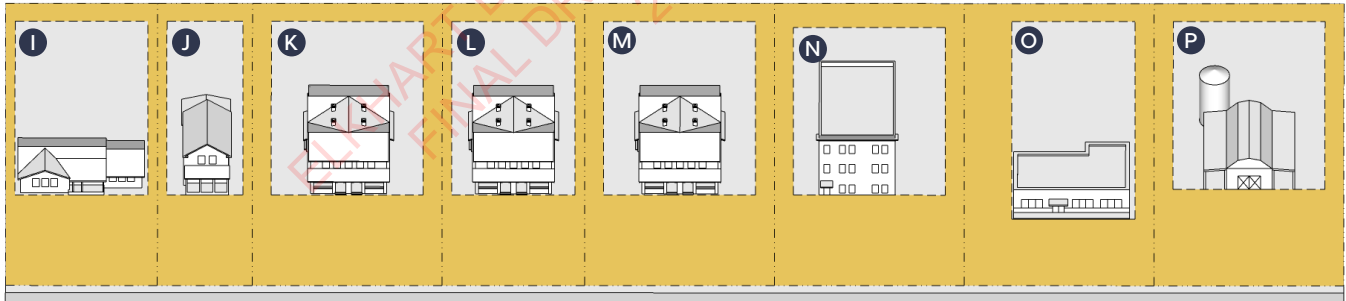


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	A	50'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	B	50'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Two Family w/o Sewer	C	50'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	D	50'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	E	50'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	F	50'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	G	55'	10'/25'*	15'	None	None	60'	75%	75%
Agricultural Use	H	75'	10'/25'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

Numbered County Road or Street



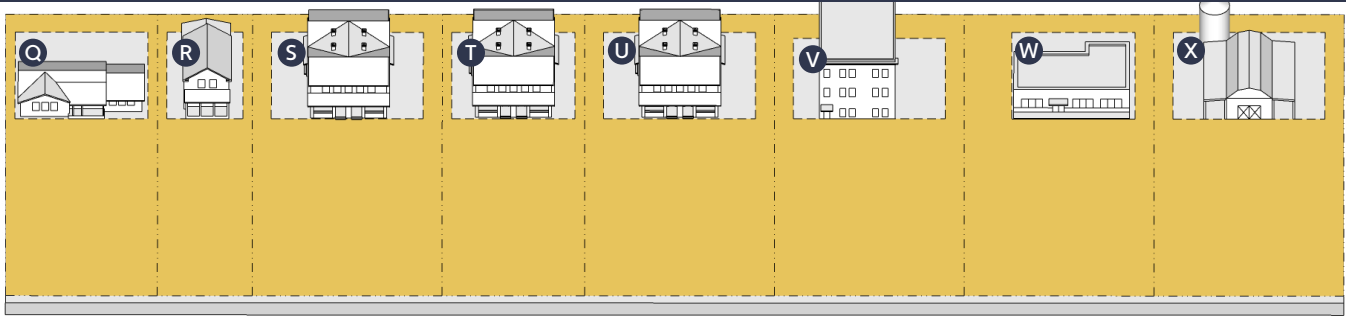
Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	I	75'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	J	75'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Two Family w/o Sewer	K	75'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	L	75'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	M	75'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	N	75'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	O	55'	10'/25'*	15'	None	None	60'	75%	75%
Agricultural Use	P	80'	10'/25'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single Family w/o Sewer	Q	120'	5'	15'	15,000 sq. ft.	80'	30'	25%	30%
Single Family w/ Sewer	R	120'	5'	15'	7,200 sq. ft.	50'	30'	30%	35%
Two Family w/o Sewer	S	120'	10'	15'	30,000 sq. ft.	100'	30'	25%	30%
Two Family w/ Sewer	T	120'	5'	15'	13,200 sq. ft.	75'	30'	25%	30%
Three Family w/o Sewer	U	120'	10'	15'	10,000 sq. ft.	100'	30'	30%	40%
Multiple Family w/ Sewer	V	120'	10'	20'	3,000 sq. ft.	100'	40'	30%	40%
Nonresidential Use	W	120'	10'/25'*	15'	None	None	60'	75%	75%
Agricultural Use	X	120'	10'/25'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
■	■	■	■	■	■

For all sign standards see [Article 158.08](#).



Photo: Adobe Stock Photo

158.03(H) B-3 Heavy Business District

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158.03(H) B-3 Heavy Business District

(1) Purpose

The purpose of the B-3, Heavy Business, zoning district is to accommodate higher impact community and regional developments. The district also accommodates uses related to vehicular travel, interstate commerce, heavy equipment, trucking and outdoor storage. The zoning district is appropriately applied adjacent to interstates and major state or county highways.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).

- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).

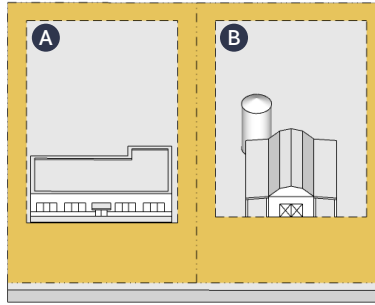
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses

Use		Use-Specific Standards & Definitions	Use		Use-Specific Standards & Definitions
Agricultural Uses			Residential Uses		
Agriculture, Field and Row Crops	■	158.05(B)(1)(b)	Assisted Living Facility	■	158.05(B)(6)(a)
Greenhouse, Retail	■	158.05(B)(1)(e)	Dwelling or Complex, Multiple-Family	■	158.05(B)(6)(b)
Stable, Private and Noncommercial	■	158.05(B)(1)(h)	Dwelling, Upper-Story	■	158.05(B)(6)(f)
Winery	■	158.05(B)(1)(j)	Retail & Service Uses		
Industrial Uses			Bar, Microbrewery, or Tavern	■	158.05(B)(7)(b)
Contractor Offices and Yards	■	158.05(B)(2)(c)	Barber or Beauty Shop	■	158.05(B)(7)(c)
Warehousing and Freight Movement	■	158.05(B)(2)(i)	Bed & Breakfast Inn	■	158.05(B)(7)(d)
Welding, Tool Repair, or Machine Shop	■	158.05(B)(2)(k)	Building or Home Improvement Supplies	■	158.05(B)(7)(e)
Wholesale Trade	■	158.05(B)(2)(l)	Car Wash	■	158.05(B)(7)(f)
Office Uses			Farmers Market, Indoor	■	158.05(B)(7)(g)
Professional Offices	■	158.05(B)(3)(a)	Farmers Market, Outdoor	■	158.05(B)(7)(h)
TV Studio or Radio Station	■	158.05(B)(3)(b)	Fuel Sales	■	158.05(B)(7)(i)
Public & Civic Uses			Funeral Home	■	158.05(B)(7)(j)
Assembly Hall	■	158.05(B)(4)(a)	Garden and Landscaping Supplies	■	158.05(B)(7)(k)
Cemetery	■	158.05(B)(4)(b)	Hotel/Motel	■	158.05(B)(7)(l)
Community Center	■	158.05(B)(4)(c)	Kennel	■	158.05(B)(7)(m)
Correctional Facility	■	158.05(B)(4)(d)	Manufactured Home Sales or Rental	■	158.05(B)(7)(n)
County or Municipal Government Offices or Facilities	■	158.05(B)(4)(e)	Pet Store	■	158.05(B)(7)(o)
Day Care, Adult or Child	■ *	158.05(B)(4)(f)	Resort	■	158.05(B)(7)(p)
Emergency Services, Fire or Police	■	158.05(B)(4)(g)	Restaurant or Catering Establishment, with Drive-In or Drive-Through	■	158.05(B)(7)(q)
Hospital	■	158.05(B)(4)(h)	Restaurant or Catering Establishment, without Drive-In or Drive-Through	■	158.05(B)(7)(r)
Library/Museum/Cultural Facility	■	158.05(B)(4)(i)	Retail & Service	■	158.05(B)(7)(s)
Medical/Dental Clinic or Laboratory	■	158.05(B)(4)(j)	Self-Service Storage	■	158.05(B)(7)(t)
Place of Worship	■	158.05(B)(4)(k)	Vehicle Repair, Major	■	158.05(B)(7)(u)
School, Pre-K/Nursery	■	158.05(B)(4)(l)	Vehicle Repair, Minor	■	158.05(B)(7)(v)
School, Public or Private Elementary, Middle, or High	■	158.05(B)(4)(m)	Vehicle Sales or Rental	■	158.05(B)(7)(w)
Social Service Establishment	■	158.05(B)(4)(n)	Veterinary Clinic	■	158.05(B)(7)(x)
University, College, or Seminary	■	158.05(B)(4)(o)	Transportation Uses		
Recreation & Entertainment Uses			Airport or Heliport	■	158.05(B)(8)(a)
Casino	■	158.05(B)(5)(b)	Parking Lot or Structure, Commercial	■	158.05(B)(8)(b)
Marina	■	158.05(B)(5)(c)	Passenger Terminal, Bus or Train	■	158.05(B)(8)(c)
Parks & Open Space	■	158.05(B)(5)(d)	Truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage	■	158.05(B)(8)(d)
Recreation & Entertainment, Indoor	■	158.05(B)(5)(e)	Utility Uses		
Recreation & Entertainment, Outdoor	■	158.05(B)(5)(f)	Solar Energy System	*	See Sec. 158.04(F)
Stadium/Arena	■	158.05(B)(5)(g)	Utilities, Major	■	158.05(B)(9)(a)
Vehicle Race Track, Small	■ *	158.05(B)(5)(i)	Utilities, Minor	■	158.05(B)(9)(b)
			Wireless Communication Facility	*	158.05(B)(9)(c)

(3) Building Placement & Form

Named Road or Street

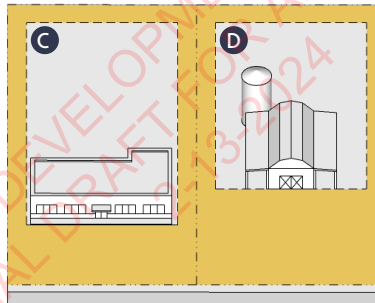


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	55'	10'/25'*	15'	None	None	60'	75%	75%
Agricultural Use	B	75'	10'/25'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

Numbered County Road or Street



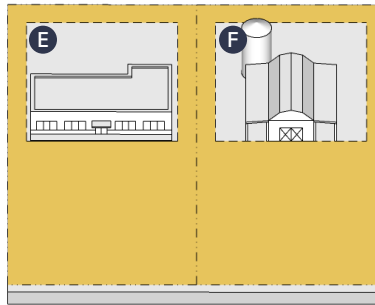
Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	C	55'	10'/25'*	15'	None	None	60'	75%	75%
Agricultural Use	D	80'	10'/25'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	E	120'	10'/25'*	15'	None	None	60'	75%	75%
Agricultural Use	F	120'	10'/25'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board

For all sign standards see [Article 158.08](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).



Photo: Abonmarche

158.03(I) M-1 Limited Manufacturing District

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158.03(I) M-1 Limited Manufacturing District

(1) Purpose

The purpose of the M-1, Limited Manufacturing, zoning district is to accommodate less intense manufacturing, warehousing and distribution uses that are not significantly objectionable to surrounding properties in terms of truck traffic, noise, odor, smoke and other potential nuisance factors.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

(g) Accessory Uses

Accessory use standards can be found in Sec. [158.05\(C\)](#).

(h) Temporary Uses

Temporary use standards can be found in Sec. [158.05\(D\)](#).

(i) Unlisted Use

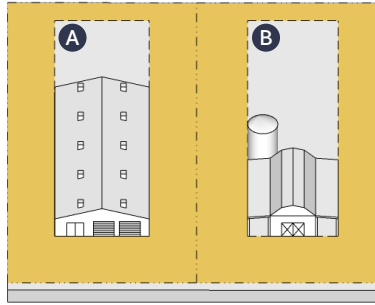
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Retail & Service Uses	
Agri-business	■ 158.05(B)(1)(a)	Bar, Microbrewery, or Tavern	■ 158.05(B)(7)(b)
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Building or Home Improvement Supplies	■ 158.05(B)(7)(e)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Car Wash	■ 158.05(B)(7)(f)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Farmers Market, Indoor	■ 158.05(B)(7)(g)
Winery	■ 158.05(B)(1)(j)	Farmers Market, Outdoor	■ 158.05(B)(7)(h)
Industrial Uses		Fuel Sales	■ 158.05(B)(7)(i)
Contractor Offices and Yards	■ 158.05(B)(2)(c)	Garden and Landscaping Supplies	■ 158.05(B)(7)(k)
Light Industrial	■ 158.05(B)(2)(g)	Hotel/Motel	■ 158.05(B)(7)(l)
Resource Extraction	■ * 158.05(B)(2)(h)	Kennel	■ 158.05(B)(7)(m)
Warehousing and Freight Movement	■ 158.05(B)(2)(i)	Manufactured Home Sales or Rental	■ 158.05(B)(7)(n)
Waste-Related Service	■ 158.05(B)(2)(j)	Pet Store	■ 158.05(B)(7)(o)
Welding, Tool Repair, or Machine Shop	■ 158.05(B)(2)(k)	Resort	■ 158.05(B)(7)(p)
Wholesale Trade	■ 158.05(B)(2)(l)	Restaurant or Catering Establishment, with Drive-In or Drive-Through	■ 158.05(B)(7)(q)
Office Uses		Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ 158.05(B)(7)(r)
Professional Offices	■ 158.05(B)(3)(a)	Retail & Service	■ 158.05(B)(7)(s)
TV Studio or Radio Station	■ 158.05(B)(3)(b)	Self-Service Storage	■ 158.05(B)(7)(t)
Public & Civic Uses		Vehicle Repair, Major	■ 158.05(B)(7)(u)
Assembly Hall	■ 158.05(B)(4)(a)	Vehicle Repair, Minor	■ 158.05(B)(7)(v)
Community Center	■ 158.05(B)(4)(c)	Vehicle Sales or Rental	■ 158.05(B)(7)(w)
Correctional Facility	■ 158.05(B)(4)(d)	Veterinary Clinic	■ 158.05(B)(7)(x)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)	Transportation Uses	
Day Care, Adult or Child	■ * 158.05(B)(4)(f)	Airport or Heliport	■ 158.05(B)(8)(a)
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)	Parking Lot or Structure, Commercial	■ 158.05(B)(8)(b)
Hospital	■ 158.05(B)(4)(h)	Passenger Terminal, Bus or Train	■ 158.05(B)(8)(c)
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)	Truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage	■ 158.05(B)(8)(d)
Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)	Utility Uses	
Place of Worship	■ 158.05(B)(4)(k)	Solar Energy System	* See Sec. 158.04(F)
Social Service Establishment	■ 158.05(B)(4)(n)	Utilities, Major	■ 158.05(B)(9)(a)
Recreation & Entertainment Uses		Utilities, Minor	■ 158.05(B)(9)(b)
Casino	■ 158.05(B)(5)(b)	Wireless Communication Facility	* 158.05(B)(9)(c)
Marina	■ 158.05(B)(5)(c)		
Parks & Open Space	■ 158.05(B)(5)(d)		
Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)		
Recreation & Entertainment, Outdoor	■ 158.05(B)(5)(f)		
Stadium/Arena	■ 158.05(B)(5)(g)		
Vehicle Race Track, Small	■ 158.05(B)(5)(i)		

(3) Building Placement & Form

Named Road or Street

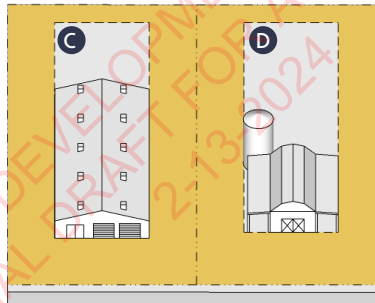


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	75'	25'/50'*	15'	None	None	60'	75%	75%
Agricultural Use	B	75'	25'/50'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

Numbered County Road or Street

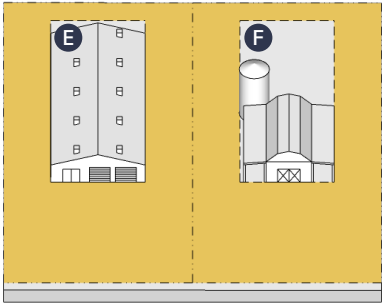


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	75'	25'/50'*	15'	None	None	60'	75%	75%
Agricultural Use	B	80'	25'/50'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(3) Building Placement & Form (cont.)
Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	120'	25'/50'*	15'	None	None	60'	75%	75%
Agricultural Use	B	120'	25'/50'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(5) Accessory Uses & Structures (6) Buffering & Screening

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).
Buffering and screening is required as outlined in [Article 158.06](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
■	■	■	■	■	■

For all sign standards see [Article 158.08](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).



Photo: Abonmarche

158.03(J) M-2 Heavy Manufacturing District

Sections

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Common Procedures

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158.11(H)	Special Use Permit.....	11-22
158.11(I)	Use Variance.....	11-24
158.11(J)	Developmental Variance.....	11-25
158.11(K)	Administrative Adjustment.....	11-26
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158.11(N)	Building Permit.....	11-31
158.11(O)	Sign Permit.....	11-32
158.11(P)	Certificate of Occupancy.....	11-33

158.03(J) M-2 Heavy Manufacturing District

(1) Purpose

The purpose of the M-2, Heavy Manufacturing, zoning district is to accommodate moderately and highly intense manufacturing uses and to prevent encroachment by residential and lighter commercial uses that would eventually lead to land use conflicts. Permitted uses may produce heavy truck traffic, noise, odor or smoke.

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.

(g) Accessory Uses

Accessory use standards can be found in Sec. [158.05\(C\)](#).

(h) Temporary Uses

Temporary use standards can be found in Sec. [158.05\(D\)](#).

(i) Unlisted Use

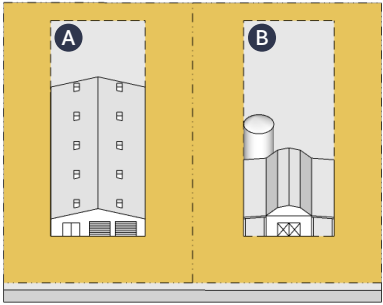
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

(2) Uses

Use	Use-Specific Standards & Definitions	Use	Use-Specific Standards & Definitions
Agricultural Uses		Recreation & Entertainment Uses	
Agri-business	■ 158.05(B)(1)(a)	Casino	■ 158.05(B)(5)(b)
Agriculture, Field and Row Crops	■ 158.05(B)(1)(b)	Marina	■ 158.05(B)(5)(c)
Greenhouse, Retail	■ 158.05(B)(1)(e)	Parks & Open Space	■ 158.05(B)(5)(d)
Stable, Private and Noncommercial	■ 158.05(B)(1)(h)	Recreation & Entertainment, Indoor	■ 158.05(B)(5)(e)
Winery	■ 158.05(B)(1)(j)	Recreation & Entertainment, Outdoor	■ 158.05(B)(5)(f)
Industrial Uses		Stadium/Arena	■ 158.05(B)(5)(g)
Animal Processing	■ 158.05(B)(2)(a)	Vehicle Race Track, Large	■ 158.05(B)(5)(h)
Bulk Storage of Explosives/Hazardous Material	■* 158.05(B)(2)(b)	Vehicle Race Track, Small	■ 158.05(B)(5)(i)
Contractor Offices and Yards	■ 158.05(B)(2)(c)	Retail & Service Uses	
Fertilizer manufacturing and storage	■* 158.05(B)(2)(d)	Adult Business	■ 158.05(B)(7)(a)
Heavy Industrial, Intense	■ 158.05(B)(2)(e)	Bar, Microbrewery, or Tavern	■ 158.05(B)(7)(b)
Heavy Industrial, Less Intense	■ 158.05(B)(2)(f)	Building or Home Improvement Supplies	■ 158.05(B)(7)(e)
Light Industrial	■ 158.05(B)(2)(g)	Car Wash	■ 158.05(B)(7)(f)
Resource Extraction	■* 158.05(B)(2)(h)	Farmers Market, Indoor	■ 158.05(B)(7)(g)
Warehousing and Freight Movement	■ 158.05(B)(2)(i)	Farmers Market, Outdoor	■ 158.05(B)(7)(h)
Waste-Related Service	■ 158.05(B)(2)(j)	Fuel Sales	■ 158.05(B)(7)(i)
Welding, Tool Repair, or Machine Shop	■ 158.05(B)(2)(k)	Garden and Landscaping Supplies	■ 158.05(B)(7)(k)
Wholesale Trade	■ 158.05(B)(2)(l)	Hotel/Motel	■ 158.05(B)(7)(l)
Wrecking, Junk, or Salvage Yard	■* 158.05(B)(2)(m)	Kennel	■ 158.05(B)(7)(m)
Office Uses		Manufactured Home Sales or Rental	■ 158.05(B)(7)(n)
Professional Offices	■ 158.05(B)(3)(a)	Pet Store	■ 158.05(B)(7)(o)
TV Studio or Radio Station	■ 158.05(B)(3)(b)	Resort	■ 158.05(B)(7)(p)
Public & Civic Uses		Restaurant or Catering Establishment, with Drive-In or Drive-Through	■ 158.05(B)(7)(q)
Assembly Hall	■ 158.05(B)(4)(a)	Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ 158.05(B)(7)(r)
Community Center	■ 158.05(B)(4)(c)	Retail & Service	■ 158.05(B)(7)(s)
Correctional Facility	■ 158.05(B)(4)(d)	Self-Service Storage	■ 158.05(B)(7)(t)
County or Municipal Government Offices or Facilities	■ 158.05(B)(4)(e)	Vehicle Repair, Major	■ 158.05(B)(7)(u)
Day Care, Adult or Child	■* 158.05(B)(4)(f)	Vehicle Repair, Minor	■ 158.05(B)(7)(v)
Emergency Services, Fire or Police	■ 158.05(B)(4)(g)	Vehicle Sales or Rental	■ 158.05(B)(7)(w)
Hospital	■ 158.05(B)(4)(h)	Veterinary Clinic	■ 158.05(B)(7)(x)
Library/Museum/Cultural Facility	■ 158.05(B)(4)(i)	Transportation Uses	
Medical/Dental Clinic or Laboratory	■ 158.05(B)(4)(j)	Airport or Heliport	■ 158.05(B)(8)(a)
Place of Worship	■ 158.05(B)(4)(k)	Parking Lot or Structure, Commercial	■ 158.05(B)(8)(b)
Social Service Establishment	■ 158.05(B)(4)(n)	Passenger Terminal, Bus or Train	■ 158.05(B)(8)(c)
		Truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage	■ 158.05(B)(8)(d)
		Utility Uses	
		Solar Energy System	* See Sec. 158.04(F)
		Utilities, Major	■ 158.05(B)(9)(a)
		Utilities, Minor	■ 158.05(B)(9)(b)
		Wireless Communication Facility	* 158.05(B)(9)(c)

(3) Building Placement & Form

Named Road or Street

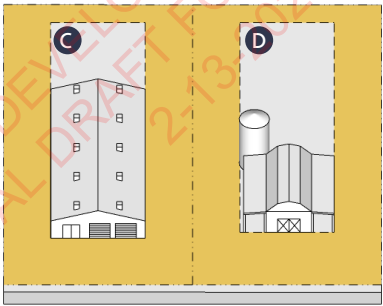


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	75'	25'/50'*	15'	None	None	60'	75%	75%
Agricultural Use	B	75'	25'/50'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

Numbered County Road or Street



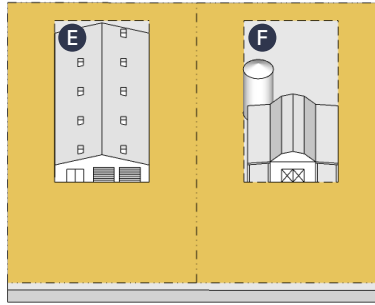
Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	75'	25'/50'*	15'	None	None	60'	75%	75%
Agricultural Use	B	80'	25'/50'*	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Nonresidential Use	A	120'	25'/50'	15'	None	None	60'	75%	75%
Agricultural Use	B	120'	25'/50'	15'	None	None	60'	75%	75%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

* Abutting or adjacent to a residential use or district.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For all sign standards see [Article 158.08](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).

158.04 SPECIAL PURPOSE & OVERLAY DISTRICTS

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Photo: Abonmarche

158.04(A) GPUD General & DPUD Detailed Planned Unit Development Overlays

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158.04(A) GPUD General & DPUD Detailed Planned Unit Development District

(1) Purpose

- (a) The purpose of the GPUD- and DPUD-, General and Detailed Planned Unit Development Overlay zoning districts is to allow an applicant the benefit of flexibility in development in exchange for increased public or private amenities that go beyond the requirements of this Development Ordinance. The GPUD- and DPUD- Overlay zoning districts encourage the unified design of attractive and functional residential, nonresidential and mixed use projects with the following possible characteristics:
- Compatibility with surrounding development through the use of buffering, screening, building exterior enhancements or by other means;
 - Integration of public open space or recreation areas;
 - Preservation of trees, outstanding topography or unique geologic features; or
 - A seamless mixing of uses.
- (b) To encourage development with such characteristics, Planned Unit Developments may allow flexibility that includes but is not limited to the following:
- Flexibility with Development Ordinance development and design standards;
 - Permitting of uses not normally allowed in the base zoning district;
 - Allowance for creative approaches to land development; or
 - Coordination of Public Improvements that are directly affected by the Planned Unit Development with procedures to post sureties.

(2) General

All development in a GPUD- or DPUD- overlay must comply with all provisions of this Ordinance applicable to the underlying zoning district unless such provisions are expressly varied by the terms of the approved GPUD or DPUD ordinance, general development plan, detailed site plan or detailed development plan.

(3) Dimensional & Use Standards

- (a) The dimensional standards may vary from the requirements in this Ordinance.
- (b) The proposed uses for the planned unit development may vary from the permitted uses and special uses for the underlying base zoning district identified in the use tables in this Ordinance.

(4) Access & Circulation

The design and phasing of the on-site access and circulation systems of the planned unit development may vary from the requirements of the Highway Department Street Standards. However, it must be certified by a registered Indiana Land Surveyor, Professional Engineer, registered Architect or registered Landscape Architect, as appropriate based on their licensing, as being safe, adequate and integrated with the off-site transportation system of the County and abutting municipalities, where applicable.

(5) Off-Street Parking & Loading, Buffering & Screening, and Signs

The design of the off-street parking and loading, buffering and screening, and signs of the planned unit development may vary from the requirements in Article [158.06](#), [158.07](#), and [158.08](#).

(6) Water & Wastewater

The design and phasing of the water and wastewater systems of the planned unit development may vary from the requirements of the Subdivision Control Ordinance. However, it must be safe, adequate and integrated with the off-site water and wastewater system, where applicable.

(7) Drainage

- (a) The design and phasing of the drainage system of the planned unit development must comply with the Highway Department Street Standards.
- (b) Alternatively, the applicant may submit drainage plans that utilize different calculations than required by the Highway Department Street Standards, but that produce the same or better drainage results as certified by a registered Indiana Land Surveyor or Professional Engineer.



Photo: Northland Corporation

158.04(B) E-3 Office & Business Park District

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158.04(B) E-3 Office & Business Park District

(1) Purpose

The purpose of the E-3, Office and Business Park District is to promote and accommodate a higher standard for aesthetic development of large tracts of land in a park-like setting for office, warehousing and distribution, and research and development-oriented light industrial operations. An office or business park is designed and conducted as an integrated facility for a number of separate buildings and supporting secondary uses with particular emphasis being placed on on-site vehicular circulation, parking, utility needs, building design and orientation, open space, signage, landscaping, setbacks, aesthetics and compatibility. Office and business parks are customarily operated during daylight hours and involve no outside display or selling of merchandise.

(2) Uses

Use		Use-Specific Standards & Definitions
Agricultural Uses		
Agriculture, Field and Row Crops	■	158.05(B)(1)(b)
Industrial Uses		
Light Industrial	■	158.05(B)(2)(g)
Warehousing and Freight Movement	■	158.05(B)(2)(i)
Wholesale Trade	■	158.05(B)(2)(l)
Office Uses		
Professional Offices	■ *	158.05(B)(3)(a)
TV Studio or Radio Station	■ *	158.05(B)(3)(b)
Public & Civic Uses		
Assembly Hall	■	158.05(B)(4)(a)
Cemetery	■	158.05(B)(4)(b)
Community Center	■	158.05(B)(4)(c)
Correctional Facility	■	158.05(B)(4)(d)
County or Municipal Government Offices or Facilities	■	158.05(B)(4)(e)
Day Care, Adult or Child	■ *	158.05(B)(4)(f)
Emergency Services, Fire or Police	■	158.05(B)(4)(g)
Hospital	■	158.05(B)(4)(h)
Library/Museum/Cultural Facility	■	158.05(B)(4)(i)
Medical/Dental Clinic or Laboratory	■	158.05(B)(4)(j)
Place of Worship	■	158.05(B)(4)(k)
School, Pre-K/Nursery	■	158.05(B)(4)(l)
School, Public or private elementary, middle, or high school	■	158.05(B)(4)(m)
Social Service Establishments	■	158.05(B)(4)(n)
University, college, or seminary	■	158.05(B)(4)(o)
Recreation & Entertainment Uses		
Camp Ground (Not Part of Park & Open Space)	■ *	158.05(B)(5)(a)
Casino	■ *	158.05(B)(5)(b)
Marina	■ *	158.05(B)(5)(c)
Parks & Open Space	■ *	158.05(B)(5)(d)
Recreation & Entertainment, Indoor	■ *	158.05(B)(5)(e)
Recreation & Entertainment, Outdoor	■ *	158.05(B)(5)(f)
Stadium/Arena	■ *	158.05(B)(5)(g)
Vehicle Race Track, Large	■ *	158.05(B)(5)(h)
Vehicle Race Track, Small	■ *	158.05(B)(5)(i)

Use		Use-Specific Standards & Definitions
Residential Uses		
Assisted Living Facility	■	158.05(B)(6)(a)
Dwelling or Complex, Multiple-Family	■	158.05(B)(6)(b)
Retail & Service Uses		
Hotel/Motel	■ *	158.05(B)(7)(l)
Pet Store	■	158.05(B)(7)(o)
Restaurant or Catering Establishment, without Drive-In or Drive-Through	■ *	158.05(B)(7)(r)
Retail & Service	■ *	158.05(B)(7)(s)
Veterinary Clinic	■ *	158.05(B)(7)(x)
Transportation Uses		
Airport or Heliport	■ *	158.05(B)(8)(a)
Parking Lot or Structure, Commercial	■ *	158.05(B)(8)(b)
Passenger Terminal, Bus or Train	■	158.05(B)(8)(c)
Truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage	■ *	158.05(B)(8)(d)
Utility Uses		
Solar Energy System	*	See Sec. 158.04(F)
Wireless Communication Facility	*	158.05(B)(9)(c)

(2) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (■)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (*)
- (f) **Use Definitions & Use-Specific Standards**

Any use specific standards can be found in the identified location in [Sec. 158.05\(B\)](#) on the right side of each column.

- (g) **Accessory Uses**
Accessory use standards can be found in [Sec. 158.05\(C\)](#).

- (h) **Temporary Uses**
Temporary use standards can be found in [Sec. 158.05\(D\)](#).

- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by [Sec. 158.10\(K\)](#), then a use variance may be requested as found in [Sec. 158.11\(I\)](#).

(3) Building Placement & Form

Dimensional Standards	
Min. Project Area (acres)	10 acres
Min. Lot Area (sq. ft.)	45,000 sq. ft.
Min. Lot Width (ft.)	150'
Front Setback (min. from Property Line)	
Federal or State Highway or Major Road	80'
Numbered County Road or Street	60'
Named Street	50'
Side Setback (min. from Property Line)	
Adjacent to R- or A- Zoning Districts	50'
Adjacent to B-, M- or E- Zoning Districts	25'
Rear Setback (min. from Property Line)	
Adjacent to R- or A- Zoning Districts	50'
Adjacent to B-, M- or E- Zoning Districts	25'
Additional Standards	
Max. Building Height (ft.)	60'
Sewage Disposal	Municipal Facilities

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases

(4) Accessory Uses & Structures

- (a) An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).
- (b) **Outdoor Storage**
Permitted uses must have no outdoor display or unscreened outdoor storage. Screening of outdoor storage must comply with the provisions in [Sec. 158.06\(I\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(5) Access, Parking, & Loading

Off-street parking, access, and circulation must comply with the following standards.

(a) Off-Street Parking Standards

Front Parking Setback (min. from Property Line)	
Along Major Arterials	80'
Along Secondary Arterials	60'
Along Named County Roads	50'
Side Parking Setback (min. from Property Line)	
Adjacent to R- or A- Zoning Districts	50'
Adjacent to B-, M- or E- Zoning Districts	5'
Rear Parking Setback (min. from Property Line)	
Adjacent to R- or A- Zoning Districts	25'
Adjacent to B-, M- or E- Zoning Districts	5'
Additional Standards	

Minimum off-street parking and loading ratios must comply with the requirements table in [Article 158.07](#).

A parking area buffer in accordance with the standards in [Sec. 158.06\(D\)](#) must be provided.

For all access, parking, & loading standards see [Article 158.07](#).

(b) Access & Circulation

- Access between neighboring properties may be required. If required, the cross access must be laid out in such a manner to enable future connection to adjacent properties.
- Permanent structures, obstructions, or parking that would interfere with travel are prohibited in the cross access. Improvements such as medians and islands are allowed within the cross access provided that access and circulation between properties is not impaired.

(6) Buffering & Screening**(a) Intent**

Landscaping requirements provide for an improved aesthetic quality of development, a visual barrier to partially or completely screen the view of structures or activities or as an acoustic screen to aid in absorbing or deflecting noise.

(b) Landscape Plan

- The Site Plan must include a Landscape Plan that must be drawn to scale and include the following information:
 - Property owner's name, address, telephone number and email address;
 - Land Surveyor's, Professional Engineer's, registered Architect's or registered Landscape Architect's name, address, telephone number and email address;
 - Landscape designer's or contractor's name, address, telephone number, and email address if such has been hired;
 - Existing and proposed structures;

- V. Parking areas and driveway;
 - VI. Walkways;
 - VII. Location of existing trees or wooded areas showing trees over eight caliper inches diameter at breast height (d.b.h.) with tree groupings being shown as a mass with a general range of tree sizes;
 - VIII. An indication of those existing trees or wooded areas that will be preserved;
 - IX. General type (evergreen, deciduous, shade or ornamental tree, shrub, hedge, groundcover, etc.), location, size at planting or placement, and number of all plant material to be installed; and
 - X. Type and location of all other landscape materials, both natural and man-made.
- ii. The Plan Director may request other information as may be deemed necessary for review and approval of the Landscape Plan as part of the review of the Site Plan.

(c) **Areas to be Landscaped**

- i. All areas within the development portion of a lot not occupied by buildings, parking and other paved areas, and permanent water features must be landscaped and maintained. Within a front or corner side yard, landscaping must consist of any combination of canopy trees and ornamental trees, shrubs, and ground cover with:
 - I. At least one canopy tree or ornamental tree per 4,000 square feet of yard area for the first 25,000 square feet; and
 - II. One additional canopy tree or ornamental tree per 6,000 feet of yard area above 25,000 square feet
- ii. A maximum of 25 percent of the required trees in paragraph 1 above may be substituted with shrubs meeting the size requirements of this Section. For the purposes of this Section, 10 shrubs may be substituted for each required tree.
- iii. A parking area buffer in accordance with the standards in [Sec. 158.06\(D\)](#) must be provided.
- iv. Road rights-of-way must be landscaped with grass and trees. No walls, fences, signs or hedges are permitted in a right-of-way without the approval of the Board of County Commissioners.
- v. Retention ponds located in front yards or other areas visible to the public, either from within the site or from the street, must be free-form (curvilinear) in shape and incorporated into the overall landscape design for the site. Retention ponds that use right angles and straight lines consistent with the site and building design may be used with the approval of the Plan Director or Plan Commission as part of Site Plan review and final action.
- vi. All dumpsters must be screened with an opaque wall or fence that is architecturally compatible with the primary structure on the property and that is of adequate height to screen the dumpster and its contents. Gates must be provided if dumpsters are visible from the public right-of-way, an adjacent property, or areas of the site open to the public.

- vii. Required landscape materials must be appropriate to local growing and climatic conditions. The Plan Commission may require that existing trees be conserved and integrated into the landscaping plan. Landscape materials may be used in any combination unless otherwise specified and must include the following:

(h) **Plant Material**

i. **Trees or Existing Wooded Areas**

Newly planted trees and existing trees, in order to receive credit for required landscaping, must meet the minimum sizes established in the table below.

Tree Type	Min. Size
Deciduous Canopy Tree	2.5 inches DBH
Ornamental Tree	2 inches DBH
Evergreen Tree	6 feet overall height

DBH - Diameter at Breast Height

ii. **Shrubs or Hedges**

Shrubs must have a minimum height of 24 inches at installation.

iii. **Ground Cover and Vines**

Ground cover and vines may be utilized on the site as needed.

(d) **Other Landscape Materials**

The following additional landscape materials may be utilized:

- ii. Boulders, rocks or mulch (including stone, pebbles, sand, or bark) limited to walks, paths, seating area, planting beds and around individual plants when used in planting beds or around individual trees must not exceed 20% of the total square footage of the landscaped area;
- iii. Berms;
- iv. Lakes, ponds, streams, or fountains;
- v. Ornamental fences or masonry walls, architecturally compatible with surrounding development; and
- vi. Patios, decks, trellises, and other similar landscape features.

(7) Building Exterior

- (a) These building exterior standards apply to nonresidential structures in the E-3 zoning district. These standards do not apply to residential or multiple-family structures in the E-3 zoning district.
- (b) **Primary Façade Materials**
- i. Except as modified in this Section, a minimum of 40% of the surface area of a primary façade, as defined in Article 158.02, must consist of one or more of the following materials:
 - I. Natural stone;
 - II. Fired brick;
 - III. Split-faced block;
 - IV. Tile;
 - V. Granite;
 - VI. Marble;
 - VII. Stucco;
 - VIII. Exterior Insulation and Finish Systems (EIFS);
 - IX. Insulated metal panels; or
 - X. Other material acceptable to the Plan Director or Plan Commission.
 - ii. The remainder of a primary façade may consist of accent materials such as architectural metal panel, corrugated metal, wood, glass, or other material acceptable to the Plan Director or Plan Commission.
- (c) **Measurement**
The percentage of surface area of each primary façade is measured per side of the building. Doors, windows, overhead doors and roofs are exempt from the percentage calculation.
- (d) **Secondary Façade**
The primary façade materials standards in paragraph A above do not apply to a secondary façade, as defined in [Article 158.02](#).
- (e) **Building Articulation**
The building material requirement of 40% coverage in subsection A above may be reduced to 20% if a minimum of three of the following features are provided on or adjacent to a primary façade:
- I. Canopies or awnings;
 - II. Arcades;
 - III. Peaked roofs;
 - IV. Outdoor patios;
 - V. Architectural details such as decorative tile work, brick work or moldings that are integrated into the building design;
 - VI. Foundation plantings; or
 - VII. Columns.

(8) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).

- (a) **General**
The sign types permitted in the E-3 zoning district are as set forth in the table found in [Article 158.08](#).
- (b) **Monument Sign Standards**
A monument sign must be solid from ground to top and may be illuminated or un-illuminated on a base that extends horizontally a minimum of the length of the message area.

(9) Rezoning Process

- (a) **Rezoning**
A rezoning to the E-3 zoning district must follow the same process as that established for a Rezoning in [Sec. 158.11\(C\)](#).
- (b) **Site Plan**
- i. Prior to approval of an Improvement Location Permit for a structure in an E-3 zoning district project, the land owner must submit a Site Plan prepared by a registered Indiana Land Surveyor, Professional Engineer, registered Architect or registered Landscape Architect. The Site Plan must have sufficient detail to demonstrate compliance with the provisions of this Section and other applicable provisions of this Ordinance.
 - ii. The Plan Director must review the Site Plan and approve it or refer it to the Plan Commission.
 - iii. The Plan Commission must approve or deny the Site Plan at a public meeting.
 - iv. If the Site Plan complies with the provisions of this Section and other applicable provisions of this Ordinance, then the Plan Commission must approve the Site Plan.
- (c) **Review Criteria**
- i. In determining whether to approve or deny a Site Plan, the applicable review bodies must pay reasonable regard to the following criteria:
 - I. The Site Plan complies with the provisions of this Section and other applicable provisions of this Ordinance.
 - II. The Site Plan shows that the proposed development presents a unified and organized arrangement of structures, parking areas, lighting, landscaping and related facilities.
 - III. The Site Plan shows a logical relationship of development to the topography of the area and to the lots comprising the office or business park.

