

Elkhart County ZONING ORDINANCE



ADOPTED: December 15, 2014
EFFECTIVE: February 2, 2015

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Table of Contents

Article 1	General Provisions	1-1
Sec. 1.1.	Short Title	1-1
Sec. 1.2.	Purpose	1-1
Sec. 1.3.	Authority	1-2
Sec. 1.4.	Jurisdiction and Legislative Bodies.....	1-2
Sec. 1.5.	Rules of Construction	1-2
Sec. 1.6.	Minimum Requirements	1-3
Sec. 1.7.	Conflict or Inconsistency	1-4
Sec. 1.8.	Definitions Reference.....	1-4
Sec. 1.9.	Transitional Provisions	1-4
Sec. 1.10.	Compliance.....	1-6
Sec. 1.11.	Saving Provision	1-6
Sec. 1.12.	Severability.....	1-6
Sec. 1.13.	Repeal of Prior Ordinance	1-7
Sec. 1.14.	Effective Date	1-7
Article 2	Development Review Bodies.....	2-1
Sec. 2.1.	General.....	2-1
Sec. 2.2.	Board of County Commissioners/Other Legislative Bodies	2-1
Sec. 2.3.	Plan Commission	2-1
Sec. 2.4.	Board of Zoning Appeals	2-2
Sec. 2.5.	Hearing Officer.....	2-3
Sec. 2.6.	Technical Review Committee.....	2-3
Sec. 2.7.	Plan Director	2-4
Sec. 2.8.	Zoning Administrator	2-4
Sec. 2.9.	Building Commissioner	2-5
Sec. 2.10.	Summary of Review Authority	2-5
Article 3	Development Review Procedures.....	3-1
Sec. 3.1.	Common Review Procedures.....	3-1
Sec. 3.2.	Zoning Ordinance Text Amendment.....	3-9
Sec. 3.3.	Zoning Map Amendment (Rezoning)	3-11
Sec. 3.4.	General Planned Unit Development	3-13
Sec. 3.5.	Detailed Planned Unit Development	3-15
Sec. 3.6.	Special Use Permit	3-20
Sec. 3.7.	Use Variance	3-23
Sec. 3.8.	Developmental Variance.....	3-25
Sec. 3.9.	Administrative Adjustment	3-27
Sec. 3.10.	Written Interpretation	3-29
Sec. 3.11.	Improvement Location Permit.....	3-30
Sec. 3.12.	Temporary Use Permit.....	3-33
Sec. 3.13.	Building Permit.....	3-36
Sec. 3.14.	Sign Permit	3-37
Sec. 3.15.	Certificate of Occupancy	3-38
Sec. 3.16.	Appeal of Administrative or Hearing Officer Decision	3-40

Article 4	District Developmental Standards.....	4-1
Sec. 4.1.	General.....	4-1
Sec. 4.2.	Zoning District Purpose Statements	4-3
Sec. 4.3.	Measurements and Special Cases.....	4-7
Sec. 4.4.	Residential Developmental Standards.....	4-19
Sec. 4.5.	Nonresidential Developmental Standards	4-31
Article 5	Use Standards	5-1
Sec. 5.1.	Use Table.....	5-1
Sec. 5.2.	Use Categories	5-7
Sec. 5.3.	Specific Use Standards	5-26
Sec. 5.4.	Wireless Communication Facilities	5-36
Sec. 5.5.	Accessory Uses and Structures	5-41
Sec. 5.6.	Temporary Uses	5-47
Article 6	Special Purpose and Overlay Zoning Districts	6-1
Sec. 6.1.	E-3, Office and Business Park District	6-1
Sec. 6.2.	GPUD- and DPUD-, General and Detailed Planned Unit Development Overlays	6-9
Sec. 6.3.	W-, Wellhead Overlay	6-11
Sec. 6.4.	A-3, Farmland Preservation District.....	6-12
Sec. 6.5.	A-4, Concentrated Animal Feeding Protection District.....	6-14
Article 7	General Development Standards.....	7-1
Sec. 7.1.	Applicability.....	7-1
Sec. 7.2.	Off-Street Parking, Loading and Stacking.....	7-2
Sec. 7.3.	Buffering and Screening.....	7-12
Sec. 7.4.	Signs	7-19
Article 8	Nonconformities	8-1
Sec. 8.1.	General.....	8-1
Sec. 8.2.	Nonconforming Parcel or Lot of Record	8-1
Sec. 8.3.	Nonconforming Use	8-1
Sec. 8.4.	Nonconforming Structure	8-2
Sec. 8.5.	Repair, Maintenance and Alteration.....	8-3
Article 9	Enforcement, Violations and Penalties.....	9-1
Sec. 9.1.	Enforcement.....	9-1
Sec. 9.2.	Violations	9-2
Sec. 9.3.	Penalties.....	9-3
Article 10	Flood Hazard Areas	10-1
Sec. 10.1.	Statutory Authorization, Findings of Fact, Purpose, and Objectives.	10-1
Sec. 10.2.	Definitions.	10-3
Sec. 10.3.	General Provisions.	10-14
Sec. 10.4.	Administration.	10-16
Sec. 10.5.	Provisions for Flood Hazard Reduction.....	10-20
Sec. 10.6.	Variance Procedures.	10-28
Sec. 10.7.	Severability.....	10-31

Article 11	Definitions	11-1
Sec. 11.1.	Abbreviations and Acronyms	11-1
Sec. 11.2.	Definitions	11-1
Index		

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ARTICLE 1 GENERAL PROVISIONS

Sec. 1.1. Short Title

This Zoning Ordinance is known, and may be cited as, the Elkhart County Zoning Ordinance. References to "this Ordinance" are interpreted as references to this Zoning Ordinance.

Sec. 1.2. Purpose

The purpose of this Ordinance is to guide the growth and development of Elkhart County in accordance with the Elkhart County Comprehensive Plan for the following purposes:

1.2.1 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.

1.2.2 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 his or her land and the general public's interest in living in an attractive and prosperous community.

1.2.3 General Welfare

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

1.2.4 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.

1.2.5 Character

To protect the character and stability of agricultural, residential, institutional, commercial, industrial and natural areas.

1.2.6 Compatibility

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

1.2.7 Density and Intensity

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

1.2.8 Public Ways

To lessen or avoid congestion in public ways.

Sec. 1.3. Authority

The Board of County Commissioners of Elkhart County adopts this Ordinance pursuant to its authority under Indiana Code Section 36-7-4.

Sec. 1.4. Jurisdiction and Legislative Bodies

1.4.1 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.

1.4.2 For the purposes of this Ordinance, the term “appropriate legislative body” means the following legislative bodies within the County.

Legislative Body	Jurisdiction
Bristol Town Council	Town of Bristol
Millersburg Town Council	Town of Millersburg
Middlebury Town Council	Town of Middlebury
Wakarusa Town Council	Town of Wakarusa
Elkhart County Board of County Commissioners	All unincorporated areas of Elkhart County

Sec. 1.5. Rules of Construction

1.5.1 The following general rules of statutory construction apply when interpreting this Ordinance, unless the context clearly indicates 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 "building" includes the word "structure."
- C. The words “must” or “must not” and “may not” are mandatory and the word “may” is permissive.
- D. The word “district” means zoning district.
- E. The word "County" means Elkhart County, Indiana.
- F. The words “petitioner” and “applicant” are synonymous.
- G. If a feminine term is used, the masculine also applies and vice-versa.
- H. The word “and” must be construed to include all connected items in a series or set of conditions or provisions.
- I. 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.

Article 1 General Provisions

Sec. 1.6. Minimum Requirements

- J. 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.
- K. 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” or “EXAMPLE” has no regulatory effect. It is intended solely as a guide for administrative officials and the public.

COMMENTARY or EXAMPLE: *When commentaries or examples are provided, they will appear in this manner.*

- L. 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 down to the next lowest whole number.

EXAMPLE: *If a single tree is required to be planted per 40 feet of street frontage, a lot with 110 feet of street frontage would technically result in a requirement of 2.75 trees. According to this rule of construction, the required number of trees would be rounded down to 2.*

- M. 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.
- N. 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.
- O. 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.

1.5.2 In construing this Ordinance, all provisions are given equal weight, unless the context clearly demands otherwise.

Sec. 1.6. Minimum Requirements

The provisions of the Zoning Ordinance are the minimum requirements necessary to achieve this Ordinance's purpose.

Sec. 1.7. Conflict or Inconsistency

1.7.1 Internal

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.

1.7.2 Federal, State and Local

- A. Whenever a provision of this Ordinance imposes a greater restriction or a higher standard than is required by any State or Federal code or regulation, or other County ordinance or regulation, the provision of this Ordinance applies.
- B. Whenever a provision of any State or Federal code or regulation, or other County ordinance or regulation imposes a greater restriction or a higher standard than is required by this Ordinance, the provision of the State or Federal code or regulation, or other County ordinance or regulation applies.

1.7.3 Text, Illustrations and Tables

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.

Sec. 1.8. Definitions Reference

1.8.1 Article 11 contains the definitions used throughout this Ordinance. Definitions related to sign types are contained in Sec. 7.4.

1.8.2 Words, phrases and terms used in this Ordinance that are not defined in Article 11 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.

Sec. 1.9. Transitional Provisions

1.9.1 General or Detailed Planned Unit Development

A submitted application for a General or Detailed Planned Unit Development that is deemed sufficient for review prior to February 2, 2015, 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.

1.9.2 Rezoning

A submitted application for a Rezoning that is deemed sufficient for review prior to February 2, 2015, may continue through the process to a final decision in accordance to the terms, conditions and regulations of the Zoning Ordinance that was place at the time of filing. However, all

administrative procedures and fees must follow those established in this Ordinance.

1.9.3 Recorded Commitment or Condition for Rezoning

Any recorded conditions or commitments made applicable to a property as part of a Rezoning and established prior to February 2, 2015, 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.

1.9.4 Board of Zoning Appeals

- 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 February 2, 2015, 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 February 2, 2015, must remain in full effect and force until whichever of the following occurs first:
 - 1. The use is vacated or abandoned for a duration of 12 months;
 - 2. The lot is voluntarily rezoned to a district that permits the land use;
 - 3. 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;
 - 4. The term of the use expires per the terms conditions, or commitments of approval; or
 - 5. 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.

1.9.5 Condition or Commitment for Special Use Permit or Variance

Any recorded conditions or commitments made applicable to a property as a part of a Special Use Permit or Variance and established prior to February 2, 2015, 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.

Article 1 General Provisions

Sec. 1.10. Compliance

1.9.6 Platting

Any subdivision plat that is deemed sufficient for review prior to February 2, 2015, 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.

1.9.7 Improvement Location Permit

Any submitted application for an Improvement Location Permit that is deemed sufficient for review prior to February 2, 2015, 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.

Sec. 1.10. Compliance

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.

Sec. 1.11. Saving Provision

1.11.1 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 9. 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 February 2, 2015.

1.11.2 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.

Sec. 1.12. 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.

Sec. 1.13. Repeal of Prior Ordinance

The former Zoning Ordinance, originally enacted as Ordinance No. 27-634, and as reorganized, readopted, reestablished, reconfirmed and ratified under Ordinance No. PC 95-16, and commonly known as the Elkhart County Zoning Ordinance a/k/a the Elkhart County Zoning Ordinance 36-7-4-600 a/k/a Elkhart County Code 36-7-4-600 The Zoning Ordinance for Elkhart County Indiana, as amended, and including the zoning maps incorporated therein by reference, are hereby expressly repealed in their entirety by this Ordinance.

Sec. 1.14. Effective Date

This Ordinance shall be effective as of February 2, 2015.