(d) **Improvement Location Permit Compliance**

All subsequent Improvement Location Permits for the project must comply with the approved Site Plan or the Site Plan must be requested to be amended in the same manner in which it was originally approved, as set forth in this subsection.

ELKHART DEVELOPMENT ORDINANCE
FINAL DRAFT FOR APPROVAL
2-13-2024



Photo: Elkhart County Convention & Visitors Bureau

158.04(C) A-3 Farmland Preservation District

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158.04(C) A-3 Farmland Preservation District

(1) Purpose

The purpose of the A-3, Farmland Preservation District is to accommodate intensive agricultural uses and to recognize certain needs of the agricultural community. The goals of the zoning district are enhanced right-to-farm protection and the promotion of agricultural economic development.








(2) Applicability

In order to be eligible for a rezoning to the A-3 zoning district, a property must either have a minimum site area of 40 acres or must be contiguous to an existing A-3 zoning district.

(3) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**
Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.
- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).
- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

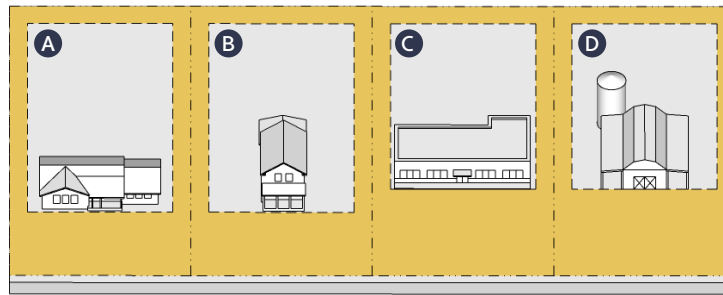
Use	Use-Specific Standards & Definitions	
Agricultural Uses		
Agriculture, Field and Row Crops		* 158.05(B)(1)(b)
Agriculture, Livestock		* 158.05(B)(1)(c)
Industrial Uses		
Resource Extraction	 	* 158.05(B)(2)(h)
Residential Uses		
Dwelling, Single-Family (detached)		* 158.05(B)(6)(d)
Retail & Service Uses		
Kennel		* 158.05(B)(7)(m)
Retail & Service		* 158.05(B)(7)(s)
Utility Uses		
Solar Energy System	*	See Sec. 158.04(F)
Wireless Communication Facility	*	158.05(B)(9)(c)

(4) Agricultural Protection Standards

- (a) Any future residential subdivision of property within 300 feet of the boundaries of an A-3 zoned property must address as part of the requested Primary Approval the following:
 - i. Off-site surface drainage impacts;
 - ii. Subsurface tiling systems impacts;
 - iii. Irrigation accommodations; and
 - iv. Security of A-3 zoned property from residential uses.
- (b) The plat notes on the Secondary Plat and restrictive covenants on the property deeds in the subdivision must hold harmless agricultural production in the A-3 zone when operating under generally accepted farming practices.
- (c) To help reduce conflicts between farmers and non-farm neighbors in the A-3 zoning district, the property owner may post signs on their property, outside of the Public Right-of-Way, that identify the area as a Farmland Preservation Zone and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities.

(3) Building Placement & Form

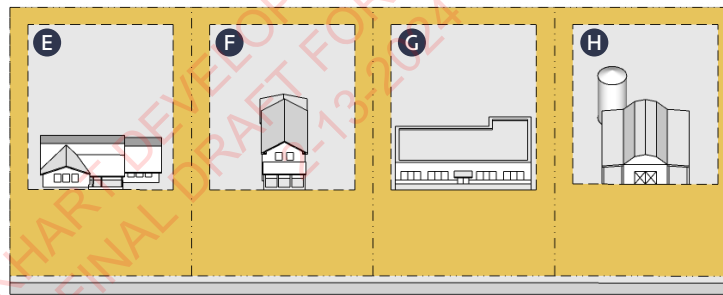
Named Road or Street



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	A	50'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	B	50'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Non-Residential Uses	C	75'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	D	75'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

Numbered County Road or Street

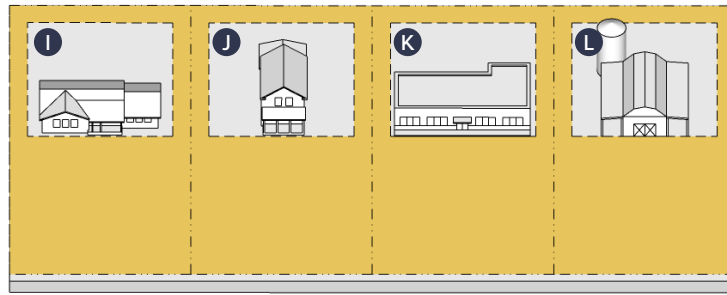


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	E	75'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	F	75'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Non-Residential Uses	G	75'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	H	80'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(3) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	I	120'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	J	120'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Non-Residential Uses	K	120'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	L	120'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(5) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).

(5) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).



Photo: Elkhart County Convention & Visitors Bureau

158.04(D) A-4 Concentrated Animal Feeding Protection District

Sections

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158.04(D)(4)	Concentrated Animal Feeding Operation.....	4-15
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158.11(K)	Administrative Adjustment	11-26
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158.04(D) A-4 Concentrated Animal Feeding Protection District

(1) Purpose

The purpose of the A-4, Concentrated Animal Feeding Protection District is to accommodate intensive concentrated animal feeding operations and to recognize certain needs of the agricultural community. The goals of the zoning district are enhanced right-to-farm protection promotion of agricultural economic development, and the promotion of agricultural coexistence with residential neighborhoods.

(2) Applicability

- (a) The A-4 zoning district is required in order to establish a concentrated animal feeding operation with animal units that exceed the thresholds established in 158.04(D)(4).
- (b) In order to be eligible for a rezoning to the A-4 zoning district, a property must either have a minimum site area of 40 acres or must be contiguous to an existing A-4 zoning district.
- (c) A proposed concentrated animal feeding operation must have approval of the Indiana Department of Environmental Management (IDEM) within IDEM's rules for concentrated animal feeding operations, regardless of number of animal units.

(3) Uses

The table on the following page lists the uses permitted in this district in as follows:

- (a) Permitted Use (■)
- (b) Permitted Subject to Conditions (▣)
- (c) Special Use (■)
- (d) Prohibited Use (Blank)
- (e) Use-Specific Standards (✱)
- (f) **Use Definitions & Use-Specific Standards**
Any use specific standards can be found in the identified location in Sec. [158.05\(B\)](#) on the right side of each column.
- (g) **Accessory Uses**
Accessory use standards can be found in Sec. [158.05\(C\)](#).
- (h) **Temporary Uses**
Temporary use standards can be found in Sec. [158.05\(D\)](#).
- (i) **Unlisted Use**
If a use isn't listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. [158.10\(K\)](#), then a use variance may be requested as found in Sec. [158.11\(I\)](#).

Use		Use-Specific Standards & Definitions
Agricultural Uses		
Agriculture, Field and Row Crops	■	158.05(B)(1)(b)
Agriculture, Livestock	■	158.05(B)(1)(c)
Concentrated Animal Feeding Operation	▣ ✱	158.04(D)
Livestock Sale or Auction	▣	158.05(B)(1)(f)
Roadside Stand, Tree Farm, U-Pick Produce	▣	158.05(B)(1)(g)
Industrial Uses		
Resource Extraction	▣ ■ ✱	158.05(B)(2)(h)
Residential Uses		
Dwelling, Single-Family (detached)	▣ ✱	158.05(B)(6)(c)
Retail & Service Uses		
Kennel	▣ ✱	158.05(B)(7)(m)
Utility Uses		
Solar Energy System	✱	See Sec. 158.04(F)
Wireless Communication Facility	✱	158.05(B)(9)(c)

(4) Concentrated Animal Feeding Operation

A concentrated animal feeding operation is allowed in the A-4 zoning district subject to the following standards:

- (a) Along with the submittal of a rezoning application for the A-4 zoning district, the applicant must submit a statement signed by all property owners adjacent to the subject property acknowledging the use of the subject property for concentrated animal feeding operations. In addition, the statement must acknowledge that as long as the operations are conducted in compliance with the provisions of the A-4 zoning district, any applicable IDEM regulations and generally accepted agricultural practices, the adjacent property owners will hold harmless the owner of the subject property from claims due to dust, noise, odors, etc. emanating from the operation.
- (b) Any future splits of property adjacent to the A-4 District, whether by subdivision or metes and bounds, must include the wording of the above mentioned release of the deed as a perpetual deed restriction in order for such splits to be deemed buildable tracts.
- (c) The A-4 zoning district is required if a concentrated animal feeding operation maintains or is proposed to maintain more than 1,500 animal units as determined from the table to the right.

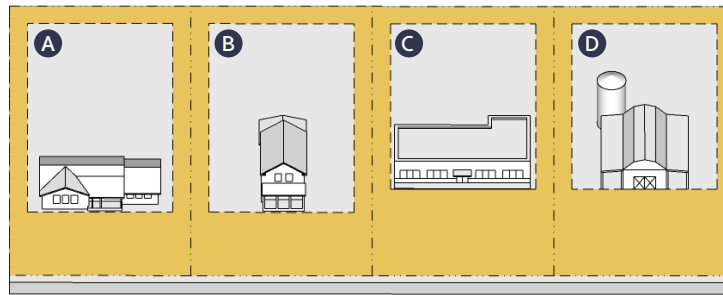
Animal Type	Animal Units
Calves (150-500 lb)	.5
Feeder Cattle (500-1200 lb)	.75
Beef Cows	1
Young Dairy Stock (500-1000 lb)	.75
Dairy Cows	1
Nursery Pigs (up to 50 lb)	.2
Grower/Feeder Pigs (50-100 lb)	.3
Finishing Hogs (100 lb - market wt.)	.4
Sows	.5
Boars	.5
Sheep	.5
Turkeys	.1
Layer Chickens	.01
Broiler Chickens	.01
Ducks	.01
Horses	1

(5) Agricultural Use Notice

To help reduce conflicts between farmers and non-farm neighbors in the A-4 zoning district, the property owner may post signs on their property, outside of the Public Right-Of-Way, that identify the area as a Concentrated Animal Feeding Protection District and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities.

(6) Building Placement & Form

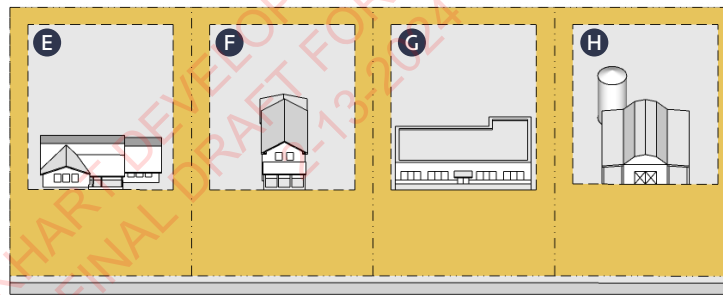
Named Road or Street



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	A	50'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	B	50'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Non-Residential Uses	C	75'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	D	75'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

Numbered County Road or Street

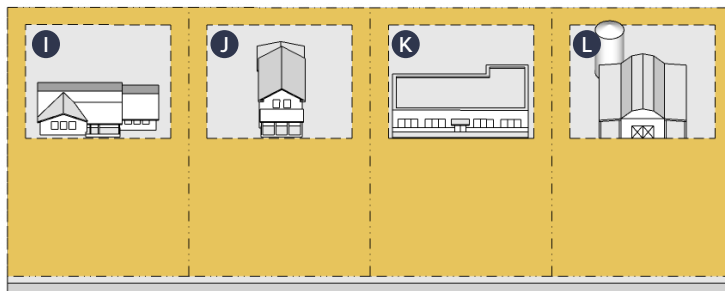


Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	E	75'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	F	75'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Non-Residential Uses	G	75'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	H	80'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(6) Building Placement & Form (cont.)

Federal/State Highway or Major Road



Use		Front Setback (Min. from Centerline)	Side Setback (min.)	Rear Setback (min.)	Lot Size (min.)	Lot Width (min.)	Building Height (max.)	Lot Coverage (max.)	
								Interior Lot	Corner Lot
Single-Family (w/o Sewer)	I	120'	10'	15'	20,000 sq. ft.	100'	30'	25%	30%
Single-Family (w/ Sewer)	J	120'	10'	15'	20,000 sq. ft.	100'	30'	30%	35%
Non-Residential Uses	K	120'	10'	15'	3 acres	100'	30'	25%	30%
Agricultural Uses	L	120'	10'	15'	3 acres	100'	30'	25%	30%

See [Sec. 158.02\(C\)](#) for Measurements & Special Cases.

(7) Accessory Uses & Structures

An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of [Sec. 158.05\(C\)](#).

Accessory Use Standards	Standards
Front Setback	Same as Primary Use
Side Setback	5' *
Rear Setback	10' *
Setback from Other Structures	6' *
Building Height	18'-25' *

*For all accessory use standards and special cases, see [Sec. 158.05\(C\)](#).

(9) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(10) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).

(8) Access, Parking, & Loading

Use	Standards
Off-Street Parking	158.07(C)
Vehicle Stacking	158.07(D)
Off-Street Loading & Unloading Docks	158.07(E)

For all access, parking, & loading standards see [Article 158.07](#).



158.04(E) TC Town Character Preservation Overlay

Sections

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158.04(E)(2) Applicability.....	4-18
158.04(E)(3) Development Standards.....	4-18

158.04(E) TC Town Character Preservation Overlay

(1) Purpose

Town Character Preservation Overlay is intended to protect the character of the small-town main streets that exist within the County’s jurisdiction. The unique character of these defined areas is essential to the identity of the rural towns, generate a sense of community pride, showcase historic architecture, and provide the primary space for commerce. These areas act as epicenters for walkable, traditional urban form not found elsewhere in the County.

(2) Applicability

This Article applies to all property located within the Town Character Preservation Overlay established by this Ordinance, as amended.

(3) Development Standards

The development standards will be enumerated by the appropriate jurisdictions at the time of rezoning to establish this overlay.



158.04(F) A-E Alternative Energy Overlay

Sections

158.04(F)(1) Purpose.....[4-19](#)
158.04(F)(2) Applicability.....[4-19](#)
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158.04(F)(5) Building- or Roof-Mounted Solar Array.....[4-20](#)
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158.11(O) Sign Permit.....[11-32](#)
158.11(P) Certificate of Occupancy.....[11-33](#)

158.04(F) A-E Alternative Energy Overlay

(1) Purpose

The purpose of the A-E, Alternative Energy Overlay is to accommodate the development of alternative energy resources and provide development standards for said alternative energy resources. The goals of the overlay are promotion of alternative energy production, promotion of economic development, and promotion of agricultural and/or residential coexistence.

(2) Applicability

The section applies to alternative energy uses associated with the collection, distribution, and/or utilization of alternative energy resources on land.

(3) Building Placement & Form**Setbacks**

Major road (between fence and centerline)	120'
County Road (between fence and centerline)	75'
Property line (between fence & non-participating property line)	50'
Residential Building (between fence & non-participating residential building)	200'
Residential Use or District (between fence and residential use or district boundary)	100'
Other (between fence and body of water, well, or septic system)	100'

Fencing

Fencing shall be required surrounding the entire panel area. Fences shall be a minimum of 6 feet in height and located on the panel side of any required buffer.

Noise

There shall be no audible noise from a nonparticipating parcel zoned any A or R district.

Lighting

Lighting shall be downcast.

Signage

See [Sec. 158.08\(F\)](#).

(4) Ground-Mounted Solar Array

Ground-mounted solar arrays are permitted according to the following table:

Size of System	A-1, A-3, A-4	R-1, R-2, R-3, R-4	B-1, B-2, B-3	M-1, M-2, E-3
Up to 1,500 sq. ft. panel area	■	■	■	■
More than 1,500 sq. ft. panel area, less than 3,000 sq. ft. panel area	■	■	■	■
More than 3,000 sq. ft. panel area; less than 10 acres fenced area	■	■	■	■
10 acres fenced area or more	Zone Map Change to A-E			

(5) Building- or Roof-Mounted Solar Array

- (a) Building or Roof-mounted solar panel arrays are permitted by-right provided:
 - i. That on pitched roofs, panel arrays may not extend more than 12 inches above the peak of any roof that is viewed from the public right-of-way or from a residential property;
 - ii. That they extend no more than 12 inches beyond any edge of the roof; and
 - iii. Where the panels are placed atop a flat roof they may not extend more than five feet above the roof and must be screened from the public right-of-way with the building's façade parapet or similar mechanism.
- (b) Building or Roof-mounted solar panel arrays are exempt from the building height requirement.
- (c) A building or roof-mounted solar panel array that cannot meet these placement standards requires a Special Use Permit.

(6) Buffering & Screening

Buffering and screening is required as outlined in [Article 158.06](#).

(7) Permitted Signs

Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
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For all sign standards see [Article 158.08](#).

(8) Rezoning Process

- (a) **Rezoning**
A rezoning to the A-E Overlay must follow the same process as that established for a Rezoning in [Sec. 158.11\(C\)](#).
- (b) **Site Plan**
 - i. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the A-E Site Plan and Ordinance portion of an A-E application, following the review process and review criteria established for a Rezoning set forth in [Sec. 158.11\(C\)](#).
 - ii. In addition to the Rezoning review process set forth in [Sec. 158.11\(C\)](#), prior to review and recommendation by the Plan Commission, the Technical Review Committee must deem the A-E Site Plan and supporting submittals a correct application. The process for determination of correctness is described in subsection [158.11\(B\)\(4\)\(e\)](#).

- iii. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require additional modifications to the submitted A-E Site Plan deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, modifications related to:
 - I. Access and circulation;
 - II. Landscaping;
 - III. Screening;
 - IV. Outdoor lighting;
 - V. Signs;
 - VI. Underground utilities; and
 - VII. Drainage systems (i.e., farm tiles).

- iv. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require that the A-E Ordinance mandate any of the design elements listed in paragraph 3 above for the project.

(c) **Other Plans & Agreements**

Other plans and or agreements may be required by the appropriate legislative body, including but not limited to:

- i. Operating & Maintenance Plan
- ii. Emergency Services & Response Plan
- iii. Decommissioning & Restoration Plan
- iv. Road Impact & Maintenance Agreement

(d) **Review Criteria**

The Plan Commission and the appropriate legislative body must review and give reasonable regard to the proposed A-E based on the degree to which the proposal meets all of the following criteria:

- i. The proposal is consistent with the Purpose of the Development Ordinance as established in [Sec. 158.01\(B\)](#).
- ii. The proposal is consistent with the applicability of an A-E as established in this Article.
- iii. The proposal is consistent with the Comprehensive Plan.
- iv. The proposal addresses potential conflicts with and attempts to conserve the value of adjacent properties.
- v. The proposal demonstrates responsible development and growth.



158.04(G) W- Wellhead Overlay

Sections

158.04(G)(1)	Purpose.....	4-22
158.04(G)(2)	Applicability	4-22
158.04(G)(3)	District Boundary.....	4-22
158.04(G)(4)	Review Process	4-22

(4) Review Process

- (a) The following persons may initiate a rezoning request for the W- overlay zoning district:
 - i. The water utility or agency that operates the wellhead; or
 - ii. Those enabled to apply for a rezoning in [Sec. 158.11\(B\)\(4\)](#).
- (b) The review process follows that established in [Sec. 158.11\(C\)](#).

158.04(G) W- Wellhead Overlay

(1) Purpose

The purpose of the W-, Wellhead Overlay zoning district is to provide a process that promotes public awareness of the establishment of new wellheads. The overlay zoning district is appropriately applied to areas with a five-year recharge area for public water supply or well field.

(2) Applicability

This Section applies to land within the W-, Wellhead Overlay zoning district. The W- overlay zoning district may only apply to wellheads established after February 2, 2015. Under no circumstances may a Planned Unit Development, Rezoning, Special Use Permit or Variance approval modify this Section or any laws of the State of Indiana.

(3) District Boundary

The boundaries of the W- overlay are the 5-year recharge area around a public water supply or well field. The district does not automatically apply to existing or new wellheads or their recharge areas.

158.05 USES

Sections

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158.05(B) Use-Specific Standards and Definitions 5-5
158.05(C) Accessory Uses & Structures 5-16
158.05(D) Temporary Uses 5-18

This Articles classifies the uses allowed by zoning district in order to identify the activities that support the health, safety, and general welfare of the people that live and work in Elkhart County. This Article also includes use definitions and any standards that may apply to a specific use.

158.05(A) Uses

(1) Applicability

No building or land may be used, or building erected, reconstructed altered, moved, converted, extended or enlarged, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which that building or land is located.

(2) Approach to Categorizing Uses

The Use Categories found in the use tables in this Ordinance are described in this Section. Specific uses may be further defined in 158.05(B). Any proposed use not specifically set forth in this Section is prohibited, unless the Zoning Administrator determines, based on the criteria in this Section and in accordance with the Written Interpretation procedure in 158.10(K), that the proposed use is similar to a use that is permitted, permitted subject to conditions, or a special use. Use Categories classify land uses based on common functional or physical characteristics.

(3) Use Table

- (a) Permitted Use (■)
These uses are allowed by-right in the district they are listed subject to the development standards of that district and any use-specific standards.
- (b) Permitted Subject to Conditions (▣)
These uses are allowed by-right in the district they are listed subject to the development standards of that district and any use-specific standards.
- (c) Special Use (■)
These uses are allowed only if reviewed and approved for a Special Use in accordance with the procedures of Sec. 158.11(H). In addition, they shall comply with the development standards of the district in which they are located and any applicable additional standards associated with the use.
- (d) Prohibited Use (Blank)
Uses without a symbol are prohibited in the district because they are considered incompatible with the purpose of the district.
- (e) Use-Specific Standards (✱)
These uses shall comply with the specific standards that apply to that use located in the referenced Provision in the “Use-Specific Standards & Definitions” column. Unless otherwise noted, these standards apply in all districts.
- (f) Definitions
Definitions for all uses are found in this Article. For the definition of a specific use, go to the referenced Provision in the “Use-Specific Standards & Definitions” column.
- (g) Unlisted Use
If a use isn’t listed and can not be accommodated by a Planning Director interpretation as allowed by Sec. 158.10(K), then a Use Variance may be requested as found in Sec. 158.11(I).

Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	E-3	A-3	A-4	A-E	Use-Specific Standards & Definitions
Agricultural Uses															
Agri-business	■								■	■					158.05(B)(1)(a)
Agriculture, Field and Row Crops	■	■	■	■	■	■	■	■	■	■	■	■	■	■	* 158.05(B)(1)(b)
Agriculture, Livestock	■	■	■	■	■	■	■	■	■	■		■	■		* 158.05(B)(1)(c)
Concentrated animal feeding operation															* 158.04(D)
Greenhouse, retail	■	■	■	■	■	■	■	■	■	■					158.05(B)(1)(e)
Livestock sale or auction	■								■	■			■		158.05(B)(1)(f)
Roadside Stand, tree farm, u-pick produce	■	■	■	■	■								■	■	158.05(B)(1)(g)
Stable, private and noncommercial	■	■	■	■	■	■	■	■	■	■					158.05(B)(1)(h)
Stable, public or commercial	■														158.05(B)(1)(i)
Winery	■						■	■	■	■					158.05(B)(1)(j)
Industrial Uses															
Animal Processing									■	■					158.05(B)(2)(a)
Bulk storage of explosives/hazardous material										■					* 158.05(B)(2)(b)
Contractor Offices and Yards	■						■	■	■	■					158.05(B)(2)(c)
Fertilizer manufacturing and storage	■									■					* 158.05(B)(2)(d)
Heavy Industrial, Intense										■					158.05(B)(2)(e)
Heavy Industrial, Less Intense										■					158.05(B)(2)(f)
Light Industrial									■	■	■				158.05(B)(2)(g)
Resource Extraction	■								■	■		■	■		* 158.05(B)(2)(h)
Warehousing and Freight Movement	■							■	■	■	■				158.05(B)(2)(i)
Waste-Related Service									■	■					158.05(B)(2)(j)
Welding, tool repair or machine shop	■							■	■	■					158.05(B)(2)(k)
Wholesale Trade	■							■	■	■	■				158.05(B)(2)(l)
Wrecking, junk or salvage yard										■					* 158.05(B)(2)(m)
Office Uses															
Professional Office					■	■	■	■	■	■	■				* 158.05(B)(3)(a)
TV Studio or Radio Station	■						■	■	■	■	■				* 158.05(B)(3)(b)
Public & Civic Uses															
Assembly Hall	■	■	■	■	■	■	■	■	■	■	■				158.05(B)(4)(a)
Cemetery	■	■	■	■	■	■	■	■			■				158.05(B)(4)(b)
Community Center	■	■	■	■	■	■	■	■	■	■	■				158.05(B)(4)(c)
Correctional Facility						■	■	■	■	■	■				158.05(B)(4)(d)
County or Municipal Government Offices or Facilities	■	■	■	■	■	■	■	■	■	■	■				158.05(B)(4)(e)
Day Care, Adult or Child				■	■	■	■	■	■	■	■				* 158.05(B)(4)(f)
Emergency Services, Fire or Police	■	■	■	■	■	■	■	■	■	■	■				158.05(B)(4)(g)
Hospital						■	■	■	■	■	■				158.05(B)(4)(h)
Library/Museum/Cultural Facility	■	■	■	■	■	■	■	■	■	■	■				158.05(B)(4)(i)
Medical/Dental Clinic or Laboratory	■	■			■	■	■	■	■	■	■				158.05(B)(4)(j)

See [158.05\(B\)](#) for use-specific standards and definitions.

Key

■ — Permitted Use	■ — Permitted Subject to Conditions	■ — Special Use	* — Use-Specific Standards (See Referenced Provision)
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Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	E-3	A-3	A-4	A-E	Use-Specific Standards & Definitions
Public & Civic Uses (cont.)	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	E-3	A-3	A-4	A-E	
Places of Worship	■	■	■	■	■	■	■	■	■	■	■				* 158.05(B)(4)(k)
School, Pre-K/Nursery	■	■	■	■	■	■	■	■			■				158.05(B)(4)(l)
School, Public or private elementary, middle, or high school	■	■	■	■	■	■	■	■			■				158.05(B)(4)(m)
Social Service Establishments	■	■	■	■	■	■	■	■	■	■	■				158.05(B)(4)(n)
University, college, or seminary	■	■	■	■	■	■	■	■			■				158.05(B)(4)(o)
Recreation & Entertainment Uses	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	E-3	A-3	A-4	A-E	
Camp Ground (Not Part of Park & Open Space)	■										■				* 158.05(B)(5)(a)
Casino	■					■	■	■	■	■	■				* 158.05(B)(5)(b)
Marina	■					■	■	■	■	■	■				* 158.05(B)(5)(c)
Parks & Open Space	■	■	■	■	■	■	■	■	■	■	■				* 158.05(B)(5)(d)
Recreation/Entertainment, Indoor	■	■	■	■	■	■	■	■	■	■	■				* 158.05(B)(5)(e)
Recreation/Entertainment, Outdoor	■			■	■	■	■	■	■	■	■				* 158.05(B)(5)(f)
Stadium/Arena	■					■	■	■	■	■	■				* 158.05(B)(5)(g)
Vehicle Race Track, Large	■	■	■	■	■	■	■	■	■	■	■				* 158.05(B)(5)(h)
Vehicle Race Track, Small	■									■	■				* 158.05(B)(5)(i)
Residential Uses	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	E-3	A-3	A-4	A-E	
Assisted Living Facility			■	■	■	■	■	■			■				158.05(B)(6)(a)
Dwelling or complex, Multiple-family				■	■	■	■	■			■				158.05(B)(6)(b)
Dwelling, Single-Family (attached)	■	■	■	■	■	■	■					■	■		158.05(B)(6)(c)
Dwelling, Single-Family (detached)	■	■	■	■	■	■	■					■	■		* 158.05(B)(6)(d)
Dwelling, Two-Family	■	■	■	■	■	■	■					■	■		158.05(B)(6)(e)
Dwelling, Upper-story					■	■	■	■							* 158.05(B)(6)(f)
Group home, Eight Residents or Fewer	■	■	■	■	■	■	■					■	■		158.05(B)(6)(g)
Group home, More than Eight Residents	■	■	■	■	■	■	■					■	■		158.05(B)(6)(h)
Group Home, State Regulated	See 158.05(B)(6)(i) and IC 12-28-4 et seq.														158.05(B)(6)(i)
Manufactured Home (Permanent Foundation)	■	■	■	■	■	■	■					■	■		158.05(B)(6)(j)
Manufactured Home (Temporary Foundation), Park or Subdivision	■	■	■	■	■	■	■					■	■		* 158.05(B)(6)(k)

See [158.05\(B\)](#) for use-specific standards and definitions.

Key

■ — Permitted Use	■ — Permitted Subject to Conditions	■ — Special Use	* — Use-Specific Standards (See Referenced Provision)
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Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	E-3	A-3	A-4	A-E	Use-Specific Standards & Definitions
Retail & Service Uses															
Adult Business															158.05(B)(7)(a)
Bar, Microbrewery, or Tavern															158.05(B)(7)(b)
Barber or Beauty Shop															158.05(B)(7)(c)
Bed & Breakfast Inn															* 158.05(B)(7)(d)
Building or Home Improvement Supplies															158.05(B)(7)(e)
Car Wash															158.05(B)(7)(f)
Farmers Market, Indoor															158.05(B)(7)(g)
Farmers Market, Outdoor															158.05(B)(7)(h)
Fuel Sales															158.05(B)(7)(i)
Funeral Home															158.05(B)(7)(j)
Garden and Landscaping Supplies															158.05(B)(7)(k)
Hotel/Motel															* 158.05(B)(7)(l)
Kennel															* 158.05(B)(7)(m)
Manufactured Home Sales or Rental															158.05(B)(7)(n)
Pet Store															* 158.05(B)(7)(o)
Resort															158.05(B)(7)(p)
Restaurant or Catering Establishment, with Drive-In or Drive-Through															158.05(B)(7)(q)
Restaurant or Catering Establishment, without Drive-In or Drive-Through															* 158.05(B)(7)(r)
Retail & Service															* 158.05(B)(7)(s)
Self-Service Storage															158.05(B)(7)(t)
Vehicle Repair, Major															158.05(B)(7)(u)
Vehicle Repair, Minor															158.05(B)(7)(v)
Vehicle Sales or Rental															158.05(B)(7)(w)
Veterinary Clinic															* 158.05(B)(7)(x)
Transportation Uses															
Airport or Heliport															* 158.05(B)(8)(a)
Parking lot or structure, commercial															* 158.05(B)(8)(b)
Passenger Terminal, Bus or Train															158.05(B)(8)(c)
Truck, Tractor, Trailer, Bus or Recreational Vehicle Storage or Parking Yard, Lot or Garage															* 158.05(B)(8)(d)
Utility Uses															
Alternative Energy	See Sec. 158.04(F) A-E Alternative Energy Overlay														* 158.04(F)
Utilities, Major															158.05(B)(9)(a)
Utilities, Minor															158.05(B)(9)(b)
Wireless Communication Facility	See Sec. 158.05(B)(8)(c).														* 158.05(B)(9)(c)

See 158.05(B) for use-specific standards and definitions.

Key

■ — Permitted Use	■ — Permitted Subject to Conditions	■ — Special Use	* — Use-Specific Standards (See Referenced Provision)
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Use-Specific Standards & Definitions

158.05(B) Use-Specific Standards & Definitions**(1) Applicability**

- (a) This Section includes use-specific standards and definitions for the uses allowed under this Ordinance.
- (b) Use-specific standards only apply to uses in the use table marked with an Permitted Subject to Conditions (■) or Special Use (■). These standards do not apply to Permitted Uses (■) in the use table.

- iii. In the A-3 zoning district, an agricultural use permitted subject to the following standards:
 - I. The maximum building coverage for buildings associated with an Agricultural Use being pursued on site is 5%.
 - II. An agricultural use may expand as long as environmental regulations are met and sound agricultural practices are used. The term “sound agricultural practices” refers to those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities.

(1) Agricultural Uses**(a) Agri-business**

A business that is primarily engaged in the supply of services and products to the farming industry including, but not limited to soil preparation, crop and animal husbandry services and the sale, rental service and commercial repair of agricultural production equipment. Commercial processing of livestock, poultry, and similar agricultural products is excluded.

- i. A minimum lot size of 3 acres is required.

(b) Agriculture, Row and Field Crops

The science, art, or practice of cultivating the soil, producing crops, and in varying degrees the preparation and marketing of the resulting products. Uses may include: floriculture, horticulture, viticulture or orchard, tapping and sugaring.

- i. In the A-3 zoning district, an agricultural use permitted subject to the following standards:
 - I. The maximum building coverage for buildings associated with an Agricultural Use being pursued on site is five percent.
 - II. An agricultural use may expand as long as environmental regulations are met and sound agricultural practices are used. The term “sound agricultural practices” refers to those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities.

(c) Agriculture, Livestock

The science, art, or practice of pasturage or raising livestock and in varying degrees the preparation and marketing of the resulting products. This use excludes Animal Processing, see [158.05\(B\)\(2\)\(a\)](#).

- i. A minimum lot size of 3 acres is required.
- ii. Fowls are permitted by right based on the acreage of the subject property.
 - I. 0.5 acres or less permits 3 fowls;
 - II. More than 0.5 acres to less than 1.5 acres permits 6 fowls;
 - III. 1.5 acres to less than 3 acres permits 12 fowls.
 - IV. No roosters are permitted.
 - V. A request for more than the permitted fowls will require a special use permit.
 - VI. Subdivision covenants and restrictions may not allow agricultural uses.

(d) Concentrated Animal Feeding Operation.

Any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, goats, poultry/fowl, turkeys/ducks, or other livestock in concentrations of 1,500 or more animal units, including any associated buildings, structures, excavations, enclosed areas, land used for pasture or feedlot purposes, and any animal waste storage structures, excavations or areas.

(e) Greenhouse, Retail

A greenhouse used for the production of plants or produce that will be sold to retailers or the general public.

(f) Livestock Sale or Auction

A commercial establishment wherein livestock is collected for sale or auctioning.

(g) Roadside Stand, U-Pick, Tree Farm

An establishment for the sale by the producer of fruits, vegetables, firewood and plant nursery products raised on the premises.

(h) Stable, Private & Noncommercial

Any building designed, arranged, used or intended to be used for the storage of horses and horse-drawn vehicles or both by the property owner and not regular outside patrons.

(i) Stable, Public or Commercial

Any building, other than a private stable, designed, arranged, used or intended to be used for the storage of horses and horse-drawn vehicles or both.

(j) Winery

An establishment which is primarily engaged in one or more of the following:

- i. Growing grapes and manufacturing wines and brandies;
 - ii. Manufacturing wines and brandies from grapes and other fruits grown elsewhere;
 - iii. Blending wines and brandies; and
 - iv. Bottling wines and brandies
- In addition, a winery may include indoor tasting rooms, outdoor tasting patio areas, and a sales room where wine made or bottled on-premise and wine-related items produced or manufactured elsewhere may be sold.

Use-Specific Standards & Definitions

including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products.

(2) Industrial Uses**(a) Animal Processing**

A facility for the slaughtering and processing of animals and the refining of their byproducts.

(b) Bulk Storage of Explosives/Hazardous Materials

A facility for the bulk storage of explosives or other hazardous materials not addressed elsewhere herein.

- i. Bulk storage of explosives, fertilizer or other hazardous materials is permitted in accordance with the use tables in this Article provided that if the materials are stored in tanks, each tank, as allowed by State or Federal standards, may have no more than 50,000 gallons capacity. In addition, the location, tank size and protective measures of the property must be approved in writing by all responsible County and State officials, including the Fire Marshal for the township in which the property is located, prior to issuance of an Improvement Location Permit.

(c) Contractor Offices & Yards

Office and storage facility associated with a contractor business.

(d) Fertilizer Manufacturing and Storage

A facility for the manufacture and bulk storage of fertilizer.

- i. Bulk storage fertilizer is permitted in accordance with the use tables in this Article provided that if the materials are stored in tanks, each tank, as allowed by State or Federal standards, may have no more than 50,000 gallons capacity. In addition, the location, tank size and protective measures of the property must be approved in writing by all responsible County and State officials, including the Fire Marshal for the township in which the property is located, prior to issuance of an Improvement Location Permit.

(e) Heavy Industrial, Intense

Uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals, the activities of which are likely to have characteristics that discourage adjacency to residential uses.

(f) Heavy Industrial, Less Intense

The manufacturing of products from processed or unprocessed raw materials, where the finished product is noncombustible and nonexplosive. This manufacturing may produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land users, but is not offensive or obnoxious.

(g) Light Industrial

The manufacture, predominantly from previously prepared materials, of finished products or parts,

(h) Resource Extraction

The extraction of materials or minerals, such as soil, sand, or gravel.

- i. In accordance with Indiana Code Section 36-7-4-1103, a Resource Extraction use is permitted in accordance with the use tables in this Article.
- ii. In the A-1, A-3, and A-4 districts, resource extraction is permitted as temporary accessory uses. In these districts, if resource extraction is the primary use, it requires a Special Use Permit.

(i) Warehousing & Freight Movement

Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

(j) Waste-Related Service

Establishment for the disposition of unwanted or discarded material, including garbage.

(k) Welding, Tool Repair, or Machine Shop

Shops where wood- and metal-working machines are used for fabrication and repair.

(l) Wholesale Trade

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers.

(m) Wrecking, Junk, or Salvage Yard

- i. **Junk or Salvage Yard.** Any open area where waste, scrap metal, scrap paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.
- ii. **Wrecking Yard.** Any place where two or more non-operable motor vehicles or vehicle parts are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of those motor vehicles or parts, and including any used farm vehicles or farm machinery, or parts, stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise.
- iii. A wrecking, junk or salvage yard is permitted in accordance with the use tables in this Article provided that the use is confined within enclosed buildings or in yards completely enclosed and surrounded by solid walls or solid fences a minimum of 8 feet in height.

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(3) Office Uses**(a) Professional Office**

The office of a member of a recognized profession maintained for the conduct of that profession.

- i. A professional office use is permitted in accordance with the use tables in this Article subject to the following standards:
 - I. The net floor area of all primary and accessory structures must be less than 2,000 square feet.
 - II. The primary structure must have a roof pitch between a 3/12 and 4/12.
 - III. A maximum of two off-street parking spaces are allowed between the primary structure and the public right-of-way. The remainder of off-street parking spaces, whether required or overflow, must be provided between the primary structure and the rear property line.
 - IV. In the E-3 zoning district, an office use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(b) TV or Radio Studio

- i. Commercial and public communications uses including radio and television broadcasting and receiving stations and studios.
- ii. In the E-3 zoning district, an office use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(4) Public & Civic Uses**(a) Assembly Hall**

A building or portion of a building in which facilities are provided for civic, educational, political, or social purposes.

(b) Cemetery

Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities.

(c) Community Center

A building to be used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed.

(d) Correctional Facility

Publicly or privately operated facility housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense.

(e) County or Municipal Government Office or Facilities

A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.

(f) Day Care, Adult or Child

A business that provides licensed care in a protective setting for children or elderly or disabled adults for less than 24 hours per day. Includes Class II child care homes as defined by IC 12-7-2. Excludes licensed Class I child care homes as defined by IC 12-7-2, which are permitted in all districts with residential uses.

- i. In the E-3 zoning district, a child care center is permitted subject to the following standards:
 - I. A child care center must be enclosed within the larger office building, except for outdoor play areas.
 - II. A child care center must only serve the needs of the development that it is a part of.

(g) Emergency Services, Fire or Police

Facilities operated by public agencies including fire stations, other fire prevention and firefighting facilities, police and sheriff substations and headquarters.

(h) Hospital

A facility in which patients or injured persons are given medical, surgical and/or psychiatric care; or an institution for the care of contagious or incurable diseases.

(i) Library/Museum/Cultural Facility

A use providing for display, performance, or enjoyment of heritage, history, or the arts.

(j) Medical/Dental Clinic or Laboratory

Those uses concerned with the diagnosis, treatment, and care of human beings.

- i. A medical/dental clinic or laboratory use is permitted in accordance with the use tables in this Article subject to the following standards.
 - I. In the R-4 zoning district, the net floor area of all primary and accessory structures must be less than 10,000 square feet.
 - II. In the A-1 zoning district, the net floor area of all primary and accessory structures must be less than 2,500 square feet.
 - III. The primary structure must be setback from a single- or two-family dwelling a minimum of 60 feet.
 - IV. A Medical Facility that cannot meet these net floor area and setback standards requires a Special Use Permit.
- ii. A medical/dental clinic or laboratory use in the A-1 zoning district shall be required to have:
 - V. Class I boundary buffer is established, as described in [Sec. 158.06\(E\)](#), where the use is adjacent to a residential use in an R-1, R-2 or R-3 zoning district.
 - VI. All Non-agricultural land uses on less than three acres must Apply for a Special Use.

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(k) **Places of Worship**

A building used for nonprofit purposes by a recognized and legally established sect solely for the purpose of worship.

- i. A place of worship in the A-1 zoning district shall be required to have:
 - I. Class I boundary buffer is established, as described in [Sec. 158.06\(E\)](#), where the use is adjacent to a residential use in an R-1, R-2 or R-3 zoning district.
 - II. All Non-agricultural land uses on less than three acres must Apply for a Special Use.

(l) **School, Pre-K/Nursery**

Providing day care with educational services for children not yet attending elementary school.

(m) **School, Public or Private Elementary, Middle, or High**

A public, private, or parochial school offering instruction at the elementary, middle, and/or high school levels.

(n) **Social Service Establishment**

A facility operated by an organization which provides services such as training, counseling, health, or the distribution of food or clothing.

(o) **University, College, or Seminary**

An institution for post-secondary education, public or private, offering courses in general, technical, or religious education and not operated for profit.

(c) **Marina**

A specially designed harbor with moorings for pleasure craft and small boats.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(d) **Parks & Open Space**

Land and water areas retained for use as active or passive recreation areas or for resource protection.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(e) **Entertainment/Recreation, Indoor**

Indoor entertainment and recreation facilities that are not addressed as other uses specifically listed in this Ordinance.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(f) **Entertainment/Recreation, Outdoor**

Outdoor entertainment and recreation facilities that are not addressed as other uses specifically listed in this Ordinance.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(g) **Stadium/Arena**

A large building with tiers of seats for spectators at sporting or other recreational events.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(h) **Vehicle Race Track, Large**

A racing area that may be paved or unpaved, and that is used by vehicles or animals, with competition against the clock or competitors, with spectators.

- i. A vehicle race track is permitted in accordance with the use tables in this Article provided the track is more than 1000 feet from any residential zoning district or any residential use not on the same parcel.

(5) Recreation & Entertainment Uses(a) **Campground**

A property where 1 or more campsites, cabins, or recreational vehicle spaces are leased, rented, or used for recreational, health, education, sectarian, business, or tourist use only. A campground is away from established residences and its primary use is not permanent residential.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(b) **Casino**

A commercial facility where patrons wager money on the outcome of a game.

- i. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

- ii. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(i) **Vehicle Race Track, Small**

A racing area that may be paved or unpaved, and that is used by vehicles or animals, with competition against the clock or competitors, without spectators.

- i. A vehicle race track is permitted in accordance with the use tables in this Article provided the track is more than 1000 feet from any Residential zoning district or any residential use not on the same parcel.
- ii. In the E-3 zoning district, a recreation and entertainment use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

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wastewater service or a locally permitted private waste water system.

(f) **Dwelling, Upper-Story**

A dwelling unit located on an upper story of a structure.

- i. An upper-story dwelling is permitted in accordance with the use tables in this Article provided that a minimum of 1 off-street parking space is provided per dwelling.

(g) **Group Home, Eight Residents or Fewer**

A residential facility with 8 residents or fewer residents with physical and/or cognitive disability and/or illness.

(h) **Group Home, More than Eight Residents**

A residential facility with more than 8 residents with physical and/or cognitive disability and/or illness

(i) **Group Home, State Regulated**

A residential facility regulated by IC 12-28-4 et seq.

(j) **Manufactured Home (Permanent Foundation)**

Housing that is manufactured in a factory rather than on site designed to be placed on a slab, crawlspace or basement.

(k) **Manufactured Home (Temporary Foundation), Park, or Subdivision**

Housing that is manufactured in a factory rather than on site designed to be placed on piers, columns, or similar structures. Parks or Subdivisions intended for the placement of this type of housing.

i. **Manufactured Home (Temporary Foundation)**

A manufactured home (temporary foundation) that is not part of a manufactured home park or subdivision is allowed by Special Use Permit if it is located a minimum of 300 feet from any existing habitable dwelling not owned by the applicant. The Board of Zoning Appeals may waive the 300-foot separation requirement if it finds that the manufactured home is used by an aged or infirm relative of the family residing in the primary dwelling.

ii. **Manufactured Home (Temporary Foundation) Park**

Any area of land in single ownership upon which two or more manufactured homes (temporary foundation) are placed with the facilities to include, at a minimum, the utilities, the streets, final site grade, or the concrete pads on which the homes are to be affixed. All facilities must be developed in compliance with Indiana Health Department regulations.

i. **Drainage Requirements**

The park must be located on a well-drained site, properly graded to ensure rapid drainage and free from stagnant pools of water.

(6) Residential Uses

(a) **Assisted Living Facility**

Residential facilities that provide assistance with daily activities, such as dressing, grooming, bathing, etc. This may also include hospice or memory care.

(b) **Dwelling, Multiple-Family**

A building located on a single lot designed or altered for occupancy by three or more families living independently of each other and entirely separated from any other dwelling by setbacks on all sides. Public wastewater service is required. A single proprietor owns all dwelling units.

(c) **Dwelling, Single-Family (attached)**

Two attached single-family dwellings located on two separately owned lots that share a common un-pierced firewall, extending from ground to roof, along the interior lot line, providing for separate fee-simple ownership of both lots. This Housing Type is permitted with public wastewater service or a locally permitted private waste water system.

(d) **Dwelling, Single-Family (detached)**

A building located on a single lot, designed exclusively for occupancy by one family and entirely separated from any other dwelling by setbacks on all sides. This housing type is permitted with public wastewater service or a locally permitted private waste water system.

(e) **Dwelling, Two-Family**

A building located on a single lot designed or altered for occupancy by two families and entirely separated from any other dwelling by setbacks on all sides. A single proprietor owns both dwelling units. This housing type is permitted with public

Use-Specific Standards & Definitions

- II. Minimum Site Area**
The park must have a minimum area of five acres and must provide home spaces. Each such space must be clearly defined or delineated. Each space must have an area per family dwelling unit of not less than 3,000 square feet and a width of not less than 40 feet.
- III. State Board of Health Requirements**
If not otherwise specified or if these standards do not meet or equal standards set by the State Board of Health, the State Board of Health standards prevail.
- IV. Distance from Park Boundaries**
No manufactured home (temporary foundation) may be located closer than 30 feet to any perimeter property line. If the park abuts a public road, then the standard setback line for that roadway as established for the applicable zoning district for single-family homes prevails. In the setback so established, each park developer must provide a buffer a minimum of 10 feet in width, consisting of evergreen trees a minimum of six feet in height at planting and installed a minimum of 20 feet apart on center. The buffer must also consist of an opaque fence or berm a minimum of six feet in height.
- V. Distance from Existing Housing**
A manufactured home (temporary foundation) must be located at least 300 feet from any existing habitable residential dwelling not owned by the park owner.
- VI. Distance from Residential District or Subdivision**
A manufactured home (temporary foundation) park must be established at least 600 feet from the boundary of a R-1 or R-2 zoning district or any platted residential subdivision.
- iii. Manufactured Home (Temporary Foundation) Subdivision**
Any area of land platted for the private ownership of lots with the facilities to include, at a minimum, the utilities, the streets, final site grade, suitable individual septic systems for each lot, and developed in compliance with the Ordinance in effect at the time of platting. If construction is completed before the effective date of the floodplain management regulations adopted by the County it is considered an existing manufactured home (temporary foundation) subdivision. All others are to be considered new.
- I. Minimum Site Area**
A manufactured home (temporary foundation) subdivision must have a minimum site area of 10 acres.
- II. Subdivision Compliance**
Manufactured home (temporary foundation) subdivisions must be planned and platted in compliance with this Ordinance.
- III. State Board of Health Requirements**
If not otherwise specified or if these standards do not meet or equal standards set by the State Board of Health, the State Board of Health standards prevail.
- IV. Distance from Subdivision Boundaries**
No manufactured home (temporary foundation) may be located closer than 30 feet to any perimeter property line of the subdivision. If the subdivision abuts a public street or highway, then the standard setbacks for that road as established for the applicable zoning district for single-family homes prevails. In the setback so established, each subdivision developer must provide a buffer a minimum of 10 feet in width, consisting of evergreen trees a minimum of six feet in height at planting and installed a minimum of 20 feet apart on center. The buffer must also consist of an opaque fence or berm a minimum of six feet in height.
- V. Distance from Existing Housing**
A manufactured home (temporary foundation) must be located at least 300 feet from any existing habitable residential dwelling not part of the manufactured home (temporary foundation) subdivision.
- VI. Distance from Residential District or Subdivision**
Any manufactured home (temporary foundation) subdivision must be located at least 600 feet from the boundary of an R-1 or R-2 zoning district or any platted residential subdivision.

(7) Retail & Service Uses

(a) Adult Business

Any of the following defined uses:

- i. Adult arcade. Any place in which the public is permitted or invited where devices are maintained to show images to ten or fewer persons per machine at any one time in which images are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities."
- ii. Adult bookstore. A commercial establishment having at least 5% of its net floor area (as established in [Sec. 158.02\(C\)\(7\)](#)) in stock in trade, or at least five percent of its sales and/or rentals from one or more of the following: (a) Books, magazines, periodicals or printed matter, photographs, motion pictures, video cassettes, or video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities"; or Instruments, devices or paraphernalia that depicts, is used in, or relates to "Adult Sexual Activities."

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- iii. Adult cabaret. Any establishment at which topless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers perform.
 - iv. Adult novelty, sexual encounter, or entertainment facilities. Any commercial establishment, business or service which has at least 5% of its net floor area or at least 5% of its sales consisting of material, devices, or paraphernalia which depicts or describes, or is related to "Adult Sexual Activities." An adult entertainment facility also includes a commercial establishment, business or service which offers services or performances whether printed, filmed, recorded or live depicting "Adult Sexual Activities." The term adult entertainment facilities shall include but not be limited to such activities as included in the definition of the adult business.
 - v. Adult motel. A motel, hotel, or similar establishment is a business or commercial establishment that, as one of its primary business purposes, offers rooms for sexual encounters between male and female persons and/or persons of the same sex where one or more of the persons are involved in "Adult Sexual Activities."
 - vi. Adult motion picture theater. Any place in which more than 10 persons are permitted or invited for the showing of images distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities."
 - vii. Any other business similar in nature to these described uses in this definition; or
 - viii. Any other business that offers, infrequently or for limited times during a year, one or more of the defined "Adult Business" uses.
- (b) **Bar, Microbrewery or Tavern**
A building where liquors are sold to be consumed on the premises. Also includes microbrewery which is a small facility for the brewing of beer that produces less than 15,000 barrels per year that may often include a tasting room and retail space to sell the beer to patrons on-site.
- (c) **Barber or Beauty Shop**
Any building, room, place or establishment that provides professional hairdressing, manicuring, shaving and unwanted hair removal (waxing and threading) services.
- (d) **Bed & Breakfast Inn**
An establishment that:
- i. Provides sleeping accommodations to the public for a fee;
 - ii. Provides breakfast to its guests as part of the fee;
 - iii. Provides a designated area within the establishment where the operator must reside;
 - iv. Is residential in character; and
 - v. Is the primary use on the property.
- vi. The bed and breakfast inn may have a maximum of 14 guest rooms.
- vii. The bed and breakfast inn may provide sleeping accommodations for no more than 30 consecutive days to a particular guest.
- (e) **Building or Home Improvement Supplies**
A retail store devoted to the sale of goods or materials associated with the construction and maintenance of a home.
- (f) **Car Wash**
A building, or portion of it, where automobiles are washed by using a chain conveyor and blower or steam cleaning device or by any other method.
- (g) **Farmers Market, Indoor**
An indoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers where at least 75% of the displayed inventory of the products sold in each farmers market is farm products or value-added farm products.
- (h) **Farmers Market, Outdoor**
An outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers where at least 75% of the displayed inventory of the products sold in each farmers market is farm products or value-added farm products.
- (i) **Fuel Sales**
A place where vehicular fuel, stored only in underground tanks, is offered for sale to the public or where charging stations are made available for the charging of vehicles.
- (j) **Funeral Home**
A facility in which dead bodies are prepared for burial or cremation and where funeral services may be conducted.
- (k) **Garden and Landscaping Supplies**
A retail store devoted to the sale of goods or materials associated with gardening and landscaping.
- (l) **Hotel/Motel**
Hotel. A building in which more than five rooms or suites are reserved to provide living and sleeping accommodations for temporary guests with no provision in those rooms for cooking facilities.
Motel. Buildings containing individual living and sleeping units for temporary guests, with garage attached or parking space conveniently located to each unit. This term also includes auto courts, motels, motor lodges or other similar type uses.
- i. In the E-3 district, a hotel or motel is permitted provided that the net floor area of the hotel or motel does not exceed 20% of the net floor area of office space within the development.

(m) Kennel

The keeping of household or domestic animals, normally in a residential or agricultural area, that is either of the following activity types:

- i. A combined total of more than 5 dogs, cats, or other household or domestic animals over 6 months of age kept for any purpose whatsoever including private pet purposes.
- ii. More than 2 dogs, cats, or other household or domestic animals over 6 months of age kept for:
 - I. Compensated breeding, boarding, or training,
 - II. Sale, or
 - III. Rescue-adoption, neuter-release, receiving veterinary treatment as a supporting use, or other welfare purposes.

A kennel may have outdoor area for kennel purposes, is normally standalone or accessory to a residence, and may be more than 1 building.

- i. If standalone, it may include living area in A-1, R-1, and B-1 only.
- ii. If in A-1 or R-1, the kennel property must be at least 3 acres.
- iii. All facilities, indoor and outdoor, must be at least 200 feet from a residence not on the kennel property.
- iv. If in A-1 or R-1, all facilities, indoor and outdoor, must be at least 50 feet from property lines.
- v. Any kennel that does not meet these standards must apply for a special use.

(n) Manufactured Home Sales or Rental

A facility for the storage and sale of manufactured homes

(o) Pet Store

A place of business, normally in a commercial area, for household or domestic pet sales, supplies, grooming, and training. A pet store may include other related activities and outdoor area for pet store purposes. It does not include breeding, neuter-release, or boarding. A pet store is normally standalone or in a strip center, is predominantly indoor, contains no residential area, and is not more than 1 building or storefront.

- i. Outdoor area boundaries, if any, must be at least 200 feet from a residence.

(p) Resort

A business that consist of buildings, open space for active or passive recreation as well as providing personnel services on-site. Also as part of its business the resort may or may not provide temporary lodging as well as serving meals.

(q) Restaurant or Catering Establishment, with Drive-In or Drive-Through

Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building

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or outside of the building after being ordered from an outdoor drive-through or drive-in facility.

- i. A drive-in or drive-through restaurant is permitted in accordance with the use tables in this Article provided that no drive-through speaker is oriented towards a residential use or an R-1, R-2, R-3, or R-4 district.

(r) Restaurant or Catering Establishment, without Drive-In or Drive-Through

Any establishment whose principal business is the sale of foods, frozen desserts, or alcoholic or non-alcoholic beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes at least one of the following characteristics:

- i. Customers, normally provided with an individual menu, are served their foods, frozen desserts or beverages by a restaurant employee at the same table or counter at which those items are consumed;
 - I. A cafeteria-type operation where foods, frozen desserts or beverages generally are consumed within the restaurant building; and
 - II. A drive-through or drive-in facility does not exist on the property.
 - III. A restaurant with an accessory brewery that brews and sells a maximum of 9,000 barrels of beer on-site in a year.
- ii. In the E-3 zoning district, a restaurant or catering establishment, without drive-in or drive-through is permitted subject to the following standards:
 - I. A standards restaurant must be enclosed entirely within a larger office building.
 - II. A standard restaurant must comprise no more than 10% of the net floor area of the building.

(s) Retail & Service

Retail and service uses that are not addressed as other uses specifically listed in this Ordinance.

- i. In the A-1 and E-3 zoning districts, a Retail and Service use is permitted subject to the following standards:
 - I. The net floor area of all primary and accessory structures must be less than 6,000 square feet.
 - II. The primary structure must be setback from a single- or two-family dwelling a minimum of 60 feet.
- ii. In the E-3 zoning district, a Retail and Service use is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.
- iii. In the A-3 zoning district, the only Retail and Service permitted is a flea market, and requires a special use.

Use-Specific Standards & Definitions

- (t) **Self-Service Storage**
A building whereby individuals rent containers or units of space within a large warehouse to store possessions.
- (u) **Vehicle Repair, Major**
Engine rebuilding, major reconditioning, or painting of worn or damaged motor vehicles or trailers. A major vehicle repair establishment may also include operations that characterize a minor vehicle repair establishment.
- (v) **Vehicle Repair, Minor**
Incidental repairs, replacement of parts, and motor service to vehicles, but not including any operation included under "Vehicle Repair, Major."
- (w) **Vehicle Sales or Rental**
Any premises on which three or more used or new cars, trailers or trucks are offered for sale, rental, or lease or are sold, rented, leased during any calendar year.
- (x) **Veterinary Clinic**
A commercial building where animals are given medication or surgical treatment and are cared for during the time of such treatment.
 - i. A veterinary clinic in the A-1 zoning district shall be required to have:
 - I. Class I boundary buffer is established, as described in [Sec. 158.06\(E\)](#), where the use is adjacent to a residential use in an R-1, R-2 or R-3 zoning district.
 - II. All Non-agricultural land uses on less than three acres must Apply for a Special Use.
 - III. The above standards do not apply to a Veterinary Clinic special use in the E-3 zoning district.

(8) Transportation Uses

- (a) **Airport or Heliport**
Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.
 - i. In the E-3 zoning district, an airport or heliport is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.
- (b) **Parking Lot or Structure, Commercial**
An open area or structure surfaced with dust free materials, designed and used for the parking of vehicles which is operated as a business enterprise with a service charge or fee being paid to the owner or operator of the parking structure or lot.
 - i. In the E-3 zoning district, an airport or heliport is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

- (c) **Passenger Terminal, Bus or Train**
A facility where the principal use is the handling, receiving, and transfer of passenger traffic by bus or train.
- (d) **Truck, Tractor, Trailer, Bus or Recreational Vehicle Storage or Parking Yard, Lot or Garage**
An area or building which is used or intended to be used for the storage of trucks, tractors, trailers, buses, recreational vehicles and commercial vehicles exceeding one and one-half ton capacity.
 - i. A truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage:
 - I. Shall be limited to 1 vehicle;
 - II. Shall be on a minimum of 3 acres, and
 - III. Shall be required to provide a Class I boundary buffer as described in [Sec. 158.06\(E\)](#), where the use is adjacent to a residential use in an A-1, R-1, R-2, R-3, R-4 zoning district.
 - IV. If this use is on less than 3 acres a Special Use Permit is required.
 - ii. In the E-3 zoning district, an airport or heliport is permitted provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed 6% of the total acreage of the project.

(9) Utility Uses

- (a) **Utilities, Major**
Public or private infrastructure serving the general community, that may or may not be maintained or regulated by a public or municipal entity and possibly having on-site personnel.
- (b) **Utilities, Minor**
Public or private infrastructure serving a limited area with no on-site personnel.
- (c) **Wireless Communication Facility**
 - i. **Applicability**
For purposes of this paragraph, wireless communication facilities includes wireless facilities and wireless support structures as defined in Indiana Code 8-1-32.3-13 and 8-1-32.3-14, respectively. It does not apply to personal television antennas, ham radio or short wave radio antennas, or other communications equipment accessory to residential uses or to the criteria for location without a Special Use Permit as stipulated in [Sec. 158.05\(B\)\(9\)\(d\)\(ii\)](#) below.
 - ii. **Wireless Communication Facilities Permitted By Right**
 - I. **Stealth Wireless Communication Antennas**
New antennas being placed on existing structures (including but not limited to flag poles, buildings, water towers, light poles, electric towers, church steeples, or silos) do not require a Special Use Permit, but do require an electrical or building permit.

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- II. **Co-Location**
New antennas being placed on existing wireless support structures with a valid Special Use Permit do not require a Special Use Permit, but do require an electrical or building permit.
- III. **Minor Towers**
1. Wireless support structures 50 feet or less in overall height do not require a Special Use Permit when proposed outside of a platted residential subdivision and outside of a residential zoning district. Such wireless support structures do require an Improvement Location Permit and a Building Permit.
 2. As a part of the Improvement Location Permit and Building Permit application, the petitioner must submit the following:
 - a. A statement that the wireless support structure will not interfere with other communications (such as radio or television);
 - b. An engineering report on collapsibility of the wireless support structure; and
 - c. A letter stating the facility operator will disassemble the wireless support structure and bring the property back to grade when the wireless support structure is no longer in use.
- iii. **Special Use Permit Required - General**
- I. A Special Use Permit is required in accordance with [Sec. 158.11\(H\)](#) for a new wireless support structure not permitted by right as outlined in Sec. 158.05(B)(9)(d)(ii) or for a “substantial modification” of a wireless support structure as defined in Indiana Code 8-1-32.3-11.
 - II. As a part of the Special Use Permit application, the petitioner must submit the following:
 1. A Federal Aviation Administration Form 7460-1, Notice of Proposed Construction or Alteration;
 2. An engineering report on collapsibility of the wireless support structure;
 3. A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment; and
 4. Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable options because collocation:
 - a. Would not result in the same wireless service functionality, coverage, and capacity;
 - b. Is technically infeasible; or
 - c. Is an economic burden to the applicant.
 5. Obtain driveway permit from Elkhart County Highway Department
- iv. **Special Use Permit Required - Ability for Future Co-Location and Height Standards**
- I. A new wireless communication facility must be designed to allow a minimum co-location of two additional antennas from two additional providers.
 - II. A wireless communication facility may be constructed to a maximum overall height of 200 feet regardless of the maximum height requirements listed in the zoning district. The measurement of overall height includes the height of a building that a wireless support structure may be mounted upon measured from the grade to the highest point of the wireless support structure.
 - III. The Board of Zoning Appeals must evaluate the proposed type of construction of the wireless support structure (mono pole, guy wire or free standing) based upon adjacent land uses and character of adjacent properties.
 - IV. The Board of Zoning Appeals may require camouflage on a new wireless support structure. A wireless support structure proposed near an airport or in a designated flight path may need a contrasting color to its surroundings if required by the Federal Aviation Administration.
 - V. Any wireless support structure 100 feet or less in overall height need not be painted red and white.
- v. **Special Use Permit Required - Setbacks**
- I. All structures related to the wireless communication facility, excluding fences, must be located a minimum distance from all surrounding property lines or lease lines a distance equal to the height of the wireless support structure, but not less than 50 feet.
 - II. Wireless support structures must be setback from any residential a minimum of one and one half times the height of the wireless support structure. This standard does not apply to the residence owned by the person leasing or selling the property for the purposes of locating the wireless support structure.
 - III. The Board of Zoning Appeals may require a greater setback where a proposed wireless support structure is in close proximity to a concentrated area of residential uses, an airport or heliport, a state or federal highway or a Park and Open Space use.

Use-Specific Standards & Definitions

vi. **Special Use Permit Required - Illumination**

Wireless support structures must not be illuminated, except in accordance with state or federal regulations.

vii. **Special Use Permit Required - Staffing and Vehicular Access**

Other than periodic visits for maintenance, the wireless communication facility must be unstaffed. To accommodate such visits, ingress and egress must only be from approved access points.

viii. **Special Use Permit Required - Screening**

Except as provided in paragraph 4 below, the following screening provisions apply to a wireless communication facility.

- I. Except as provided in paragraph below, woven wire or chain link fences that are 80% open or solid fences made from wood or other materials that are less than 50% open, must be used to enclose the overall site. Such fences may not be less than six feet in height or more than eight feet in height and must include the use of barbed wire.
- II. Screening of ground level compounds such as equipment shelters or backup generators must be provided and maintained with evergreen trees that are a minimum of six feet in height at planting. The trees must be planted in a staggered pattern at a maximum distance of eight feet on center. The screening must be placed in an area between the property line or lease line, and a 10-foot setback.
- III. The Board of Zoning Appeals may require enhanced screening when the wireless communication facility is in close proximity to a residential use, a major road, a federal or state highway or a Park and Open Space use.
- IV. These screening provisions do not apply to wireless communication facilities that are screened to the required height from the public right-of-way and from residential properties by a building, topography or some other type of pre-existing site feature acceptable to the Zoning Administrator.

ix. **Special Use Permit Required - Parking**

All driveways and off-street parking areas must be composed of dust proof materials.

x. **Special Use Permit Required - Signs**

The wireless communication facility is limited to one sign, not exceeding five square feet in area, and which must include information required by state or federal regulations.

xi. **Special Use Permit Required - Removal**

When the wireless communication facility is no longer required, the landowner or provider must remove it and restore the property to its natural state.

xii. **Special Use Permit Required - Most Preferred to Least Preferred Locations for Potential Sites**

The Board of Zoning Appeals may use the following list of locations, listed from most preferred to least preferred, when reviewing a Special Use Permit request for a new wireless communication facility:

- I. Existing utility towers;
- II. Existing structures;
- III. Manufacturing zoning districts;
- IV. Commercial zoning districts;
- V. Agricultural zoning districts;
- VI. Residential zoning districts.

Accessory Uses & Structures

158.05(C) Accessory Uses & Structures**(1) Applicability**

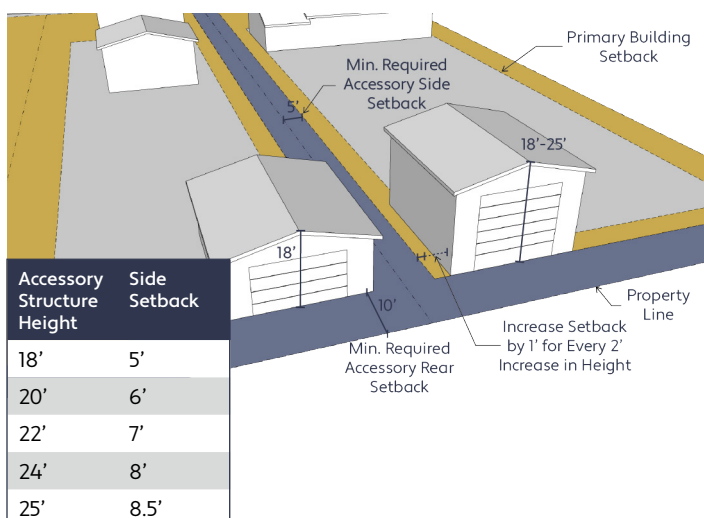
An accessory use or structure may be established provided that it is associated with a primary use and that it complies with the standards of this Section.

(2) General

- (a) The accessory use or structure must be subordinate to and serve a primary use or primary structure.
- (b) Accessory uses located in residential zoning districts must not be used for commercial purposes other than authorized home occupations or home workshop / businesses.
- (c) No detached accessory structure may be constructed until the construction of the rafters, or general equivalent, of the primary structure has commenced. No accessory structure may be used unless the primary structure also is being used.
- (d) An accessory use or structure must contribute to the comfort, convenience, or necessity of occupants of the primary use or structure served.
- (e) An accessory use or structure must be located on the same lot, in the same zoning district and under the same ownership as that of the primary use or structure served.
- (f) An accessory use not specifically enumerated as requiring a Special Use Permit in the particular zoning district in which the primary structure exists is permitted by right or permitted subject to the limitations of this Section.

(3) Setbacks & Height

- (a) Detached accessory structures have a minimum side setback of five feet. Detached accessory structures have a minimum rear setback of 10 feet.
- (b) Accessory structures must comply with the front setback standards for the primary structure established for that zoning district.
- (c) The maximum height for an accessory structure is 18 feet. The maximum height of an accessory structure may be increased to 25 feet if the minimum required 5 foot side setback is increased 1 foot for each 2 feet that the structure is above 18 feet.

**(4) Accessory Dwelling Unit (ADU)**

- (a) An accessory dwelling unit is permitted by right or by Special Use Permit, as appropriate, in association with a single-family dwelling or educational facility on property one acre or more in lot area in the A-1, A-3, A-4, R-1, and B-1 zoning district.
- (b) **ADU Accessory to an Educational Facility**
Where associated with an educational facility use in the A-1 zoning district, the accessory dwelling unit must be shown on the Special Use Permit site plan.
- (c) **ADU Accessory to a Single-Family Dwelling**
 - i. Where associated with a single-family dwelling in the A-1, A-3, A-4, R-1, and B-1 zoning districts, 1 accessory dwelling unit is allowed by right subject to the limitations in this Section.
 - ii. When associated with a single-family dwelling, the owner of the property must reside in either the primary dwelling or the accessory dwelling unit.
- (d) **ADU Development Standards**
 - i. An accessory dwelling unit must have a minimum net above-ground floor area of 600 square feet and a maximum net floor area of 1,000 square feet. Personal storage limitations remain for the entire property.
 - ii. For the purposes of this Section, a manufactured (single-wide) or mobile home may not be used as an accessory dwelling unit except for an infirmed or elderly relative or during construction of a primary dwelling. Once the need is gone; the manufactured (single-wide) or mobile home must be removed from the site. A Special Use Permit in accordance with [Sec. 158.11\(H\)](#) is required.
 - iii. An accessory dwelling unit must be served by the same curb cut that serves the primary dwelling or educational facility.
 - iv. A minimum of 1 off-street parking space must be provided in addition to the off-street parking required for the primary dwelling or educational facility.
 - v. An accessory dwelling must either be located within the primary structure (and meet the primary structure setback and yard requirements) or be a detached accessory structure that meets the standards in Sec. 158.05(C)(2) to the left.

(5) Adult or Child Care Home

An adult or child care home accessory to a residential use is allowed in accordance with IC 36-7-4-1108

(6) Bed & Breakfast Homestay

A bed and breakfast homestay accessory to a residential use is allowed in accordance with IC 36-1-24-8.

(7) Boat House

A boat house is allowed by right in association with a Household Living use if not more than 10 feet high as measured from normal water level.

Accessory Uses & Structures

(8) Home Occupation

A Home Occupation is allowed by right in association with any Household Living use in any zoning district subject to the following standards.

- (a) A home occupation must be carried on wholly within the primary structure or within a structure accessory to it.
- (b) A maximum of 1 person outside of the occupants of the residence may be employed in the home occupation on-site.
- (c) The home occupation operator may not sell or offer to sell items on the premises. Except that the operator may sell or offer to sell items online and ship the items to the buyer.
- (d) There must be no service sold or offered for sale on the premises that would generate vehicle or customer traffic to the premises beyond traffic normally associated with the residential use.
- (e) There must be no display or exterior storage of materials or products or other exterior indication of the home occupation or variation from the residential character of the primary structure.
- (f) A home occupation must not produce any noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.

(9) Home Workshop/Business

A home workshop/business is allowed by Special Use Permit in association with any single-family dwelling, in any zoning district that permits single-family dwellings and the E-3 district, subject to the following standards.

- (a) A home workshop/business must be carried on wholly within the primary structure or within a structure accessory to it.
- (b) A Home Workshop/Business may be operated only by occupants of the residence and by a maximum of 4 employees, associates or partners who do not occupy the residence. A Developmental Standard Variance must be approved in accordance with Sec. 158.10(T) is required in order to have more than 4 outside employees.
- (c) Outdoor display or storage is limited to what is shown in detail on the adopted site plan and must be in compliance with Sec. 158.06 Buffering and Screening; more specifically the Buffer Planting Specifications Class 2.
- (d) A home workshop or business must not produce noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.
- (e) Except as provided in paragraph (g) below, the total square footage of all accessory structures, excluding agricultural buildings, must not exceed 110% of the net floor area of the primary dwelling.
- (f) On properties in the A-1 zoning district that are 3 acres or more in lot area, the gross floor area of accessory structures for a home workshop / business and personal residential storage must not exceed 200% of the net floor area of the primary residential structure.

- (g) Off-street parking spaces must be provided for all employees who do not occupy the residence and approved for the Home Workshop/Business in addition to the dwelling unit requirement.

(10) Personal Residential Storage

- (a) Structures for storage of personal items, such as a private garage or storage shed, are allowed in association with a residential use subject to the following standards.
 - i. Items stored must not be associated with a nonresidential use or activity.
 - ii. Except as provided in paragraph (c) below, the total square footage of all accessory structures must not exceed 110% of the net floor area of the primary dwelling.
- (b) In the Agricultural zoning district, the storage of agricultural equipment in accessory structures is exempt from the square footage limitation.
- (c) On properties in the A-1 and R-1 zoning district that are three acres or more in lot area, the gross floor area of accessory structures for personal residential storage must not exceed 200% of the net floor area of the primary residential structure.

(11) Outdoor Bus Parking

Outdoor parking of a bus with current registration, as an accessory use to a single-family dwelling, is allowed by right in the A-1, R-1, R-2, R-3, R-4, B-1, B-2, and B-3 zoning districts subject to the following standards.

- (a) The property must have a minimum lot area of 1 acre.
- (b) An outdoor bus parking area must be screened from view from the public right-of-way and neighboring residential properties by 1 or more of the following:
 - i. An opaque fence or masonry wall a minimum of 6 feet in height;
 - ii. Evergreen plantings a minimum of 8 feet in height at the time of installation; or
 - iii. The dwelling itself.
- (d) The bus parking area must be behind the plane of the front wall of the dwelling.
- (e) In the A-1 and R- zoning districts, an indoor bus parking structure must be designed and constructed to compliment the primary dwelling.
- (f) The parking area must be situated so that a backing motion into the public right-of-way is not necessary.
- (g) A Special Use Permit approved in accordance with [Sec. 158.11\(H\)](#) is required if the subject property or property owner is unable to meet the requirements of this Section.

158.05(D) Temporary Uses**(1) Garage or Yard Sale**

A garage or yard sale is permitted as a temporary residential accessory use subject to the following standards:

- (a) No such sale may be conducted for longer than three consecutive days nor for more than 6 days of any calendar year by any of the same persons or on the same property.
- (b) No articles or items for sale may be displayed within 10 feet of a public right-of-way nor within 5 feet of a side lot line.
- (c) At the close of each sale day, and at the conclusion of the sale, all articles not sold and any other exterior indication of the sale must be removed from the front and side yards.
- (d) Garage or yard sales are limited to the hours from sunrise to sunset.

ELKHART DEVELOPMENT ORDINANCE
FINAL DRAFT FOR APPROVAL
2-13-2024

158.06 BUFFERING AND SCREENING

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158.06(A) Purpose

The purpose of this Article is to require buffering and screening that will:

- (1) Mitigate the negative effects of noise and glare from buildings, uses, vehicle lights and outdoor lighting on the public right-of-way and neighboring property;
- (2) Conserve and stabilize neighboring property values; and
- (3) Otherwise facilitate the maintenance and creation of an attractive and prosperous community.

158.06(B) Applicability

This Section applies in the following circumstances:

- (1) New nonresidential development or change in use from residential to nonresidential
- (2) For existing structures and land uses when expanding the use, the areas required to comply with Buffering and Screening are the yards adjacent to the expansion or to the areas disturbed during the expansion.

158.06(C) General

- (1) A buffer is a specified land area, located parallel to and within the outer perimeter of a property and extending to the property line, together with the plantings required within the buffer. A buffer may also contain a barrier such as a wall or fence where additional screening is necessary to achieve the required level of buffering.
- (2) A screening device is a set of living evergreen plantings or man-made fences or walls of required height and material. Screening devices hide certain outdoor appurtenances from the public right-of-way and neighboring private property.
- (3) Water, sanitary sewer, electrical, telephone, natural gas, cable, storm drainage or other service lines are permitted within buffers. Monument signs, as established in [Sec. 158.08](#), are allowed within parking buffers.

- (4) The parking of vehicles as well as the outdoor storage, display and sales of merchandise are prohibited in a required buffer.
- (5) A required buffer may not encroach into required on-site drainage. In addition, a required buffer may not be placed within the 75-foot setback required of County-regulated drains unless approved by the Elkhart County Drainage Board.
- (6) Installation and Maintenance
 - (a) All required buffers and landscaped areas must be maintained to the standard to which they were designed and installed. Areas must be maintained free of trash and weeds and must not deteriorate into an unsafe condition. All plantings must be installed so that they may be maintained without trespassing onto the adjacent property.
 - (b) Wherever a buffer or landscaping is required adjacent to a parking space, such landscaping must be protected by bumper blocks, posts or curbing to avoid damage to the buffer or landscaping by vehicles.
 - (c) Required buffers or landscaping must be installed during the first planting season after the start of any construction in the development, unless otherwise required by the Zoning Administrator.
- (7) Alternative Compliance with Buffer Requirements

The buffer requirements may be modified with approval by the Zoning Administrator upon a finding that:

 - (a) A modification would be consistent with the purpose of this Ordinance and of this Section;
 - (b) Such modification would not adversely affect the land use compatibility or public interest;
 - (c) Financial hardship is not the justification for the alternative compliance request; and
 - (d) The subject site or modified buffer complies with one or more of the following criteria:
 - i. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;
 - ii. The buffer is parallel and adjacent to property that is undevelopable due to access to public roadways, topography, shape or property;
 - iii. The buffer is between uses that are to be developed under a Detailed Planned Unit Development; or
 - iv. The buffer is parallel and adjacent to an existing railroad right-of-way.

158.06(D) Parking Area Buffer

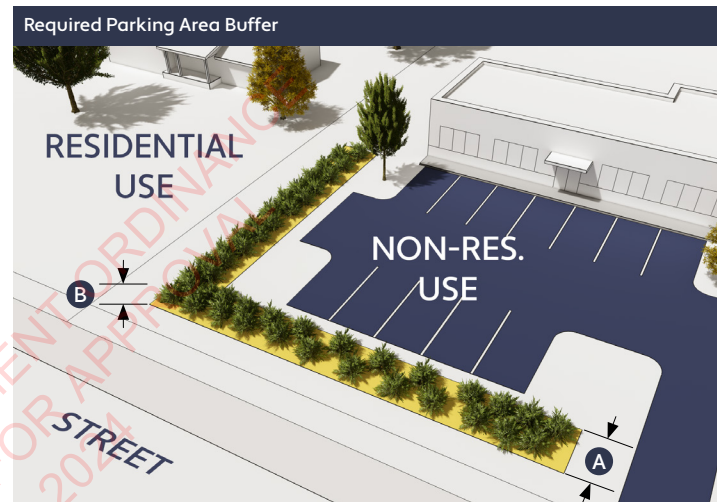
(1) Applicability

- (a) A parking area buffer is required for nonresidential uses and multifamily uses in the R-1, R-2, R-3, R-4, B-1, B-2, B-3, E-3, M-1 or M-2 zoning districts where such nonresidential uses abut a public right-of-way or a residentially used or zoned property.
- (b) A parking area buffer is not required under the following circumstances:
 - i. If a parking area buffer and a boundary buffer are both required along the same property line;
 - ii. A parking area is at a lower or higher finished grade than the adjacent public right-of-way, and the intended purpose of a parking area buffer is accomplished by such difference in elevation;
 - iii. The nearest edge of a parking area is 50 feet or greater from the public right-of-way or a residentially used or zoned property; or
 - iv. Any portion of a parking area is located between the rear of a building and a rear property line and is not adjacent to a residentially zoned or used property.

(2) Design

The parking area buffer must consist of a landscaped area along the entire applicable perimeter of the parking area, except for permitted driveways, and must be:

- (a) A minimum of 10 feet in width; **(A)**
- (b) Consist of a 4 foot high evergreen hedgerow, berm, masonry wall, or a combination of any of these elements; **(B)**
- (c) A non-opaque fence may consist of wrought iron, vinyl, or other material acceptable to the Zoning Administrator; and
- (d) Breaks in a fence may be provided for pedestrian connections to adjacent developments.



158.06(E) Boundary Buffer

(1) Applicability

Except as required in the Specific Use Standards in [Sec. 158.05\(B\)](#), the boundary buffer requirement does not apply to the A-1 zoning districts, nor does it apply to residential uses in any zoning district.