Article 1 General Provisions

Sec. 1.14. Effective Date

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ARTICLE 2 DEVELOPMENT REVIEW BODIES

Sec. 2.1. General

This Article establishes review authority under this Ordinance. Specific requirements for each type of application or permit are described in Article 3.

Sec. 2.2. Board of County Commissioners/Other Legislative Bodies

2.2.1 Final Action

- A. The Board of County Commissioners takes final action on the following development review applications:
 - 1. Zoning Ordinance Text Amendment;
 - 2. Zoning Map Amendment (Rezoning);
 - 3. General Planned Unit Development; and
 - 4. Detailed Planned Unit Development.
- B. An appropriate legislative body, as set forth in Sec. 1.4, must take final action on the development review applications in items 2 through 4 above if such submitted applications apply to property within the Towns of Wakarusa, Millersburg, Middlebury or Bristol.

Sec. 2.3. Plan Commission

2.3.1 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. 1.4.

2.3.2 Review and Recommendation

The Plan Commission reviews and makes recommendations on the following development review applications:

- A. Zoning Ordinance Text Amendment;
- B. Zoning Map Amendment (Rezoning);
- C. General Planned Unit Development; and
- D. Detailed Planned Unit Development.

2.3.3 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.

Sec. 2.4. Board of Zoning Appeals

2.4.1 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.

2.4.2 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.

2.4.3 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 established in Sec. 1.4 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.

2.4.4 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.

2.4.5 Outside Communication

A person may not communicate with any Board of Zoning Appeals member prior to a hearing or decision with the intent to influence the actions of any

Article 2 Development Review Bodies

Sec. 2.5. Hearing Officer

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.

2.4.6 Judicial Review

Final decisions in accordance with Indiana Code Section 36-7-4-1016 are subject to judicial review.

Sec. 2.5. Hearing Officer

2.5.1 Establishment

The Plan Commission must appoint a Hearing Officer in accordance with the provisions in Indiana Code Section 36-7-4-923 and 924.

2.5.2 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.

2.5.3 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.

Sec. 2.6. Technical Review Committee

2.6.1 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.

2.6.2 Determination of Technical Correctness or Incorrectness

The Technical Review Committee determines technical correctness or incorrectness, as described in subsection 3.1.4E, for the following development review applications:

- A. General Planned Unit Development;
- B. Detailed Planned Unit Development; and
- C. Other development review applications at the discretion of the Plan Director.

2.6.3 Membership

A. Chair

The Plan Director serves as Chair of the Technical Review Committee and is responsible for all final actions of the Committee.

Article 2 Development Review Bodies

Sec. 2.7. Plan Director

B. Other Members

In addition to the Chair, the Technical Review Committee is composed of the following members:

1. Health Officer;
2. County Surveyor;
3. Soil and Water Conservation District Program Manager;
4. County Engineer; and
5. 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.

Sec. 2.7. Plan Director

The Plan Director reviews and makes recommendations on the following development review applications:

- 2.7.1** Zoning Ordinance Text Amendment;
- 2.7.2** Zoning Map Amendment (Rezoning);
- 2.7.3** General Planned Unit Development; and
- 2.7.4** Detailed Planned Unit Development.

Sec. 2.8. Zoning Administrator

2.8.1 Powers and Duties

A. Review and Recommendation

The Zoning Administrator reviews and makes a recommendation on the following development review applications:

1. Special Use Permit;
2. Use Variance;
3. Developmental Variance;
4. Building Permit;
5. Sign Permit; and
6. Certificate of Occupancy.

B. Final Action

The Zoning Administrator takes final action on the following development review applications:

1. Administrative Adjustment;
2. Written Interpretation; and

3. Improvement Location Permit.

2.8.2 Other Duties

A. Record Keeping

The Zoning Administrator must maintain permanent and current records of this Ordinance, including all Zoning 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.

Sec. 2.9. Building Commissioner

The Building Commissioner takes final action on the following development review procedures:

2.9.1 Building Permit;

2.9.2 Sign Permit; and

2.9.3 Certificate of Occupancy.

Sec. 2.10. Summary of Review Authority

The following table summarizes the powers and duties established in this Article.

Article 2 Development Review Bodies

Sec. 2.10. Summary of Review Authority

Procedure	Building Commissioner	Zoning Administrator	Plan Director	Technical Review Committee	Hearing Officer	Board of Zoning Appeals	Plan Commission	Board of County Comm. or Other Legislative Body	Reference
Building Commissioner Action									
Building Permit	D	R							Sec. 3.13
Sign Permit	D	R							Sec. 3.14
Certificate of Occupancy	D	R							Sec. 3.15
Zoning Administrator Action									
Administrative Adjustment		D							Sec. 3.9
Written Interpretation		D							Sec. 3.10
Improvement Location Permit		D							Sec. 3.11
Hearing Officer Action									
Special Use Permit (Mobile Home)		R			<D>				Sec. 3.6
Developmental Variance		R			<D>				Sec. 3.7
Board of Zoning Appeals Action									
Special Use Permit (Mobile Home)		R				<D>*			Sec. 3.6
Special Use Permit (Non-Mobile Home)		R				<D>			Sec. 3.6
Use Variance		R				<D>			Sec. 3.7
Developmental Variance		R				<D>*			Sec. 3.7
Appeal of Administrative or Hearing Officer Decision						<D>			Sec. 3.16
Board of County Commissioners or Other Legislative Body Action									
Zoning Ordinance Text Amendment			R				<R>	<D>	Sec. 3.2
Zoning Map Amendment (Rezoning)			R				<R>	<D>	Sec. 3.3
General Planned Unit Development			R	C			<R>	<D>	Sec. 3.4
Detailed Planned Unit Development			R	C			<R>	<D>	Sec. 3.5

R = Review and Recommendation

D = Decision

C = Determination of technical correctness or incorrectness

< > = Public Hearing Required

* Referred to the BZA by the Zoning Administrator, Hearing Officer, petitioner or remonstrator in accordance with Sec. 2.05 of the Board of Zoning Appeals Rules of Procedure

ARTICLE 3 DEVELOPMENT REVIEW PROCEDURES

Sec. 3.1. Common Review Procedures

3.1.1 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.

3.1.2 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.	Zoning Ordinance Text Amendment
	Zoning Map Amendment (Rezoning)
	General Planned Unit Development
	Detailed Planned Unit Development 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.	Special Use Permit
	Use or Developmental Variance
	Appeal of Administrative or Hearing Officer Decision
	Detailed Planned Unit 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.	Administrative Adjustment
	Written Interpretation
	Improvement Location Permit
	Building Permit
	Sign Permit
	Certificate of Occupancy

3.1.3 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.

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

- A. Final action must be taken on applications categorized as legislative prior to final action on all other applications.
- B. Final action must be taken on applications categorized as quasi-judicial prior to final actions on applications classified as administrative.
- C. Applications within the same category that are assigned priority under this Article must be decided prior to subordinate applications.

3.1.4 Application Requirements

A. Application Initiation

1. Development review applications may be initiated according to the following table.

Procedure	Property Owner or Land Contract Purchaser	Plan Commission	Appropriate Legislative Body
Zoning Ordinance Text Amendment		✓	✓
Zoning Map Amendment (Rezoning)	✓	✓	✓
All other review procedures described in this Article	✓		

✓ = Entity may initiate application

2. A legislative body may only initiate a Zoning Map Amendment for property within its own jurisdiction.
3. 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.

B. Forms

1. 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.
2. 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.

C. Fees

All development review applications, except those originated by the Plan Commission, the Board of County Commissioners or an

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

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

1. For those applications that the Technical Review Committee reviews, listed in Sec. 2.6.2, a determination of whether a development review application is sufficient.
(Amended January 21, 2020 PC 2020-01)
2. Reserved. (Amended January 21, 2020 PC 2020-01)
3. Reserved. (Amended January 21, 2020 PC 2020-01)
4. 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

1. For those applications that the Technical Review Committee reviews, listed in Sec. 2.6.2, 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.
2. 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.
3. 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.
4. 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.

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

5. After a determination of correctness, the Chair of the Technical Review Committee must forward the application to the Plan Commission with a recommendation.

3.1.5 Public Notice and Public 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.

3.1.6 Approvals with Modifications

- A. Except for a Zoning 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 Zoning 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.

3.1.7 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

A development review body may revoke a permit or approval upon determination by the body 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:

1. The provisions of this Ordinance;
2. An approved Detailed Planned Unit Development Site Plan, Detailed Planned Unit Development Plat, or Ordinance;
3. An approved Special Use Permit or Variance;
4. An approved Improvement Location, Building or Sign Permit; or

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

5. Commitments or conditions related to the subject property.

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 9.

3.1.8 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.

3.1.9 Modification 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 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:
 1. Additions to structures must not exceed 10 percent of the previously approved total gross floor area of the project provided that overall density of the project does not increase;
 2. Shifts in structure position toward an abutting street that do not vary more than five feet from the previously approved position;
 3. Shifts in structure position away from an abutting street that do not vary more than 10 feet from the previously approved position; or
 4. Additional height of a structure that does not exceed 10 percent of the previously approved height.
- 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 must be submitted by the Plan Director to the Plan Commission or the Board of Zoning Appeals, as appropriate, as a staff item:
 1. Additions to structures 10 percent of the previously approved total gross floor area of the project or greater that do not exceed 20 percent of the previously approved total gross floor area provided that overall density of the project does not increase.

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

2. Shifts in structure position toward an abutting street that vary more than five feet and do not vary more than 10 feet from the previously approved position;
 3. Shifts in structure position away from an abutting street that vary more than 10 feet and do not vary more than 20 feet from the previously approved position; or
 4. Additional height of a structure 10 percent or greater that does not exceed 20 percent of the previously approved height.
- D. Shifts described in paragraphs B or C above may not encroach into any required setback or farther into a required setback than the approved Developmental Variance allows.
- E. A decision by the Plan Director 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.
- F. 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.
- G. 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.
- H. 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.
- I. For all other requested modifications, the request must be processed as a major modification with submittal of a new application to be reviewed in accordance with the procedures established in this Article.

3.1.10 Reserved (Amended January 21, 2020 PC 2020-01)

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

3.1.10 Reserved (Amended January 21, 2020 PC 2020-01)

3.1.11 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 at a public hearing after notice as provided by the applicable body's Rules of Procedure.

3.1.12 Appeals

A. Appeals of Site Plan Minor Modifications

See Sec. 3.1.9 above 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

- 1. 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. 3.16.
- 2. 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.

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

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.

Sec. 3.2. Zoning Ordinance Text Amendment

3.2.1 Applicability

- A. The Board of County Commissioners or Plan Commission may initiate amendment of the text of this Zoning Ordinance from time to time for reasons including but not limited to:
1. Establishing and maintaining sound, stable and desirable development within the jurisdiction of this Ordinance;
 2. Correcting errors in the text; or
 3. Adjusting the text of this Ordinance to changing conditions in a particular area or in the County generally.
- B. All Zoning 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.

3.2.2 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.

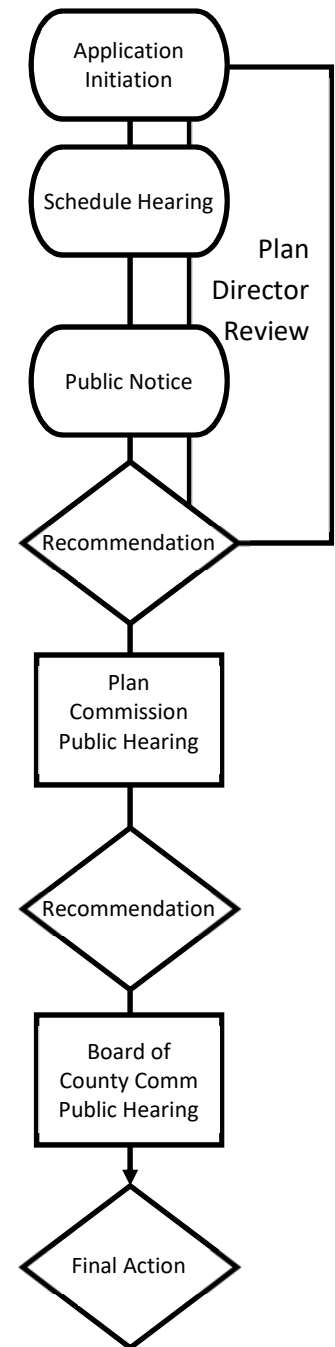
C. Board of County Commissioners Final Action

1. The Board of County Commissioners must hold a public hearing and approve, approve with modifications or deny the Zoning Ordinance Text Amendment.
2. If the Board of County Commissioners approves a Zoning Ordinance Text Amendment with modifications, then it must refer the request to the Plan Commission in accordance with Sec. 3.1.6.

3.2.3 Review Criteria

In determining whether to approve, approve with modifications or deny a proposed Zoning Ordinance Text Amendment, the applicable review bodies must pay reasonable regard to the following criteria.

- A. The Comprehensive Plan;



Article 3 Development Review Procedures

Sec. 3.2. Zoning Ordinance Text Amendment

- 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.

Sec. 3.3. Zoning Map Amendment (Rezoning)

3.3.1 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.

3.3.2 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.

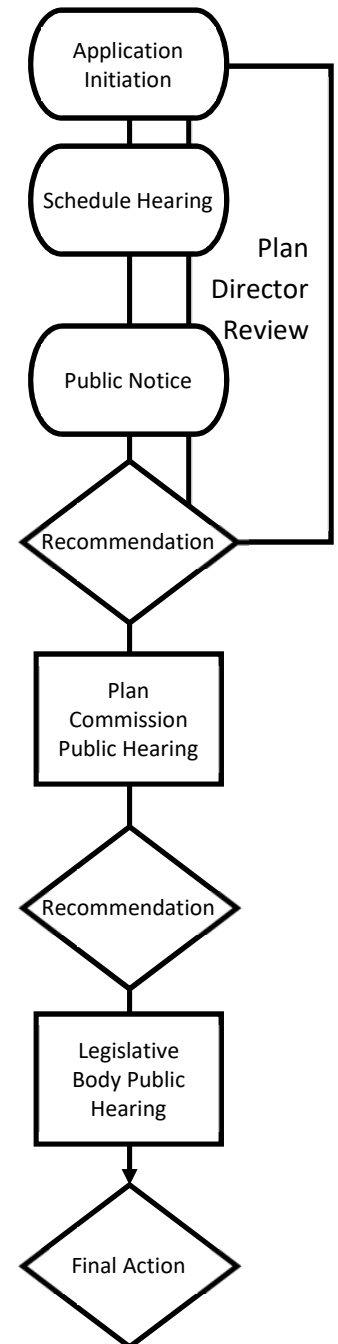
C. Legislative Body Final Action

- 1. 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.
- 2. 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.

3.3.3 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;



Article 3 Development Review Procedures

Sec. 3.3. Zoning Map Amendment (Rezoning)

- E. Responsible growth and development.

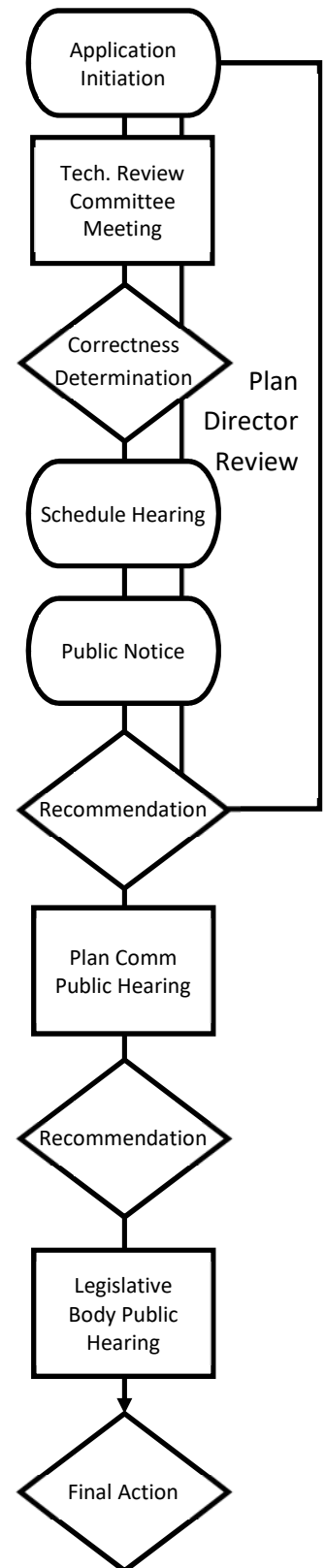
Sec. 3.4. General Planned Unit Development

3.4.1 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:
 - 1. General Planned Unit Development; or
 - 2. 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.
- D. Except as allowed by the extension provisions in Sec. 3.4.3, 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.
- E. The approval of a General Planned Unit Development does not constitute an approval of a Detailed Planned Unit Development.

3.4.2 Review Process and 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. 3.3.



Article 3 Development Review Procedures

Sec. 3.4. General Planned Unit Development

- B. In addition to the Zoning Map Amendment review process set forth in Sec. 3.3, 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 3.1.4E.

3.4.3 Duration

A. General

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

1. 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.
2. All extension requests must in writing stating reasons why a Detailed Planned Unit Development could not be filed and approved within the seven-year time limit.

Sec. 3.5. Detailed Planned Unit Development

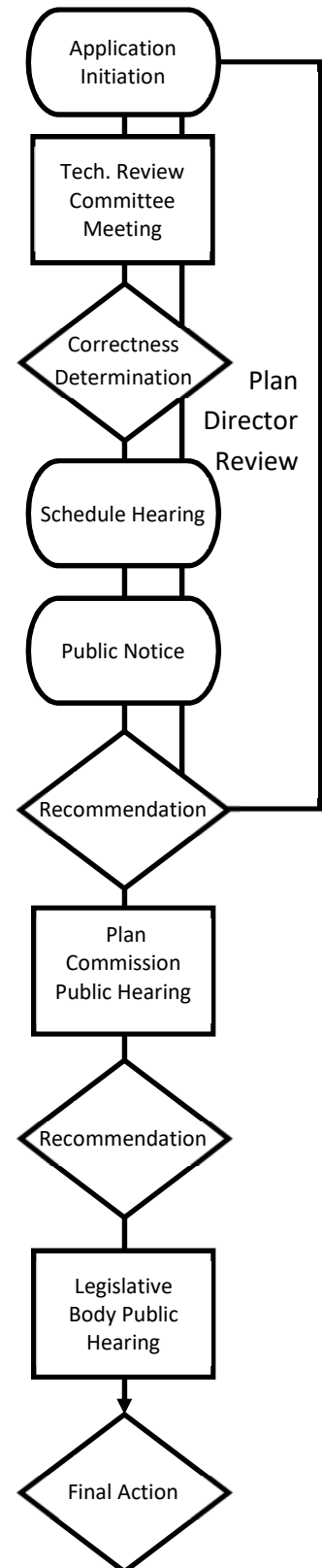
3.5.1 Applicability

- A. 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. 3.4.1.

3.5.2 Review Process

A. DPUD Site Plan and Ordinance

1. 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. 3.3.
2. In addition to the Zoning Map Amendment review process set forth in Sec. 3.3, 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 3.1.4E.
3. 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:
 - a. Access and circulation;
 - b. Signs;
 - c. Parking;
 - d. Building design, location, height, orientation, or coverage;
 - e. Outdoor lighting;
 - f. Landscaping;
 - g. Homeowners or property owners associations;



Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

- h. Open space;
 - i. Topography; and
 - j. Screening.
- 4. 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 3 above for the project.

B. DPUD Plat

- 1. 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.
- 2. 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 3.1.4E.

3.5.3 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 Zoning Ordinance as established in Sec. 1.2.
- E. The proposal is consistent with the applicability of a DPUD as established in Sec. 3.5.1.
- F. The proposal demonstrates responsible development and growth.
- G. The proposal complies with the existing General Planned Unit Development.
- H. The DPUD Plat complies with the approved DPUD Site Plan and DPUD Ordinance.

3.5.4 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

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

approve the DPUD Site Plan and DPUD Ordinance prior to approval of the DPUD Plat.

3.5.5 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 3.5.2A.3;
- 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.

3.5.6 Recording and Platting of a Detailed Planned Unit Development

A. Purpose

It is prohibited to record in the Records 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.

3.5.7 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.

3.5.8 As-Built Drawing Required for Certain DPUDs

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

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

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

1. 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.
2. 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 zoning 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.

a. Major Discrepancies

- i. Drainage facilities required on the approved DPUD Site Plan are not constructed or are in the wrong location;
- ii. Drainage facilities on the subject property are smaller by volume than required on the approved DPUD Site Plan;
- iii. A drainage failure occurred in a previous phase of the same development and such failure affected the watershed of the development; or
- iv. 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.

b. Minor Discrepancies

- i. A drainage failure occurred in a previous phase of the same development that affected only the site itself;
- ii. Drainage-related stabilization landscaping is missing or inadequate during construction of the project; or
- iii. 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.

1. 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

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

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.

2. 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.
3. 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. 3.4 of this Ordinance.
4. The Director may allow the petitioner to undertake a combination of paragraphs 1, 2, and 3 above.

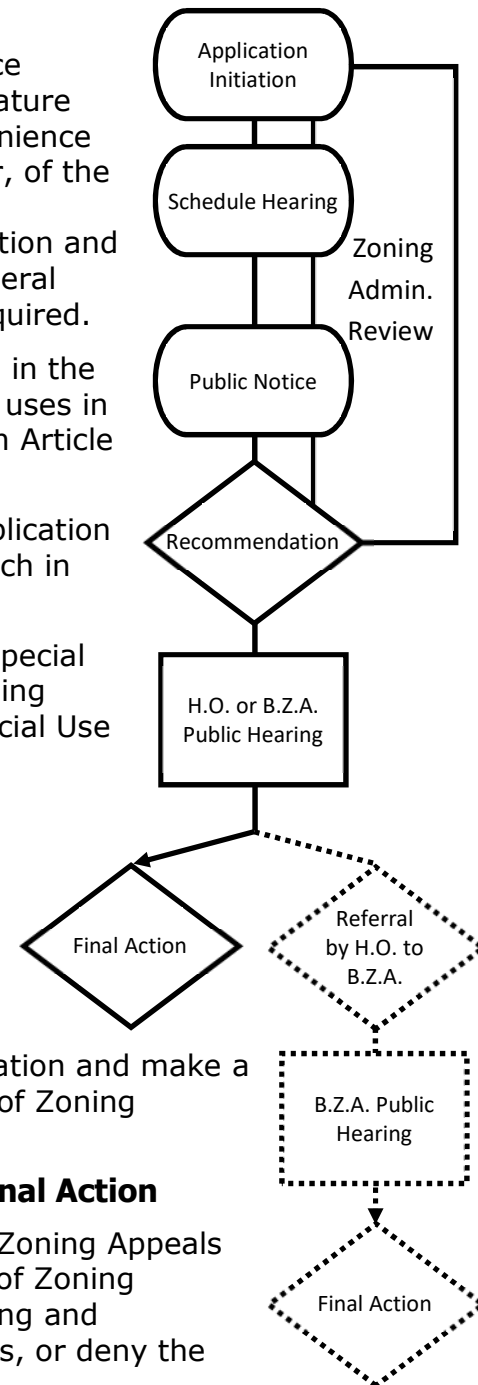
D. Seasonal Delays

1. The following provisions apply to a project being constructed or completed during the timeframe of November 15th to February 28th.
 - a. 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.
 - b. Installation of stabilization landscaping referenced in paragraph B.2.b.ii above may be delayed until April 1st without counting as a Minor Discrepancy.
2. The Plan Director may expand the timeframe established in subsection 1 above for good cause related to cold weather.