(2) Required Boundary Buffers

The following table is established in order to ensure compatibility between potentially incompatible zoning districts. The table determines the required Buffer Class (1, 2, or 3) between a subject property and its adjacent zoning districts.

		Adjacent District								
		A-1, R-1, R-2, R-3 (Residential Use)	R-4 (Residential Use)	B-1	B-2	B-3	M-1	M-2	E-3	A-E
		Required Boundary Buffer								
Subject District	R-1, R-2, R-3, R-4 (Non-residential Use)	1	None	None	None	None	None	None	None	None
	B-1	1	1	None	None	None	None	None	None	None
	B-2	2	1	1	None	None	None	None	1	None
	B-3	2	2	1	1	None	None	None	1	None
	M-1	3	3	2	1	1	None	None	1	None
	M-2	3	3	3	2	1	None	None	2	None
	E-3	2	2	1	1		None	None	None	None
	A-E	3	3	3	2	1	None	None	2	None

(3) Design

- (a) The following tables establish the specific width and material for a Class 1, 2, and 3 buffer. Each buffer Class has three Types (A, B, and C) from which a designer may choose. Wider buffers require fewer materials, while narrower buffers require more materials. Where a Class 1 buffer is required, the property owner may voluntarily provide a Class 2 or Class 3 buffer. Where a Class 2 buffer is required, the property owner may voluntarily provide a Class 3 buffer.
- (b) Specified buffer plantings and barriers are required per 100 linear feet of buffer area. An applicant may max or match buffer Types in the required buffer Class per 100 feet along the same property line.
- (c) Where required trees are accompanied by a fence or wall, the trees must be located on the subject property side of the fence or wall.
- (d) Where required shrubs are accompanied by a fence or wall, the shrubs must be located on the side nearest to the adjacent property.

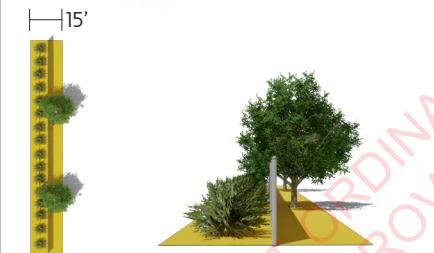
CLASS 1

TYPE A



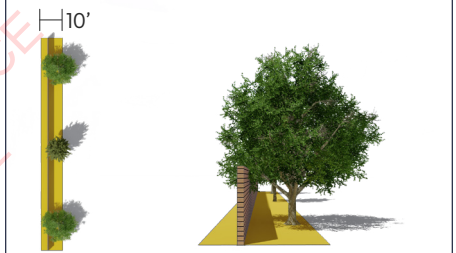
Width	Trees	Shrubs	Barrier
25'	4 per 100'	24 per 100'	None

TYPE B



Width	Trees	Shrubs	Barrier
15'	2 per 100'	16 per 100'	Non-Opaque Fence

TYPE C



Width	Trees	Shrubs	Barrier
10'	3 per 100'	0 per 100'	Opaque Fence

CLASS 2

TYPE A



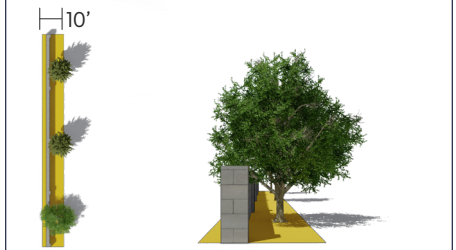
Width	Trees	Shrubs	Barrier
25'	6 per 100'	24 per 100'	None

TYPE B



Width	Trees	Shrubs	Barrier
15'	3 per 100'	9 per 100'	Opaque Fence

OPTION C



Width	Trees	Shrubs	Barrier
10'	3 per 100'	0 per 100'	Wall

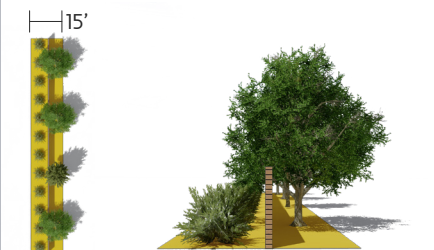
CLASS 3

TYPE A



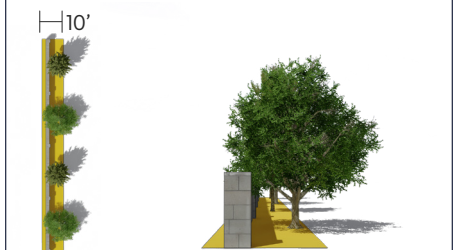
Width	Trees	Shrubs	Barrier
25'	10 per 100'	24 per 100'	None

TYPE B



Width	Trees	Shrubs	Barrier
15'	4 per 100'	12 per 100'	Opaque Fence

TYPE C



Width	Trees	Shrubs	Barrier
10'	4 per 100'	0 per 100'	Wall

158.06(F) Boundary Buffer Specifications**(1) Width**

The width of a buffer may be narrower than required by a maximum of one-half of the required width provided that the average width of the entire buffer is the minimum required.

(2) Trees

- (a) Required trees in a buffer must be a minimum of 8 feet in height at installation and may be planted at regular intervals or in a meandering manner.
- (b) Existing trees on site that are greater than eight feet in height may be preserved within a buffer for credit.
- (c) Buffers planted below overhead utility lines must contain tree species that do not exceed 20 feet in height at maturity.

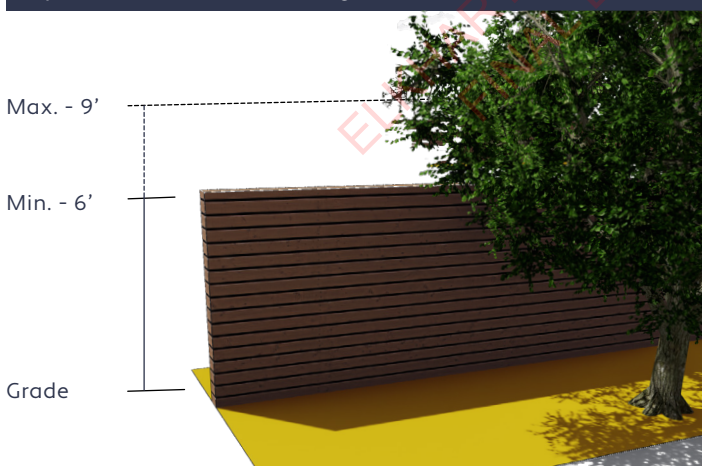
(3) Shrubs

Required shrubs in a buffer must be a minimum of 4 feet in height at installation, evergreen, and may be planted at regular intervals or in a meandering manner.

(4) Fences and Walls

- (a) Required fences and walls must be a minimum of 6 feet and a maximum of 9 feet in height.
- (b) Wooden posts in opaque fences must be set in a masonry support column every 40 feet.
- (c) A non-opaque fence may consist of wrought iron, vinyl, or other material acceptable to the Zoning Administrator.
- (d) Breaks in a fence may be provided for pedestrian connections to adjacent developments.

Required Fence or Wall Minimum Height

**(5) Berms**

- (a) Required shrubs and fences, but not required trees or walls, in a buffer may be replaced with a berm or series of berms.
- (b) Berms must have a minimum height of 4 feet with an average height of 6 feet per 100-foot buffer segment.

- (c) Side slopes may not be less than 4 feet horizontal for each 1-foot vertical with at least a 2-foot flat area on the top.
- (d) In order to accommodate a berm, the buffer may need to be wider than required in the table above.

158.06(G) Trash & Recycling Service Area Screening

- (1) Trash collection, trash compaction, recycling collection and other similar service areas must be located on the side or rear of the building and be effectively screened from view from residential properties or public rights-of-way, not including an alley.
- (2) Screening enclosures must consist of an opaque fence or wall compatible with the dominant material of the primary structure. Enclosures must be a minimum of 6 feet in height.
- (3) All refuse and recycling service areas must be located a minimum of 25 feet away from any abutting residentially used or zoned property. This distance may be reduced to 10 feet if the service area is screened by a masonry wall.

158.06(H) Loading Dock Screening

- (1) Loading docks must be completely screened from residentially zoned or used properties.
- (2) Screening must consist of walls or plant material totaling 8 feet in height at installation. Wall materials must be compatible with the dominant material of the primary structure.
- (3) Loading docks not in the B-3, M-1 or M-2 zoning district must be located to the side or rear of buildings, unless the loading docks is wholly within an enclosed building.

158.06(I) Outdoor Storage Screening

- (a) Commercial, nonagricultural outdoor storage, as defined in Article 2, is prohibited in the A-1, A-3, A-4, B-1, B-2, B-3, R-1, R-2, R-3, and R-4 zoning districts.
- (b) No outside storage is permitted within the following areas:
 - i. Required front or side setbacks; or
 - ii. Required off-street parking areas or fire lanes.
- (c) The following types of outdoor storage are exempt from screening requirements:
 - i. Commercial vehicles related to a permitted business on-site; and
 - ii. Finished recreational vehicles, automobiles, portable buildings, boats, trailers, manufactured homes and other similar vehicles or equipment produced or sold by a permitted use on-site.

158.07 ACCESS, PARKING, & LOADING

Sections

158.07(A)	Purpose.....	7-1
158.07(B)	Applicability.....	7-1
158.07(C)	Off-Street Parking.....	7-1
158.07(D)	Vehicle Stacking.....	7-6
158.07(E)	Off-Street Loading & Unloading Docks.....	7-7

158.07(A) Purpose

The purpose of this Section is to alleviate or prevent congestion of the public streets, and promote the safety and welfare of the public, by establishing minimum requirements for the off-street parking, loading and unloading and stacking of vehicles in accordance with the use of the property.

158.07(B) Applicability

- (1) This Article applies in the following circumstances:
- (a) When a building or structure erected or enlarged before February 1, 1960 undergoes a decrease in the number of dwelling units, net floor area, seating capacity, number of employees, or other unit of measurement specified in this Section for required parking or loading facilities, off-street parking and loading facilities may be reduced accordingly. However, existing parking or loading facilities remaining must at least equal or exceed the parking or loading requirements of this Section.
 - (b) If a building or structure undergoes any increase in a unit of measurement specified in this Section for required off-street parking or loading facilities, off-street parking and loading facilities must be increased accordingly.
 - (c) Every use established on or after February 1, 1960 must provide off-street vehicle parking space and may provide loading and unloading berths in compliance with the provisions of this Section. In addition, specific uses require off-street stacking spaces.

(2) Existing Parking & Loading Spaces

Off-street parking and loading spaces in existence on February 1, 1960 may not be reduced in number unless they already exceed the requirements of this Section for equivalent new construction. Those spaces shall not be reduced below the number required in this ordinance for equivalent new construction.

(3) Damage or Destruction

Any building, structure or use which was in existence and a conforming use on February 1, 1960 and which is subsequently damaged or destroyed by fire, collapse, explosion or other cause, may be reconstructed, reestablished or repaired with or without off-street parking or loading facilities equivalent to any maintained at the time of that damage or destruction. However, it is not necessary to restore or maintain parking or loading facilities in excess of those required by this Ordinance for equivalent new construction.

(4) Site Plan Minimum Requirements

An application for an Improvement Location Permit for a new or enlarged building, structure, or use, shall include a parking plan, drawn to scale, and fully dimensioned, showing any off-street parking, loading, and stacking facilities to be provided in compliance with the requirements of this Section.

158.07(C) Off-Street Parking

(1) Design & Maintenance of Parking Areas

Off-street parking areas required in this section shall be designed and maintained as follows:

(a) Dimensions

- i. A required parking space must be a minimum of 9 feet in width and 20 feet in depth, plus 70 square feet of maneuverable area, must be available for each vehicle parking space
- ii. One-way aisles for off-street parking spaces set at 45-degree angles must have a minimum width of 12 feet.
- iii. Two-way aisles for off-street parking spaces set at 90-degree angles must have a minimum width of 24 feet.
- iv. The Zoning Administrator may approve parking space angles and aisle configurations not described in paragraph (ii) above provided the design supports the purpose of this Section as set forth in Sec. 158.07(A).

(b) Required Setbacks

- i. **A-1, R-1, R-2, or R-3:** Shall be setback a minimum of 10 feet from the right-of-way line, or 35 feet from the centerline of the right-of-way, whichever is greater.
- ii. **R-4, B-1, B-2, B-3, M-1, or M-2:** Shall be setback a minimum of 15 feet from the front property line or 55 feet from the centerline of the right-of-way, whichever is greater.
- iii. **Non-residential uses and multifamily uses in R-1, R-2, R-3, R-4, B-1, B-2, B-3, E-3, M-1 or M-2 abutting a Residential Uses:** Shall have a 10 foot side and rear parking setback to accommodate required parking area buffer found in [Sec. 158.06\(D\)](#).

(c) **Surfacing**

Off-street parking areas and driveways must be surfaced with dust free materials such as Asphalt (Bituminous Concrete), Concrete (Cement with various sized aggregate), paving brick, gravel, permeable pavement, or other materials agreed to in writing by the Zoning Administrator; and all materials must be maintained in good condition.

(c) **Lighting**

Any device illuminating an off-street parking area must reflect that light away from all adjoining residential properties.

2) Computation of Required Parking Spaces

The minimum number of required parking spaces is obtained by calculating the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking spaces for one use may not provide the required parking spaces for any other use in the same building or on the same lot, except as allowed in by an Alternative Parking Plan in [Sec. 158.07\(C\)\(6\)](#).

(3) Minimum Required Off-Street Parking Spaces

- (a) Requirements for the minimum number of required off-street parking spaces in relation to the use of the property are established in the table on the following pages. The parking requirements for any use not specified in the table below are the same as for a similar use, as determined by the Zoning Administrator based on the criteria in [Sec. 158.10\(K\)\(3\)](#).
- (b) The Zoning Administrator may require a land owner to provide additional off-street parking, even if the number of off-street parking spaces provided meets the minimum requirement for the established use, if customers or employees are consistently required to park on the street or other properties due to a lack of available off-street parking.

Use	Min. Required Off-Street Parking Spaces
NFA - Net Floor Area	sq. ft. - Square Feet
Agricultural Uses	
Agri-business	1 per 400 sq. ft. retail floor area + 1 per 2,000 sq. ft. outdoor sales area
Agriculture, Field and Row Crops	None
Agriculture, Livestock	None
Concentrated animal feeding operation	See Sec. 158.04(D) .
Greenhouse, retail	1 per 1,000 sq. ft. NFA
Livestock sale or auction	1 per 4 seats
Roadside Stand, tree farm, u-pick produce	1 per 400 sq. ft. retail floor area + 1 per 2,000 sq. ft. outdoor sales area
Stable, private and noncommercial	1 per stall
Stable, public or commercial	1 per stall
Winery	1 per 400 sq. ft. retail floor area + 1 per 2,000 sq. ft. outdoor sales area
Industrial Uses	
Animal Processing	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Bulk storage of explosives/hazardous material	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Contractor Offices and Yards	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Fertilizer manufacturing and storage	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Heavy Industrial, Intense	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Heavy Industrial, Less Intense	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Light Industrial	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Resource Extraction	1 per employee on the largest shift
Warehousing and Freight Movement	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Waste-Related Service	1 per 300 sq. ft. office space + 1 per 4 acres outdoor storage area
Welding, tool repair or machine shop	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area

Use	Min. Required Off-Street Parking Spaces
NFA - Net Floor Area	sq. ft. - Square Feet
Industrial Uses (cont.)	
Wholesale Trade	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Wrecking, junk or salvage yard	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Office Uses	
Professional Office	1 per 300 sq. ft. NFA
TV Studio or Radio Station	1 per 300 sq. ft. NFA
Public & Civic Uses	
Assembly Hall	1 per 50 sq. ft. NFA used for assembly, meetings, events or exhibition + 1 per 5,000 sq. ft. of outdoor space used for the same purposes
Cemetery	1 per 10,000 sq. ft. outdoor area
Community Center	1 per 200 sq. ft. NFA + 1 per employee on largest shift
Correctional Facility	1 per employee on largest shift + 1 per 5 cells
County or Municipal Government Offices or Facilities	1 per official vehicle + 1 per employee on largest shift plus 1 per 200 sq. ft. NFA
Day Care, Adult or Child	1 per employee on largest shift + 1 per 4 children
Emergency Services, Fire or Police	1 per official vehicle + 1 per employee on largest shift + 1 per 200 sq. ft. NFA
Hospital	1 per 3 beds + 1 per employee on largest shift
Library/Museum/Cultural Facility	1 per 200 sq. ft. NFA + 1 per employee on largest shift
Medical/Dental Clinic or Laboratory	1 per each 250 sq. ft. NFA + 1 per employee on largest shift
Places of Worship	1 per 4 seats in main place of assembly
School, Pre-K/Nursery	10 per classroom
School, Public or private elementary, middle, or high school	Elementary/Middle School: 1 per 2 employees on largest shift + 2 per classroom High School: 10 per classroom
Social Service Establishments	1 per 300 sq. ft. office area + 1 per employee on largest shift
University, college, or seminary	10 per classroom
Recreation & Entertainment Uses	
Camp Ground (Not Part of Park & Open Space)	1 per pad
Casino	1 per 200 sq. ft. NFA + 1 per 2 seats in main place of assembly or recreation

Use	Min. Required Off-Street Parking Spaces
NFA - Net Floor Area	sq. ft. - Square Feet
Recreation & Entertainment Uses (cont.)	
Event Venue	1 per 50 sq. ft. NFA used for assembly, meetings, events or exhibition + 1 per 5,000 sq. ft. of outdoor space used for the same purposes
Marina	1 per 250 sq. ft. NFA
Parks & Open Space	1 per 10,000 sq. ft. outdoor area
Recreation/Entertainment, Indoor	Bowling Alley: 5 per lane Dance Hall or Skating Rink: 1 per 50 SF of floor area used for assembly Tennis or Racquetball Facility: 2 per court Theater, Movie or Other: 1 per 2 seats All Other Uses: 1 per 200 sq. ft. NFA + 1 per 2 seats in main place of assembly or recreation
Recreation/Entertainment, Outdoor	Circus, Carnival, Fair, or Corn Maze: 50 per acre Golf Course, Driving Range, or Mini Golf Course: 3 per hole + 1 per 4 seats in accessory restaurant, bar or banquet facility All Other Uses with Fixed Seats: 1 per 4 seats or per 6 feet of benches All Other Uses without Fixed Seats: 1 per 250 sq. ft. NFA
Stadium/Arena	1 per 200 sq. ft. NFA + 1 per 2 seats in main place of assembly or recreation
Vehicle Race Track, Large	1 per 4 seats or per 6 feet of benches
Vehicle Race Track, Small	1 per 4 seats or per 6 feet of benches
Residential Uses	
Assisted Living Facility	1 per 2 dwelling units + 1 per employee on largest shift
Dwelling or complex, Multiple-family	1.5 spaces per 1 bedroom unit, 2 spaces per 2 or more bedroom units
Dwelling, Single-Family (attached)	2 per dwelling unit
Dwelling, Single-Family (detached)	2 per dwelling unit
Dwelling, Two-Family	2 per dwelling unit
Dwelling, Upper-story	1 per dwelling unit

Use	Min. Required Off-Street Parking Spaces
NFA - Net Floor Area	sq. ft. - Square Feet
Residential Uses	
Group home, eight residents or fewer	Group home: 1 per 2 dwelling units + 1 per employee on largest shift Fraternities, Sororities, and Dormitories: 1 per 2 beds
Group home, more than eight residents	Group home: 1 per 2 dwelling units + 1 per employee on largest shift Fraternities, Sororities, and Dormitories: 1 per 2 beds
Group Home, State Regulated	1 per 2 dwelling units + 1 per employee on largest shift
Manufactured (double wide) or modular home	2 per home space + 1 per 5 home spaces for guest parking
Manufactured (single-wide) or mobile home structure, park or subdivision	2 per home space + 1 per 5 home spaces for guest parking
Retail & Service Uses	
Adult Business	1 per 300 sq. ft. retail floor area
Bar, Microbrewery, or Tavern	1 per 3 seats
Barber or Beauty Shop	1 per 300 sq. ft. retail floor area
Bed and Breakfast Inn	1 per guest room
Building or Home Improvement Supplies	1 per 300 sq. ft. retail floor area
Car Wash	2 per bay
Farmers Market, Indoor	1 per 300 sq. ft. retail floor area
Farmers Market, Outdoor	1 per 300 sq. ft. retail floor area
Fuel Sales	1 per 250 sq. ft. retail sales area
Funeral Home	1 per 4 seats in main place of assembly
Garden and Landscaping Supplies	1 per 300 sq. ft. retail floor area
Hotel/Motel	1 per guest room
Kennel	None
Manufactured Home Sales or Rental	1 per 500 sq. ft. showroom floor area + 1 per 2,000 sq. ft. outdoor sales area
Pet Store	1 per 300 sq. ft. retail floor area
Resort	1 per guest room
Restaurant or Catering Establishment, with Drive-In or Drive-Through	1 per 3 seats
Restaurant or Catering Establishment, without Drive-In or Drive-Through	1 per 3 seats

Use	Min. Required Off-Street Parking Spaces
NFA - Net Floor Area	sq. ft. - Square Feet
Retail & Service Uses (cont.)	
Retail & Service	Appliance or Furniture Store: 1 per 400 sq. ft. retail floor area Electronic & Mixed Media Store: 1 per 350 sq. ft. retail floor area All Other Uses: 1 per 300 sq. ft. retail floor area
Self-Service Storage	1 per 300 sq. ft. office space
Vehicle Repair, Major	5 per bay or 1 per 250 sq. ft. NFA, whichever is greater
Vehicle Repair, Minor	5 per bay or 1 per 250 sq. ft. NFA, whichever is greater
Vehicle Sales or Rental	1 per 500 sq. ft. showroom floor area + 1 per 2,000 sq. ft. outdoor sales area
Veterinary Clinic	1 per 300 sq. ft. NFA + 1 per examining room
Transportation Uses	
Airport or Heliport	1 per employee on largest shift + 1 per 1,000 sq. ft. hangar space or outdoor aircraft storage space
Parking Lot or Structure, Commercial	None
Passenger Terminal, Bus or Train	1 per 4 seats of waiting area
Truck, tractor, trailer, bus or recreational vehicle storage or parking yard, lot or garage	None
Utility Uses	
Alternative Energy	1 per vehicle required to serve the utility
Utilities, Major	1 per vehicle required to serve the utility
Utilities, Minor	1 per vehicle required to serve the utility
Wireless Communication Facility	1 per vehicle required to serve the utility

(4) Use of Parking Facilities

Parking areas, lots, spaces, and structures accessory to a residential use in accordance with the requirements of this Section must be used solely for the parking of private passenger vehicles owned by occupants of the dwellings to which those areas are accessory or by guests of those occupants. Parking of commercial vehicles with a manufacturer's rated hauling capacity over one and one-half tons or the parking of any vehicles belonging to the employees, owners, tenants, visitors or customers of business or manufacturing establishment is prohibited accessory to a residential use.

(5) Bicycle Parking Standards

(a) Required Parking Reduction Incentive

Required vehicle parking spaces may be reduced by 1 vehicle parking space for every 1 bicycle parking space. In no case shall the required vehicle parking be reduced to less than 50%.

(6) Alternative Parking Plans

The required number of off-street parking spaces in this Ordinance may be modified where applicant-submitted parking data, sealed and certified by a Professional Engineer in the State of Indiana, illustrates that required parking ratios cannot or do not accurately apply to a specific development. To that end, a land owner may use either shared off-street parking or off-site parking areas, but not both.

(a) Shared Parking

Shared off-street parking among two or more uses may be permitted subject to the following requirements.

- i. The shared parking spaces must be on the same lot.
- ii. Total off-street parking provided must be sufficient to meet the requirements of the greatest combined peak parking demands.
- iii. An analysis must be submitted to the Zoning Administrator based on the Urban Land Institute's publication, Shared Parking or its equivalent. The analysis must address, at minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing parking spaces.

(b) Off-Site Parking Areas

Required off-street parking spaces may be permitted by the Zoning Administrator on a separate site from the site on which the primary use is located subject to the following requirements:

- i. Off-site parking spaces must be located within 660 feet from the primary entrance of the use served along the shortest available pedestrian route, measured from the nearest point of the parking area to the nearest point of the structure served by such parking lot.
- ii. Off-site parking may not be used to satisfy the required parking ratios for residential uses.
- iii. Required parking spaces reserved for persons with disabilities may not be located off-site.
- iv. The off-site parking must be located wholly within a zoning district that allows the primary use.
- v. All dimensional and developmental standards in this Ordinance that apply to an on-site parking area also apply to an off-site parking area.

(c) Agreement

The owners of the properties involved in the alternative parking plan must submit a written commitment guaranteeing that the parking spaces will be provided and maintained as stipulated in the approved site plan, so long as parking is required for the properties in question or until the required parking is provided by other means. Such commitment must be recorded by the property owners in the County Recorder's Office and a copy filed with the Planning Department.

(7) Required ADA Accessible Spaces

Every off-street parking area and parking garage available to the public shall have parking spaces reserved for the use of physically handicapped persons as specified in the table below (as required by ADA Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a), published in the Federal Register, Volume 56, No. 144, dated July 26, 1991):

- (a) Uses which provide medical care and other services to persons with mobility impairments shall provide ADA Parking Spaces as follows:
 - i. Outpatient units and facilities 10% of the total number of off-street parking spaces; and
 - ii. Units and facilities that specialize in treatment services for persons with mobility impairments 20% of the total number of off-street parking spaces.
- (b) All other uses shall provide ADA accessible spaces as outlined in the table below.

Required ADA Accessible Spaces	
Number of Parking Spaces Provided	Min. Required ADA Accessible Spaces
1 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501 - 1000	2% of the total number of off-street parking spaces
1001 and over	20, plus 1 for each 100 off-street parking spaces over 1,000

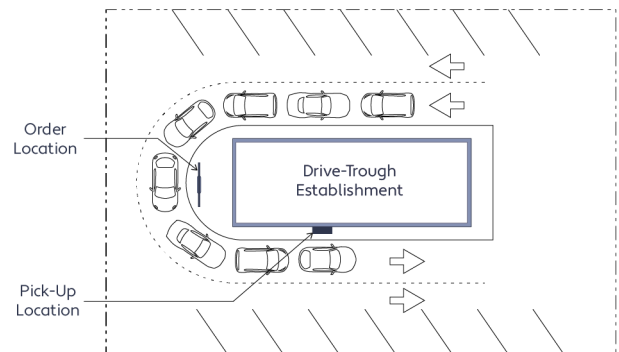
158.07(D) Vehicle Stacking

(1) Minimum Vehicle Stacking Spaces

- (a) The minimum number of required off-street stacking spaces for certain specific uses are established in the table below.

Required Vehicle Stacking Spaces		
Use	Min. Required Vehicle Stacking Spaces	Measured From
Automated teller machine, drive-through	3	Machine
Bank teller lane	4	Teller window or tube device
Car lubrication stall	2	Entrance to stall
Car wash stall	3	Entrance to wash bay
Day care center	8	Front door
Gasoline pump island	2	Pump island
Parking area, controlled entry	3	Key code box
Restaurant, drive-through	6	Order box
	4	Pick-up window to order box

- (b) Stacking spaces are measured starting at the location listed in the "Measured From" column in the table above. Below is an example of how a restaurant, drive-through provides the required minimum stacking spaces.



(2) Design of Vehicle Stacking Areas

Required stacking spaces are subject to the following design standards:

- (a) **Dimensions**
A required stacking space must be a minimum of 9 feet in width and 20 feet in depth.
- (b) **Location**
Stacking spaces must not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.
- (c) **Controlled Entries**
Controlled entries must be designed so that vehicles may turn around without entering the gated area or backing out into the public right-of-way.

158.07(E) Off-Street Loading & Unloading Docks

(1) Minimum Required Off-Street Loading & Unloading Docks

- (a) Uses that include the loading and unloading of materials or merchandise from vehicles may provide off-street loading and unloading facilities. If such facilities are provided, then they must be in accordance with the following requirements.
- (b) The Zoning Administrator may require a land owner to provide additional off-street loading, even if the number of off-street loading spaces provided meets the minimum requirement for the established use, if loading activities are consistently required to load or unload from the street due to a lack of available off-street loading spaces.

Use	Net Floor Area	Minimum Required Off-Street Loading Berths
	NFA - Net Floor Area	sq. ft. - Square Feet
Medical Facilities	40,000 - 100,000 sq. ft.	1
	Over 100,000 sq. ft.	1 + 1 additional space per additional 100,000 sq. ft. NFA
Indoor Recreation	10,000 - 100,000 sq. ft.	1
	Over 100,000 sq. ft.	1 + 1 additional space per additional 100,000 sq. ft. NFA
Offices	40,000 - 100,000 sq. ft.	1
	Over 100,000 sq. ft.	1 + 1 additional space per additional 100,000 sq. ft. NFA
Hotel/Motel	0 - 40,000 sq. ft.	1
	Over 40,000 sq. ft.	1 + 1 additional space per additional 150,000 sq. ft. NFA
Restaurants	10,000 - 100,000 sq. ft.	1
	Over 100,000 sq. ft.	1 + 1 additional space per additional 100,000 sq. ft. NFA
Retail & Service	10,000 - 100,000 sq. ft.	1
	Over 100,000 sq. ft.	1 + 1 additional space per additional 100,000 sq. ft. NFA
Vehicle Sales & Service	8,000 - 25,000 sq. ft.	1
	Over 25,000 sq. ft.	1 + 1 additional space per additional 25,000 sq. ft. NFA
Industrial Uses	8,000 - 40,000 sq. ft.	1
	Over 40,000 sq. ft.	1 + 1 additional space per additional 60,000 sq. ft. NFA

(2) Design & Maintenance of Parking Areas

Off-street parking areas required in this section shall be designed and maintained as follows:

- (a) **Dimensions**
A required off-street loading berth must be a minimum of 10 feet in width, 45 feet in length and 15 feet in height, exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned in this section.
- (b) **Surfacing**
An off-street loading berth must consist of a hard-surfaced, dust-free area that must be maintained in good condition.
- (c) **Location**
An off-street loading berth must be setback a minimum of 50 feet to any property in a residential zoning district unless completely enclosed by building walls, or a uniformly painted solid fence or wall, or any combination of them not less than six feet in height. An off-street loading berth must be setback a minimum of 25 feet of the nearest point of intersection of any two streets. Loading berths open to the sky may be located in any required yards.

158.08 SIGNS

Sections

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158.08(A) Purpose

The purpose of these sign regulations is to protect and promote the public health, safety and general welfare by controlling the structural type, timing, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in Elkhart County. More specifically, the purpose of this Article is to:

- (1) Enable businesses and non-profit organizations to make their presence known to the general public;
- (2) Enable free expression of individuals and groups;
- (3) Encourage the effective use of signs as a means to facilitate way-finding and the spread of essential public information in Elkhart County;
- (4) Balance the right to erect and use signs with the desire to maintain a pleasing visual environment and to conserve property values; and
- (5) Provide clear and objective sign standards.

158.08(B) Applicability

This Section applies to all signs erected, placed, painted, installed or otherwise made visible on private property in the jurisdiction of this Ordinance, except as otherwise provided. Additional sign standards adopted by an appropriate legislative body within the jurisdiction of this Ordinance may apply.

158.08(C) Definitions

(1) Electronic Message Board

A part of a sign on which the copy changes automatically through the use of electronic technology.

(2) Sign

Any printed text, pictorial representation, figures, numerals, emblems, devices, objects, designs, descriptions, displays, instructions or other pictorial matter, and displayed by means of paint, bills, posters, panels or other devices erected on an

open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings or other structure or supports, or piece of land, and which is used to identify, direct, instruct, attract, guide, inform or advertise.

(3) Sign, Flashing

Any illuminated or revolving sign on which an artificial light is not maintained stationary or constant in intensity or color at all times when in use.

(4) Sign, Freestanding

Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

(5) Sign, Monument

A specific type of freestanding sign supported by a solid base or platform to which the sign is affixed forming a sign structure that is low profile in nature.

(6) Sign, Portable

A sign constructed on frames with wheels intended for convenient movement with changeable letter boards and copy.

(7) Sign, Projecting

A sign attached to and extending beyond the exterior wall of a building or structure so that the sign face is generally perpendicular to the exterior wall.

(8) Sign, Yard

A specific type of freestanding sign, generally with a wire frame or crossbar, not permanently attached to the ground; common types of yard signs are the "H Frame" and "I Frame."

(9) Sign, Wall

A specific type of freestanding sign, generally with a wire frame or crossbar, not permanently attached to the ground; common types of yard signs are the "H Frame" and "I Frame."

158.08(D) General

(1) Signs Near Public Parks

No sign greater than 300 square feet in area may be located within 500 feet of any public park of five or more acres if the face of that sign is visible from that park.

(2) Signs for Special Uses

Special use signage is limited to what is shown on the approved site plan and must meet the setbacks as outlined in this Section according to sign type.

General & Measurement Standards

(3) Unlawful Signs

- (a) A sign may not be erected or maintained in violation of the requirements of this Section or of the Sign Permit requirements in [Sec. 158.11\(O\)](#). An unlawful sign is not a nonconforming sign and must be removed or brought into compliance.
- (b) If the Zoning Administrator finds that a sign is erected or maintained in violation of this Section or [Sec. 158.11\(O\)](#), the Zoning Administrator must give written notice of the violation to the permittee or the owner of the property where the violation exists.
- (c) If the permittee or owner fails, after notice, to timely abate a violation, the Zoning Administrator may undertake enforcement by filing a complaint in a court of competent jurisdiction.
- (d) The Zoning Administrator may immediately and without notice or compensation remove any sign that presents an immediate peril to persons or property.
- (e) It is prohibited to place a sign in the public right-of-way without permission from the Board of County Commissioners or appropriate legislative body.

- (b) The area of a sign includes the entire area of a sign within a single continuous perimeter enclosing the extreme limits of the sign and not passing through or between any adjacent elements of the sign. That perimeter does not include any structural or framing elements lying outside the limits of the sign and not forming an integral part of the display unless such structural or framing elements consists of a corporate logo, made part of the message, face or border of the sign.

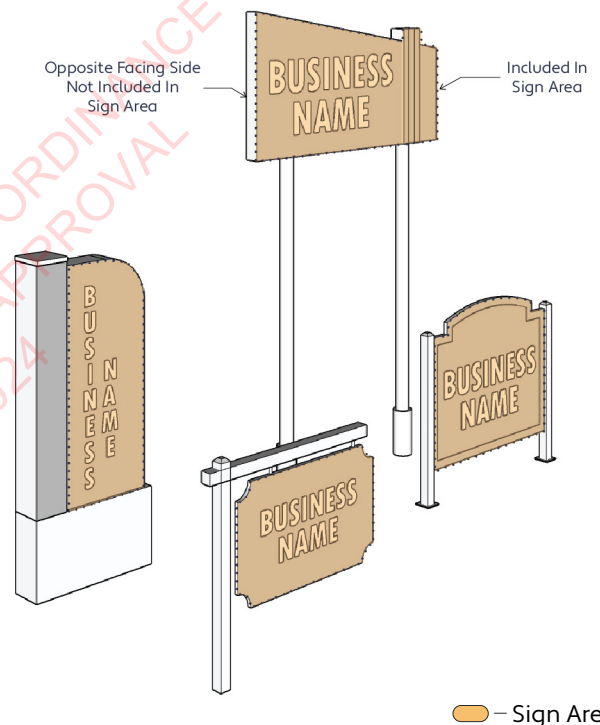
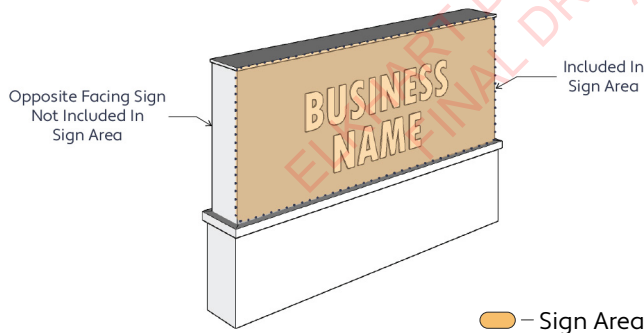
Ex.) The “golden arches” at McDonald’s, if used as support for a sign, are clearly integral to the sign message and would be included in the measurement of the area of the sign face.

158.08(E) Sign Measuring Standards

The following provisions control the measurement of sign area, sign height and sign setback.

(1) Sign Area

- (a) The area for a sign with more than one face is measured by the square footage of one grand total face of the sign.



- (c) Where a sign consists of individual letters, words or symbols attached to a surface, the sign area is deemed to be the area of the smallest rectangle that completely encompasses all such letters, words or symbols and any accompanying background of a color different than the color of the wall.



— Sign Area

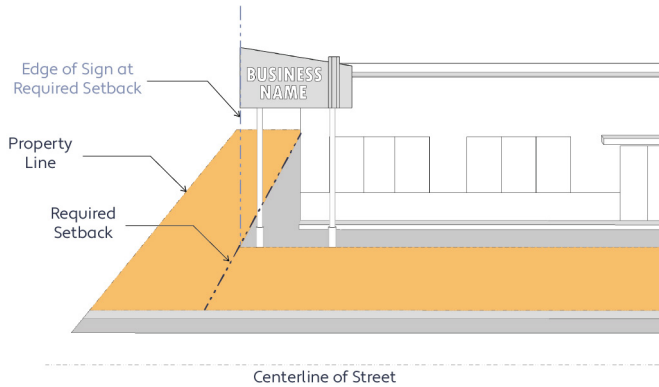
Ex.) Channel letter signs, mounted logos, and similar devices are treated differently than signs in cabinets – the wall area between multiple elements does not count as sign area.

(2) Sign Height

The height of a sign is measured as the distance from the base of the sign at finished grade to the top of the highest attached component of the sign. Finished grade is the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

(3) Sign Setback

The setback of a sign is measured as the shortest distance from each property line to the leading edge of the sign.



(4) Lot Frontage

Lot frontage is measured as the lineal feet of the property line or lines of a lot or parcel which immediately abut and lie along a public right-of-way.


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FINAL DRAFT FOR APPROVAL
2-13-2024

158.08(F) Sign Standards

This Section outlines the maximum allowed area per lot and allowed sign types by zoning district, then provides standards that vary by sign type.


(1) Maximum Combined Sign Area by Zoning District		(2) Permitted Signs by Zoning District					
The table below is the overall combined maximum for all signs on the lot. Restrictions created by sign type found in this Section may restrict this further, not allowing the maximum to be met.		Sign types are allowed by zoning district as outlined in the table below.					
Zoning District	Maximum Allowed Sign Area	Wall Sign	Projecting Sign	Monument Sign	Portable Sign	Freestanding, Yard Signs and All Other	Electronic Message Board
A-1	8 sq. ft. or 6x the Frontage of the Development Area Depending on Sign Type	■		■		■	
R-1, R-2, R-3	8 sq. ft. or 32 sq. ft. Depending on Sign Type			■		■	
R-4	6x the Frontage of the Lot*	■	■	■		■	
B-1, B-2, B-3, M-1, M-2	6x the Frontage of the Lot*	■	■	■	■	■	■
E-3	2x the Frontage of the Lot, up to 200 sq. ft.	■		■		■	
A-3, A-4, A-E	2x the Frontage of the Lot					■	

*If illuminated, lot maximum allowed sign area is 3x the frontage of the lot.

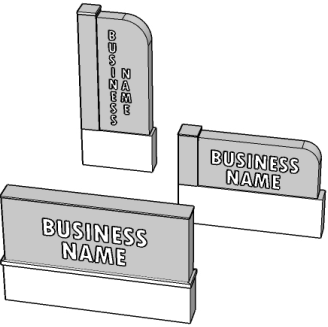
(3) Wall Signs					
	District	Max. Area (Per Sign)	Max. Number (Per Lot)	Maximum Height	Additional Standards
	A-1	32 sq. ft.	1	Cannot Exceed Roof Line	1. The sign shall not be illuminated. 2. The sign must not cover wholly or partially any wall opening, nor project beyond the ends of top of the wall to which it is attached.
	R-4	32 sq. ft.	Unlimited, Up to a Total of 64 sq. ft.	Cannot Exceed Roof Line	The sign must not cover wholly or partially any wall opening, nor project beyond the ends of top of the wall to which it is attached.
	B-1, B-2, B-3, M-1, M-2	300 sq. ft.	Unlimited, Up to a Total of 300 sq. ft.	Cannot Exceed Roof Line	The sign must not cover wholly or partially any wall opening, nor project beyond the ends of top of the wall to which it is attached.
	E-3	32 sq. ft.	Unlimited, Up to a Total of 5% of the Facade Area	Cannot Exceed Roof Line	The sign must not cover wholly or partially any wall opening, nor project beyond the ends of top of the wall to which it is attached.