Sec. 3.6. Special Use Permit

3.6.1 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 Sec. 5.1 and in the lists of permitted uses in the special purpose and overlay zoning districts in Article 6.
- 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.



3.6.2 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 approve, approve 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:

1. The receipt by the Zoning Administrator of a written request for such transfer by the applicant;
2. A staff recommendation related to the impositions of conditions or commitments; or
3. Any other adverse action by the Staff or Hearing Officer.

3.6.3 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. 1.2.
- 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.

3.6.4 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.

3.6.5 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.
 1. The property and mobile home have adhered to all conditions and commitments imposed on the original Special Use Permit.
 2. The property and mobile home have been maintained in good condition.

Article 3 Development Review Procedures

Sec. 3.6. Special Use Permit

- 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.

Sec. 3.7. Use Variance

3.7.1 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 measureable 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.

3.7.2 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.

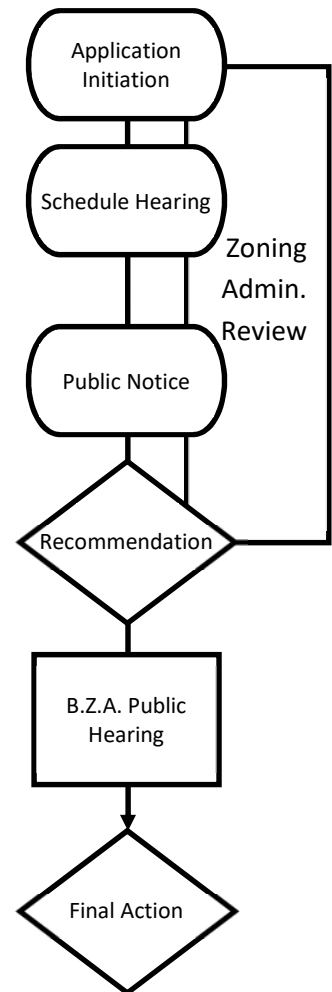
C. Board of Zoning Appeals Final Action

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.

3.7.3 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 Zoning Ordinance would constitute an unnecessary hardship if applied to the property for which the Use Variance is sought.



Article 3 Development Review Procedures

Sec. 3.7. Use Variance

- E. The approval does not interfere substantially with the County Comprehensive Plan.

3.7.4 Duration

An approved Use Variance runs with the subject property until such time as the property conforms with the Zoning Ordinance or unless commitments to the contrary are placed on the approval.

Sec. 3.8. Developmental Variance

3.8.1 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 measureable numerical standard such as a setback, lot size or height) must be processed as a Use Variance in accordance with Sec. 3.7.
- B. Any request for relief from up to 10 percent of a minimum front, side or rear setback requirement may be processed as a request for an Administrative Adjustment in accordance with Sec. 3.9. A Variance is considered an exception to the regulations, rather than a right, and must be the minimum necessary to afford relief.

3.8.2 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

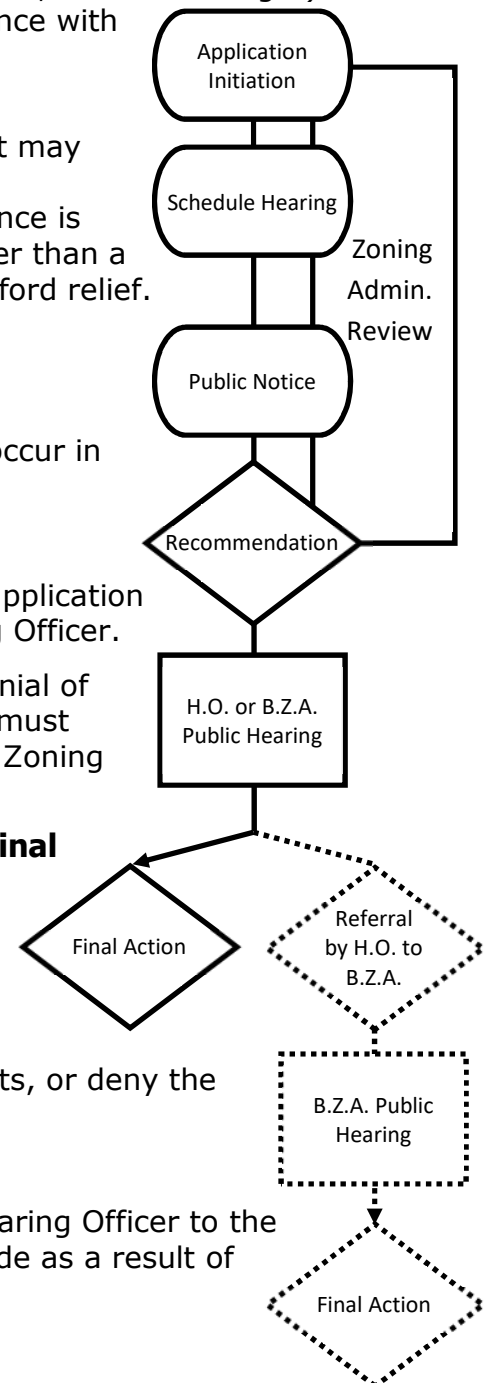
1. The Zoning Administrator must review the application and make a recommendation to the Hearing Officer.
2. If the Zoning Administrator recommends denial of the request, then the Zoning Administrator must forward the request directly to the Board of Zoning Appeals for final action.

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:



Article 3 Development Review Procedures

Sec. 3.8. Developmental Variance

1. The receipt by the Zoning Administrator of a written request for such transfer by the applicant;
2. A staff recommendation related to the imposition of commitments; or
3. Any other adverse action by the Staff or Hearing Officer.

3.8.3 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 Zoning Ordinance would result in an unnecessary hardship in the use of the property.

3.8.4 Duration

An approved Variance runs with the subject property until such time as the property conforms with the Zoning Ordinance or unless commitments to the contrary are placed on the approval.

Sec. 3.9. Administrative Adjustment

3.9.1 Applicability

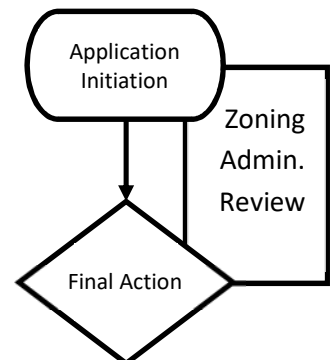
- A. Administrative Adjustments are minor specified deviations from otherwise applicable standards of this Ordinance as specified in this Section.
- B. Except as provided in Sec. 3.9.4 below, the Zoning Administrator has the authority to approve an Administrative Adjustment of up to 10 percent of any 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. 3.7.
- 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.

3.9.2 Review Process

The Zoning Administrator must approve, approve with conditions or deny the Administrative Adjustment.

3.9.3 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 five feet.



3.9.4 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. 1.2.
- C. The Administrative Adjustment requested is the minimum adjustment necessary for reasonable use of the property and compliance with this Zoning Ordinance.

3.9.5 Relief Not Cumulative

The Zoning Administrator may grant only one form of administrative relief established in this Zoning 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 Article 4.

3.9.6 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.

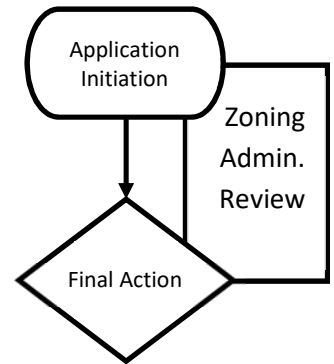
Sec. 3.10. Written Interpretation

3.10.1 Applicability

The Zoning Administrator has the authority to make written interpretations concerning the provisions of this Ordinance.

3.10.2 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.



3.10.3 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 Zoning Ordinance Text Amendments as it deems appropriate to be processed in accordance with Sec. 3.2.

Sec. 3.11. Improvement Location Permit

3.11.1 Applicability

- A. Except as exempted in this Section, an Improvement Location Permit is required prior to the:
 - 1. Permanent erection, reconstruction, alteration, movement, conversion, extension or enlargement of a structure or improvement;
 - 2. Placement of a mobile or manufactured home on a property; or
 - 3. Establishment of a new nonresidential land use or change of an existing nonresidential land use from one Use Category established in Sec. 5.2 to another.
- 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.

3.11.2 Permit Not Required

- A. An Improvement Location Permit is not required for the following improvements or activities.
 - 1. **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.
 - 2. **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.
 - 3. **Reserved** (Amended January 21, 2020 PC 2020-01)
 - 4. **Play Sets and Pools**

The installation of play sets and temporary above-ground swimming pools does not require an Improvement Location Permit.

Article 3 Development Review Procedures

Sec. 3.11. Improvement Location Permit

5. 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.

6. Property Maintenance

The maintenance and repair of existing structures and site improvements does not require an Improvement Location Permit.

- B. A project that is exempted from obtaining an Improvement Location Permit is not exempted from meeting all other applicable regulations in this Ordinance.

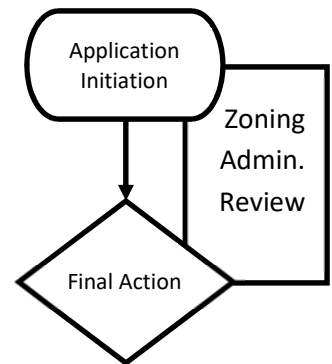
3.11.3 Review Process

The Zoning Administrator must approve, approve with conditions or deny the Improvement Location Permit.

3.11.4 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:
1. Abuts a public right-of-way that has been constructed or for which a bond has been accepted, guaranteeing its construction; or
 2. Has indirect access to a public right-of-way through a permanent access easement approved as a Developmental Variance in accordance with Sec. 3.7 or approved as part of a Detailed Planned Unit Development in accordance with Sec. 3.8. Such easement must have a minimum width of 20 feet, unless an easement of lesser width was on record before January 18, 1960.



3.11.5 Duration

- A. A project requiring an Improvement Location Permit must commence within six months of approval or the Permit becomes null and void.
- B. A development must be completed within 24 months of approval of an Improvement Location Permit, or the Permit becomes null and void.

Article 3 Development Review Procedures

Sec. 3.11. Improvement Location Permit

- 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.

Sec. 3.12. Temporary Use Permit

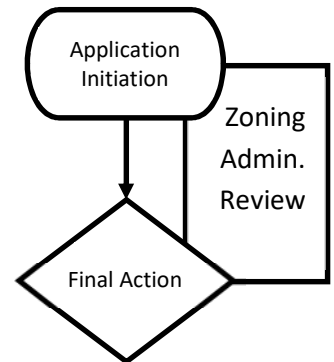
3.12.1 Temporary Dwellings (Amended January 21, 2020 PC 2020-01)

- A. Applicability Temporary Dwellings** 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

1. 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 Zoning Ordinance.
2. 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.
3. All Temporary Dwelling permits located within a Special Flood Hazard Area (SFHA) shall conform to Article 10. Flood Hazard Area.