Standards According to Sign Type


(4) Projecting Signs

	District	Max. Area (Per Sign)	Max. Number (Per Lot)	Maximum Height	Additional Standards
	R-4, B-1, B-2, B-3, M-1, M-2	Horizontal Sign: 50 sq. ft. Vertical Sign: 100 sq. ft.	Unlimited, Up to a Total of 200 sq. ft.	Cannot Exceed Roof Line of the Building to which the Sign is Attached	<ol style="list-style-type: none"> 1. The sign must be placed at least 9 feet above finished grade, a maximum of 2 feet from the sign face to the building façade to which it is attached. 2. Maximum projection from the building facade is 8 feet.

(5) Monument Signs

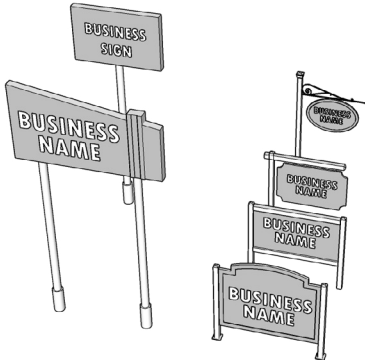
	District	Max. Area (Per Sign)	Max. Number (Per Lot)	Maximum Height	Minimum Setback	Additional Standards
	A-1, R-1, R-2, R-3	32 sq. ft.	1	4 feet	None	1 sign per platted common area with additional standards established in this Ordinance.
	R-4, B-1, B-2, B-3, M-1, M-2	64 sq. ft.	Unlimited, up to maximum allowed sign area	8 feet	10 feet from any property and right- of-way line	Sign must be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the message area.
	E-3	32 sq. ft.	Unlimited, up to maximum allowed sign area	8 feet	30 feet from front and side property lines	Sign must be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the message area.

(6) Portable Signs

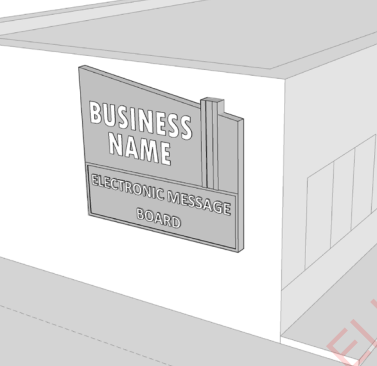
	District	Max. Area (Per Sign)	Max. Number (Per Lot)	Maximum Height	Minimum Setback	Additional Standards
	B-1, B-2, B-3, M-1, M-2	32 sq. ft.	1	6 feet	<ol style="list-style-type: none"> 1. 5 feet from right-of-way line 2. 75 feet from residentially zoned property 	<ol style="list-style-type: none"> 1. Flashing lights are prohibited 2. Time limit of up to 30 consecutive days, up to a maximum of 60 days combined per calendar year. 3. A minimum of 15 days between removal and replacement between uses is required.

Standards According to Sign Type

(7) Freestanding Signs, All Other and Yard Signs

	District	Max. Area (Per Sign)	Max. Number (Per Lot)	Maximum Height	Minimum Setback	Additional Standards
	A-1, R-1, R-2, R-3, R-4	8 sq. ft.	1	4 feet	3 feet from any property and right-of-way line	None
	B-1, B-2, B-3, M-1, M-2	300 sq. ft.	Unlimited, up to maximum allowed sign area	40 feet	1. Major Road or Federal/State Highway: 55 feet from centerline or right-of-way line, whichever is greater. 2. All Other Roads: None	None
	A-3, A-4, A-E	200 sq. ft.	Unlimited, up to maximum allowed sign area	40 feet	1. Major Road or Federal/State Highway: 55 feet from centerline or right-of-way line, whichever is greater. 2. All Other Roads: None	None

(8) Electronic Message Board (EMB)

	District	Max. Area (Per Sign)	Max. Number (Per Lot)	Maximum Height	Minimum Setback	Additional Standards
	B-1, B-2, B-3, M-1, M-2	64 sq. ft.	B: 1 M: Unlimited, up to maximum allowed sign area	40 feet	1. Major Road or Federal/State Highway: 55 feet from centerline or right-of-way line, whichever is greater. 2. All Other Roads: None	1. The intensity of illumination must not change until sunset when it must be reduced to a maximum of 500 NIT until sunrise. (NIT is calculated based on the light meter specification of the manufacturer.) 2. There must be a 300 feet minimum separation between electronic message boards and an existing residence.

158.09 FLOOD HAZARD AREAS

Sections

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158.09(A) Statutory Authorization, Findings of Fact, Purpose, and Methods

(1) Applicability

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of Elkhart County, Indiana

(2) Intent

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

- (a) Protect human life and health.
- (b) Minimize expenditure of public money for costly flood control projects.
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (d) Minimize prolonged business interruptions.
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (f) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.
- (g) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (h) Minimize the impact of development on adjacent properties within and near flood prone areas.
- (i) Ensure that the flood storage and conveyance functions of the floodplain are maintained.
- (j) Minimize the impact of development on the natural, beneficial values of the floodplain.
- (k) Prevent floodplain uses that are either hazardous or environmentally incompatible.
- (l) Meet community participation requirements of the National Flood Insurance Program.

(3) Statutory Authorization

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Commissioners of Elkhart County do hereby adopt the following floodplain management regulations.

(4) Findings of Fact

The flood hazard areas of the towns of Bristol, Middlebury, Millersburg, Wakarusa, and Elkhart County herein after referred to as "Elkhart County" are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(5) Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities.
- (b) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction.
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
- (d) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage.
- (e) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

(6) Severability

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

158.09(B) Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them meaning they have in common usage and to give these regulations the most reasonable application. In addition to the definitions contained in Article [158.02](#), [158.05](#), and [158.08](#) the following definitions shall apply only to the Floodplain Regulations of this Chapter.

Accessory Structure means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- (a) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (b) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small bathhouses.
- (c) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - i. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;
 - ii. Structures used by the public, such as a place of employment or entertainment; and,
 - iii. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples includes, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

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

Aerator means a mechanical device placed within a public freshwater lake that is used to accomplish any of the following:

- (a) Increase the amount of dissolved oxygen in the water.
- (b) Increase the decomposition of organic materials.
- (c) Alter water flow or circulation.
- (d) Reduce icing.
- (e) Enhance audio or visual enjoyment by bubbling or spraying water.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of special flood hazard is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

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

Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Building – See “Structure.”

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

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

Development means, for floodplain management purposes, 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 a 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 boat lifts, docks, piers, and seawalls;
- (g) Construction and/or reconstruction of, bridges or culverts;
- (h) Storage of materials; or
- (i) Any other activity that might change the direction, height, or velocity of flood or surface waters.

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

Dry hydrant means a structure that does both of the following:

- (a) Extends lakeward of the legally established or average normal waterline or shoreline.
- (b) Provides a means of suction water supply without direct drafting for fire protection.

Elevation Certificate means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor. See “Lowest Floor” and “Enclosed Area.”

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

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

FEMA means the Federal Emergency Management Agency.

Fill for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters.
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (c) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood hazard area means areas subject to the one percent (1%) annual chance flood. (See “Special Flood Hazard Area”)

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) means the official hydraulic and hydrological report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

Flood prone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Floodplain”)

Flood Protection Grade (FPG) is the BFE plus two (2) feet at any given location in the SFHA. (See “Freeboard”)

Flood-related erosion means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding.

Floodplain or flood prone area means any land area susceptible to being inundated by water from any source. (See "Flood")

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

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

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

Fringe or Flood Fringe is the portion of the floodplain lying outside the floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Glacial stone means a rounded stone that satisfies each of the following:

- (a) Was produced by glacial activity.
- (b) No individual stone weighs more than one hundred twenty (120) pounds.
- (c) At least ninety percent (90%) of the material passes through a twelve (12) inch sieve.
- (d) Not more than ten percent (10%) of the material passes through a six (6) inch sieve.

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

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

Historic structure means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Hydrological and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

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

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- (a) **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- (b) **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- (c) **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (d) **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- (e) **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (f) **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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

Lowest floor means, for floodplain management purposes, the lowest elevation described among the following:

- (a) The lowest floor of a building.
- (b) The basement floor.
- (c) The garage floor if the garage is connected to the building.
- (d) The first floor of a structure elevated on pilings or pillars.
- (e) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - i. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - ii. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings.
- (c) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

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

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

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

Natural grade for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

New construction for floodplain management purposes means any structure for which the “start of construction” commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

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

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

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See “Regulatory Flood”.

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

Prefabricated Building is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Public Freshwater Lake means a naturally formed lake (not man made) that has been used by the public with the acquiescence of a riparian owner. The term does not include the following:

- (a) Lake Michigan.
- (b) A lake lying wholly or in part within the corporate boundaries of any of the three (3) cities having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (c) A privately owned body of water:
 - i. Used for the purpose of surface coal mining; or
 - ii. Created as a result of surface coal mining.

A listing of Indiana public freshwater lakes is maintained in Natural Resources Commission Information Bulletin #61.

Recreational vehicle means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projections;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

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

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Flood Hazard Area (SFHA), synonymous with “areas of special flood hazard” and floodplain, means those lands within the jurisdiction of the County subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps and Flood Insurance Studies as Zones A, AE, AH, AO, AI 30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state, or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

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

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

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

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

Temporary structure (Public Freshwater Lakes only) means a structure that can be installed and removed from the waters of a public freshwater lake without using a crane, bulldozer, backhoe, or similar heavy or large machinery.

Examples of a temporary structure include the following:

- (a) A pier that is supported by auger poles or other poles that do not exceed three and one-half (3½) inches in diameter and rest on the lakebed; and is not mounted in or comprised of concrete or cement.
- (b) A boat shelter, boat lift, or boat hoist that has a canvas top and sides; is supported by auger poles or other poles that do not exceed three and one-half (3½) inches in diameter; is not mounted in or comprised of concrete or cement; is designed to float or to rest upon the bed of the lake under its own weight if any structure to which it is attached complies with this section; and, is not wider than ten (10) feet nor longer than twenty (20) feet.

Variance is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

Violation means the failure of a structure or other development to be fully compliant with this ordinance.

Walled and roofed means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

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

158.09(C) General Provisions

(1) Basis for Establishing the Areas of Special Flood Hazard

- (a) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs (riverine) within the jurisdiction of Elkhart County, delineated as an “AE Zone” on the Elkhart County and Incorporated Flood Insurance Rate Map dated August 2, 2011 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of Elkhart County and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated August 2, 2011, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an “AE Zone”, the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

- (b) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs (riverine) within the jurisdiction of Elkhart County, delineated as an "A Zone" on the Elkhart County and Incorporated Areas Flood Insurance Rate Map, dated August 2, 2011, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- (c) The regulatory flood elevation for each SFHA of a public freshwater water lake within the jurisdiction of Elkhart County delineated as an "Zone AE" on the Elkhart County and Incorporated Areas Flood Insurance Rate Map, dated August 2, 2011, shall be in the stillwater elevation tables in the Flood Insurance Study of Elkhart County and Incorporated Areas, dated August 2, 2011, and any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. A listing of Indiana public freshwater lakes can be found in Natural Resources Commission Information Bulletin #61.
- (d) The regulatory flood elevation for each SFHA of a public freshwater water lake within the jurisdiction of Elkhart County delineated as an "Zone A" on the Elkhart County and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved. A listing of Indiana public freshwater lakes is maintained in Natural Resources Commission Information Bulletin #61.
- (e) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.

- (f) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(2) Establishment of Floodplain Development

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

(3) Compliance

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

- (a) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
- (b) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (c) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

(4) Abrogation and Greater Restrictions

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

(5) Discrepancy between Mapped Floodplain and Actual Ground Elevations

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

- (a) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.
- (b) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (c) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

(6) Interpretation

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

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

(7) Warning and Disclaimer of Liability

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

(8) Penalties for Violation

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Elkhart County. All violations shall be punishable by a fine not exceeding \$2,500.00 for the first violation and not more than \$7,500.00 for second or subsequent violations.

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

158.09(D) Administration

(1) Designation of Administrator

The County Commissioners of Elkhart County hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

(2) Floodplain Development Permit and Certification

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Application Stage

- i. A description of the proposed development.
- ii. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- iii. A legal description of the property site.
- iv. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.
- v. A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
- vi. A site development plan showing existing and proposed development locations and existing and proposed land grades.
- vii. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- viii. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in the SFHA. Elevation should be in NAVD 88.
- ix. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed.
- x. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.

- xi. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
- xii. Plans showing how any proposed structure will be anchored to resist flotation or collapse.
- xiii. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88.
- xiv. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to the Department of Natural Resources for approval. Once the Department of Natural Resources approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction (See [Sec. 158.09\(D\)\(3\)\(i\)](#) and [Sec. 158.09\(D\)\(5\)](#) for additional information.).
- xv. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(b) **Construction Stage**

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(c) **Finished Stage**

- i. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
- ii. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- iii. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

(3) Duties and Responsibilities of the Floodplain Administrator

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

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

- (a) Enforce the provisions of this ordinance.
- (b) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- (c) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (d) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (e) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.
- (f) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.
- (g) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
 - i. Verify and document the market value of the pre-damaged or pre-improved structure.
 - ii. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community.

- iii. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage.
 - iv. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Sec 158.09(E) of this ordinance are required.
 - (h) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.
 - (i) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sec. [158.09\(E\)\(1\)\(a\)](#), [158.09\(E\)\(1\)\(c\)](#), and [158.09\(E\)\(1\)\(a\)](#). Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
 - (j) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if [Sec. 158.09\(D\)\(3\)](#) is applicable.
 - (k) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 - (l) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with [Sec. 158.09\(D\)\(2\)](#).
 - (m) Verify and record the actual elevation to which any new or substantially improved structures have been flood-proofed in accordance with [Sec. 158.09\(E\)](#).
 - (n) Make on-site inspections of projects in accordance with [Sec. 158.09\(D\)\(4\)](#).
 - (o) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.
 - (p) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
 - (q) Provide information, testimony, or other evidence as needed during variance hearings.
 - (r) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with [Sec. 158.09\(D\)\(4\)](#).
 - (s) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of Department of Natural Resources permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with [Sec. 158.09\(D\)\(4\)](#).
 - (t) Coordinate map maintenance activities and associated FEMA follow-up in accordance with [Sec. 158.09\(D\)\(5\)](#).
 - (u) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
 - (v) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.
- (4) **Administrative Procedures**
- (a) Inspections of Work in Progress. As the work pursuant to a permit progress, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
 - (b) **Stop Work Orders**
 - i. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 - ii. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
 - (c) **Revocation of Permits**
 - i. The floodplain administrator may revoke a permit or approval, issued under the provisions of this ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - ii. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(d) Floodplain Management Records

- i. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.
- ii. These records shall be available for public inspection at Elkhart County Public Services Building, 4230 Elkhart Street, Goshen, IN 46515.

(e) Periodic Inspection.

Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(5) Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that Elkhart County's flood maps, studies and other data identified in [Sec. 158.09\(C\)](#) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(a) Requirement to Submit New Technical Data

- i. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - I. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
 - II. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.

- III. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- ii. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- iii. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.
- iv. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(b) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the County Commissioners of Elkhart County and may be submitted to FEMA at any time.

(c) Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the corporate boundaries within Elkhart County have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Elkhart County and Incorporated Areas Flood Insurance Rate Map accurately represent the boundaries, include within such notification a copy of a map suitable for reproduction, clearly showing the new corporate limits or the new area for which Elkhart County has assumed or relinquished floodplain management regulatory authority.

(6) Variance Procedures

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

- (a) The Elkhart County Board of Zoning Appeals (the board) shall hear and decide appeals and requests for variances from requirements of this ordinance.
- (b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Elkhart County Circuit or Superior Court.
- (c) In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - i. The danger to life and property due to flooding or erosion damage.
 - ii. The danger that materials may be swept onto other lands to the injury of others.
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - iv. The importance of the services provided by the proposed facility to the community.
 - v. The necessity to the facility of a waterfront location, where applicable.
 - vi. The compatibility of the proposed use with existing and anticipated development.
 - vii. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - viii. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - ix. The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site.
 - x. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (d) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (e) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
 - i. A showing of good and sufficient cause.
 - ii. A determination that failure to grant the variance would result in exceptional hardship as defined in [Sec. 158.09\(B\)](#).
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (f) No variance for a residential use within a floodway subject to [Sec. 158.09\(E\)\(1\)\(a\)](#), [158.09\(E\)\(1\)\(c\)\(i\)](#), or [158.09\(E\)\(1\)\(d\)](#) may be granted.
- (g) Any variance granted in a floodway subject to [Sec. 158.09\(E\)\(1\)\(a\)](#), [158.09\(E\)\(1\)\(c\)\(i\)](#), or [158.09\(E\)\(1\)\(d\)](#) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (h) Variances to the Provisions for Flood Hazard Reduction of [Sec. 158.09\(E\)](#) 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.
- (i) Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.
- (j) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
- (k) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (l) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (m) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (n) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

158.09(E) Provisions for Flood Hazard Reduction

(1) Floodplain Status Standards

(a) Floodways (Riverine)

Located within SFHAs, established in [Sec. 158.09\(C\)\(2\)](#) are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (I.C. 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- i. If the site is in a regulatory floodway as established in [Sec. 158.09\(C\)\(2\)](#) the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
- ii. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
- iii. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.

- iv. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of [Sec. 158.09\(D\)\(5\)\(a\)](#). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
- v. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
- vi. For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
- vii. Minimize expenditure of public money for costly flood control projects.

(b) Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

(c) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

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

- II. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources
- III. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.
- ii. Drainage area upstream of the site is less than one square mile:
 - I. If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.
 - II. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this article have been met.
- (d) **SFHAs not Identified on a Map**
 - i. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
 - ii. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
 - iii. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a Floodplain Development Permit may be issued, provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this article have been met.
- (e) **Public Freshwater Lakes**

Within the SFHA are public freshwater lakes. Public freshwater lakes are governed by IC 14-26-2 (sometimes referred to as the Lakes Preservation Act) and rules adopted by the Natural Resource Commission at 312 IAC 11-1 through 312 IAC 11-5 to assist with its implementation. A listing of public freshwater lakes can be found in the Indiana Register, Information Bulletin #61. Noting while Lake Freeman and Lake Shafer are listed, Indiana Department of Natural Resources and Natural Resource Commission authority is abridged by IC 14-26-2-15. Dredging of public freshwater lakes is addressed in the Indiana Register, Information Bulletin #60.

 - i. Lakes Preservation Act jurisdiction is based on the specific lake's legally established lake level, where this legally established elevation (legal lake level) meets the land along the shoreline. When no legal lake level is established for a lake, average normal shoreline at each site is used, based on observation of breaks such as lakebed vs ground and lines of demarcation.
 - ii. Indiana Department of Natural Resources approval is required for excavation, fill, and placement, modification, or repair of a temporary or permanent structure over, along or lakeward of the shoreline or waterline of a public freshwater lake. Walls landward of the shoreline (within ten (10) feet) and below legal or normal water level of a public freshwater lake also require prior approval from the Department of Natural Resources.
 - iii. General licenses and exemptions to the Lake Preservation Act may apply to the placement of temporary piers, dry hydrants, aerators, or glacial stone reface, provided they meet the specific criteria of the Public Lakes Rules.

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

(2) General Standards

In all areas of special flood hazard, the following provisions are required:

- (a) All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (c) New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- (d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (e) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (g) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (h) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

- (i) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- (j) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (k) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
- (l) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters.
- (m) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard.

(3) Specific Standards

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in [Sec. 158.09\(C\)\(2\)](#) the following provisions are required:

- (a) **Building Protection Requirement.**
In addition to the general standards described in Sec. 158.09(E)(2) structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - i. Construction or placement of a residential structure.
 - ii. Construction or placement of a non-residential structure.
 - iii. Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.
 - iv. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
 - v. Installing a manufactured home on a new site or a new manufactured home on an existing site.

- vi. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- vii. Reconstruction or repairs made to a repetitive loss structure.
- viii. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(b) Residential Construction

- i. New construction or substantial improvement of any residential structures shall meet provisions described in [Sec. 158.09\(E\)\(1\)](#) and applicable general standards described in [Sec. 158.09\(E\)\(2\)](#).
- ii. In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Sec. 158.09(E)(3)(b)(iii). Should fill be used to elevate a structure, the standards of Sec. 158.09(E)(3)(b)(iv) must be met.
- iii. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - I. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin Flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - 1. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - 2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 - 3. Doors and windows do not qualify as openings.
 - 4. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

- 5. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

- II. The floor of such enclosed area must be at or above grade on at least one side.

- iv. A residential structure may be constructed on fill in accordance with the following:

- I. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
- II. Fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
- III. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
- IV. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- V. Fill shall be composed of clean granular or earthen material.
- VI. A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(c) Non-Residential Construction

- i. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in [Sec. 158.09\(E\)\(1\)](#) and applicable general standards described in [Sec. 158.09\(E\)\(2\)](#).
- ii. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Sec. 158.09(E)(3)(b)(iii). Should fill be used to elevate a structure, the standards of Sec. 158.09(E)(3)(b)(iv) must be met.

- iii. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - I. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin
 - II. Flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - 1. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - 2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 - 3. Doors and windows do not qualify as openings.
 - 4. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - 5. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
 - III. The floor of such enclosed area must be at or above grade on at least one side.
 - iv. A nonresidential structure may be constructed on fill in accordance with the following:
 - I. Shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
 - II. Shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - III. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
 - IV. Shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - V. Shall be composed of clean granular or earthen material.
 - v. A nonresidential structure may be floodproofed in accordance with the following:
 - I. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.
 - II. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
 - vi. A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.
- (d) **Manufactured Homes and Recreational Vehicles**
- i. These requirements apply to all manufactured homes to be placed on a site in the SFHA:
 - I. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - II. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Sec. 158.09(E)(3)(b)(iii).
 - III. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - ii. Recreational vehicles placed on a site in the SFHA shall either:
 - I. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions), or
 - II. Meet the requirements for "manufactured homes" as stated earlier in this section.

- (e) Accessory Structures
Within SFHAs, new construction or placement of an accessory structure must meet the following standards:
- i. Shall have a floor area of 400 square feet or less.
 - ii. Use shall be limited to parking of vehicles and limited storage.
 - iii. Shall not be used for human habitation.
 - iv. Shall be constructed of flood resistant materials.
 - v. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - vi. Shall be firmly anchored to prevent flotation.
 - vii. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
 - viii. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in [Sec. 158.09\(E\)\(3\)\(b\)\(iii\)](#).
 - ix. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.
- (f) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.
Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:
- i. Shall have open sides (having not more than one rigid wall).
 - ii. Shall be anchored to prevent flotation or lateral movement.
 - iii. Shall be constructed of flood resistant materials below the FPG.
 - iv. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.
 - v. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.
- (g) Above Ground Gas or Liquid Storage Tanks.
Within SFHAs, all newly placed or replacement aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in [Sec. 158.09\(E\)\(3\)\(c\)](#).

(4) Standards for Subdivision and Other New Developments

- (a) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
- (e) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (f) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- (g) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

(5) Standards for Critical Facilities

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

158.10 ADMINISTRATION

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158.10(A) General

(1) Purpose

This Section outlines the different development review bodies and assigns them their authority.

158.10(B) Board of County Commissioners & Other Legislative Bodies

(1) Final Action

The appropriate legislative body as outlined in the table below takes final action on the following development review applications within their respective jurisdictions:

- (a) Development Ordinance Text Amendment;
- (b) Zoning Map Amendment (Rezoning);
- (c) General Planned Unit Development; and
- (d) Detailed Planned Unit Development.

Jurisdiction	Legislative Body
Town of Bristol	Bristol Town Council
Town of Millersburg	Millersburg Town Council
Town of Middlebury	Middlebury Town Council
Town of Wakarusa	Wakarusa Town Council
Unincorporated Areas of Elkhart County	Elkhart County Board of County Commissioners

158.10(C) Plan Commission

(1) Designation

The Elkhart County Plan Commission is an Advisory Plan Commission in accordance with Indiana Code Section 36-7-4-200 et seq. Any reference to the “Plan Commission” in this Ordinance is deemed to be a reference to the Elkhart County Advisory Plan Commission. The Plan Commission exercises jurisdiction over the geographic area designated in Sec. 158.01(F).

(2) Review & Recommendation

The Plan Commission reviews and makes recommendations to the appropriate legislative body as outlined in 158.10(C) on the following development review applications:

- (a) Development Ordinance Text Amendment;
- (b) Zoning Map Amendment (Rezoning);
- (c) General Planned Unit Development; and
- (d) Detailed Planned Unit Development.

(3) Final Action

The Plan Commission takes final action on the following development review applications:

- (a) Minor and Major Subdivisions; and
- (b) Major and minor changes to a Plan Commission approved site plan.

(4) Rules of Procedure

The Plan Commission must adopt Rules of Procedure concerning matters such as the filing of development review applications, the giving of public notice and the conduct of hearings.

158.10(D) Board of Zoning Appeals

(1) Designation

The Elkhart County Board of Zoning Appeals continues as an Advisory Board of Zoning Appeals under this Ordinance and in accordance with Indiana Code Section 36-7-4-900 et seq. Any reference to the “Board of Zoning Appeals” in this Ordinance is deemed to be a reference to the Elkhart County Advisory Board of Zoning Appeals.

(2) Final Action

The Board of Zoning Appeals takes final action on the following development review applications:

- (a) Special Use Permit except for those related to mobile homes;
- (b) Use Variance;
- (c) Developmental Variance or Special Use Permit referred to the Board by the Zoning Administrator, Hearing Officer, petitioner or remonstrator in accordance with the Board of Zoning Appeals Rules of Procedure; and
- (d) Appeal of Administrative or Hearing Officer Decision.

(3) Appointment

In addition to the Membership, Officer and Staff provisions in the Board of Zoning Appeals Rules of Procedure, the following provisions apply.

- (a) The members of the Board of Zoning Appeals must be appointed and serve their terms pursuant to State law.
- (b) Each member must reside within the jurisdiction of this Ordinance as established in [Sec. 158.01\(F\)](#) or reside in Elkhart County and own property within the jurisdiction of this Ordinance. Each appointment authority referenced in paragraph (c) below may, at any time, appoint one or more alternate members who must be available to replace any member who becomes disqualified under State law. The terms of these members expire on December 31 of the last year of their designated term.
- (c) The members of the Board of Zoning Appeals must be appointed consistent with the provisions of Indiana Code Section 36-7-4-902.

(4) Rules of Procedure

The Board of Zoning Appeals must adopt Rules of Procedure concerning matters such as the filing of development review applications over which it has jurisdiction, the giving of public notice and the conduct of hearings.

(5) Outside Communication

A person shall not communicate with any Board of Zoning Appeals member prior to a hearing or decision with the intent to influence the actions of any member of the Board regarding any matter pending before the Board. However, the Staff may file a written staff report with the Board setting forth findings of fact or its recommendation concerning that matter.

(6) Judicial Review

Final decisions in accordance with Indiana Code Section 36-7-4-1016 are subject to judicial review.

158.10(E) Hearing Officer**(1) Establishment**

The Plan Commission must appoint a Hearing Officer in accordance with the provisions in Indiana Code Section 36-7-4-923 and -924.

(2) Final Action

The Hearing Officer has the authority to take final action on the following development review applications:

- (a) Special Use Permit for mobile home; and
- (b) Developmental Variance.

(3) Rules of Procedure

The rules of procedure adopted by the Plan Commission and the Board of Zoning Appeals, as appropriate, apply to the Hearing Officer.

158.10(F) Technical Review Committee**(1) Establishment**

A Technical Review Committee is established to act as a coordinated and centralized technical review body. The Technical Review Committee is composed of persons from various County departments that have an interest in development review.

(2) Determination of Correctness or Incorrectness

The Technical Review Committee determines technical correctness or incorrectness, as described in subsection [158.11\(B\)\(4\)\(e\)](#), for the following development review applications:

- (a) General Planned Unit Development;
- (b) Detailed Planned Unit Development;
- (c) Major and Minor Subdivisions; and
- (d) Other development review applications at the discretion of the Plan Director.

(3) Membership**(a) Chair**

The Plan Director, or authorized designees serves as Chair of the Technical Review Committee and is responsible for all final actions of the Committee.

(b) Other Members

In addition to the Chair, the Technical Review Committee is composed of the following members or their designees:

- i. Health Officer;
- ii. County Surveyor;
- iii. Soil and Water Conservation District Program Manager;
- iv. County Engineer; and
- v. Other County staff members or representatives of external agencies, such as staff members of Towns within the jurisdiction of this Ordinance or of public utilities, as the Chair deems necessary for the review of an application.

158.10(G) Plan Director**(1) Review & Recommendation**

The Plan Director, or authorized designees, reviews and makes recommendations to the Plan Commission on the following development review applications:

- (a) Development Ordinance Text Amendment;
- (b) Zoning Map Amendment (Rezoning);
- (c) General Planned Unit Development;
- (d) Detailed Planned Unit Development; and
- (e) Major and Minor Subdivisions.

158.10(H) Zoning Administrator**(1) Review & Recommendation**

The Zoning Administrator reviews and makes a recommendation on the following development review applications:

- (a) Special Use Permit;
- (b) Use Variance;
- (c) Developmental Variance;
- (d) Building Permit;
- (e) Sign Permit;
- (f) Certificate of Occupancy

(2) Final Action

The Zoning Administrator takes final action on the following development review applications

- (a) Administrative Adjustment
- (b) Written Interpretation
- (c) Improvement Location Permit
- (d) Certificate of Occupancy

(3) Other Duties

The Zoning Administrator shall also be charged with the other following duties:

- (a) **Record Keeping**
The Zoning Administrator must maintain permanent and current records of this Ordinance, including all Development Ordinance Text Amendments and Zoning Map Amendments, Special Use Permits, Variances, Appeals of Administrative and Hearing Officer Decisions, and all development review procedures on which the Zoning Administrator takes final action;
- (b) Process open record requests; and
- (c) Appoint an alternate hearing officer.

158.10(I) Building Commissioner**(1) Final Action**

The Building Commissioner takes final action on the following development review procedures:

- (a) Building Permit;
- (b) Sign Permit; and
- (c) Certificate of Occupancy.

158.10(J) Development Ordinance Text Amendment**(1) Applicability**

- (a) The Board of County Commissioners, or Plan Commission, or their staff may initiate amendment of the text of this Development Ordinance from time to time for reasons including but not limited to:
 - i. Establishing and maintaining sound, stable and desirable development within the jurisdiction of this Ordinance;
 - ii. Correcting errors in the text; or
 - iii. Adjusting the text of this Ordinance to changing conditions in a particular area or in the County generally.
- (b) All Development Ordinance Text Amendments must conform with Indiana Code Section 36-7-4-500 et seq. and Indiana Code Section 36-7-4-600 et seq.

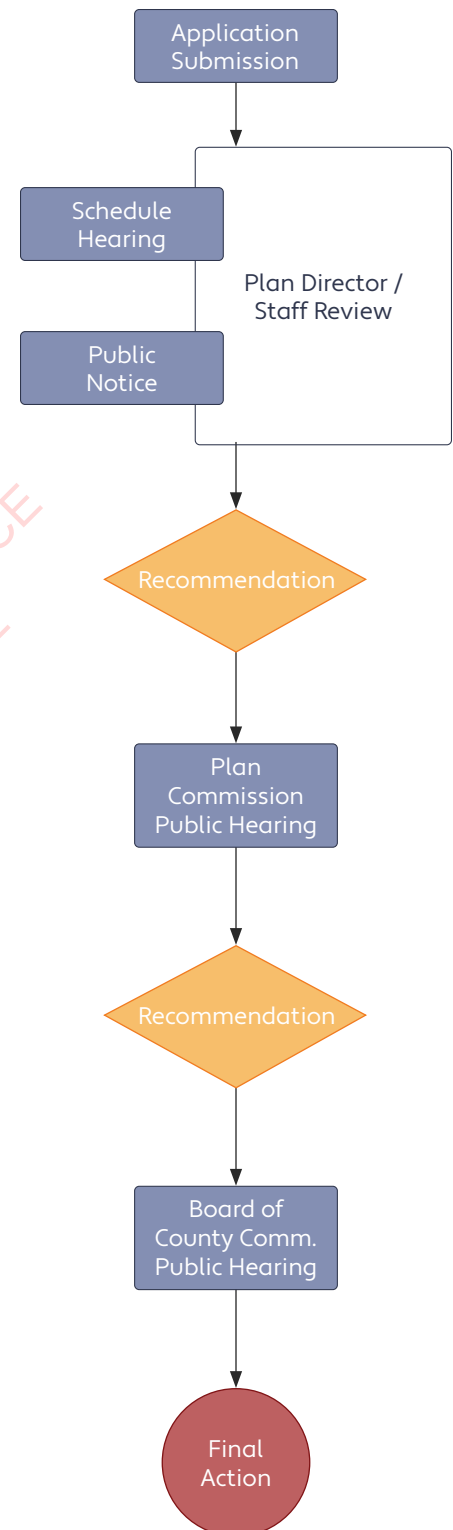
(2) Review Process

- (a) **Plan Director Review**
The Plan Director must prepare the text amendment and make a recommendation to the Plan Commission.
- (b) **Plan Commission Review**
Following notice in accordance with the Plan Commission Rules of Procedure, the Plan Commission must hold a public hearing and may make a recommendation to the Board of County Commissioners.
- (c) **Board of County Commissioners Final Action**
 - i. The Board of County Commissioners must hold a public hearing and approve, approve with modifications or deny the Development Ordinance Text Amendment.
 - ii. If the Board of County Commissioners approves a Development Ordinance Text Amendment with modifications, then it must refer the request to the Plan Commission in accordance with [Sec. 158.11\(b\)\(6\)\(b\)](#).

(3) Review Criteria

In determining whether to approve, approve with modifications or deny a proposed Development Ordinance Text Amendment, the applicable review bodies must pay reasonable regard to the following criteria:

- (a) The Comprehensive Plan;
- (b) Current conditions and the character of current structures and uses in each zoning district;
- (c) The most desirable use for which the land in each zoning district;
- (d) The conservation of property values throughout the jurisdiction of this Ordinance; and
- (e) Responsible growth and development.



158.10(K) Written Interpretation**(1) Applicability**

The Zoning Administrator has the authority to make written interpretations concerning the provisions of this Ordinance.

(2) Review Process

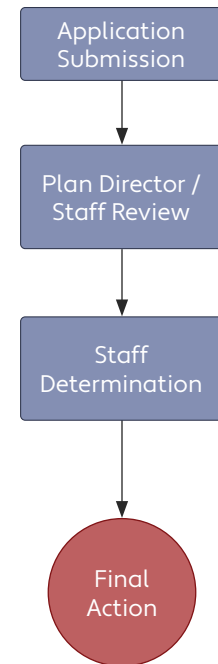
- (a) The Zoning Administrator must review and evaluate a written interpretation request in light of the text of this Ordinance, the Zoning Map, the Comprehensive Plan, and any other relevant information such as State law. The Zoning Administrator may consult with other staff, as necessary.
- (b) The Zoning Administrator must render an opinion and provide the interpretation to the applicant in writing within 10 days of receiving the request.

(3) Use Interpretation

- (a) The Zoning Administrator must use the following criteria to determine the appropriate similar use for a proposed use not specifically addressed in this Ordinance:
 - i. The actual or projected characteristics of the activity;
 - ii. The amount of site area or floor space and equipment devoted to the activity;
 - iii. Amounts of sales from each activity;
 - iv. The number of employees in each activity;
 - v. Hours of operation;
 - vi. Building and site arrangement;
 - vii. Types of vehicles used and their parking requirements;
 - viii. The number of vehicle trips generated;
 - ix. How the use is advertised; and
 - x. The likely impact on surrounding properties including but not limited to impacts of dust, noise and lighting.
- (b) The Zoning Administrator shall take into consideration the zoning district purpose statements for any such determinations.
- (c) If the Zoning Administrator determines that a proposed use not addressed in this Ordinance is similar to another listed use and adequately fits into an established Use Category, then the proposed use is permitted according to how its similar use is treated in the use tables.
- (d) If the Zoning Administrator determines that a proposed use not addressed in this Ordinance is not similar to any other listed use or does not fit into any established zoning district, then the proposed use is permitted only following either approval of a Development Ordinance Text Amendment or a Use Variance.

(4) Official Record

- (a) The Zoning Administrator must maintain an official record of interpretations. The record of interpretations must be available for public inspection during normal County business hours.
- (b) Annually, written interpretations must be summarized in a report to the Plan Commission and Board of Zoning Appeals. Based on the report, the Plan Commission may direct the Zoning Administrator to initiate such Development Ordinance Text Amendments as it deems appropriate to be processed in accordance with [Sec. 158.10\(J\)](#).



158.11 PROCEDURES

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158.11(A) General

(1) Purpose

This Section establishes the procedures and requirements for each type of application or permit.

(2) Preliminary Consultation

Prior to submitting any of the material required by these regulations, the applicant is encouraged to discuss their project with Elkhart County Planning & Development staff.

(3) Complete Submission Required

All applications should be submitted in a complete form, with all required materials and fees. References to applications or packets in this Ordinance are those maintained by Elkhart County Planning & Development.

(4) Fees Required

Application fees shall be established by the Elkhart County Fee Ordinance.

158.11(B) Common Review Procedures**(1) Conformity with Development Regulations**

Every development review body vested with the authority to issue a development approval under this Ordinance may not issue an approval for any use, structure or improvement that conflicts with any provision of this Ordinance. Except as provided in this Ordinance, any development approval issued in conflict with the provisions of this Ordinance or issued in error is null and void.

(2) Decision Categories

The following table establishes the decision category for each development review procedure.

Decision Category	Development Review Procedures
Legislative	
Legislative decisions are those which establish or change regulations governing the use or development of land. Legislative decisions may be based upon general considerations of fostering and preserving the public health, safety and general welfare, including the County's fiscal well-being, and are characterized by exercise of broad discretion.	<ul style="list-style-type: none"> Development Ordinance Text Amendment Zoning Map Amendment General Planned Unit Development (GPUD) Detailed Planned Unit Development (DPUD) Ordinance and Site Plan
Quasi-Judicial	
Quasi-judicial decisions are those in which policies and regulations contained in the Comprehensive Plan and this Ordinance are applied to specific development review applications. Quasi-judicial decisions require the exercise of considerable discretion and may involve fact-finding or the imposition of conditions or commitments.	<ul style="list-style-type: none"> Special Use Permit Use or Development Variance Appeal of Administrative or Hearing Officer Decision Detailed Planned Unity Development Plat
Administrative	
Administrative decisions are those in which regulations contained in this Ordinance are applied to specific development review applications. Administrative decisions may require the exercise of very limited discretion.	<ul style="list-style-type: none"> Administrative Adjustment Written Interpretation Improvement Location Permit Building Permit Sign Permit Certificate of Occupancy

(4) Application Requirements**(a) Application Initiation**

- Development review applications may be initiated according to the table below.
- A legislative body may only initiate a Zoning Map Amendment for property within its own jurisdiction.
- When initiated by a property owner or land contract purchaser, an application for a Zoning Map Amendment or General or Detailed Planned Unit Development must contain the signatures of the property owners of at least fifty percent of the land involved in the request.

(3) Sequence of Development Approval

Where more than one development review application is required by this Ordinance in order to initiate, continue or complete development of land, final actions must be taken in the following general sequence.

- Final action must be taken on applications categorized as legislative prior to final action on all other applications.
- Final action must be taken on applications categorized as quasi-judicial prior to final actions on applications classified as administrative.
- Applications within the same category that are assigned priority under this Article must be decided prior to subordinate applications.

(b) Forms

- Development review applications required under this Ordinance must be submitted on forms and in such numbers as required by the Rules of Procedure of the Plan Commission or Board of Zoning Appeals, as appropriate.
- Discovery that differing or conflicting versions of a development review application have been submitted to various development review bodies or members of the Technical Review Committee will result in termination of review for that application until the applicant corrects the discrepancies.