(Please Note: unless the time period is less than 180 days the Temporary Dwelling needs to meet the Flood Protection Grade).



C. Types of Temporary Dwelling:

1. Mobile Homes or Manufactured Homes shall be:
 - a. Structurally sound and inhabitable prior to placement on the real estate;
 - b. Maintained in a readily mobile condition; that is not constructed or placement of on site improvements that hinder the immediate removal of the Temporary Dwelling; and
 - c. The only attachments permitted will be access ramps or stairs and any required foundations as specified by Building Codes.
2. Recreational Vehicle (RV):
 - a. Structurally sound and inhabitable prior to placement on the real estate.
 - b. A Recreational Vehicle as temporary dwelling must contain the following:
 - i. At least one partitioned Bedroom.
 - ii. A Kitchen that is incorporated inside the RV.
 - iii. At least one partitioned bathroom with a sink, flush toilet,

Article 3 Development Review Procedures

Sec. 3.12. Temporary Use Permit

- and shower or tub.
- iv. 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.
- 3. Existing Obsolete Dwelling shall be:
 - a. Structurally sound and inhabitable.
- D. Any Temporary Electrical Service shall be free standing
- E. Site Plan Requirements:
 - 1. The Owners Name, contact information, proof of ownership (recorded deed) and the address of the existing dwelling.
 - 2. A legible and complete site plan drawing:
 - a. Show the location the existing dwelling and its present condition:
 - i. Denoting that it is uninhabitable and what is to be accomplished: Such as: to be demolished, repaired, rebuilt or replaced; Or
 - ii. It is inhabitable and that it will be demolished as described in this in this Sec. 3.12.1.B
 - b. For uninhabitable dwellings show the location for placement of the Temporary Dwelling which shall compliance with development standards.
 - c. Show the location of the existing Onsite Waste Water Treatment System and Well; and any proposed Onsite Waste Water Treatment System and Well.
 - 3. Utility service connections and location of Temporary Electrical Services shall also be shown.
- F. **Onsite Waste Water Treatment System and Well:**
 - 1. 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.
 - 2. In regards to Section 3.12.1.H. the Elkhart County Health Department and the Zoning Ordinance requires the permitting and the installation of locally approved Private Waste Water System and Well.
 - 3. In regards to Section 3.12.1.I. the Elkhart County Health Department and the Zoning Ordinance requires that a locally approved Private Waste Water System and Well.
- G. **Elkhart County Building Code**
 - 1. In regards to Section 3.12.1.H. and 3.12.1.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).

1. In addition to Section 3.12.1.B. General Standards the Landowner will need to submit an affidavit committing to the following timelines:
 - a. Acknowledging that the occupancy and use of the Temporary Dwelling will cease within 1 (one) calendar year from the date of the building permit being issued for the New Residential Dwelling.
 - i. Also, the Staff for good cause may renew the necessary permits, one time at the owners cost, for an additional 180 days (6 months).

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, tornados or by any other acts of nature.

1. This type of Temporary Dwelling will take into account the time needed by Landowner to secure the following:
 - a. An Inspection Permit/Report to have the Elkhart County Building Department inspect and advise what may be reclaimed for reuse.
 - b. Partial or Full Demolition Permit and inspections and site cleanup.
 - c. Construction permits to make the Permanent Dwelling and site inhabitable.
2. In addition to Section 3.12.1.B. General Standards the Landowner will need to submit an affidavit committing to the following timelines:
 - a. 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 repair.
 - b. That in no case shall the Temporary Dwelling remain onsite beyond two years.
3. 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.

Sec. 3.13. Building Permit

3.13.1 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.

3.13.2 Permit Not Required

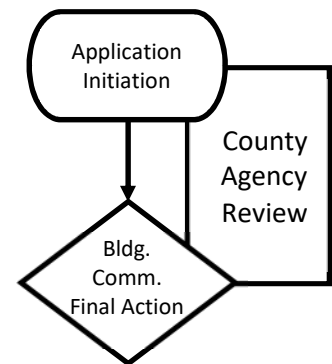
A Building Permit is not required for those improvements or activities described in Sec. 3.11 that do not require an Improvement Location Permit.

3.13.3 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:

- 1. Health Officer;
- 2. Soil and Water Conservation District Program Manager;
- 3. Zoning Administrator; and
- 4. County or Municipal Engineer, as appropriate.



B. Building Commissioner Final Action

The Building Commissioner must approve, approve with conditions or deny the Building Permit.

3.13.4 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.

3.13.5 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.

Sec. 3.14. Sign Permit

3.14.1 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.

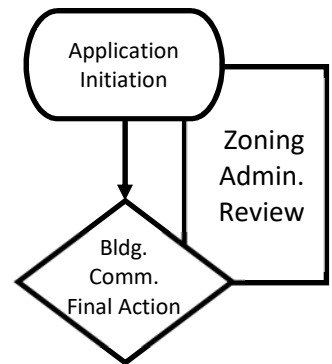
3.14.2 Review Process

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.



3.14.3 Review Criteria

In determining whether to approve, approve with conditions or deny a Sign Permit, the Building Commissioner must consider the following criteria.

- A. The sign complies with the standards in Sec. 7.4 and any additional sign standards adopted by an appropriate legislative body.
- B. The subject sign is consistent with the provisions of an approved Detailed Planned Unit Development, Special Use Permit or Variance governing the subject property.

3.14.4 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 Sec. 3.14.1 after the expiration requires a new application and approval.

Sec. 3.15. Certificate of Occupancy

3.15.1 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.

3.15.2 Review Process

A. Zoning Administrator Review and Recommendation

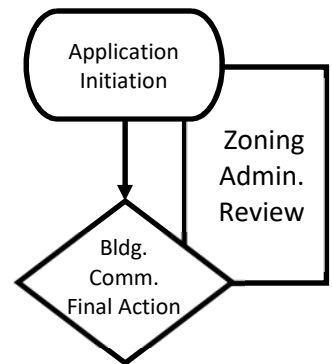
The Zoning Administrator must review the submitted application and make a recommendation to the Building Commissioner.

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

- 1. 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.
- 2. No Improvement Location Permit may be issued before the person seeking an Improvement Location Permit has applied for a Certificate of Occupancy.



3.15.3 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.

Article 3 Development Review Procedures

Sec. 3.15. Certificate of Occupancy

- B. Where a change of use in an existing structure is proposed, the use conforms to the use regulations in Article 5 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.

3.15.4 As-Built Drawing Required for Certain DPUDs

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. 3.5.8.

3.15.5 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 9.

3.15.6 Duration

An approved Certificate of Occupancy does not expire unless an action described in Sec. 3.15.1 takes place. In which case, approval of a new Improvement Location Permit, Building Permit and Certificate of Occupancy is required.

3.15.7 Record of Certificates 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.

Sec. 3.16. Appeal of Administrative or Hearing Officer Decision

3.16.1 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.

3.16.2 Review Process

A. Initiation

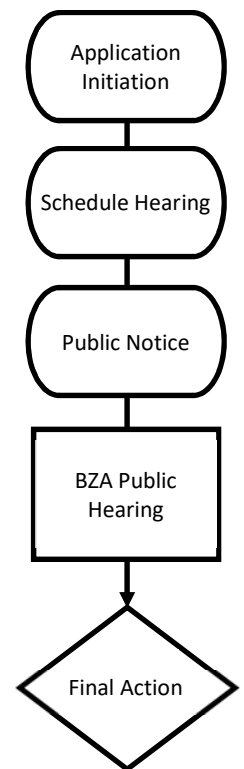
An Appeal of a Hearing Officer decision must be filed within five days from the date of the decision. All other Appeals must be filed within 10 days from the date of the order, requirement, decision or determination.

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.



ARTICLE 4 DISTRICT DEVELOPMENTAL STANDARDS

Sec. 4.1. General

4.1.1 Zoning Districts

- 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.

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

4.1.2 Zoning Maps

- A. The Zoning Maps, dated November 18, 2014, are hereby incorporated by reference into this Ordinance; said Zoning Maps were developed and established as a more detailed and modern version of the Zoning Maps that had existed under prior Zoning Ordinances for Elkhart County, Indiana. 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.

Article 4 District Developmental Standards

Sec. 4.1. General

- 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.

4.1.3 Determination and 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 must make a determination based on the following rules of interpretation:
 - 1. 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.
 - 2. In un-subdivided areas, or where a district boundary subdivides a lot, the exact location of the boundary must be determined by use of the scale of the Zoning Maps.
 - 3. If the boundary remains uncertain, the Board of Zoning Appeals must interpret the intent of the Zoning Maps to determine the location of the boundary in question.

4.1.4 Procedure Relating to Disannexed or Vacated Areas

- A. Territory disannexed by a town or city on or after February 2, 2015, 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

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

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.

4.1.5 Zoning of Streets, Alleys, Public Ways and Railroad Right-of-Way

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.

Sec. 4.2. Zoning District Purpose Statements

4.2.1 A-1, Agricultural

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.

4.2.2 R-1, Single-Family Residential

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.

4.2.3 R-2, Two-Family Residential

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.

4.2.4 R-3, Multiple Family Residential

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.

4.2.5 R-4, Residential Mixed Use

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.

4.2.6 B-1, Neighborhood Business

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.

4.2.7 B-2, General Business

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.

4.2.8 B-3, Heavy Business

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.

4.2.9 M-1, Limited Manufacturing

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.

4.2.10 M-2, Heavy Manufacturing

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.

4.2.11 E-3, Office and Business Park

The purpose of the E-3, Office and Business Park, zoning 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

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

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.

4.2.12 W-, Wellhead Overlay

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.

4.2.13 GPUD- and DPUD-, General and Detailed Planned Unit Development

- 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 Zoning 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:
1. Compatibility with surrounding development through the use of buffering, screening, building exterior enhancements or by other means;
 2. Integration of public open space or recreation areas;
 3. Preservation of trees, outstanding topography or unique geologic features; or
 4. 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:
1. Flexibility with Zoning Ordinance development and design standards;
 2. Permitting of uses not normally allowed in the base zoning district;
 3. Allowance for creative approaches to land development; or
 4. Coordination of Public Improvements that are directly affected by the Planned Unit Development with procedures to post sureties.

4.2.14 A-3, Farmland Preservation

The purpose of the A-3, Farmland Preservation, zoning district is to accommodate intensive agricultural uses and to recognize certain needs of

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

the agricultural community. The goals of the zoning district are enhanced right-to-farm protection and the promotion of agricultural economic development.

4.2.15 A-4, Concentrated Animal Feeding Protection District

The purpose of the A-4, Concentrated Animal Feeding Protection zoning 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.

Sec. 4.3. Measurements and Special Cases

4.3.1 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.
- B. Standards related to each type of measurement in this Section are established in the tables in Sec. 4.4, Sec. 4.5 and Article 6.

4.3.2 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:

- 1. Wetlands, based on County wetland inventory map; or
- 2. Floodplains and floodways based on the County Flood Insurance Rate Map.

B. Special Cases

- 1. 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 zoning 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.
- 2. **Reserved** (Amended January 21, 2020 PC 2020-01)
- 3. Individual lots in a subdivision receiving primary approval after February 2, 2015, with public wastewater service or other approved wastewater treatment system may deviate up to 10 percent 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.

EXAMPLE: 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.

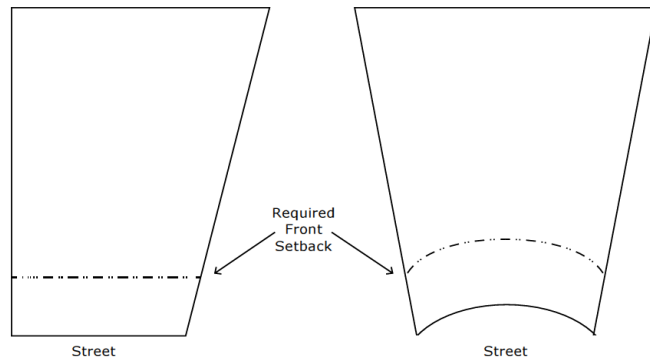
4.3.3 Lot Width

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.

(Amended January 21, 2020 PC 2020-01)



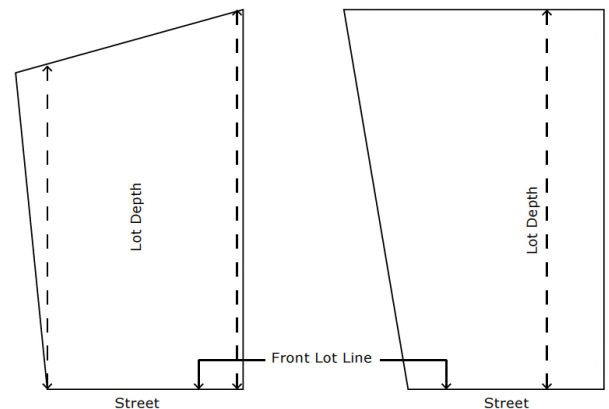
B. Special Cases

1. 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 zoning 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.

2. **Reserved** (Amended January 21, 2020 PC 2020-01)

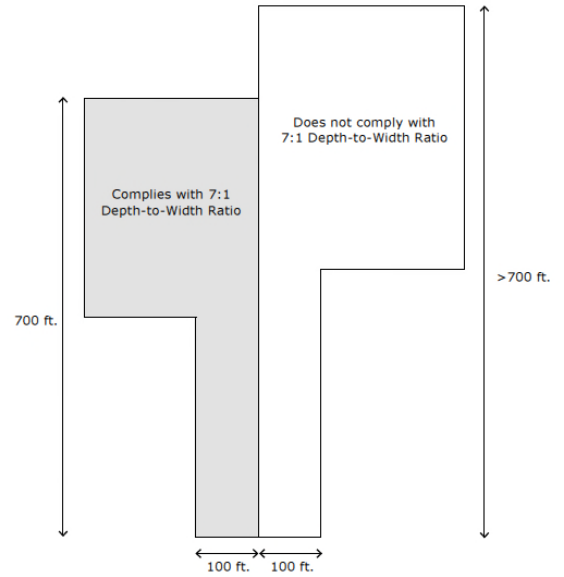
4.3.4 Lot Depth

Lot depth is measured as the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines. Where the front and rear lot lines are not parallel, the lot depth is measured by averaging the shallowest and the deepest dimensions of the lot.



4.3.5 Seven to One Lot Dimension Ratio

The depth-to-width ratio of the buildable or usable area of a lot must not be greater than seven to one. The width of a lot at the required front yard setback shall be at or greater than the development standard for that district. Lots of three acres or more where the lot width at the required setback line is 250 feet or more with no restriction on depth are exempt from this requirement.



4.3.6 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

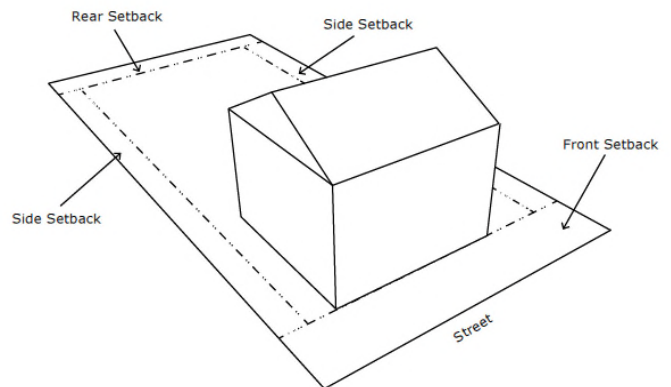
1. General Measurement

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 zoning lot on which the structure is located, as applicable.

2. Front Setback Location

Except in the E-3 zoning district, a front setback extends across the full width or depth of the zoning lot and lies between the center line of the traveled way of the adjacent street and the nearest part of the foundation of a structure.

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.



3. 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.

4. Rear Setback Location

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.

C. Special Cases

1. Encroachments Allowed in Required Setbacks

- a. Except where a minimum side setback is less than five feet, cornices, canopies, gutters, eaves or other architectural features may project into required setbacks up to two and one-half feet.
- b. Unenclosed balconies, decks and porches may project into a front or rear setback a maximum of 10 feet.
- c. An uncovered wheel chair ramp or stairway and necessary landings may project into required setbacks, provided they are setback a minimum of three feet from all property lines. (Amended January 21, 2020 PC 2020-01)
- d. Bay windows and chimneys may project into required setbacks up to two feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located and provided they are set back a minimum of three feet from all property lines.
- e. 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.

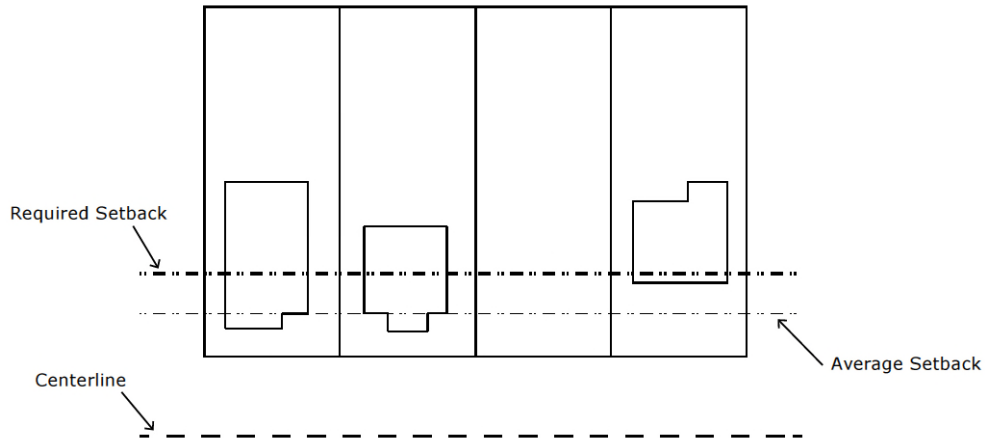
2. Front Setback

a. Setback Averaging

If 25 percent 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.

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases



b. Platted Setbacks

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.

c. 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:

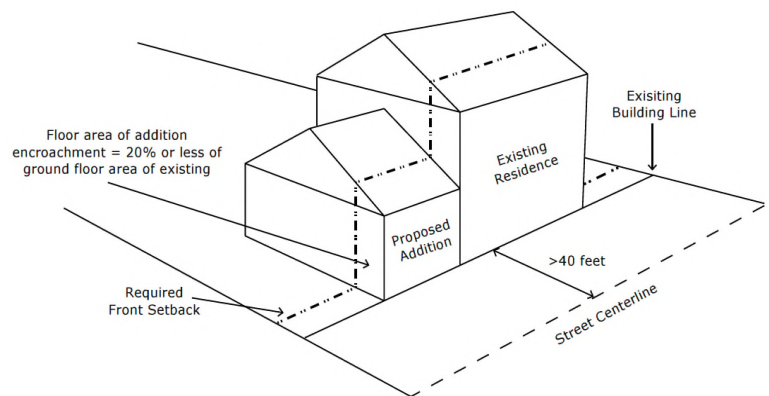
i. Reserved

(Amended
January 21, 2020
PC 2020-01)

- ii. The existing building line established by the primary residential structure is more than 40 feet from the centerline of the traveled way of the adjacent road and is not presently within any public rights-of-way.

- iii. The proposed addition will be at or behind the existing building line.

- iv. The gross floor area of the portion of the addition situated between the existing building line and the



Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

required setback is 20 percent or less of the gross floor area of the primary residential structure.

- v. The yard in question is not adjacent to a designated major road or federal or state highway.

d. Setback Based on Fronting Street

- i. The table below establishes the required front setback for a primary structure or accessory structure based on the adjacent road.

Adjacent Road	Min. Front Setback (from ROW center line)
Residential Use Categories	
Federal or State Highway or Major Road	120 ft.
Numbered County Road or Street	75 ft.
Named Street	See Sec. 4.4
Nonresidential Use Categories	
Federal or State Highway or Major Road	120 ft.
Numbered County Roads or Streets and Named Streets	A-1 R-1, R-2, R-3, R-4 B-1, B-2, B-3 M-1, M-2
	75 ft. 50 ft. 55 ft. 75 ft.
Open Use Categories	
Federal or State Highway or Major Road	120 ft.
Numbered County Road or Street	80 ft.
Named Street	75 ft.

(Amended January 21, 2020 PC 2020-01)

- ii. Where the developmental standards in Article 4 through Article 6 conflict with this table, the standards of this table control.
- iii. For the purposes of the table above, the following roads are designated as "Major Roads".

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

- iv. The following improvements have a required setback of 55 feet from the centerline of a designated Major Road or federal or state highway: parking areas, aisles, drives that are needed to create a convenient and safe ingress and egress point and signs.

3. Rear Setback

- a. One-half of an alley abutting the rear lot may be included as part of the property in the required rear setback.

4. Corner Lots

If a side property line abuts a street, as on a corner lot, then a front setback is required adjacent to each street.

5. Through Lots

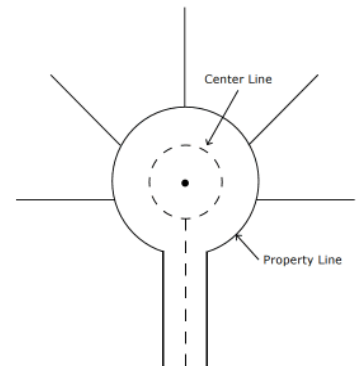
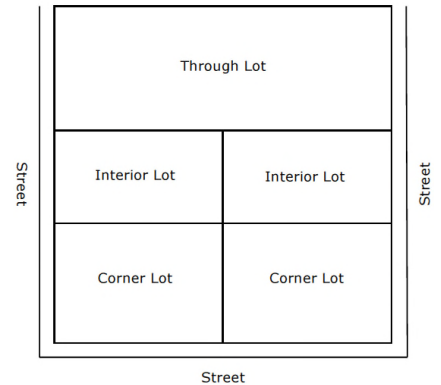
On lots extending through from one street to another, a front setback is required adjacent to each street.

6. Cul-de-Sac Lots

- a. 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.
- b. In no case may the front setback for a cul-de-sac lot be less than 35 feet from the front property line.

7. Roundabout Lots

On lots with frontage on a roundabout the applicable setback is a minimum of 35 feet from the property line.