Procedure	Property Owner or Land Contract Purchaser	Plan Commission	Legislative Body
Development Ordinance Text Amendment		■	■
Zoning Map Amendment (Rezoning)	■	■	■
All Other Review Procedures Described in this Article	■		

(c) Fees

All development review applications, except those originated by the Plan Commission, the Board of County Commissioners or an appropriate legislative body, must be accompanied by the fee in accordance with Uniform Schedule of Fees established by the Plan Commission in its Rules of Procedure.

(d) Application Sufficiency Review

- i. For those applications that the Technical Review Committee reviews, listed in [Sec. 158.10\(F\)\(2\)](#), a determination of whether a development review application is sufficient.
- ii. A determination of sufficiency does not imply any determination that the application successfully meets any review criteria nor does it imply any positive or negative final action

(e) Technical Correctness Review

- i. For those applications that the Technical Review Committee reviews, listed in [Sec. 158.10\(F\)\(2\)](#), a determination of whether a development review application is technically correct or not must be made by the Chair of the Technical Review Committee within 21 days of the application submittal deadline.
- ii. Every member of the Technical Review Committee must deem an application correct, according to the ordinances each member administers, before the application as a whole may be deemed correct by the Chair of the Committee.
- iii. An application that shows compliance with the standards in this Ordinance, and other development-related ordinances administered by the members of the Technical Review Committee, must be deemed correct.
- iv. If an application is determined to be incorrect, the Chair of the Technical Review Committee must notify the applicant in writing with a list of application deficiencies and required corrections. If the Chair determines that the applicant has not submitted adequate required application corrections within seven days of notification, the applicant may submit corrections before the next application submittal deadline for additional review at the next Technical Review Committee meeting.
- v. After a determination of correctness, the Chair of the Technical Review Committee must forward the application to the Plan Commission with a recommendation.

(5) Public Notice & Hearing Requirements

The Board of Zoning Appeals and Plan Commission must provide public notice and conduct public hearings in accordance with the Rules of Procedure for such review bodies for those development review applications established in this Article that require public notice and public hearings.

(6) Approvals with Modifications

- (a) Except for a Development Ordinance Text Amendment, if a legislative body approves a development review application with conditions or modifications required, then the applicant must submit the corrected application addressing any required conditions or modifications to the Plan Director.
- (b) If a legislative body approves a Development Ordinance Text Amendment with modifications that make the amendment differ from what the Plan Commission approved, then the legislative body must refer the Amendment back to the Plan Commission for reconsideration in accordance with Indiana Code Section 36-7-4-607.

(7) Revocation of Permit or Approval

(a) Misrepresentation of Application

If, no later than 180 days after approval of the request, the appropriate legislative body finds that a Zoning Map Amendment, General Planned Unit Development or Detailed Planned Unit Development was adopted as a result of a person's intentional misrepresentation or omission of material facts, the legislative body may, by a three-fourths vote, adopt an ordinance to nullify the approval that resulted from the misrepresentation or omission.

(b) Violation of Ordinance Provisions or Approved Plans

The Plan Director, authorized designees, or an appropriate development review body may revoke a permit or approval upon determination by the Plan Director that the development project for which the permit or approval was issued is in violation of, or not in conformity with, any of the following:

- i. The provisions of this Ordinance;
- ii. An approved Detailed Planned Unit Development Site Plan, Detailed Planned Unit Development Plat, or Ordinance;
- iii. An approved Special Use Permit or Variance;
- iv. An approved Improvement Location, Building or Sign Permit; or
- v. Commitments or conditions related to the subject property.

Petitioners are eligible to reapply for a revoked permit or approval once any violations have been remedied.

(c) Enforcement

Uncorrected projects that are not built to an approved ordinance, plan, permit, commitment or condition are subject to the enforcement provisions in [Article 158.13](#).

(8) Previously Denied Applications

The Zoning Administrator may only accept an application for a Zoning Map Amendment, General or Detailed Planned Unit Development, Special Use Permit or Variance that has been denied within the last 12 months under the provisions of the Plan Commission or Board of Zoning Appeals Rules of Procedure.

(9) Modifications of Approved Site Plan

- (a) The request for a modification to an approved site plan for a Developmental or Use Variance, a Special Use Permit or a Detailed Planned Unit Development, must be in accordance with the Rules of Procedure of the Plan Commission or the Board of Zoning Appeals, as appropriate.
- (b) The plan director, or authorized designees, has full discretion in determining whether modifications to site plan characteristics other than gross floor area are approved or denied. The hierarchy of approvals are as follows: (1) are minor and may be approved by the plan director, or their authorized designee, (2) must be submitted to the appropriate board as a staff item, or (3) must be processed as major with submittal of a new application to be reviewed in accordance with the procedures established in this article.
- (c) The following minor modifications to an approved site plan for a Developmental or Use Variance, a Special Use Permit, or a Detailed Planned Unit Development may either be approved or denied by the Plan Director, or authorized designees:
 - i. Increases to gross floor area of structures on the approved site plan up to and not exceeding 10 percent of the previously approved total gross floor area of all the project structures on the approved site plan.
- (d) The following minor modifications to an approved site plan for a Developmental or Use Variance, a Special Use Permit, or a Detailed Planned Unit Development must be submitted by the Plan Director, or authorized designees to the Plan Commission or the Board of Zoning Appeals, as appropriate, as a staff item:
 - i. Increases to gross floor area of structures over 10% up to and not exceeding 20% of the previously approved total gross floor area of all the project structures on the approved site plan.

- (e) A decision by the Plan Director, or authorized designees to allow or deny a minor modification to an approved site plan, or when such request is submitted as a staff item to the Plan Commission or the Board of Zoning Appeals, as appropriate, is considered an administrative matter and does not require a public hearing or public meeting.
- (g) When the Plan Director decides to allow or deny a minor modification to an approved site plan, or such request is approved when presented as a staff item to the Plan Commission or the Board of Zoning Appeals, as appropriate, written notice of the decision must be given to the applicant and to all interested parties in accordance with the Rules of Procedure of the Plan Commission or the Board of Zoning Appeals, as appropriate; no prior notice is required.
- (h) An interested party may appeal the Plan Director's decision to allow or deny a minor modification to an approved site plan to the Plan Commission or the Board of Zoning Appeals, as appropriate, in accordance with the appeal provisions established in the respective Rules of Procedure of the Plan Commission or the Board of Zoning Appeals.
- (i) The decision of the Plan Commission or the Board of Zoning Appeals, as appropriate, to allow or deny a minor modification to an approved site plan is subject to judicial review.

(10) Commitments

- (a) The Board of County Commissioners, the Plan Commission or the Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel in order to receive final approval or a favorable recommendation, as the case may be, all in accordance with the applicable body's rules of procedure. The owner must record those commitments in the office of the County Recorder. A recorded commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.
- (b) A commitment may be modified or terminated only by a decision of the Plan Commission or the Board of Zoning Appeals, as appropriate, at a public hearing after notice as provided by the applicable body's Rules of Procedure.

Change in Approved Site Plan (gross floor area)	Final Action on Approved Site Plan Modification
Increases to gross floor area of structures up to and not exceeding 10%	Plan Director, or Authorized Designees
Increases to gross floor area of structures over 10% up to and not Exceeding 20%	Plan Commission or Board of Zoning Appeals, as Appropriate
Increases to gross floor area of structures over 20%	New Site Plan Approval Needed

(11) Appeals**(a) Appeals of Site Plan Minor Modifications**

See [Sec. 158.11\(B\)\(9\)](#) for appeals related to site plans for Developmental or Use Variances, Special Use Permits, or Detailed Planned Unit Developments.

(b) Administrative and Hearing Officer Decisions

i. Except for a decision of the Building Commissioner, any party aggrieved by a decision of an administrative official or the Hearing Officer regarding the provisions of this Ordinance may appeal to the Board of Zoning Appeals in accordance with [Sec. 158.11\(Q\)](#).

ii. Any party aggrieved by a decision of the Building Commissioner regarding the provisions of this Ordinance may appeal to the Fire Prevention and Building Safety Commission.

(c) Quasi-Judicial and Legislative Decisions

Any party aggrieved by a decision of the Board of Zoning Appeals, Plan Commission or Board of County Commissioners may appeal to a court of competent jurisdiction.

ELKHART DEVELOPMENT ORDINANCE
FINAL DRAFT FOR APPROVAL
2-13-2024

158.11(C) Zoning Map Amendment (Rezoning)

(1) Applicability

- (a) The Zoning Maps may be amended for reasons including but not limited to the establishment and maintenance of sound, stable and desirable development within the County.
- (b) All Zoning Map Amendments must conform with Indiana Code Section 36-7-4-500 et seq. and Indiana Code Section 36-7-4-600 et seq.

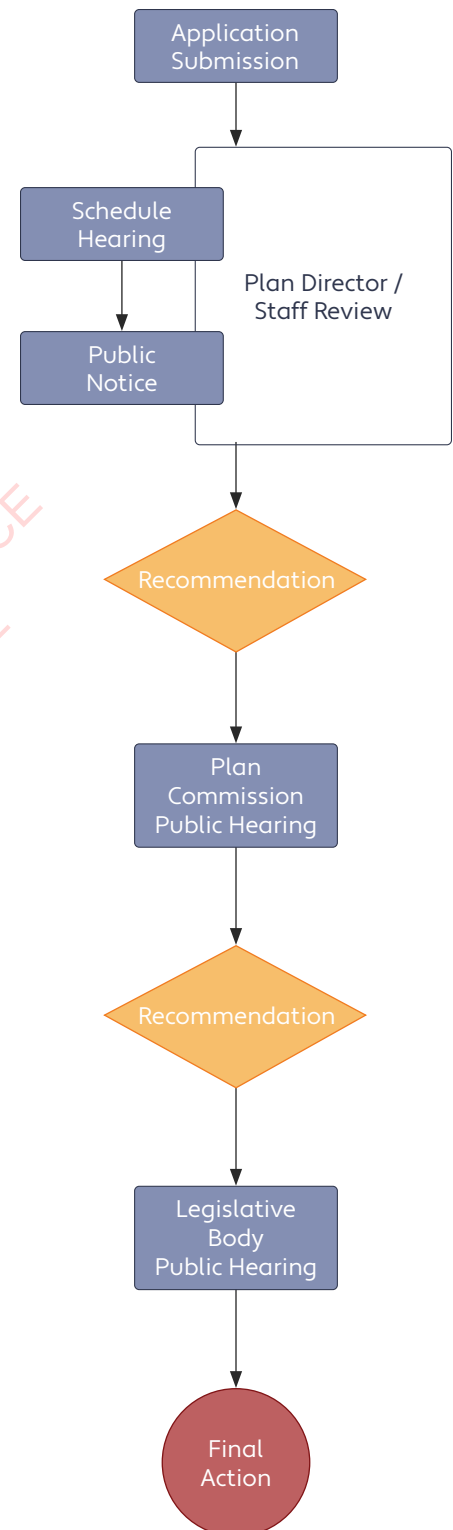
(2) Review Process

- (a) **Plan Director Review**
The Plan Director must prepare the map amendment or review the submitted application, as applicable, and make a recommendation to the Plan Commission.
- (b) **Plan Commission Review**
Following notice in accordance with the Plan Commission Rules of Procedure, the Plan Commission must hold a public hearing and may make a recommendation to the appropriate legislative body. The recommendation may include allowed or required commitments.
- (c) **Legislative Body Final Action**
 - i. If the appropriate legislative body is the Board of County Commissioners, then the Board may hold a public hearing and approve, approve with allowed or required commitments or deny the Zoning Map Amendment.
 - ii. If the appropriate legislative body is a Town Council, then the Council must hold a public hearing and approve, approve with allowed or required commitments or deny the Zoning Map Amendment.

(3) Review Criteria

In determining whether to approve, approve with commitments or deny a Zoning Map Amendment, the applicable review bodies must pay reasonable regard to the following criteria:

- (a) The Comprehensive Plan;
- (b) Current conditions, structures and uses on the subject property and in its surroundings;
- (c) The most desirable use of the subject property;
- (d) The conservation of property values;
- (e) Responsible growth and development.



General Planned Unit Development (GPUD)

158.11(D) General Planned Unit Development (GPUD)**(1) Applicability**

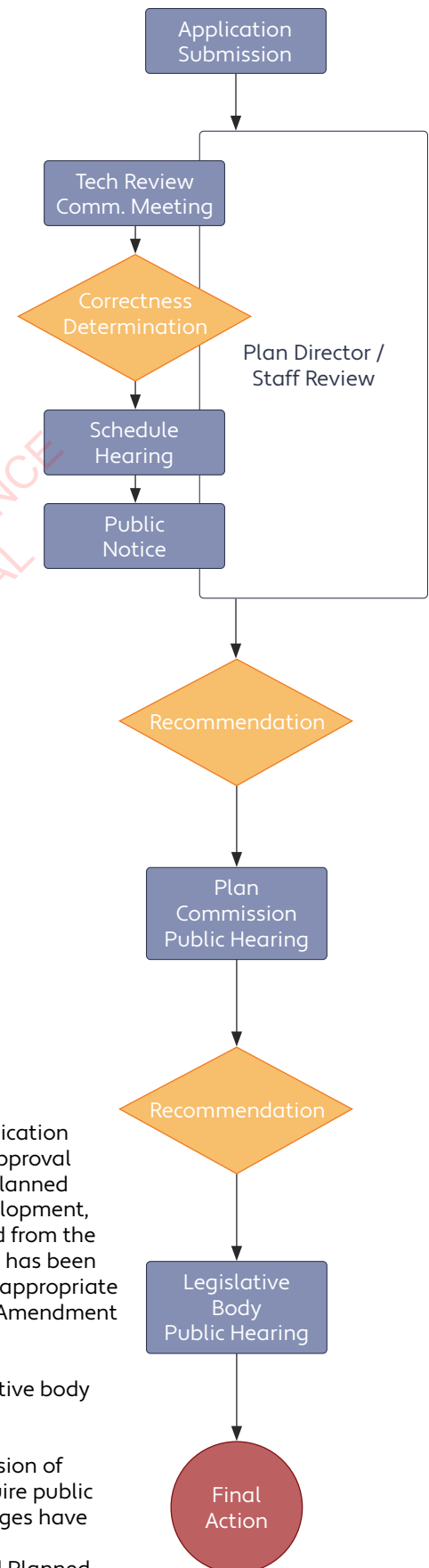
- (a) A Planned Unit Development may be used to permit new or innovative concepts in land utilization, master-planned communities or mixed use developments that other zoning districts do not easily accommodate. A Planned Unit Development also provides site-specific compatibility and design standards. While greater flexibility is given to allow special conditions or restrictions that would not otherwise allow the development to occur, procedures are established to protect against misuse of increased flexibility.
- (b) The Plan Commission and appropriate legislative bodies may consider proposals for Planned Unit Development as a:
 - iii. (i) General Planned Unit Development; or
 - iv. (ii) Detailed Planned Unit Development.
- (c) An approved General Planned Unit Development allows a petitioner to receive a change to the Zoning Maps without a Detailed Planned Unit Development Site Plan or Detailed Planned Unit Development Plat, as required for a Detailed Planned Unit Development.
- (b) Except as allowed by the extension provisions in Sec. 158.11(D)(3), within seven years of approval, all adopted General Planned Unit Developments must be followed by an adopted and recorded Detailed Planned Unit Development prior to the issuance of any Improvement Location Permit or Building Permit. The Detailed Planned Unit Development may be for all or a portion of the property covered by the General Planned Unit Development.
- (b) The approval of a General Planned Unit Development does not constitute an approval of a Detailed Planned Unit Development.

(2) Review Process & Criteria

- (a) Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on a General Planned Unit Development application, including the associated General Development Plan, following the review process and review criteria established for a Zoning Map Amendment set forth in [Sec. 158.11\(C\)](#).
- (b) In addition to the Zoning Map Amendment review process set forth in [Sec. 158.11\(C\)](#), prior to review and recommendation by the Plan Commission, the Technical Review Committee must deem the General Planned Unit Development submittal a correct application. The process for determination of correctness is described in subsection [158.11\(B\)\(4\)\(e\)](#).

(3) Duration

- (a) All properties zoned General Planned Unit Development must have an application for a Detailed Planned Unit Development approved within seven years of approval of the General Planned Unit Development. If an application for a Detailed Planned Unit Development is approved for a portion of a General Planned Unit Development, then the seven-year time limit for the remainder of the property is extended from the adoption date of the Detailed Planned Unit Development. If no application has been received or an extension granted, the Plan Commission may initiate, or the appropriate legislative body may direct the Plan Commission to initiate, a Zoning Map Amendment petition.
- (b) **Exceptions**
All General Planned Unit Developments initiated by the appropriate legislative body do not expire.
- (c) **Extensions**
 - i. Any General Planned Unit Development may be considered for an extension of the time limit and may be approved as a staff item, which does not require public notice or a public hearing, by the Plan Commission if no significant changes have occurred to warrant a new public hearing.
 - ii. All extension requests must be in writing stating reasons why a Detailed Planned Unit Development could not be filed and approved within the seven-year time limit.



158.11(E) Detailed Planned Unit Development (DPUD)

(1) Applicability

- (b) The Detailed Planned Unit Development (DPUD) review procedure provides the Plan Commission and the appropriate legislative body with the opportunity to review and take final action on a Planned Unit Development application, including its associated DPUD Site Plan and DPUD Plat.
- (b) In addition, see [Sec. 158.11\(D\)\(1\)](#).

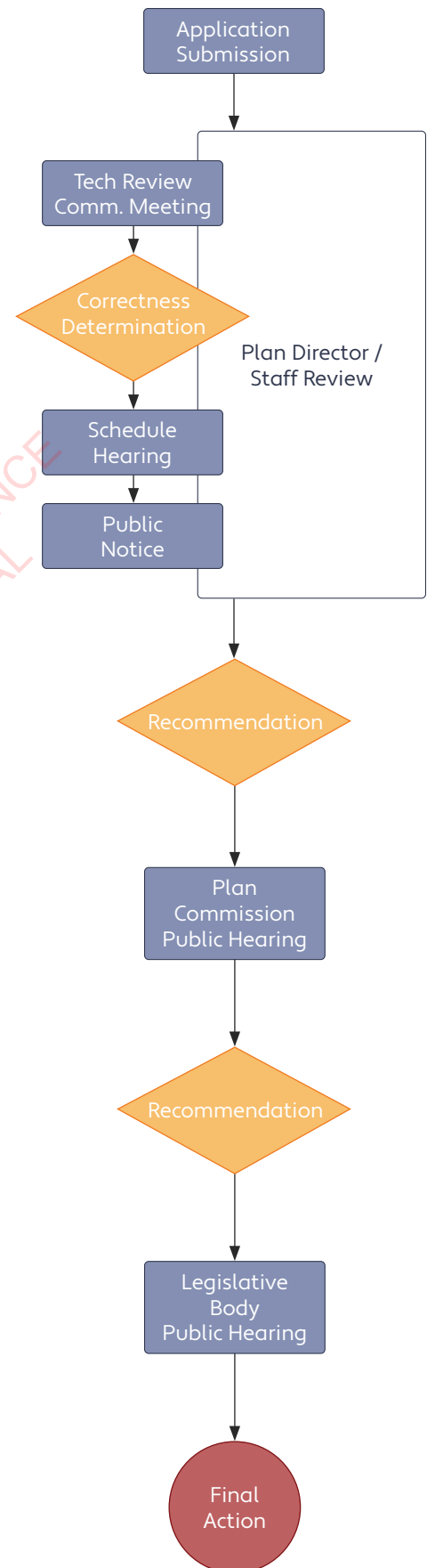
(2) Review Process

(a) DPUD Site Plan and Ordinance

- i. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the DPUD Site Plan and DPUD Ordinance portion of a Planned Unit Development application, following the review process and review criteria established for a Zoning Map Amendment set forth in [Sec. 158.11\(C\)](#).
- ii. In addition to the Zoning Map Amendment review process set forth in [Sec. 158.11\(C\)](#), prior to review and recommendation by the Plan Commission, the Technical Review Committee must deem the DPUD Site Plan and supporting submittals a correct application. The process for determination of correctness is described in subsection [158.11\(B\)\(4\)\(e\)](#).
- iii. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require additional modifications to the submitted DPUD Site Plan or DPUD Plat deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, modifications related to:
 - I. Access and circulation;
 - II. Signs;
 - III. Parking;
 - IV. Building design, location, height, orientation, or coverage;
 - V. Outdoor lighting;
 - VI. Landscaping;
 - VII. Homeowners or property owners associations;
 - VIII. Open space;
 - IX. Topography; and
 - X. Screening.
- iv. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require that the DPUD Ordinance mandate any of the design elements listed in paragraph (iii) above, or any other characteristic regulated by this ordinance, for the project.

(b) DPUD Plat

- i. A DPUD Plat associated with a DPUD is the subdivision plat for the project. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the DPUD Plat portion of a Planned Unit Development application.
- ii. Prior to review and recommendation by the Plan Commission, the Technical Review Committee must deem the DPUD Plat a correct application. The process for determination of correctness is described in subsection [158.11\(B\)\(4\)\(e\)](#).



Detailed Planned Unit Development (DPUD)

(3) Review Criteria

The Plan Commission and the appropriate legislative body must review and give reasonable regard to the proposed DPUD based on the degree to which the proposal meets all of the following criteria:

- (a) The proposal is consistent with the Comprehensive Plan.
- (b) The proposal has demonstrated how the impacts of any increased traffic will be minimized, lessened, or reduced.
- (c) The proposal addresses potential conflicts with and attempts to conserve the value of adjacent properties.
- (d) The proposal is consistent with the Purpose of the Development Ordinance as established in [Sec. 158.01\(B\)](#).
- (e) The proposal is consistent with the applicability of a DPUD as established in [Sec. 158.11\(E\)\(1\)](#).
- (f) The proposal demonstrates responsible development and growth.
- (g) The proposal complies with the existing General Planned Unit Development, if applicable.
- (h) The DPUD Plat complies with the approved DPUD Site Plan and DPUD Ordinance.

(4) Concurrent Submittal

An applicant may submit a Detailed Planned Unit Development Plat concurrent with the Detailed Planned Unit Development Site Plan and supporting materials. However, the appropriate legislative body must approve the DPUD Site Plan and DPUD Ordinance prior to approval of the DPUD Plat.

(5) Planned Unit Development Ordinance

The DPUD Ordinance may contain the following:

- (a) Written text as prescribed by the Legislative Body;
- (b) A legal description of the subject property;
- (c) Specific development requirements, including any additionally imposed design elements listed in subsection [158.11\(E\)\(2\)\(a\)\(iii\)](#);
- (d) The DPUD Plat to be incorporated by reference;
- (e) The DPUD Site Plan to be incorporated by reference;
- (f) List of permitted or prohibited uses;
- (g) Documentation and supporting information that may be required;
- (h) Limitations to the DPUD;
- (i) List of all conditions imposed on the DPUD; and
- (j) List of all proposed site improvements and construction time lines with the procedures to ensure the timely completion of those public improvements.

(6) Recording & Platting of a Detailed Planned Unit Development**(a) Purpose**

It is prohibited to record in the Recorders Office of Elkhart County any documents or plats for any real estate within the jurisdiction of this Ordinance with any designations of "Planned Unit Development" or "PUD" unless it complies with this Ordinance.

(b) Recording of a Detailed Planned Unit Development Plat

The approved DPUD Plat must be recorded by the applicant with the County Recorder's Office within ten working days of receipt of the signed documents from the legislative body. The Plan Director may extend the deadline to record the Plat with a written request from the land owner.

(7) Effect of Overlay

An approved DPUD functions as an overlay zoning district and, controls over all permitted uses, special uses and development standards for the underlying zoning district. Any development standards not addressed by the DPUD, but found in this Ordinance shall still apply.

(8) As-Built Drawing Required for Certain PUDs**(a) Applicability**

The provisions of this Section apply solely to nonresidential DPUD and mixed use DPUD projects for the purpose of providing the public with assurance that a project has been built according to the approved DPUD documents. The provisions of this Section do not apply to purely residential DPUD projects.

(b) Major and Minor Discrepancies

- i. For the purposes of this subsection, the term "development" means a nonresidential DPUD or mixed use DPUD that received final approval on or after December 31, 1996.
- ii. An As-Built Drawing, at the same scale and on the same paper size as the approved DPUD Site Plan, that shows drainage facilities and impervious coverage for the lot, is required to be submitted to the Plan Director prior to issuance of a Certificate of Occupancy if the Plan Director observes or can reasonably conclude the presence of any one or more of the following Major Discrepancies or any two or more of the following Minor Discrepancies related to the subject property.

I. Major Discrepancies

- 1. Drainage facilities required on the approved DPUD Site Plan are not constructed or are in the wrong location;
- 2. Drainage facilities on the subject property are smaller by volume than required on the approved DPUD Site Plan;

Detailed Planned Unit Development (DPUD)

3. A drainage failure occurred in a previous phase of the same development and such failure affected the watershed of the development; or
4. An Illicit discharge, as defined in Ordinance 06-293, Storm Water Regulation Associated With Illicit Discharges, occurred in a previous phase of the same development.

II. Minor Discrepancies

1. A drainage failure occurred in a previous phase of the same development that affected only the site itself;
2. Drainage-related stabilization landscaping is missing or inadequate during construction of the project; or
3. Drainage area maintenance is missing or inadequate during construction of the project.

(c) Review Process

After receipt and review of the As-Built Drawing, the Plan Director may take any of the following actions:

- i. The Director may determine that the drainage improvements and impervious surface on the property achieve alternative compliance with the approved DPUD documents and allow the Certificate of Occupancy to be issued. For the purposes of this paragraph, "alternative compliance" means that the improvements on the property do not match what is shown on the approved DPUD documents, but that the As-Built Drawing and supporting materials demonstrate that the improvements meet or exceed local drainage regulations. Supporting materials, including but not limited to drainage calculations, must be sealed and certified by a Professional Engineer or a registered Indiana Land Surveyor, as permitted by State statutes.
- ii. The Director may require that the site be modified to comply with the approved DPUD documents and allow the Certificate of Occupancy to be issued after compliance is achieved.
- iii. The Director may accept a petition to amend the DPUD Site Plan. The amendment must be processed for review, Public Hearing, recommendation, and final action as required in Sec. 158.10(N) of this Ordinance.
- iv. The Director may allow the petitioner to undertake a combination of paragraphs (i), (ii), and (iii) above.

(d) Seasonal Delays

The following provisions apply to a project being constructed or completed during the time frame of November 15th to February 28th:

- i. The Building Commissioner may issue a Temporary Certificate of Occupancy that is valid until the following April 1st for projects that are subject to the provisions of this Section. Approved drainage facilities and impervious coverage must be in place and a permanent Certificate of Occupancy must have been issued on or before the April 1st expiration date of the Temporary Certificate of Occupancy.
- ii. Installation of stabilization landscaping referenced in paragraph 158.11(E)(8)(b)(ii)(II) may be delayed until April 1st without counting as a Minor Discrepancy.
- iii. The Plan Director may expand the time frame established in this subsection for good cause related to cold weather.

158.11(F) Minor & Major Subdivision

(1) Applicability

The Major & Minor Subdivision review procedure provides the Plan Commission with the opportunity to review and take final action on a Major & Minor Subdivision application, including its subdivision plat.

(2) Purpose

This section sets forth the minimum development standards required for subdivisions platted in accordance with this Ordinance. It explains what government standards and regulatory functions are involved and must be followed. These provisions help to ensure the protection of the health and welfare of the future occupant(s) of an approved subdivision, assure the quality of new development, and minimize the adverse effects of the construction of subdivisions on the surrounding environment and of any developed land for all current and future residents of Elkhart County.

(3) Application for Primary Approval

The applicant will submit to the Plan Commission Staff a complete written application for primary approval and appropriate fees on forms available at the Department. The complete application and the information required in [Sec. 158.11\(B\)\(4\)](#) of this Ordinance, and bearing the seal of a duly registered land surveyor, shall be filed with the Staff in the time frame established by the Plan Commission in accordance with their Rules of Procedure. Application materials for a Detailed Planned Unit Development Site Plan/Plat need only be submitted on forms and in such number and containing such information as required by the Elkhart County Advisory Plan Commission Rules of Procedure.

(4) Determining the Need to Undergo a Subdivision Process

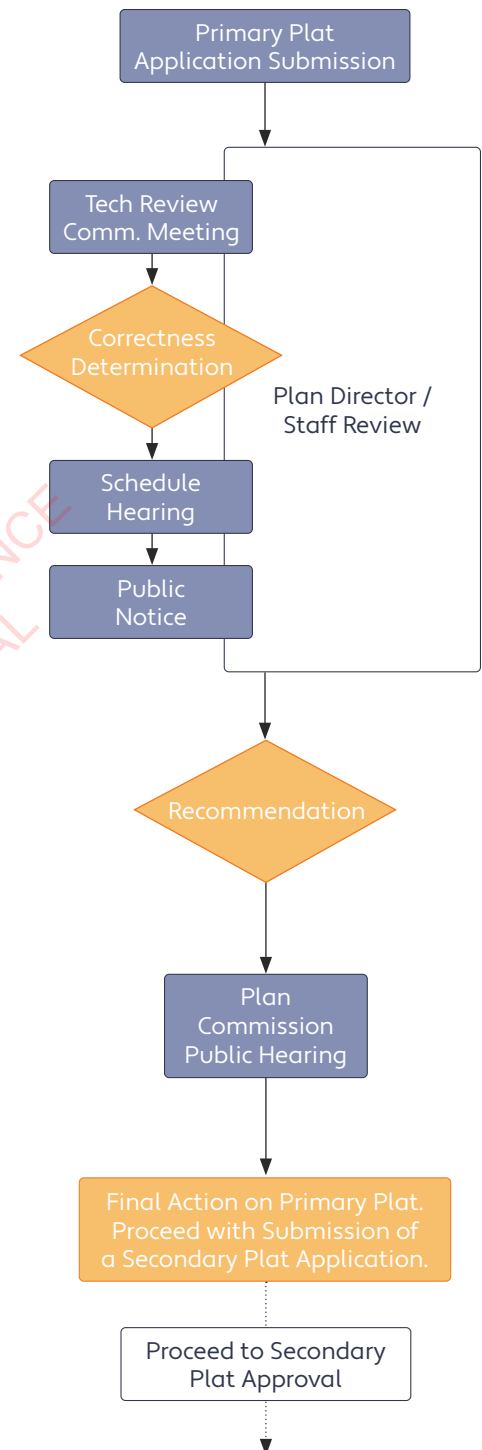
Any parcel that has only a metes-and-bounds description and has not undergone a subdivision process shall be subject to the tables in the Plan Commission Rules of Procedure, Exhibit P, for determining the need to undergo the subdivision process. Any parcel determined to need to undergo the subdivision process shall not be eligible for an Improvement Location Permit or Certificate of Occupancy until it has done so in accordance with this Elkhart County Development Ordinance only.

(5) Conformity with Regulations

No construction of any public or private improvement shall take place or be commenced except in conformity with the applicable standards of these regulations and the Building Code. A Certificate of Occupancy, as defined by the Development Ordinance, shall not be granted for the use of any structure within an approved subdivision until the required improvements have been bonded or constructed, inspected and approved by the responsible County officials.

(6) Development Without Peril

Land to be developed under this ordinance shall be of such a character that it can be developed without peril of health, flood, fire, or other menace. Developed land shall have access to available existing public facilities and improvements and shall have proper provisions for drainage, water supply, sewage disposal and other necessary public improvements and transportation facilities adequate for serving the subdivision. A private well and a septic system in lieu of public water and sewer facilities are allowable where such facilities do not exist and where permitted under this Ordinance and approved by the Elkhart County Health Department.



(7) Plan Commission Findings

If the Plan Commission finds that the land requested to be subdivided is unsuitable for development because of, but not limited to, flooding, poor drainage, steep slopes, rock formations, adverse earth foundations, topography, utility availability, inadequate water supply on or to the site, conditions are inadequate for sewage disposal, or other features or conditions which will reasonably be harmful to the safety, health, life, property or general welfare of the present or future inhabitants of the land or its surrounding area, the Plan Commission shall not approve the land for subdivision unless adequate methods for solving the problems created by the unsuitable land conditions are formulated by the owner/developer and approved by the Plan Commission and its technical advisors.

In making its determination under this Section, the Plan Commission may deny a subdivision application if any of the following Elkhart County departments do not give their approval:

- (a) Highway Department
- (b) Soil and Water Conservation District
- (c) Municipal Separate Storm Sewer System (MS4)
- (d) Environmental Health Department and, if applicable, Indiana Department of Environmental Management (IDEM)
- (e) Planning and Development (Floodplain Administrator)

(8) Preservation of Natural Features

Design of the development shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.

(9) Access to an Improved Street

Every lot appearing upon the proposed plat shall abut upon or have sufficient and adequate access to a street designated and labeled within or on the perimeter of the plat and constructed or to be constructed in accordance with the requirements, standards and specifications of these regulations.

(10) Reserve (Spite) Strips

The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny possible access to it from adjacent property.

(11) Unbuildable Areas

In subdivisions that contain unbuildable areas, all such areas must be platted with the buildable area of each lot and must be maintained with the ownership of the buildable areas on the plat.

(12) Streets & Addresses

- (1) Street names and numbers shall conform to the established pattern in Elkhart County and shall be subject to the approval of the Plan Commission or its designee. The proposed street name shall not duplicate, or too closely approximate phonetically, the name of any other street in the area covered by these regulations. Existing street names shall be protected wherever possible.
- (2) Addressing of all land/buildings in the unincorporated Elkhart County is the responsibility of the Department as determined by Ordinance No. 36-7-4-405. Addressing by the Department, of proposed building sites, will occur only after said department is presented with a property deed recorded in the Office of the Recorder for Elkhart County, and an accurate location of buildings to be addressed.

(13) Stormwater Basins

If a lot being subdivided contains a stormwater basin:

- (1) The stormwater basin shall be designated "common area" which is owned in common by all of the lot owners in the subdivision. Each lot must have equal and undivided ownership and be so noted on the plat and in the subdivision restrictions; or
- (2) Lot lines shall be drawn so as to distribute the entire ownership of the stormwater basin among adjacent lots. Responsibility for safe maintenance of the basin, including vector control, and the adjacent slope above the waterline shall be placed with the individual property owner(s).

(14) Subdivision Names

- (1) The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Plan Commission shall have final authority to approve the name of the subdivision, which shall be determined at the time of primary approval. Any changes proposed to the subdivision name after primary approval must first be approved by the Plan Commission.
- (2) If the owner intends to develop the subdivision in phases, then that intent must be included with the proposal and must show the remainder of the land with phase numbers of identification at the time of primary approval.

(15) Plats Crossing Governmental Boundaries

Whenever access to a subdivision is required across land in another governmental jurisdiction, the Plan Commission shall request assurance from the other governmental jurisdiction that access is legally established and the access road is adequately improved, or that a performance guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. Lot lines shall be laid out so as not to cross governmental boundary lines. However, when a subdivision is proposed that is in more than one planning jurisdiction, including Elkhart County's planning jurisdiction, approval shall be contingent upon the subdivision also receiving approval from the other jurisdiction(s).

(16) Easements**(a) Encroachments**

No permanent encroachments shall be allowed within any of the following easements shown on the final approved plat

(b) Access Easements

Access easements providing legal access to land should be at least 50 feet in width and should have the capability of providing suitable locations for future public streets meeting the standards set forth in this Ordinance.

(c) Sidewalk, Pathway, & Pedestrian Way Easements

Sidewalk, pathway, and pedestrian way easements should meet the requirements as follows:

- i. These easements should be at least 12 feet in width;
- ii. These easements should be indicated on both the primary and secondary plats;
- iii. A preliminary cross-section of the provided easement should be shown on the primary plat; and
- iv. In order to facilitate pedestrian access from streets to schools, parks, playgrounds, grocery stores, other essential services, or other nearby streets, the Plan Commission may require a perpetual unobstructed sidewalk, pathway, and/or pedestrian way easement.

(e) Utility Drainage

- i. Utility easements should be allocated in areas of suitable size and location. Such easements should provide reasonable continuity from block to block and should be at least 15 feet in width. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this Section.
- ii. On a public street with a right of way width less than 50 feet, a 10-foot utility easement should be provided on each side of said street. This may be combined with a drainage easement.

(c) Drainage Easements

- i. Drainage easements should be provided where the Plan Commission deems them necessary to provide proper drainage for the subdivision. Such easements should be at least 15 feet in width and may be combined with utility easements. Where a Regulated Drain traverses a subdivision,

the easement for the drain should be in accordance with the Indiana Code requirements for Regulated Drains.

- ii. On a public street with a right of way width less than 50 feet, a 10-foot drainage easement should be provided on each side of said street. This may be combined with a utility easement.

(c) Maintenance Easements

Maintenance easements for dams or adjoining property may be required where the Plan Commission deems them appropriate.

(d) Farm Tile Easements

Farm tile easements for protection and maintenance should be at least 20 feet in width, and should be provided where there are known farm tiles that are to remain on the property proposed for subdivision. The Plan Commission may require larger easements when it deems such additional width necessary for carrying out the purposes of this Ordinance.

(17) Covenants

The owner may choose to place a covenant on any or all land located within the subdivision. Covenants are not required by this Ordinance. However, if the owner decides to place a restriction on any of the land contained in the subdivision which is greater than those required by this Ordinance, the Plan Commission may require that the restriction or reference thereto be indicated on the secondary plat, to be recorded. In no case may a covenant be in conflict with or be less restrictive than local ordinances.

(18) Phasing of Development

The Plan Commission may permit the development of a subdivision to take place in phases.

(19) Complete Application

All applications must be complete to be accepted or considered. With the exception of a Detailed Planned Unit Development Site Plan/Plat as set forth in [Sec. 158.\(11\)\(E\)](#) above, a Complete Application and signature page, filed with Plan Commission Staff, shall contain the following:

- (a) **Primary Plat**
Per applicable primary plat checklist as set forth in the Elkhart County Advisory Plan Commission Rules of Procedure.
- (b) **Planning and Development Department Requirements**
 - i. All required materials found on the information page of the Application for a Minor or Major Subdivision.
 - ii. The Filing Fees established by the Elkhart County Fee Ordinance contained in the Plan Commission Rules of Procedure. These fees shall not be refundable.
- (c) **Requirements that must be obtained from the following additional departments:**
 - i. Environmental Health Department (and Indiana Department of Environmental Management, if applicable)
 - ii. Highway Department
 - iii. County Surveyor
 - iv. Soil and Water Conservation District
 - v. Municipal Separate Storm Sewer System (MS4).

(20) Technical Review Process

- (a) The Plan Commission's Technical Review Committee and Technical Revisions Committee shall consist of the following County officials or their designated representative:
 - i. Director of Planning and Development Department or designee;
 - ii. County Highway Manager or designee;
 - iii. Director of Environmental Health or designee;
 - iv. County Surveyor or designee;
 - v. County Stormwater Coordinator or designee;
 - vi. Soil and Water Conservation District
 - vii. Other Interested Departments as necessary; Natural Resource Conservation Service (NRCS) District Conservationist, Electrical Utilities, Sheriff Department, Fire Departments, or County Park Board.
- (b) **Technical Review Meetings**
The Plan Commission Staff and their technical advisors shall hold technical review meetings on complete applications per the approved meeting schedule. An applicant or their representative shall present and explain the application to be considered for Plan Commission approval.
- (c) **Applications Technically Correct**
If the application is complete and technically correct, the application will be forwarded to the next scheduled meeting of the Plan Commission, with a positive recommendation, for primary approval.

(d) Applications Not Technically Correct

Technical deficiencies in the application shall be outlined at the Technical Review meeting and a copy provided to the petitioner. The petitioner will then be provided the opportunity to schedule a revisions review of all corrections at the next meeting of the Technical Revisions Committee.