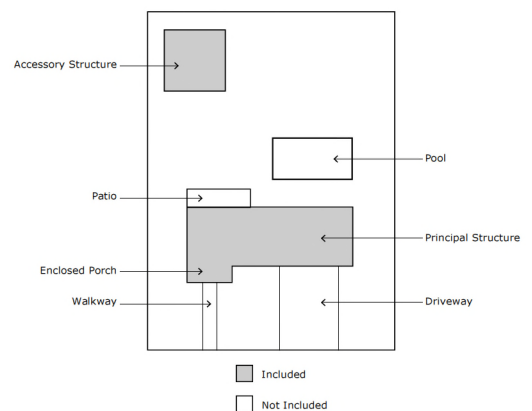
8. Backlot Development

- a. New waterfront development including but not limited to, lake front access points, lake front recreational areas, beaches, parks, playgrounds, regardless of whether such areas have been specifically identified as a common area or access point, whether located in a residential subdivision, apartment building development, condominium cooperative, neighborhood association, or associated with an organization, club, retirement community, mobile home park, mobile home subdivision, subdivision (exempt or non-exempt) subject to the provisions of the Subdivision Control Ordinance, multi-family dwelling unit, campground, mixed use developments with a residential component, planned unit development with a residential component, residential development under the horizontal property regime, and platted or exempt residential subdivisions in all zoning districts shall comply with the following linear footage:
 - 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.
- b. 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. Additionally, staff shall independently confirm the accuracy of said shoreline length calculation prior to the public hearing for or other determination of said application.
- c. 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 conformity with Section 8.2 of this Ordinance.

4.3.7 Building Coverage

A. Measurement Methodology

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



B. Special Cases

1. 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 five percentage points of allowable building coverage is permitted for every five percent of lot area that employs such systems.

EXAMPLE: *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%.*

2. The square footage of structures that house permitted agricultural uses, as established in the Use Category table in Sec. 5.2.6A, does not count toward the maximum building coverage limitation.

4.3.8 Gross Floor Area (GFA)

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.

4.3.9 Net Floor Area (NFA)

- A. 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:
1. Garages;
 2. Open porches;
 3. Breezeways;
 4. Terraces; and
 5. Exterior stairways.
- B. 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:
1. Accessory storage to the primary use of a building;
 2. Incidental repairs;
 3. Accessory processing or packaging of merchandise;
 4. Show windows, or offices incidental to the management or maintenance of a store or building;
 5. Restrooms;
 6. Utilities; or
 7. Dressing, fitting or alteration rooms.

4.3.10 Building Height

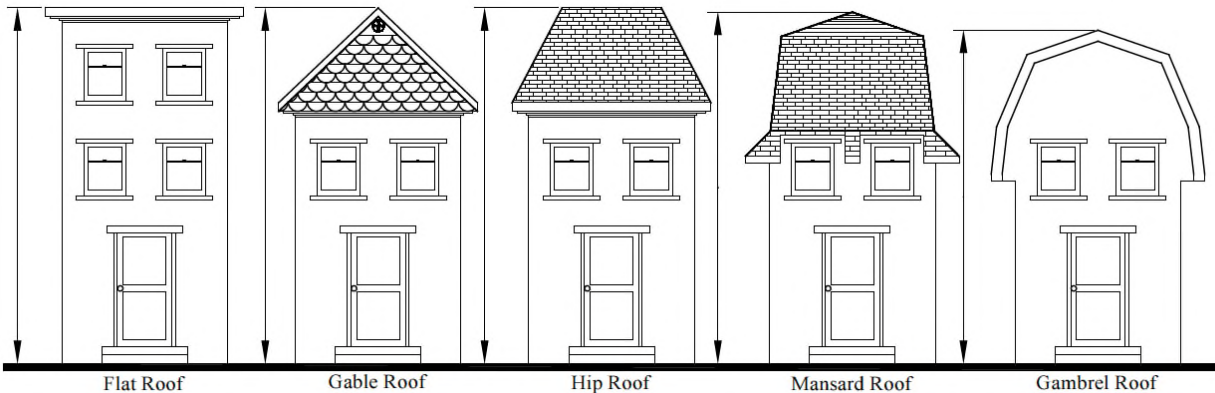
A. Measurement Methodology

1. 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 in the case of a flat roof; to the ridge of a gable, hip, or gambrel roof; and to the deck line of a mansard roof.

(Amended January 21, 2020 PC 2020-01)

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases



(Amended January 21, 2020 PC 2020-01)

2. 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.

B. Special Cases

1. 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.
2. 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.
3. 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.
4. 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.

4.3.11 Density

Density allowed in a cluster residential subdivision is measured by the number of dwelling units per net acre.

4.3.12 Common Open Space

- A. Common open space in a cluster residential subdivision is measured as the area within the property lines of the open space.

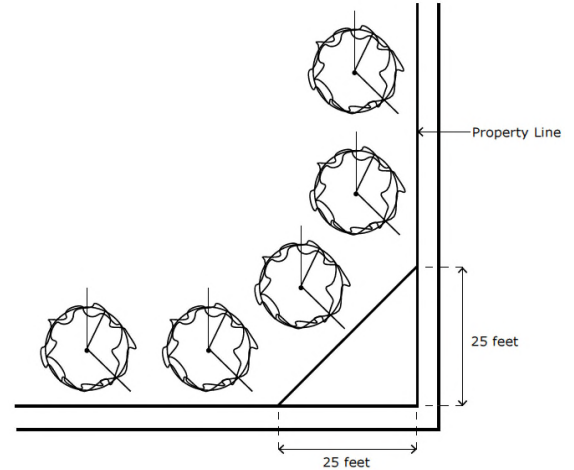
Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

- B. Required common open space in a cluster residential subdivision must be measured exclusive of any individual lots.

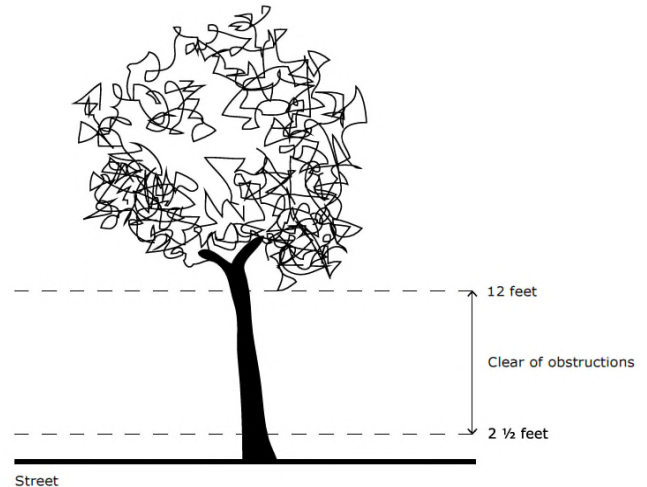
4.3.13 Intersection Visibility Triangle

- A. At the street intersection of a corner lot, the triangular space determined by the two lot lines at that corner and by a diagonal line connecting the two points on those lot lines that are 25 feet respectively from the corner must be kept free of any obstruction to vision between the heights of two and one-half and 12 feet above the established grade.
- B. Landscaping in the public right-of-way must not impede visual clearance along any public road.



4.3.14 Buildings on a Zoning Lot

Every building erected or structurally altered to provide dwelling units must be located on a zoning lot as defined in Article 11 and in no case may there be more than one such building on one zoning lot.



4.3.15 Lot Frontage

- A. 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. 3.8; Sec. 3.7; Or
 - b. approved as part of a Detailed Planned Unit Development in accordance with Sec. 3.5. Such easement must have a minimum width of 30 feet, unless an easement of lesser width was on record before January 18, 1960.

(Amended January 21, 2020 PC 2020-01)

Sec. 4.4. Residential Developmental Standards

4.4.1 General

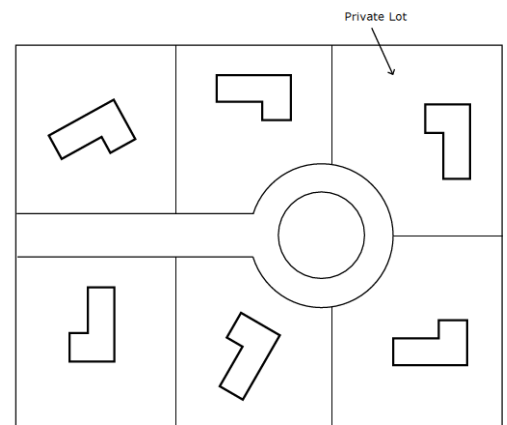
Residential development in permitted zoning districts, as established in the Use Tables in Sec. 5.1 and Article 6, must conform to the developmental requirements of this Section.

4.4.2 Subdivision Types

Two types of residential subdivisions are permitted, as follows.

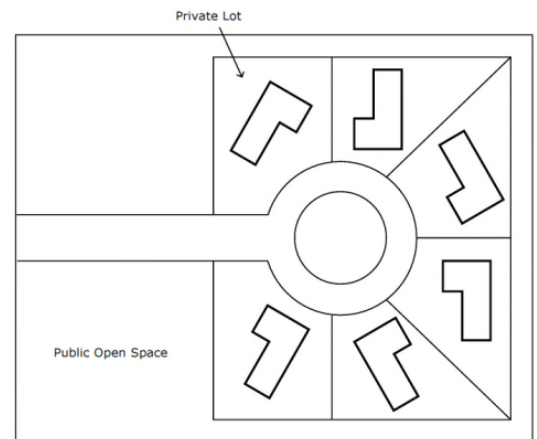
A. Conventional Subdivision Option

1. A conventional residential subdivision is a pattern of development that is allowed in any zoning district that allows residential uses and that provides the majority of property owners with substantial yards on their own property.
2. A conventional residential subdivision consists of attached or detached dwelling units developed in accordance with the conventional developmental standards of this Section.
3. Minimum lot size is a primary factor in the character of a conventional subdivision.



B. Cluster Subdivision Option

1. A cluster residential subdivision is a pattern of development that is allowed in the A-1 zoning district on properties with connection to public wastewater. Clustering allows smaller lot sizes with smaller private yards in exchange for common open space that must be preserved in perpetuity. A minimum of 35 percent of the site in a cluster residential subdivision must be devoted to common open space, exclusive of individual lots.
2. A cluster residential subdivision consists of detached single-family dwelling units developed in accordance with the cluster developmental standards of this Section.



Article 4 District Developmental Standards

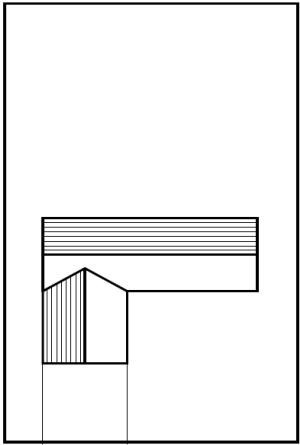
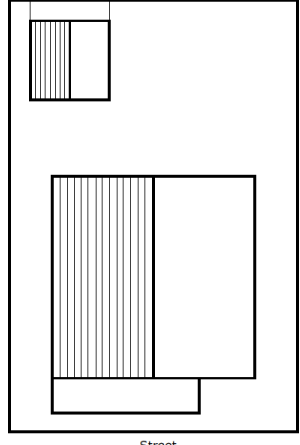
Sec. 4.4. Residential Developmental Standards

3. A density bonus of three units per acre, rather than approximately two units per acre in the A-1 zoning district under the conventional subdivision option, serves as an incentive to develop a cluster subdivision, which is often more sensitive to the ecological and historic amenities of the site.
4. Units per acre and percentage of dedicated common open space are primary factors in the character of a cluster residential subdivision.