(e) Technical Revisions Committee

- i. The Technical Revisions Committee shall meet one (1) week after the Technical Review Committee meeting; in the event of a conflict with a County organized holiday, the meeting shall be held on a different date as published on the Plan Commission's annual Planning Calendar. To be considered by the committee all revisions must be submitted to the Plan Commission Staff at least forty-eight (48) hours prior to the Technical Revisions Committee meeting. Revisions not received forty-eight (48) hours prior to the Technical Revisions Committee meeting will, at the request of the petitioner, be rescheduled to the next regularly scheduled Technical Review Committee. If all technical deficiencies have been resolved and the application is technically correct it will be forwarded to the Plan Commission with a positive recommendation.
- ii. If the petitioner chooses to hold the application for a later Technical Revisions Committee meeting, the petitioner must so indicate at the Technical Review meeting. The Plan Commission Staff will hold the application for no longer than 90 days at which time the application will expire.
- iii. If the application is not technically correct and the petitioner:
 - I. Chooses not to attend the Technical Revisions Committee meeting or
 - II. Does not submit revisions to the Plan Commission Staff prior to the Technical Revisions Committee meeting and does not request a rescheduling, the application will be forwarded to the Plan Commission with a recommendation for denial.
- iv. It is the desire of the Plan Commission that either the Technical Review Committee or the Technical Revisions Committee review all changes to an application. Revisions or changes made to an application presented to the Plan Commission, which have not been reviewed by the Technical Review Committee and/or the Technical Revisions Committee shall be returned to the Technical Review Committee or the entire proposal denied at the Plan Commission's discretion.

(f) Review for Compliance

The Plan Commission Staff and their technical advisors shall consider, but not necessarily be limited to, compliance with the following documents:

- i. Elkhart County Development Ordinance;
- ii. The Elkhart County Building Code;
- iii. Elkhart County Comprehensive Plan;

- iv. Health Department Rules and Regulations including the Elkhart County On-Site Sewage Disposal Ordinance and corresponding state agency regulations;
- v. The Street Standards and Traffic Impact Studies for Proposed Developments within Elkhart County, Indiana;
- vi. Indiana Department of Transportation rules and regulations if any lot abuts state or federal highway;
- vii. Elkhart County Construction Site Stormwater Run Off Control Ordinance;
- viii. Elkhart County Uniform Requirements for Post-Construction Stormwater Management.

(21) Hearing Requirements for Primary Approval - Major Subdivisions

After the completion of the Technical Review Process, the Plan Commission shall hold a public hearing for primary approval at their next scheduled meeting as required in the Rules of Procedure of the Plan Commission. Once the Plan Commission Staff has given notice of the public hearing; changes, additions, or modifications to the proposal may not be made without referring all such additions, modifications or changes to the Technical Review Committee for review.

(22) Primary Approval

The Plan Commission shall hold a public hearing for a subdivision in the time frame established by the Plan Commission's Rules of Procedure, following the proper submittal of a complete application. After the Plan Commission has reviewed the primary plat, the Plan Commission Staff's report, other agency reports, and heard testimony submitted at the public hearing, the Plan Commission shall then make its decision, adopt its findings of fact and announce its decision in public. The Plat Committee may act for and on behalf of the Plan Commission in granting primary approval to minor subdivisions and as otherwise authorized in these regulations or in the Plan Commission's Rules of Procedure.

(23) Conditions of Primary Approval

Where appropriate under this Article, the Commission may, as a condition of primary approval of the subdivision plat, specify:

- (a) The manner in which public ways shall be laid out graded and improved;
- (b) A provision for water, sewage, and other utility services;
- (c) A provision for lot size, number, and location;
- (d) A provision for drainage design; and
- (e) A provision for other services.

(24) Written Findings of Fact

(a) Findings in Writing

If primary approval is granted or denied at the public hearing, the Plan Commission shall state its findings and decision in writing, in accordance with IC 36-7-4-707, and the Secretary of the Plan Commission shall sign it.

(b) Corrections Before Re-submittal

If primary approval is denied, the applicant shall correct the deficiency noted by the Plan Commission prior to resubmitting a new application for primary approval as set forth in the Rules of Procedures for the Plan Commission, under adverse decisions.

(c) Presentation to Applicant

The written findings of fact shall be presented to the applicant.

(25) Review by Certiorari of Plan Commission's Decision

The primary approval or disapproval of a plat by the Plan Commission or the imposition of a condition on primary approval is a final decision of the Plan Commission that may be reviewed as provided by Indiana Code 36-7-4-1016.

(26) Effective Date of Primary Approval

- (a) **Primary Approval for Two (2) Years**
The primary approval, approved after the effective date of this Ordinance, shall be effective for a period of 2 years after the date of primary approval, or
- (b) **Secondary Approval for Sections**
For subdivisions with multiple sections or phases at least one section or phase must be granted secondary approval at least every 2 years to maintain the effectiveness of the primary approval, until all sections or phases included in the primary have been approved, with a maximum time allowance of 8 years unless extended by the Plan Commission. Any proposed or actual subdivision granted primary approval by the Plan Commission before the adoption date of this Ordinance may continue to receive all phased secondary approvals under the provisions of the ordinance in effect at the time of primary approval.
- (c) **Extensions of Primary Approval**
The applicant may request an extension of the original primary approval for a period of up to 5 years for subdivisions without sections or phases, and for a period of up to 2 years for each section or phase for subdivisions with sections or phases. The request shall be made in writing and shall describe the need for the extension. The request shall be considered by the Plan Commission at a public meeting as a non-public hearing item. It shall be within the discretion of a Plan Commission to grant or deny such request. The maximum number of requests permitted is 2.

(27) Application for Secondary Approval

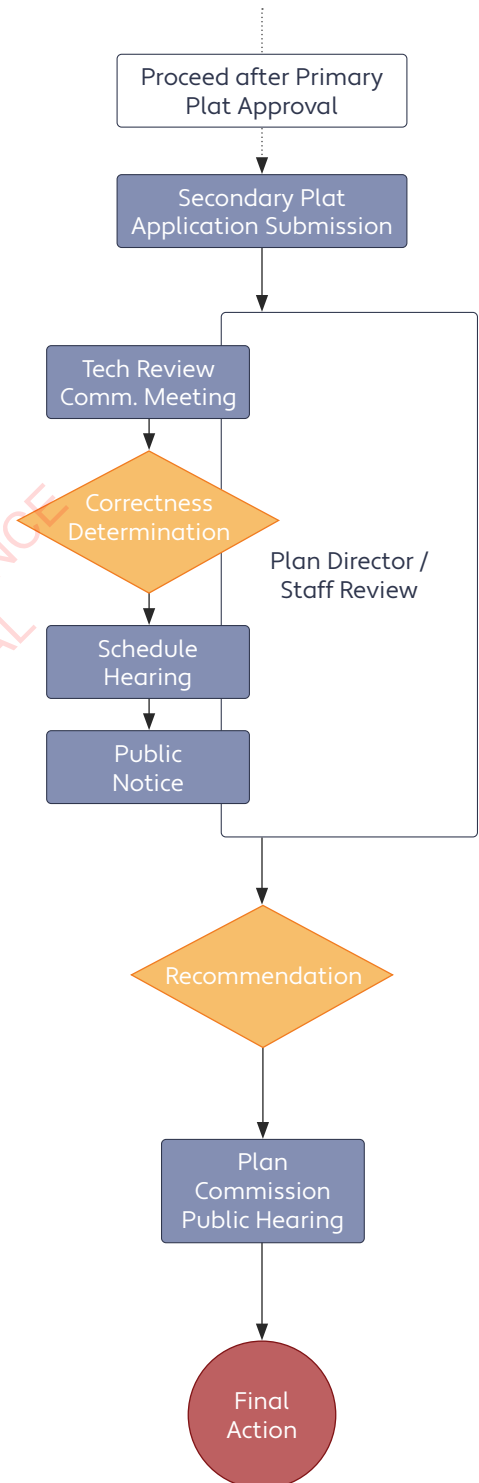
After approval of the primary plat, the Plan Commission or Plat Committee or Director, as allowed in these regulations or the Plan Commission Rules of Procedure, may consider the secondary plat and confirmation of improvement plans and confirmation of Storm Water Pollution Prevention Plans. The secondary plat shall conform to the approved primary plat and shall incorporate all required changes as verified by the Technical Review Committee members prior to forwarding to the Plan Commission or Plat Committee or Director; notwithstanding the foregoing, review by the Technical Review Committee of a DPUD Secondary Site Plan/Plat is not required. If the secondary plat includes only a portion of the entire development approved on the primary plat, the Plan Commission or Plat Committee shall consider the effect of secondary platting a portion of the entire development and may require additional areas to be included in the secondary plat. The application should include:

- (a) **Secondary Approval Form**
Applicants for secondary approval should submit a completed Application for a Minor or Major Subdivision including all required materials found on the information page.
- (b) **Compliance with Primary Approval**
The application shall be in total compliance with these regulations and the terms or conditions of primary approval.

(28) Secondary Plat & Improvement Plans

The secondary plat and confirmation of construction plans and confirmation of Storm Water Pollution Prevention Plans shall include the information required on the checklist for application for secondary approval set forth in the Elkhart County Advisory Plan Commission Rules of Procedure and evidence of compliance with all conditions of primary approval and the following information:

- (a) **Scale and Page Size**
Scale and page size shall comply with what is required on the information page and secondary plat checklist of the Application for a Minor or Major Subdivision;
- (b) **Areas for Public Uses**
The overall area to be allocated for park, school, recreational, and other public and semipublic sites;



- (c) **Storm Water**
Storm Water Pollution Prevention Plan (SWPPP) meets the standards of 327 IAC 15-5 ("Rule 5") (Soil may not be moved until a plan has been approved);
- (d) **Phasing Schedule**
The schedule of any phasing of the project;
- (e) **Significant Conditions**
Other significant conditions of the area proposed to be improved;
- (f) **Wetland Mitigation Plan**
An appropriate written certification of the wetland mitigation plan and the approved permit by the appropriate State or local agency for any development where wetlands will be adversely affected; and
- (g) **Drainage Maintenance Certificate**
The secondary plat shall include a drainage maintenance certificate as provided in the Elkhart County Advisory Plan Commission Rules of Procedure.

(29) Appeal

All decisions of the Plat Committee or Staff may be appealed to the Plan Commission at the next available regularly scheduled Plan Commission meeting. All appeals shall be filed within 5 days of mailing of the findings to allow for proper publication of the appeal. All appeals must be in writing and must be accompanied by the appropriate fee. All decisions of the Plan Commission may be appealed in accordance with the Indiana Code 36-7-4-708.

(30) Secondary Approval

Secondary approval may be granted to a plat only after the requirements in this Section have been satisfied.

- (a) **Action at Meeting**
After the proper submittal of a complete application and review of all pertinent information, the Plan Commission or Plat Committee may grant, deny or continue secondary approval at a meeting scheduled in accordance with the Plan Commission's Rules of Procedure.
- (b) **Action without Meeting for Minor Subdivisions**
After the proper submittal of a complete application and review of all pertinent information, the Director, pursuant to I.C. 36-7-4-710, may grant or deny secondary approval of a minor subdivision, including a DPUD minor subdivision Site Plat/Plat. In granting secondary approval, the Director shall sign the plat on behalf of the Plan Commission. No notice or hearing is required, and the provisions of these regulations or of the Plan Commission's Rules of Procedure concerning notice and hearing do not apply to secondary approvals of minor subdivisions by the Director. The Director may transfer an application for secondary approval of a minor subdivision to the Plat Committee, without first making a decision, when the Director determines that it would be in the best interest of all parties or upon written request of the applicant.

- (c) **Appeal**
Secondary approval may not be granted to a plat until expiration of the 5 working day primary approval appeal period in accordance with Indiana Code 36-7-4-708;
- (d) **Compliance with Conditions**
Secondary approval may not be granted to a plat unless there is full compliance with the conditions and requirements set forth by Board of County Commissioners (in the case of a DPUD Site Plan/Plat), or the Plan Commission, or Plat Committee for primary approval;
- (e) **Other Government and Utility Approvals**
Secondary approval may not be granted to a plat until all necessary approvals from other agencies are obtained as needed or required. These approvals shall include any federal, state, or other local approval on their official forms and signed by the proper authority. These approvals may include, but are not limited to the following when appropriate:
 - i. **Federal Agencies:**
 - I. Federal Communications Commission;
 - II. Federal Aviation Administration;
 - III. Federal Emergency Management Agency; and
 - IV. U.S. Army Corp of Engineers.
 - ii. **State Agencies:**
 - I. Indiana Department of Environmental Management;
 - II. Indiana Department of Natural Resources;
 - III. Indiana Department of Transportation; and
 - IV. Indiana State Department of Health.
 - iii. **Local Agencies:**
 - I. Elkhart County Drainage Board;
 - II. Elkhart County Health Department, Environmental Division;
 - III. Elkhart County Highway Division;
 - IV. All other Elkhart County Departments, such as the Sheriff or Storm Water Management Department, having an interest in the particular petition.
 - iv. **Utility Companies:**
 - I. Public or private utilities for sanitary sewer; and
 - II. Public or private utilities for water services.
 - v. **All other provisions of this Ordinance.**

(31) Notice of Decision

- (a) **Decision in Writing**
If secondary approval is granted or denied then the Plan Commission, or Plat Committee, or Director, shall state its findings and decision in writing and it shall be signed by the Secretary of the Plan Commission or the Director, as appropriate.
- (b) **Correct Deficiencies**
If secondary approval is denied, the applicant shall correct the deficiency noted by the Plan Commission, or Plat Committee, or Director, in the findings prior to resubmitting for secondary approval.
- (c) **Findings to Applicant**
The findings shall be presented to the applicant.

(32) Provisions for Completion of Improvements

Before a secondary plat is approved by the Plan Commission or the Board of County Commissioners, the owner shall be required to complete, in accordance with the secondary approval for major subdivision or for minor plats, and to the satisfactory of the Street Standards all improvements as required by these regulations. If the improvements and installments have not been completed as required by these regulations, the owner shall provide a bond, or other proof of financial responsibility, as prescribed in the Street Standards before a secondary plat can be recorded.

(33) Administration & Enforcement of Performance Guarantees

- (a) **Administration and Enforcement of Performance Guarantees**
Shall be per Elkhart County Street Standards.
- (b) **Current Until Improvements Accepted**
It shall be the responsibility of the owner to keep the performance guarantee current and not allow it to expire until all improvements have been accepted by the Board of County Commissioners per Street Standards.
- (c) **No Permits with Expiration**
If the performance guarantee does expire, no Improvement Location Permits will be issued to those lots within the subdivision or section thereof which required the performance guarantee until a new guarantee is provided.
- (d) **Release**
Upon completion of the improvements for which a performance guarantee has been provided, the owner shall request a release or partial release, as the case may be, of the performance guarantee per Street Standards.
- (e) **Inspection**
The Elkhart County Highway Division will conduct inspections of the completed improvements in accordance with the Street Standards. All revisions must be approved per Street Standards. The office of The Elkhart County Surveyor will provide additional oversight in construction inspection during construction and after construction to assure standards for private stormwater basins are constructed in accordance with approved design.
- (f) **Appeals**
Appeals of the decisions regarding inspection of completed improvements shall be made per Street Standards.

(34) Provisions for Maintenance of Improvements

- (a) **Maintenance of Improvements**
Shall be per Elkhart County Street Standards.
- (b) **Release**
The procedure for release of a maintenance guarantee shall be per Elkhart County Street Standards.

(35) Inspections

- (a) **All improvements Inspected**
The owner shall be responsible for having all improvements inspected for compliance with the approved plans, provisions of these regulations, and the Street Standards. The owner's responsibility for inspections extends to sanitary sewer, water lines, all drainage components, and other utility installations where they interact with improvements such as subsurface drains or drainage swales.
- (b) **Owner Responsible for Testing**
The owner shall be responsible for providing all documentation and testing results required by the Street Standards for the improvements including, but not limited to the following: compaction tests; infiltration/exfiltration tests to sanitary sewers, pressure tests for water lines, material quality and pavement corings if required.

(36) As-Built Drawings

The owner shall submit record drawings as required by the Elkhart County Street Standards.

(37) Failure to Complete Improvements

In those cases where a performance guarantee has been posted and the improvements have not been installed prior to the expiration of the guarantee, the guarantee may be declared in default and all improvements cause to be installed per Elkhart County Street Standards.

(38) Recording of Secondary Plat

- (a) **Signatures Required**
The secondary plat shall bear the signatures as required on the secondary plat checklist of the Application for a Minor or Major Subdivision.
- (b) **Acceptance Required**
The secondary plat shall not be recorded until acceptance by the Elkhart County Board of County Commissioners of all dedicated areas and improvements (major subdivisions); or acceptance by the Elkhart County Plan Commission, the Plat Committee, or the Director, as appropriate, of all dedicated areas and improvements (minor subdivisions).
- (c) **Legal Effect**
The filing and recording of a secondary plat is without legal effect unless it is in compliance with all provisions of this Ordinance.

(39) Time Limitation to Record Secondary Plat

- (a) **Record Within One Year**
Every major or minor subdivision plat approved after the effective date of these regulations shall be recorded within 1 year after the date of the secondary plat approval.
- (b) **Expiration**
Any plat that is not so recorded within the 1 year period shall, at the expiration of the 1 year period, become null and void and shall not be entitled to recording without re-approval by the Plan Commission. Re-approval shall proceed as a new application in accordance with the standards, requirements and procedures specified by these regulations at the time of the application for re-approval.
- (c) **Extensions**
The Plan Commission may grant 1 extension of the original approval for up to 1 year.

(40) Amendments, Replats, or Plat Revisions

- (a) **Public Hearing Required**
Amendments must be certified by any properly registered land surveyor and shall require a public hearing before the Plan Commission in compliance with [Sec. 158.11\(F\)\(22\)](#), Primary Approval. The applicant must supply revised primary and secondary plats and construction plans, if applicable, in compliance with this Ordinance.
- (b) **Replats not Requiring Hearing**
Replats must be certified by any properly registered land surveyor. The Plat Committee or Staff shall determine whether a replat requires a public hearing before the Plan Commission in compliance with [Sec. 158.11\(F\)\(22\)](#), Primary Approval, of this Ordinance. The following circumstances shall be considered by the Plat Committee or Staff:
 - i. **Interior Lot Line Removal**
A replat which involves only the removal of interior lot lines, with the outside perimeter of the property remaining unchanged, resulting in fewer parcels than were contained in the original parcel;
 - ii. **Easement Removal or Relocation**
A replat which involves only the removal or relocation of easements within the property, as long as the affected agency or utility supports said removal or relocation;
 - iii. **Notations or Corrections**
A replat that involves only the changing of notations written on the plat or corrections of errors thereon;
 - iv. **Court Decree**
A division of land pursuant to court decree.
- (c) **Controversy Requiring Public Hearing**
If there is controversy surrounding one of the above types of replats; the Plat Committee or Staff may schedule the replat for a public hearing before the Plan Commission.

(d) Revised Plat

In all cases, the applicant must submit a replat as a revised secondary plat and construction plans, if applicable, in compliance with [Sec. 158.11\(F\)\(28\)](#), Secondary Plat and Improvement Plans.

(e) Revisions to Unrecorded Plat

Plat revisions to an unrecorded plat shall be heard by the Plat Committee in the same manner as the Secondary Approval in accordance with [Sec. 158.11\(F\)\(27\)](#), Secondary Approval.

(f) Significant Change

Any revision to an approved but unrecorded secondary plat, which, in the opinion of the Plat Committee involves a significant change, must obtain a new primary approval. Examples of a significant change include, but are not limited to:

- i. Additional Lots
- ii. Creation of one or more additional lots;
- iii. New Streets
- iv. Creation of one or more new streets;
- v. Street Removal
- vi. Removal of one or more proposed streets;
- vii. Street Pattern Changes
- viii. Changes to the street pattern;
- ix. Retention/Detention Pond Changes
- x. Removal or addition of a retention or detention pond;
- xi. New Easements in Building Envelope
- xii. Addition of any easements that conflict with the minimum building envelope;
- xiii. Other Changes
- xiv. Any other change that the Plan Commission believes constitutes a significant change.

(41) Boundary Monumentations

- (a) For major and minor subdivisions, the owner shall place, under the supervision of a registered land surveyor, a boundary marker for each corner of every section or phase and for each lot corner in said subdivision, unless waived by the County Surveyor. The Registered Land Surveyor shall operate in full compliance with Title 865 IAC Chapters 1 - 13.
- (b) The centerline alignment shall be monumented at all centerline intersections, points of curvature, tangent and center of cul-de-sacs. The monument will be set flush with the final pavement surface. The type and nature of the monument will be specified by the County Surveyors Office.

158.11(G) Administrative Subdivision

(1) Applicability

The Administrative Subdivision review procedure provides the Plan Commission with the opportunity to designate to the Plan Director, or their designee, to review and take final action on a subdivision application that meets the requirements set for in this Section, including its subdivision plat.

(2) Purpose

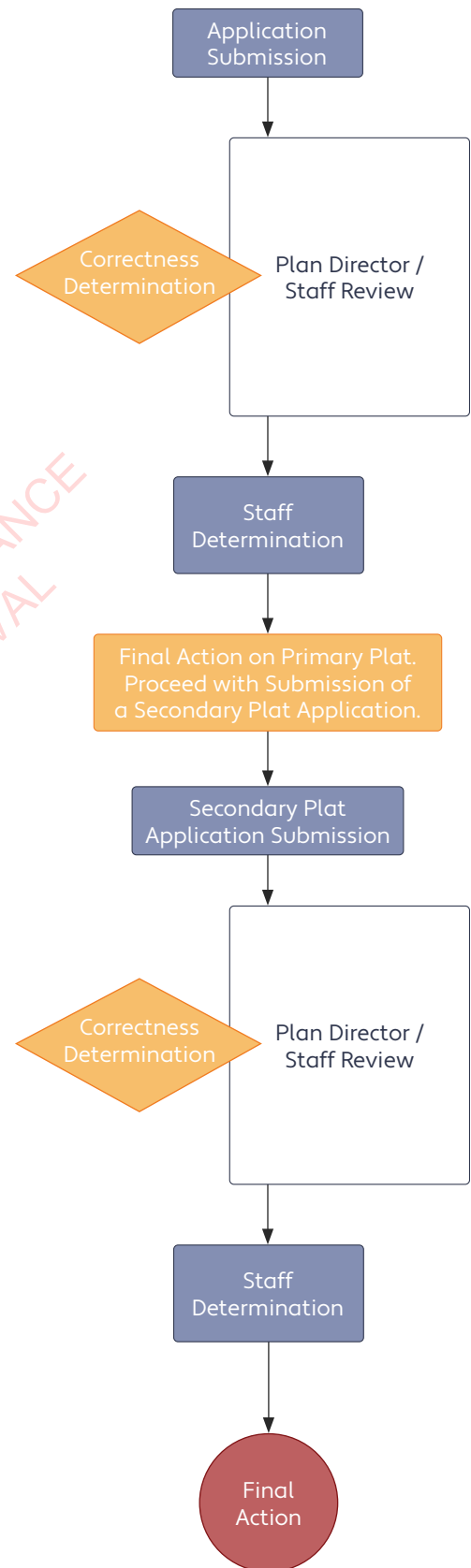
The purpose of an administrative subdivision is to provide a simplified procedure for the division of land, in lieu of the platting requirements in these regulations, under limited conditions, with the technical review necessary for development in Elkhart County. The administrative subdivision process is designed to run simultaneously with the building permit process.

(3) Plats Crossing Governmental Boundaries

Whenever access to a subdivision is required across land in another governmental jurisdiction, the Plan Commission shall request assurance from the other governmental jurisdiction that access is legally established and the access road is adequately improved, or that a performance guarantee has been duly executed and is sufficient in amount to assure the construction of the access road. Lot lines shall be laid out so as not to cross governmental boundary lines. However, when a subdivision is proposed that is in more than one planning jurisdiction, including Elkhart County's planning jurisdiction, approval shall be contingent upon the subdivision also receiving approval from the other jurisdiction(s).

(4) General Requirements & Standards

- (a) A buildable tract, at least 3 acres in size for residential use, is created.
- (b) The standards of the Development Ordinance must be complied with unless specifically altered by this Ordinance.
- (c) Administrative subdivisions are subject only to certification by the Department. Decisions of the Department are subject to appeal to the Plan Commission.
- (d) For the purpose of administrative subdivisions, "interested parties" are defined solely as the property owner of record.
- (e) A buildable tract created by the administrative subdivision may thereafter only be further split by a administrative, minor or major subdivision.
- (f) **Placement of Structure – Drainage Standard**
 - i. In an area not prone to flooding.
 - ii. Where excavation and fill do not adversely affect natural flow of water across the site.
 - iii. Basements are not advised below the seasonal high water mark.
 - iv. It is the responsibility of the owner and builder that the basement is constructed to not allow surface water to enter the home.
 - v. The grade surrounding all structures shall cause the water to flow away from the structure.
- (g) **Site Drainage**
 - i. It is the responsibility of the owner to maintain the drainage flow across the site (this includes any surface water courses and drainage tile).
 - ii. If any drainage flow is concentrated and directed to adjoining property, the adjoiner's permission must be granted in writing and placed in the administration subdivision file for the tract. This includes but is not limited to natural occurring water from sump pumps, geothermal heating systems, discharges, and perimeter drains.
 - iii. It should be realized that it is almost impossible to guarantee that a site will not have water problems. That an act of nature, which would include abnormally heavy rain storms, snowmelts, ice jams, etc., may cause water damage to any property.



- iv. An affidavit by the land owner of the proposed Administrative Subdivision shall require the land owner to be responsible for all stormwater drainage.
- v. A site plan supplied by the home owner, developer, builder, surveyor, or architect shall demonstrate how stormwater will be managed and kept on site.

(6) Primary Approval - Application Submittal

The following information is required to be submitted for consideration as an Administrative Subdivision:

- (a) A recorded deed with a metes and bounds legal description;
- (b) A site plan showing all items on sample exhibit B in the administrative subdivision packet maintained by Planning and Development;
- (c) A site plan showing county road frontage, any adjacent bodies of water, and soil classification;
- (d) Any information required by the Health Department for a septic permit;
- (e) Any information required by the Highway Department for the issuance of a driveway permit;
- (f) Any information needed by the Soil and Water Conservation District (SWCD) to determine the need for a Storm Water Pollution Prevention Plan (SWPPP); and
- (g) Any information needed by the Surveyor's Department.

(7) Primary Approval - Process

- (a) Primary approval / zoning clearance will be granted by the Plan Commission Staff upon the completion of a site plan evaluation.
- (b) This evaluation will consist of a review of the site plan information and determination that compliance with the Development Ordinance and these regulations have been achieved. Deficiencies or noncompliance determinations must be mitigated by redesign or variances granted by the Elkhart County Advisory Board of Zoning Appeals.

(8) Secondary Approval - Submittal

The following information is required to be submitted for consideration as secondary approval / building permit:

- (a) A septic system or municipal sanitary sewer hookup permit issued by the Elkhart County Health Department;
- (b) A curb cut (driveway) permit for the site issued by the Elkhart County Highway Department;
- (c) A waiver or Storm Water Pollution Prevention Plan certified by the SWCD;
- (d) A deed of dedication, if applicable, in appropriate form as provided in the administrative subdivision packet maintained by Planning and Development, executed by authorized owners/representatives, notarized, and recorded.
- (e) Surveyor's Department drainage approval.

(9) Secondary Approval - Process

Secondary approval will be granted by the Plan Commission Staff in conjunction with the issuance of a Building Permit once the following requirements have been met:

- (a) A septic permit or waiver has been issued by the Health Department;
- (b) A driveway permit or waiver has been granted by the Highway Department and primary approval/ zoning clearance; and
- (c) Surveyor's Department drainage approval.

158.11(H) Special Use Permit**(1) Applicability**

- (a) A Special Use Permit provides a means for developing certain uses in a manner in which the Special Use will be compatible with adjacent property and consistent with the character of its area. The granting of a Special Use Permit has no effect on the uses permitted as of right on the subject property and does not waive the provisions of this Ordinance that apply to the property.
- (b) Special Uses generally may have unusual nuisance characteristics or are of a public or semi-public nature often essential or desirable for the general convenience and welfare of the community. Because, however, of the nature of the use or possible adverse impact on neighboring properties of the use, review, evaluation and exercise of planning judgment relative to the general location and site plan of the proposed use are required.
- (c) Uses requiring a Special Use Permit are identified in the use table in Article 158.05.
- (d) The Zoning Administrator must not accept an application for a Special Use Permit for a use not listed as such in the relevant zoning district.
- (e) The Hearing Officer makes the final decision on Special Use Permits for mobile homes. The Board of Zoning Appeals makes the final decision on all other Special Use Permits.

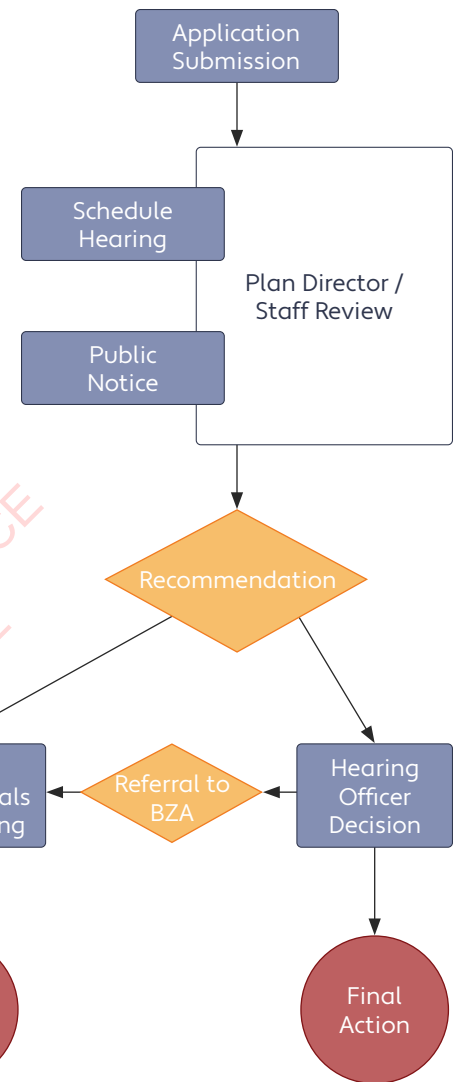
(2) Review Process

- (a) **Concurrent Site Plan Submittal**
Application for a Special Use Permit must occur in conjunction with the submittal of a site plan.
- (b) **Zoning Administrator Review**
The Zoning Administrator must review the application and make a recommendation to the Hearing Officer or Board of Zoning Appeals, as appropriate.
- (c) **Hearing Officer or Board of Zoning Appeals Final Action**
Following notice in accordance with the Board of Zoning Appeals Rules of Procedure, the Hearing Officer or Board of Zoning Appeals, as appropriate, must hold a public hearing and approved, approved with conditions or commitments, or deny the Special Use Permit.
- (d) **Referral**
The applicant may obtain a transfer from the Hearing Officer to the Board of Zoning Appeals before a decision is made as a result of any of the following:
 - i. The receipt by the Zoning Administrator of a written request for such transfer by the applicant;
 - ii. A staff recommendation related to the impositions of conditions or commitments; or
 - iii. Any other adverse action by the Staff or Hearing Officer.

(3) Review Criteria

In determining whether to approve, approve with conditions or commitments, or deny a Special Use Permit, the Hearing Officer or Board of Zoning Appeals must consider and make affirmative findings for all of the following criteria. A negative finding for any one of the following criteria must result in a denial of the Special Use Permit request.

- (a) The Special Use is consistent with the purpose of this Ordinance as established in [Sec. 158.01\(B\)](#).
- (b) The Special Use will not substantially and permanently injure the appropriate use of neighboring property.
- (c) The Special Use will substantially serve the public convenience and welfare.



(4) Duration

An approved Special Use Permit runs with the land unless commitments to the contrary are placed on the approval. The Special Use must be established as represented on the Special Use Permit site plan within 24 months of approval or the Permit becomes null and void.

(5) Renewal of Mobile Home Special Use Permit

- (a) A Special Use Permit for a mobile home may be granted for a limited period of time. The Zoning Administrator may repeatedly renew a mobile home Special Use Permit for a period of time which is not longer than the period of time for which the original Special Use Permit was granted.
- (b) The renewal of the Special Use Permit can only be granted by the Zoning Administrator if it is determined that the mobile home complies with all of the following conditions.
 - i. The property and mobile home have adhered to all conditions and commitments imposed on the original Special Use Permit.
 - ii. The property and mobile home have been maintained in good condition.
- (c) If the Zoning Administrator renews the Special Use Permit, then a letter stating that renewal must be sent to the applicant.
- (d) If the Zoning Administrator declines to renew the Special Use Permit, then a letter of denial must be sent to the applicant. The Zoning Administrator must, within 30 days of the denial letter, set the renewal request for consideration before the Hearing Officer as a staff item which does not require public notice or a public hearing.

ELKHART COUNTY DEVELOPMENT ORDINANCE
FINAL DRAFT FOR APPROVAL
2-13-2024

158.11(I) Use Variance**(1) Applicability**

The Board of Zoning Appeals may vary the use standards of this Ordinance for projects that meet all of the criteria set forth in this Section. Any Variance request not related to the developmental or dimensional requirements of this Ordinance (i.e. those requirements related to a measurable numerical standard such as a setback, lot size or height) must be processed as a Use Variance in accordance with this Section. A Variance is considered an exception to the regulations, rather than a right, and must be the minimum necessary to afford relief.

(2) Review Process**(a) Concurrent Site Plan Submittal**

Application for a Use Variance must occur in conjunction with the submittal of a site plan.

(b) Zoning Administrator Review

The Zoning Administrator must review the application and make a recommendation to the Board of Zoning Appeals.

(c) Board of Zoning Appeals Final Action

Following notice in accordance with the Board of Zoning Appeals Rules of Procedure, the Board of Zoning Appeals must hold a public hearing and approve, approve with conditions or commitments, or deny the Use Variance.

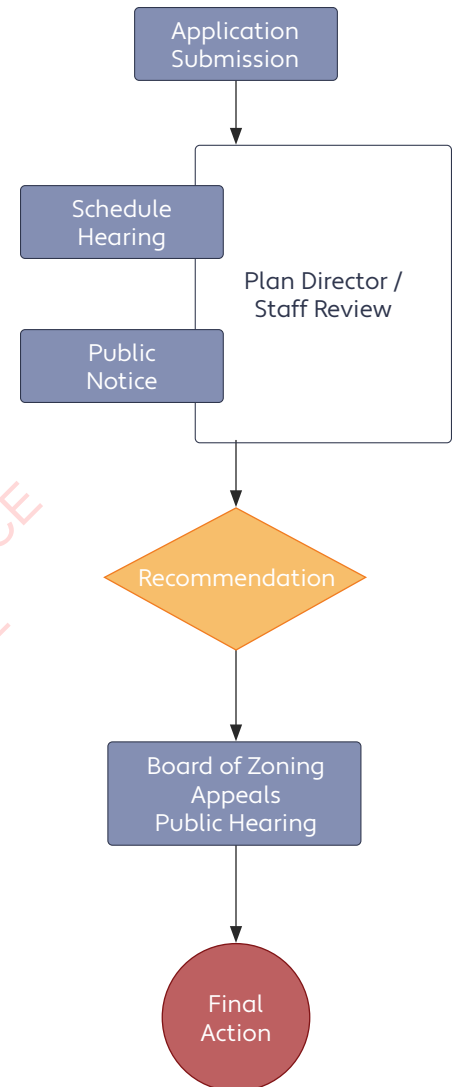
(3) Review Criteria

In determining whether to approve, approve with conditions or commitments, or deny a Use Variance, the Board of Zoning Appeals must consider and make affirmative findings for all of the following criteria. A negative finding for any one of the following criteria must result in a denial of the Use Variance request.

- (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community.
- (b) The use and value of the area adjacent to the property included in the Use Variance will not be affected in a substantially adverse manner.
- (c) The need for the Use Variance arises from some condition peculiar to the property involved.
- (d) The strict application of the terms of the Development Ordinance would constitute an unnecessary hardship if applied to the property for which the Use Variance is sought.
- (e) The approval does not interfere substantially with the County Comprehensive Plan.

(4) Duration

An approved Use Variance runs with the subject property until such time as the property conforms with the Development Ordinance or unless commitments to the contrary are placed on the approval.



158.11(J) Developmental Variance

(1) Applicability

- (a) The Hearing Officer and Board of Zoning Appeals may vary the developmental or dimensional regulations of this Ordinance for projects that meet all of the criteria set forth in this Section. Any Variance request not related to the developmental or dimensional requirements of this Ordinance (i.e. those requirements related to a measurable numerical standard such as a setback, lot size or height) must be processed as a Use Variance in accordance with [Sec. 158.11\(I\)](#).
- (b) Any request for relief from up to 10% of a minimum front, side or rear setback requirement may be processed as a request for an Administrative Adjustment in accordance with [Sec. 158.11\(K\)](#). A Variance is considered an exception to the regulations, rather than a right, and must be the minimum necessary to afford relief.

(2) Review Process

- (a) **Concurrent Site Plan Submittal**
Application for a Developmental Variance must occur in conjunction with the submittal of a site plan.
- (b) **Zoning Administrator Review**
 - i. The Zoning Administrator must review the application and make a recommendation to the Hearing Officer.
 - ii. If the Zoning Administrator recommends denial of the request, then the Zoning Administrator must forward the request directly to the Board of Zoning Appeals for final action.
- (c) **Hearing Officer or Board of Zoning Appeals Final Action**
Following notice in accordance with the Board of Zoning Appeals Rules of Procedure, the Hearing Officer or Board of Zoning Appeals, as appropriate, must hold a public hearing and approve, approve with conditions or commitments, or deny the Developmental Variance.
- (d) **Referral**
The applicant may obtain a transfer from the Hearing Officer to the Board of Zoning Appeals before a decision is made as a result of any of the following:
 - i. The receipt by the Zoning Administrator of a written request for such transfer by the applicant;
 - ii. A staff recommendation related to the imposition of commitments; or
 - iii. Any other adverse action by the Staff or Hearing Officer.

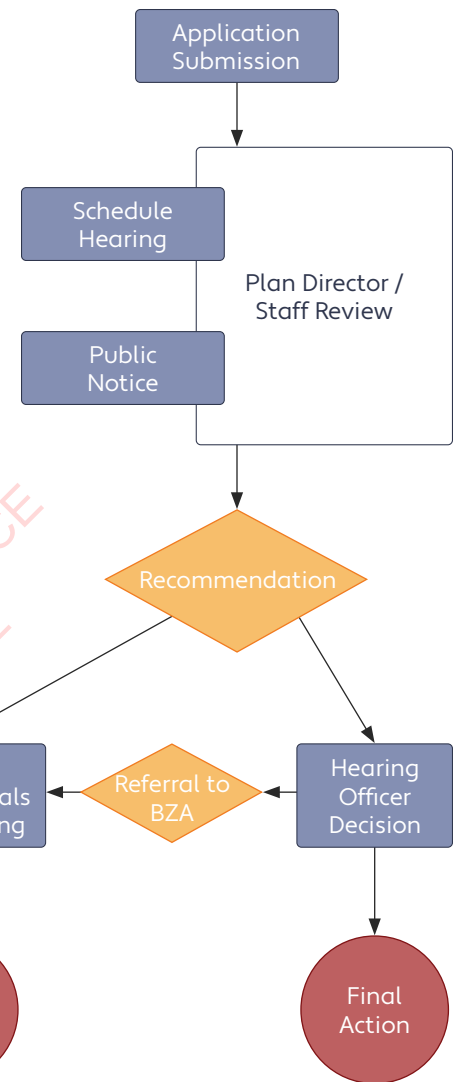
(3) Review Criteria

In determining whether to approve, approve with conditions or commitments, or deny a Developmental Variance, the Hearing Officer or Board of Zoning Appeals must consider and make affirmative findings for all of the following criteria. A negative finding for any one of the following criteria must result in a denial of the Developmental Variance request.

- (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community.
- (b) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner.
- (c) The strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property.

(4) Duration

An approved Variance runs with the subject property until such time as the property conforms with the Development Ordinance or unless commitments to the contrary are placed on the approval.



158.11(K) Administrative Adjustment**(1) Applicability**

- (a) Administrative Adjustments are minor specified deviations from otherwise applicable standards of this Ordinance as specified in this Section.
- (b) Except as provided in Sec. 158.11(K)(4) below, the Zoning Administrator has the authority to approve an Administrative Adjustment of up to 10 percent of any front, side or rear setback standard as set forth in this Ordinance.
- (c) Structures receiving an Administrative Adjustment must comply with all other requirements of this Ordinance not specifically relieved by the Adjustment.
- (d) Any requested Adjustment not in accordance with what is permitted in this Section must be processed as a Developmental Variance in accordance with [Sec. 158.11\(J\)](#).
- (e) A request for an Administrative Adjustment may be submitted along with an Improvement Location Permit application; however, the Improvement Location Permit may not be approved until the Administrative Adjustment is approved.

(2) Review Process

The Zoning Administrator must approve, approve with conditions or deny the Administrative Adjustment. In the case of denial, the applicant may apply for a developmental variance.

(3) Standards Ineligible for Relief

- (a) No condition, commitment or site plan approved by the Board of County Commissioners, Plan Commission, Board of Zoning Appeals or Hearing Officer is eligible for an Administrative Adjustment.
- (b) No Administrative Adjustment is allowed for work that originally occurred without the appropriate permits.
- (c) No Administrative Adjustment is allowed that would result in the location of a structure within any easement without the land owner first receiving approval from the Plan Commission or Plat Committee, as appropriate, for the modification of the easement, vacation of the easement or a change in the recorded plat regarding the easement to accommodate the Administrative Adjustment.
- (d) No Administrative Adjustment is allowed that would result in a separation between the proposed building and a building on neighboring property of less than 5 feet.

(4) Review Criteria

In determining whether to approve, approve with conditions or deny an Administrative Adjustment, the Zoning Administrator must consider the following criteria.

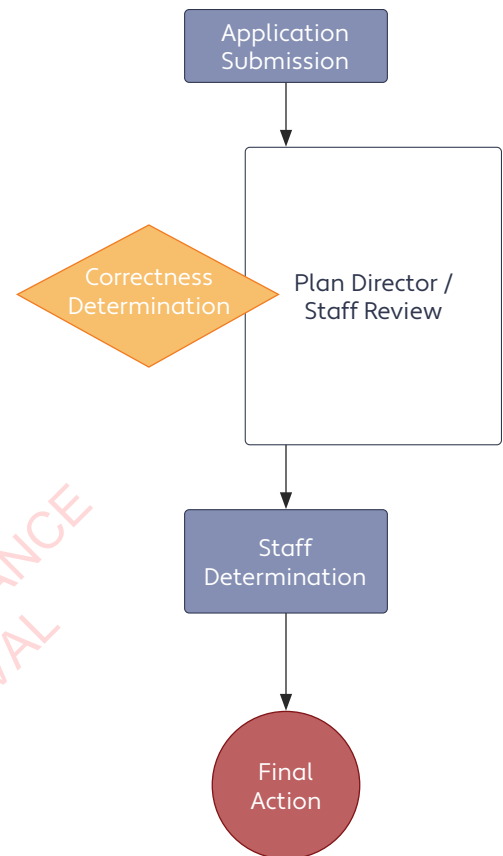
- (a) The Administrative Adjustment does not adversely affect the permitted use of adjacent property or the physical character of the surrounding area
- (b) Granting the Administrative Adjustment will be generally consistent with the purpose of this Ordinance as established in [Sec. 158.01\(B\)](#).
- (c) The Administrative Adjustment requested is the minimum adjustment necessary for reasonable use of the property and compliance with this Development Ordinance.

(5) Relief Not Cumulative

The Zoning Administrator may grant only one form of administrative relief established in this Development Ordinance related to the standard for which relief is being sought. Other forms of administrative relief include, but are not limited to, those established in [Sec. 158.02\(C\)](#).

(6) Duration

- (a) An Administrative Adjustment applies only to the structure and associated setback shown on the approved site plan for the Adjustment.
- (b) An approved Administrative Adjustment expires unless an Improvement Location Permit for the associated structure is approved within 90 calendar days from the date of approval of the Adjustment. In addition, an Administrative Adjustment expires unless construction work is completed within one year from the date of the issuance of the Building Permit for the associated structure.



158.11(L) Improvement Location Permit**(1) Applicability**

- (a) Except as exempted in this Section, an Improvement Location Permit is required prior to the:
 - i. Permanent erection, reconstruction, alteration, movement, conversion, extension or enlargement of a structure or improvement;
 - ii. Placement of a mobile or manufactured home on a property; or
 - iii. Establishment of a new nonresidential land use or change of an existing nonresidential land use.
- (b) The issuance of an Improvement Location Permit cannot substitute for or supersede the requirement of any ordinance adopted by the Board of County Commissioners which requires the issuance of a Building Permit before the construction of any building or structure. The issuance of an Improvement Location Permit does not waive any requirement of any pertinent Municipal, County, State or Federal ordinance, rule, regulation or law.
- (c) Among other approvals, an applicant must receive approval of an Improvement Location Permit prior to issuance of a Building Permit.

(2) Permit Not Required

- (a) A project that is exempted from obtaining an Improvement Location Permit is not exempted from meeting all other applicable regulations in this Ordinance.
- (b) An Improvement Location Permit is not required for the following improvements or activities.
 - i. **Small Structures**
An accessory structure that is not on a permanent foundation and is equal to or less than 120 square feet in area does not require an Improvement Location Permit.
 - ii. **Landscaping and Hardscaping**
The installation of plants, the application of mulch or fertilizer, the raising of planting beds and the installation of hardscaping, including stone steps, edging, and retaining walls less than three feet in height, does not require an Improvement Location Permit.
 - iii. **Play Sets and Pools**
The installation of play sets and temporary above-ground swimming pools does not require an Improvement Location Permit.
 - iv. **Home Occupations or Home Workshops / Businesses**
The establishment of a permitted home occupation or a home workshop / business that does not involve new construction does not require an Improvement Location Permit.
 - v. **Property Maintenance**
The maintenance and repair of existing structures and site improvements does not require an Improvement Location Permit.

(3) Review Process

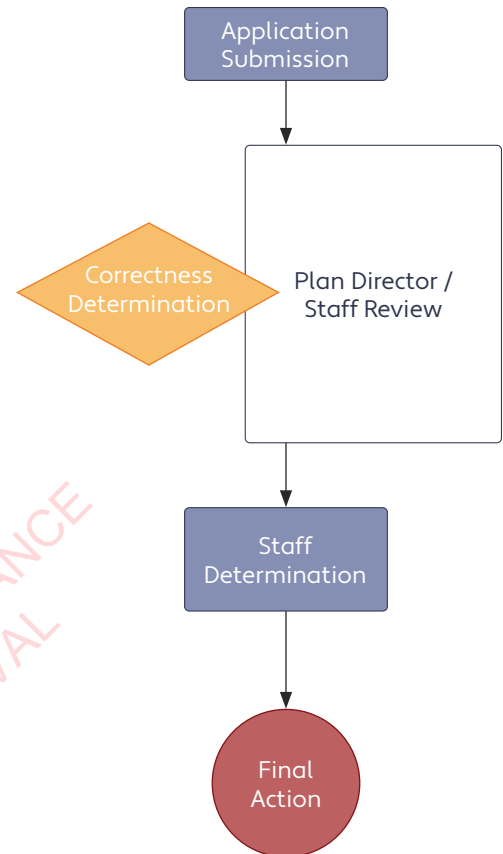
The Zoning Administrator must approve, approve with conditions or deny the Improvement Location Permit.

(4) Review Criteria

In determining whether to approve, approve with conditions or deny an Improvement Location Permit, the Zoning Administrator must consider the following criteria.

- (a) The proposed structure, improvement or use complies with the provisions of this Ordinance and any applicable Written Interpretations.
- (b) The proposed structure, improvement or use complies with any approved subdivision plat or Detailed Planned Unit Development, Special Use Permit or Variance governing the subject property.

- (c) The proposed structure, improvement or use is located on property that:
 - iv. Abuts a public right-of-way that has been constructed or for which a bond has been accepted, guaranteeing its construction; or
 - v. Has indirect access to a public right-of-way through a permanent access easement approved as a Developmental Variance in accordance with [Sec. 158.11\(J\)](#) or approved as part of a Detailed Planned Unit Development in accordance with [Sec. 158.11\(E\)](#). Such easement must have a minimum width of 20 feet, unless an easement of lesser width was on record before January 18, 1960.



(5) Duration

- (a) A project requiring an Improvement Location Permit must commence within 6 months of approval or the Permit becomes null and void, and the process must be started again.
- (b) A development must be completed within 24 months of approval of an Improvement Location Permit, or the Permit becomes null and void, and the process must be started again.
- (c) The Zoning Administrator may renew the Improvement Location Permit a maximum of two times for a duration of 30 days each. If additional renewals are needed, then the applicant must apply for a new Improvement Location Permit, subject to County standards in place at the time of the new application.

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158.11(M) Temporary Use Permit

Temporary Use Permit

(1) Temporary Dwellings**(a) Applicability**

Temporary Dwellings may be established in Zoning Districts that permit Single Family Dwellings as the Primary Use. The Elkhart County Zoning Administrator, in conjunction with other Elkhart County Departments, may issue the necessary permits to establish a Temporary Dwelling as described in this subsection.

(b) General Standards

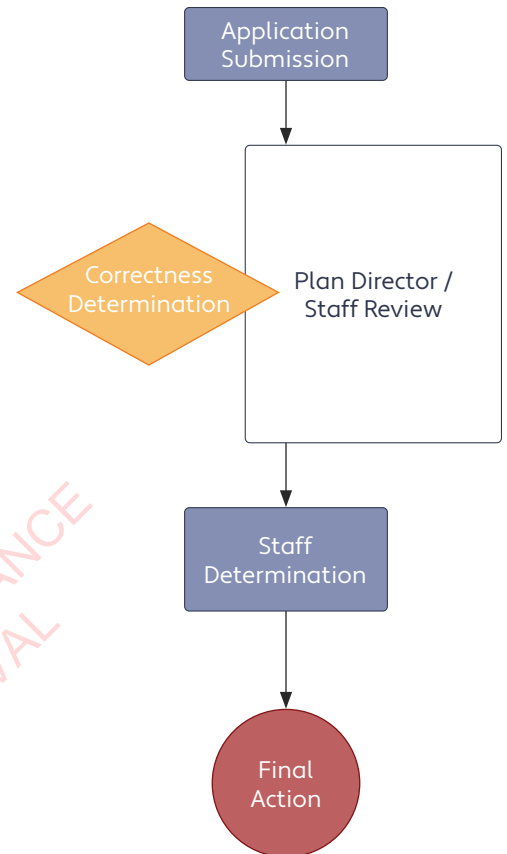
- i. The Elkhart County Zoning Administrator shall issue the Improvement Location Permit for a Temporary Dwelling when the applicant demonstrates compliance with this subsection and the Elkhart County Development Ordinance.
- ii. Temporary Dwellings permitted by this subsection shall be for specific time periods described herein and will require the removal from the site by the land owner at the end of the applicable time period. If the Temporary Dwelling remains on site for more than 30 days after the end of the applicable time period, each additional day will constitute a daily zoning violation.
- iii. All Temporary Dwelling permits located within a Special Flood Hazard Area (SFHA) shall conform to [Article 158.09](#), Flood Hazard Area.

(c) Types of Temporary Dwelling:

- i. Mobile Homes or Manufactured Homes shall be:
 - I. Structurally sound and inhabitable prior to placement on the real estate;
 - II. Maintained in a readily mobile condition with no hindrances to the immediate removal of the Temporary Dwelling; and
 - III. The only attachments permitted will be access ramps or stairs and any required foundations as specified by Building Codes.
- ii. Recreational Vehicle (RV)
 - I. Structurally sound and inhabitable prior to placement on the real estate.
 - II. A Recreational Vehicle as temporary dwelling must contain the following:
 1. At least one partitioned Bedroom.
 2. A Kitchen that is incorporated inside the RV.
 3. At least one partitioned bathroom with a sink, flush toilet, and shower or tub.
 4. An integrated "grey water and black water plumbing system" that shall be connected to an approved Private Waste Water System and Well or a Public Sewer Utility and Public Water Utility.
- iii. Existing Obsolete Dwelling shall be structurally sound and inhabitable.

(d) Any Temporary Electrical Service shall be free standing.**(e) Site Plan Requirements**

- i. The Owners Name, contact information, proof of ownership (recorded deed) and the address of the existing dwelling.
- ii. A legible and complete site plan drawing:
 - I. Show the location the existing dwelling and its present condition:
 1. Denoting that it is uninhabitable and what is to be accomplished: Such as: to be demolished, repaired, rebuilt or replaced; or



2. It is uninhabitable and that it will be demolished as described in Sec. 158.11(M)(1)(b).

- II. For uninhabitable dwellings show the location for placement of the Temporary Dwelling which shall be in compliance with development standards.
- III. Show the location of the existing Onsite Wastewater Treatment System and Well; and any proposed Onsite Wastewater Treatment System and Well.

- iii. Utility service connections and location of Temporary Electrical Services shall also be shown.

(f) Onsite Wastewater Treatment System and Well

- i. A Temporary Dwelling located within the service boundary of a Public Sewer Utility and Public Water Utility will be required to secure permission to connect from those utilities.
- ii. In regards to [Sec. 158.11\(M\)\(1\)\(h\)](#), the Elkhart County Health Department and the Development Ordinance requires the permitting and the installation of locally approved Private Waste Water System and Well.
- iii. In regards to [Sec. 158.11\(M\)\(1\)\(i\)](#), the Elkhart County Health Department and the Development Ordinance requires the permitting and the installation of a locally approved Private

Waste Water System and Well.

(g) **Elkhart County Building Code**

In regards to Sec. 158.11(M)(1)(h) and 158.11(M)(1)(i) the Elkhart County Division Building requires that permanent Residential Dwelling to be brought up to the existing Building Code.

(h) **Temporary Dwelling While Constructing A Permanent Primary Residential Dwelling (New Construction).**

i. In addition to [Sec. 158.11\(M\)\(1\)\(b\)](#). General Standards the Landowner will need to submit an affidavit committing to the following timelines:

- I. Acknowledging that the occupancy and use of the Temporary Dwelling will cease within 1 calendar year from the date of the building permit being issued for the New Residential Dwelling.
 1. Also, the Staff for good cause may renew the necessary permits, one time at the owners cost, for an additional 180 days (6 months).
- II. That upon the issuance of the Certificate of Occupancy for the permanent dwelling the Temporary Dwelling and associated site improvements will be removed from site within 30 days.

(i) **Temporary Dwelling Where The Principal Primary Residence Is Rendered Uninhabitable As The Result Of Fire, Winds, Tornadoes Or By Any Other Acts Of Nature.**

i. This type of Temporary Dwelling will take into account the time needed by Landowner to secure the following:

- I. An Inspection Permit/Report to have the Elkhart County Building Department inspect and advise what may be reclaimed for re-use.
- II. Partial or Full Demolition Permit and inspections and site cleanup.
- III. Construction permits to make the Permanent Dwelling and site inhabitable.

ii. In addition to [Sec. 158.11\(M\)\(1\)\(b\)](#). General Standards the Landowner will need to submit an affidavit committing to the following timelines:

- I. Acknowledging that the occupancy and use of the Temporary Dwelling will cease within 30 days after the Certificate of Occupancy for the New Residential Dwelling or the Principal Primary residence has been repaired.
- II. That in no case shall the Temporary Dwelling remain onsite beyond two years.
- III. That upon the issuance of the Certificate of Occupancy for the permanent dwelling, the Temporary Dwelling and associated site improvements will be removed from site within 30 days.

158.11(N) Building Permit

(1) Applicability

- (a) No building may be erected, reconstructed, altered, moved, converted, extended or enlarged and no manufactured or mobile home may be placed on any property without the owner first having obtained a building permit.
- (b) Among other approvals, an applicant must receive approval of an Improvement Location Permit prior to issuance of a Building Permit.

(2) Review Process

(a) Prior County Agency Review

The following persons must have issued applicable approval for a proposed development prior to issuance of a Building Permit by the Building Commissioner:

- i. Health Officer;
- ii. County Surveyor;
- iii. MS4 Coordinator;
- iv. Soil and Water Conservation District Program Manager;
- v. Zoning Administrator; and
- vi. County or Municipal Engineer, as appropriate.

(b) Building Commissioner Final Action

The Building Commissioner must approve, approve with conditions or deny the Building Permit.

(3) Review Criteria

In determining whether to approve, approve with conditions or deny a Building Permit application, the Building Commissioner must consider the following criteria.

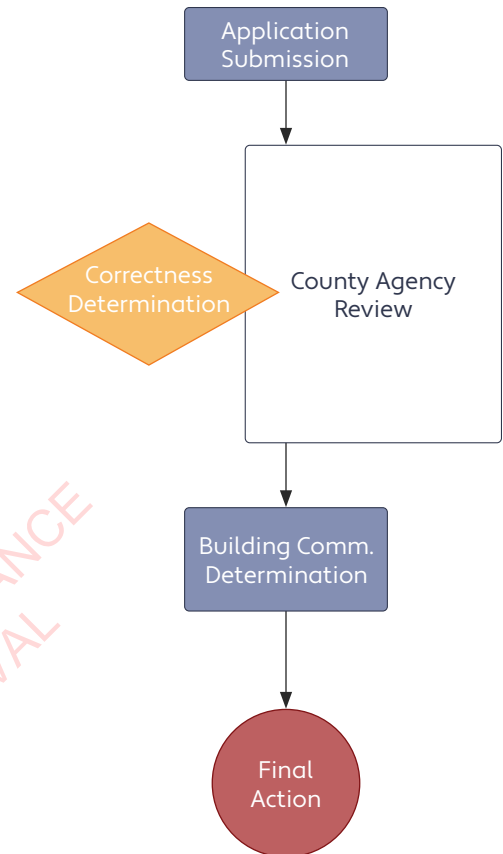
- (a) The application and proposed structure conforms to all prior approved development review applications for the property.
- (b) The building plans conform to the Building Code and other applicable construction codes adopted by the County.

(4) Duration

An approved Building Permit expires if the work described in the permit has not begun within 12 months from the date of issuance. Any further action after the expiration requires a new application and approval.

(5) Permit Not Required

A Building Permit is not required for those improvements or activities described in [Sec. 158.11\(L\)\(2\)](#) that do not require an Improvement Location Permit.



158.11(O) Sign Permit**(1) Applicability**

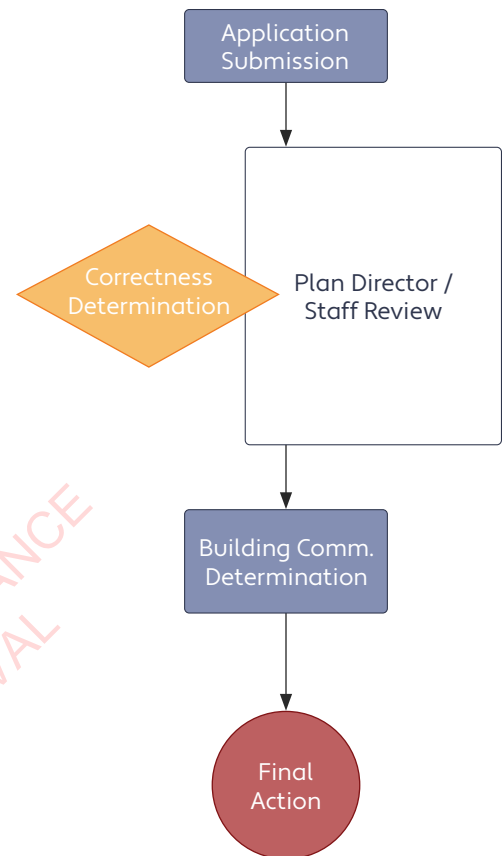
- (a) No sign may be erected, constructed, altered, moved, extended or enlarged without the owner or operator first obtaining a Sign Permit
- (b) Notwithstanding A above, the modification of a sign face does not require a sign permit in accordance with this Section, if such modification does not increase the sign area or height or change the sign type.

(2) Review Process

- (a) **Zoning Administrator Review and Recommendation**
The Zoning Administrator must review the submitted application and make a recommendation to the Building Commissioner.
- (b) **Building Commissioner Final Action**
The Building Commissioner must approve, approve with conditions or deny the Sign Permit.

(3) Duration

An approved Sign Permit expires if the work described in the permit has not begun within 12 months from the date of issuance. Any further action described in this Section after the expiration requires a new application and approval.



158.11(P) Certificate of Occupancy

(1) Applicability

- (a) No land or building may be occupied or used, in whole or in part, for any purpose whatsoever, and no manufactured or mobile home may be placed on any property without the owner first obtaining a Certificate of Occupancy stating that the building, its use, and required site improvements comply with all applicable provisions of this Ordinance and other County regulations.
- (b) No change in use may be made in any building, or part of it without the owner first obtaining a Certificate of Occupancy.
- (c) Among other approvals, an applicant must receive approval of a Building Permit prior to issuance of a Certificate of Occupancy.

(2) Review Process

- (a) **Zoning Administrator Review and Recommendation**
The Zoning Administrator must review the submitted application and make a recommendation to the Building Commissioner.
- (b) **Building Commissioner Final Action**
The Building Commissioner must approve, approve with conditions or deny the Certificate of Occupancy.
- (c) **Concurrent Application with Improvement Location Permit**
 - i. The Certificate of Occupancy must be applied for simultaneously with the application for an Improvement Location Permit and must be issued within 10 days after the lawful erection, reconstruction, alteration, moving, conversion, extension or enlargement of that building has been completed.
 - ii. No Improvement Location Permit may be issued before the person seeking an Improvement Location Permit has applied for a Certificate of Occupancy.

(3) Review Criteria

In determining whether to approve, approve with conditions or deny a Certificate of Occupancy, the Building Commissioner must consider the following criteria.

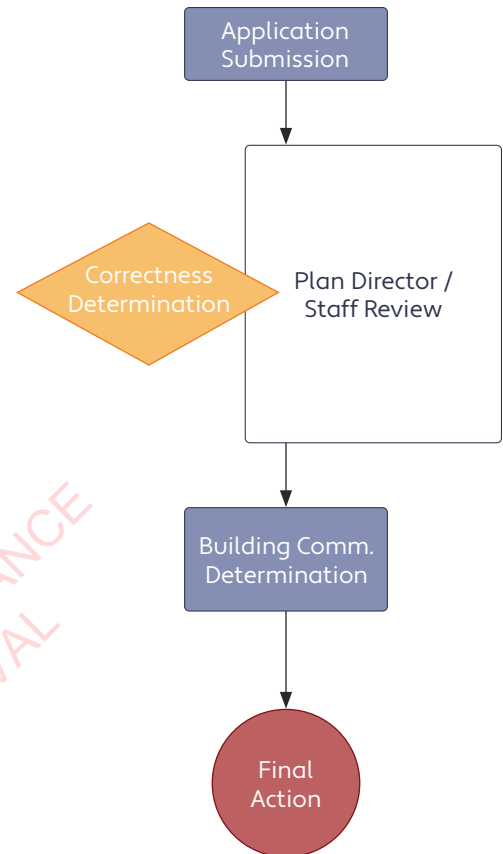
- (a) The location of the structure and required improvements on the property are in accordance with the approved Improvement Location Permit and Building Permit.
- (b) Where a change of use in an existing structure is proposed, the use conforms to the use regulations in [Article 158.05](#) governing the property.
- (c) The structure, following inspection by the Building Commissioner, was built in conformity with the Building Code.
- (d) There are no outstanding permit requirements.

(4) As-Built Drawing Required for Certain PUDs

Certain nonresidential DPUD or mixed use DPUDs may require an As-Built Drawing to be submitted to the Plan Director prior to the issuance of a Certificate of Occupancy in accordance with [Sec. 158.11\(E\)\(8\)](#).

(5) Establishment of a Use without a Certificate of Occupancy

The establishment of a land use or occupation of a building without an approved Certificate of Occupancy is subject to the enforcement provisions in [Article 158.13](#).



(6) Duration

An approved Certificate of Occupancy does not expire unless an action described in [Sec. 158.11\(Q\)\(1\)](#) takes place. In which case, approval of a new Improvement Location Permit, Building Permit and Certificate of Occupancy is required.

(7) Record of Certificate of Occupancy

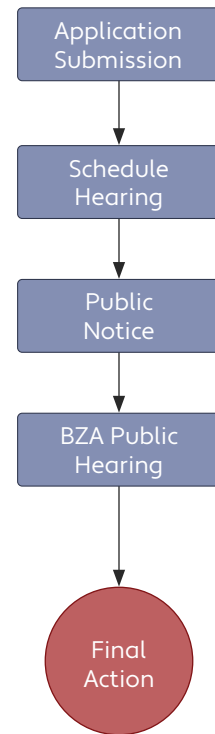
A record of all Certificates of Occupancy must be kept on file in the office of the Plan Director. Copies must be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and must be available for public inspection as provided by State law.

Appeal of Administrator or Hearing Officer
Decision**158.11(Q) Appeal of Administrative or
Hearing Officer Decision****(1) Applicability**

- (a) Any order, requirement, decision or determination of an Administrative Official, Staff member, or the Hearing Officer may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by that order, requirement, decision or determination.
- (b) To that end, the Board has all the powers vested in the person from whom the appeal is taken.
- (c) The Board of Zoning Appeals hearing on the appeal is de novo, in the same manner as the petition originally filed with the Board.

(2) Review Process

- (a) **Initiation**
An Appeal of a Hearing Officer decision must be filed within five days from the date of the decision. All other Appeals must be filed within 10 days from the date of the order, requirement, decision or determination.
- (b) **Content of Notice of Appeal**
The notice of appeal must specifically set forth all grounds for appeal.
- (c) **Zoning Board of Appeals Final Action**
Following notice in accordance with the Zoning Board of Appeals Rules of Procedure, the Board must hold a public hearing and reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination being appealed.



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158.12 NONCONFORMITIES

Sections

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158.12(A) Purpose

- (1) Nonconformities are those land uses, signs, structures or parcels or lots of record that were legally established or erected prior to the adoption of this Ordinance, and that do not comply with the requirements of this Ordinance or that became nonconforming as a result of subsequent amendments to this Ordinance.
- (2) Nonconformities are not made illegal by the adoption of this Ordinance; however, nonconformities may not be modified except in accordance with this Article.
- (3) The casual, intermittent, temporary or illegal use of land, structures or signs is not sufficient to establish the existence of a nonconforming use, structure or sign.
- (4) The purpose of this Article is to allow the continued use of these legally established nonconformities, but not encourage their survival.

158.12(B) Nonconforming Parcel or Lot of Record

- (1) A parcel or lot that does not meet one or more of the dimensional standards of this Ordinance, but was legally established and part of a recorded subdivision prior to February 2, 2015 is deemed a legal nonconforming parcel or lot of record.
- (2) Parcels created between March 2, 1962, through March 1, 2009, that have an existing primary structure are buildable.
- (3) A legal nonconforming parcel or lot of record is permitted to be developed so long as the proposed structures, uses and site improvements meet the requirements and standards of this Ordinance, other than that of the respective nonconformity.
- (4) If a legal nonconforming parcel or lot of record is used in combination with an adjacent parcel or lot as a single unit for development purposes, and the two lots in combination would constitute a single conforming parcel or lot, then the nonconforming parcel or lot of record does not lose its nonconforming status. Thereafter, future reversal of the combination does not have to conform to the requirements of this Ordinance.

158.12(C) Nonconforming Use

- (1) The use of land or a structure (or a structure and land in combination) that was legally established prior to February 2, 2015, that has been continuously operated since, and that is no longer permitted by this Ordinance in the zoning district in which it is located, is deemed a legal nonconforming use.
- (2) A legal nonconforming use of land or a structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (a) The legal nonconforming use must not be enlarged, increased or extended to occupy a greater area of land than was occupied prior on February 2, 2015;
 - (b) The legal nonconforming use must not be moved in whole or in part to any portion of the property other than that occupied by the legal nonconforming use on February 2, 2015;
 - (c) No additional structure not conforming to the requirements of this Ordinance may be erected in connection with the legal nonconforming use;
 - (d) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located may be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the building or structure to a use permitted in the zoning district in which it is located;
 - (e) The nonconforming use may be extended throughout any parts of a building or structure which were manifestly arranged or designed for such use prior to February 2, 2015, but no such use may be extended to occupy any land outside of such building or structure;
 - (f) Any land or structure upon or in which the nonconforming use is replaced by a permitted use, must conform to the regulations specified by this Ordinance for the zoning district in which it is located, and the nonconforming use may not be resumed;
 - (g) If the legal nonconforming use is discontinued or abandoned for 12 or more consecutive months, the land or structure must not be used except in conformity with the regulations specified by this Ordinance for the zoning district in which it is located; and
 - (h) Where nonconforming use status applies to a structure and land in combination, removal or destruction of 66 percent or more of the net or more of the net floor area of the structure eliminates the legal nonconforming use status of the structure and land in combination, unless the structure is reconstructed within 12 months of the casualty and the restored structure has no greater coverage than the original building footprint and contains no greater cubic content than before the casualty.

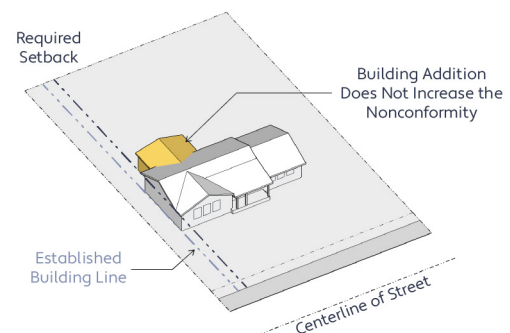
- (3) Nothing in this Ordinance may be interpreted in a manner that is inconsistent with Indiana Code 36-7-4-616 regarding agricultural nonconforming uses.
- (4) The lawful change of tenant or ownership of a nonconforming use without a change in use does not cause the loss of nonconforming rights.

158.12(D) Nonconforming Structure

- (1) A structure, including a sign, that does not meet one or more development standards of this Ordinance, but was legally established prior to February 2, 2015, is deemed a legal nonconforming structure.
- (2) A legal nonconforming structure may remain so long as it remains otherwise lawful, subject to the following provisions:
 - (a) The legal nonconforming structure may not be enlarged or altered in a way which increases its nonconformity;
 - (b) The legal nonconforming structure may be restored to its original dimensions if damaged or partially destroyed by fire or other disaster (excluding properties located in a map Special Flood Hazard Area - See Article 158.09 Flood Hazard Areas) provided that:
 - i. The damage or destruction does not exceed 66 percent of the net floor area of the structure and provided all reconstruction complies with all current state and local building codes and all other applicable County regulations; And
 - ii. The structure is reconstructed within 12 months of the casualty and provided all reconstruction complies with all current state and local building codes and all other applicable County regulations. If the legal nonconforming structure is moved for any reason over any distance, it must then conform to the regulations of this Ordinance applicable to the zoning district in which it is located after it is moved;
 - (c) Converting a structural component of the legal nonconforming structure to a more permanent material in order to prolong legal nonconformity is not permitted;
 - (d) A legal nonconforming sign may undergo a change in the information on the face of the sign provided that the change does not increase the area of the sign face or change the sign structural type.

158.12(E) Repair, Maintenance, & Alteration

- (1) Ordinary day-to-day maintenance and repair work may be done on any legal nonconforming structure or structure containing a legal nonconforming use, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming structure or structure containing a nonconforming use. However, nothing in this Ordinance may be deemed to prevent the strengthening or restoring to a safe condition of any structure declared to be unsafe by the Building Commissioner.
- (2) A nonconforming structure loses its nonconforming status and may not thereafter be rebuilt or used except in conformity with the regulations of this Ordinance applicable to the zoning district in which it is located if:
 - (a) Through lack of maintenance, the structure is declared by the Building Commissioner to be condemned due to its physical or unsafe condition.
 - (b) The structure is fully removed or razed; or
 - (c) The structure is partially removed or razed resulting in a loss of 66% or more of its net floor area.
- (3) No structural alteration shall be made in a legal nonconforming structure, or structure containing a nonconforming use, except in the following situations:
 - (a) When the alteration is required by law;
 - (b) When the alteration does not increase the extent of or results in the elimination of the nonconformity; or
 - (c) When a building or structure containing residential nonconforming uses is altered in any way to improve habitability provided that no structural alteration is made which would increase the number of dwelling units or the bulk of the building or structure.



158.12(F) Planned Unit Developments (PUDs) Prior to the Adoption of this Ordinance

(1) Planned Unit Development (PUD) Adopted Prior to 1997

(a) Purpose

- i. Prior to 1997 the "Planned Unit Developments" (PUD) were not clearly defined by the Indiana Code Title 36 Local Government Article 7 Planning and Development. And were treated in Elkhart County as fusion of Text Amendments and Map Amendments.
- ii. The State Legislature did in the 1995 Session authorization that by 1997 all text of the local zoning ordinances had to reflect the requirements of Title 36 Local Governments; Article 7 Planning Development; Chapter 4 Local Planning and Zoning; 1500 Series Planned Unit Development
- iii. The Elkhart County Pre-1997 Planned Unit Developments, typically consisted of a Map Amendment Ordinance which may have contain text establishing alternative development standards and land uses. (These sometimes consisted of two ordinances). This created PUDs with distinct Zoning District designation followed by "PUD" For example: B-2 PUD, R-1 PUD, M-1 PUD.
- iv. The Previous "PUD Zoning Districts" from the original Planned Unit Development text as described in subsection "C." did continue to be shown on Zoning Maps.
- v. Also, after 1997 some pre-1997 PUDs were amended and still maintained the PUD zoning district described in subsection "C".
- vi. The Adopted of 2015 Zoning Maps were adopted still reflecting the Pre-1997 Planned Unit Developments.
- vii. The Elkhart County Advisory Plan Commission with the Legislative Bodies of Jurisdiction have established this Subsection to reduce time and cost when making improvements, to real estate with the pre-1997 PUD designation, when such improvements are in keeping with these Pre-1997 Planned Unit Developments.

(b) The Staff may issue an Improvement Location Permit (ILP) for the pre-1997 PUDs:

- i. Past ordinance land use terms may differ from the present Development Ordinance terms; However the Zoning Administrator may act upon the ordinary intent of the PUD.
- ii. The following documents should be used by the Staff to consider releasing an ILP:
 - I. The PUD Ordinance(s) established the non-standard development and land uses.
 - II. The PUD Ordinance may reference a Development Plan; or a site plan; or similar documents as an expression of how the PUD was to be developed.
 - III. Recorded Plat(s) associated with the PUD real estate.

- IV. Minutes maintained by the Elkhart County Advisory Plan Commission as well as minutes of the Legislative Board of Jurisdiction may be considered by the Zoning Administrator as documents for consideration.
- V. Recorded Affidavit(s) Approved and signed by the Plan Commission member(s) or Approved and signed by the Legislative Board of Jurisdiction.
- iii. Incomplete documents, lack of clarity of those documents, lack of compliance with any or all of the previous listed documents, as well as conflicts with Comprehensive Plan Shall be considered a justification for the Zoning Administrator to deny an Improvement Location Permit at that time.
- iv. Should the Zoning Administrator deny an Improvement Location Permit the owner or owners may consider the filing of a Map Change Petition as detailed in this ordinance and Indiana Code.

(2) Detailed Planned Unit Developments (DPUDs) Adopted after January 1, 1997 and before March 2, 2015.

- (a) Any Detailed Planned Unit Development, with the Zoning District of DPUD-(with the designation of the underlying Zoning District) and was adopted by the legislative body of jurisdiction shall be considered conforming to this Ordinance.
- (b) Past ordinance land use terms may differ from the present Development Ordinance terms; However the Zoning Administrator may act upon the ordinary intent of the DPUD.

158.13 ENFORCEMENT

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158.13(A) Enforcement

(1) Authority

The Planning Director, Zoning Administrator, or their authorized designees, are authorized to administer and enforce this ordinance, and are vested with the authority to exercise their discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of Elkhart County, Indiana, in administering and enforcing this Ordinance.

(2) Responsibility for Violations

The owner, possessor, and/or tenant of any land, lot, building, structure, or use, or part thereof, and any architect, builder, contractor, agent, and/or other person who commits, assists in, participates in, or maintains an actionable violation of this Ordinance may each be found guilty of a separate offense and suffer the penalties as provided for herein.

(3) Actions Cumulative

Nothing contained herein shall prevent the Zoning Administrator, the Planning Director, the Plan Commission, the Department or the County, as their interest may appear, from taking any other lawful action as is necessary to prevent or remedy any violation of these regulations. The Zoning Administrator, the Planning Director, the Plan Commission, the Department or the County may pursue any other action, or remedy, authorized by the laws of Indiana. All of the foregoing actions shall be cumulative.

158.13(B) Enforcement Options

When a violation or alleged violation exists, the type of enforcement action will be at the discretion of the Planning Director, Zoning Administrator, or their authorized designees.

(1) Non-Court Actions

To enforce this Ordinance, the County may use the following options to enforce this Ordinance:

(a) Agreed Order

The Zoning Administrator, in the name of the Plan Commission, may enter into an Agreed Order with the approval of the Planning Director, which order may include the payment of a civil penalty and other expenses associated with the enforcement of these regulations by the Department.

(b) Stop Work Order

Whenever any construction is being done contrary to the terms and provisions of these regulations, the Zoning Administrator or Planning Director may order the construction stopped by written notice served on any persons engaging in or causing the work to be done, and all those persons shall immediately stop that construction until authorized by the Zoning Administrator or Planning Director to proceed with the construction. As an additional part of the notice, the Zoning Administrator or Planning Director shall post a Stop Work Order in a prominent place on the building or project and shall serve a copy of the notice of the Stop Work Order by regular United States Mail on the subject property owner or the person holding or requesting the permit. The issuance of a Stop Work Order shall in no way limit the operation of the civil penalty provisions provided elsewhere in these regulations.

(c) New Permits at Location where a Violation Exists

When a violation of this Ordinance has been identified on a property, no new filing for any permit or petition for the property will be accepted, unless it is submitted to cure a violation, until the violation is resolved. This action in no way limits the operation of the enforcement remedies, including but not limited to civil fines, provided for in these regulations.

(2) Court Actions

To enforce this Ordinance, the County may bring the following actions in a court of competent jurisdiction, as an independent action or concurrent to another enforcement action:

(a) Exhaustive Measures

To invoke any legal, equitable or special remedy. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.

(b) Condition, Covenant, or Commitment

To enforce compliance with any condition, covenant, or commitment. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.

(c) Prohibitory or Permanent Injunction

A prohibitory or permanent injunction to restrain any person from violating the provisions of this Ordinance. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.

(d) Mandatory Injunction

To request a mandatory injunction directing a person to remove a building or structure or other violation. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.

(e) **Civil Penalties**

To invoke civil fines against any person for a violation of this Ordinance. The assessment of a civil fine shall in no way limit the operation of any other enforcement remedies provided for elsewhere in this Ordinance.

(f) **Enforce Agreed Order**

To enforce the terms of an agreed order.

(g) **All Applicable Laws**

To invoke any remedy or action allowed by Indiana Code, common law, or other applicable State regulations to enforce this Ordinance or any action taken under this Ordinance.

158.13(C) Violations**(1) Actionable Items**

The County may undertake any of the following actions for any person found in violation of this Ordinance:

(a) **Non-Permitted Buildings or Structures**

Construct, convert, place, move, maintain, enlarge, use, or modify a building or structure in a manner that is not expressly permitted by this Ordinance;

(b) **Permitted Buildings or Structures**

Construct, convert, place, move, maintain, enlarge, use, or modify a building or structure in a manner permitted by this Ordinance without first being issued all permits and/or other approvals required by this Ordinance;

(c) **Exempt Permitted Buildings or Structures**

For buildings or structures that are exempt from needing a permit; construct, convert, place, move, maintain, enlarge, use, or modify a building or structure in a manner that is not expressly permitted by this Ordinance;

(d) **Prohibited Uses**

Utilize any land, building or structure for a use that is not expressly permitted or allowed by this Ordinance;

(e) **Permitted Uses**

Utilize any land, building or structure for a use expressly permitted by this Ordinance without first being issued all permits and/or other approvals required by this Ordinance;

(f) **Non-Compliance with Approvals**

Failure to fully comply with procedural requirements, payment of fees, conditions, covenants, or commitments associated with any permit and/or other approval under this Ordinance;

(g) **Sale or Transfer of Subdivision Lots before Approval**

The sale or transfer of any parcel of land located in a proposed subdivision before a plat of subdivision has been approved in accordance with the provisions of these regulations and recorded;

(h) **Other Violations**

Otherwise fail to comply with any of the terms or provisions of this Ordinance.

158.13(D) Penalties

- (1) Pursuant to I.C. 36-1-3-8, any person found in violation of this Ordinance will be fined no more than \$2,500.00 for the first violation and not more than \$7,500.00 for second or subsequent violations.
- (2) Each day during which a violation occurs or continues shall constitute a separate or subsequent violation.
- (3) The Department may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement of this Ordinance from any person found to be in violation of this Ordinance.
- (4) The assessment of a civil penalty shall in no way limit the operation of any other enforcement remedies provided elsewhere in this Ordinance.