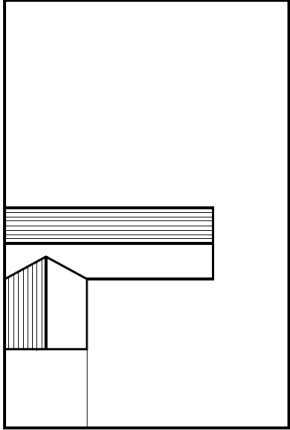
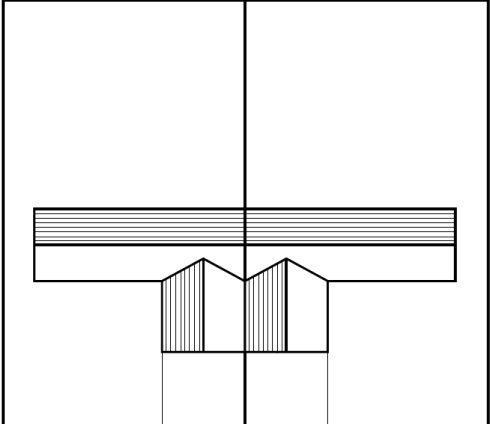
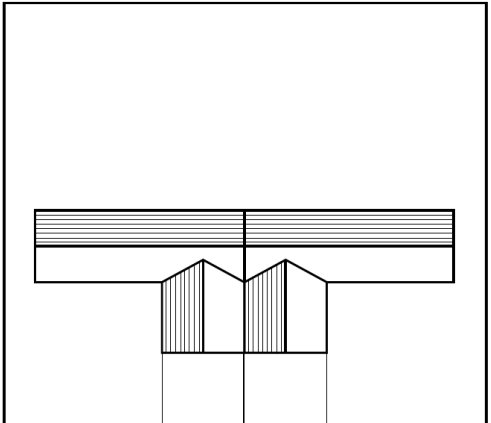
4.4.3 Optional Housing Types

A. Definitions

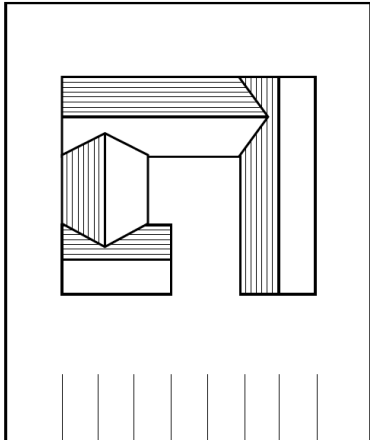
The following optional housing types are established to provide a common terminology for housing in the County and to facilitate a mixing of types, without special approval, if the free market dictates the need for such mixing of housing types.

Description	Conceptual Illustration (not to scale)
<p>Single-Family Detached Dwelling</p> <p>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. (Amended January 21, 2020 PC 2020-01)</p>	 <p>Street</p>
<p>Cottage Dwelling</p> <p>A single-family detached dwelling, set much closer to the front street than a conventional single-family detached house, with mandatory alley vehicular access, covered front porch. This Housing Type is permitted with public wastewater service or a locally permitted private waste water system. (Amended January 21, 2020 PC 2020-01)</p>	 <p>Alley</p> <p>Street</p>

Article 4 District Developmental Standards
Sec. 4.4. Residential Developmental Standards

Description	Conceptual Illustration (not to scale)
<p>Zero Lot Line Dwelling</p> <p>A single-family detached dwelling with front and rear setbacks and a single side setback. The single side setback comprises the equivalent of two side yards of a conventional single-family detached dwelling. Public wastewater service is required. This Housing Type is permitted with public wastewater service or a locally permitted private waste water system. (Amended January 21, 2020 PC 2020-01)</p>	 <p align="center">Street</p>
<p>Single-Family Attached Dwelling</p> <p>Two attached single-family dwellings located on two separately owned lots that share a common firewall 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. (Amended January 21, 2020 PC 2020-01)</p>	 <p align="center">Street</p>
<p>Two-Family Dwelling</p> <p>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 wastewater service or a locally permitted private waste water system. (Amended January 21, 2020 PC 2020-01)</p>	 <p align="center">Street</p>

Article 4 District Developmental Standards
Sec. 4.4. Residential Developmental Standards

Description	Conceptual Illustration (not to scale)
<p>Multiple-Family Dwelling or Complex</p> <p>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.</p>	 <p align="center">Street</p>

4.4.4 Residential Developmental Standards

The following developmental standards apply to the primary structures of permitted housing types in each district. Setbacks assume frontage on a named street. For setback requirements on Federal or State highways, Major Roads, or numbered county roads see Sec. 4.3.6

Single-Family Detached (w/o public wastewater)	Zoning District		
	A-1	R-1	R-2, R-3, B-1, B-2
Lot Size (min.)			
Area (sq ft)	20,000	15,000	15,000
Width (ft)	100	80	80
Setbacks (min ft.)			
Front	50	50	50
Side	10	10	5
Rear	15	15	15
Height (max ft.)	30	30	30
Building Coverage (max. %)			
Interior	25	25	25
Corner	30	30	30
Gross Floor Area (min. sq. ft.)			
Single-Story	900	900	900
Two-Story	600	600	600

Article 4 District Developmental Standards**Sec. 4.4. Residential Developmental Standards**

Single-Family Detached (w/ public wastewater)	Zoning District				
	A-1 conventional	A-1 cluster	R-1	R-2, R-3, B-1, B-2	R-4
Max. Density (units/net acre)	N/A	3	N/A	N/A	N/A
Min. Common Open Space (% of entire site)	N/A	35	N/A	N/A	N/A
Lot Size (min.)					
Area (sq ft)	20,000	7,200	7,200	7,200	6,000
Width (ft)	100	60	60	50	50
Setbacks (min ft.)					
Front	50	50	50	50	45
Side	10	10	10	5	5
Rear	15	15	15	15	10
Height (max ft.)	30	30	30	30	30
Building Coverage (max. %)					
Interior	30	30	30	30	40
Corner	35	35	35	35	45
Gross Floor Area (min. sq. ft.)					
Single-Story	900	900	900	900	900
Two-Story	600	600	600	600	600

Cottage	Zoning District		
	R-2	R-3	R-4
Lot Size (min.)			
Area (sq ft)	5,000	4,000	3,000
Width (ft)	50	40	30
Setbacks (ft.)			
Front (max./min.)	35/30	35/30	35/30
Side	5	3	3
Rear	15	10	10
Height (max ft.)	30	30	30
Building Coverage (max. %)			
Interior	40	40	45
Corner	45	45	50
Gross Floor Area			
Single-Story	900	900	900

Article 4 District Developmental Standards
Sec. 4.4. Residential Developmental Standards

Zero Lot Line	Zoning District		
	R-1, R-2	R-3	R-4
Lot Size (min.)			
Area (sq ft)	7,200	6,000	5,000
Width (ft)	60	50	50
Setbacks (min ft.)			
Front	50	45	45
Side	0/20	0/10	0/10
Rear	15	15	10
Height (max ft.)	30	30	30
Building Coverage (max. %)			
Interior	25	30	30
Corner	30	35	35
Gross Floor Area (min. sq. ft.)			
Single-Story	900	900	900
Two-Story	600	600	600

Single-Family Attached	Zoning District		
	R-1, R-2	R-3	R-4
Lot Size (min.)			
Area (sq ft)	5,000	4,000	3,000
Width (ft)	40	30	30
Setbacks (min ft.)			
Front	50	50	45
Side (interior)	0	0	0
Side (exterior)	10	5	5
Rear	15	15	10
Height (max ft.)	30	30	30
Building Coverage (max. %)			
Interior	25	25	30
Corner	30	30	35
Gross Floor Area (min. sq. ft.)			
Single-Story	900	900	900
Two-Story	600	600	600

Article 4 District Developmental Standards**Sec. 4.4. Residential Developmental Standards**

Two-Family (w/o public wastewater)	Zoning District	
	A-1, R-2, R-3, R-4, B-1, B-2	
Lot Size (min.)		
Area (sq ft)	30,000	
Width (ft)	100	
Setbacks (min ft.)		
Front	50	
Side	10	
Rear	15	
Height (max ft.)	30	
Building Coverage (max. %)		
Interior	25	
Corner	30	
Floor Area per Unit (min. sq. ft.)		
Single-Story	700	
Two-Story	700	

Two-Family (w/ public wastewater)	Zoning District	
	A-1, R-2, R-3, B-1, B-2	R-4
Lot Size (min.)		
Area (sq ft)	13,200	10,000
Width (ft)	75	75
Setbacks (min ft.)		
Front	50	50
Side	5	5
Rear	15	10
Height (max ft.)	30	30
Building Coverage (max. %)		
Interior	25	30
Corner	30	35
Floor Area per Unit (min. sq. ft.)		
Single-Story	700	700
Two-Story	700	700

Article 4 District Developmental Standards**Sec. 4.4. Residential Developmental Standards**

Multiple-Family Dwelling (w/o public wastewater)	Zoning District
	R-3, R-4, B-1, B-2
Max. Dwelling Units	3
Lot Size (min.)	
Area (sq ft / unit)	10,000
Width (ft)	100
Setbacks (min ft.)	
Front	50
Side	10
Rear	15
Height (max ft.)	30
Building Coverage (max. %)	
Interior	30
Corner	40
Floor Area per Unit (min. sq. ft.)	500

Multiple-Family Dwelling (w/ public wastewater)	Zoning District	
	R-3	R-4, B-1, B-2
Lot Size (min.)		
Area (sq ft / unit)	6,000	3,000
Width (ft)	150	100
Setbacks (min ft.)		
Front	50	50
Side	10	10
Rear	20	20
Height (max ft.)	40	40
Building Coverage (max. %)		
Interior	30	30
Corner	40	40
Floor Area per Unit (min. sq. ft.)	500	500

4.4.5 Cluster Residential Subdivision Standards**A. Common Open Space Design Standards**

1. A cluster residential subdivision may only be developed with single-family detached dwellings in an A-1 zoning district on properties with access to public wastewater.
2. The developmental standards for a cluster residential subdivision in the A-1 zoning district are the same as those of a single-family detached dwelling with public wastewater in the R-1 zoning district.
3. All open space areas must be part of a larger continuous and integrated open space system within the overall site being developed.

Article 4 District Developmental Standards

Sec. 4.4. Residential Developmental Standards

4. All dwelling units must be grouped into clusters with each cluster surrounded by common open space.
5. Except as provided in paragraph 6 below, a maximum of 10 percent of the area of any required common open space in a cluster residential subdivision may be occupied by buildings or other impervious surface.
6. Open space in a cluster residential subdivision may be used for hike and bike trails, agriculture, conservation, preservation of native habitat and other natural resources, storm water management, or historic or scenic purposes without counting toward the 10 percent maximum impervious coverage limitation in paragraph 5 above.
7. No area of common open space may be less than 30 feet in its smallest dimension or less than 10,000 square feet in area. Common open space not meeting this standard is not counted toward the total required 35 percent common open space requirement for a cluster residential subdivision.
8. Natural features must generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes. Permitted modifications may include:
 - a. Woodland, meadow or wetland management;
 - b. Streambank protection; or
 - c. Buffer area landscaping.
9. A minimum of 80 percent of the area of existing woodlands on the pre-developed site must be contained within common open space. Up to 20 percent of the area of existing woodlands may be located within proposed lots or removed for residential development. This limitation may be exceeded under the following conditions:
 - a. The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands.
 - b. Any encroachment on woodlands beyond 20 percent must be the minimum needed to achieve the maximum permitted density.

B. Common Open Space Maintenance Standards

In order to ensure that common open space and associated amenities remain in perpetuity, without the possibility of future development, dedication of a conservation easement must be approved by the Board of County Commissioners through the Primary and Secondary approval process for a major subdivision.

4.4.6 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.

A. Foundation

1. 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.
2. 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.

B. Structural Restriction

All single- and two-family dwellings must have an average minimum width of 20 feet and must meet the minimum gross floor area required in this Ordinance.

C. Exceptions

The standards in subsections A and B above do not apply to mobile homes as allowed by Special Use Permit in Article 5 of this Ordinance.

D. 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.

4.4.7 Residential Development on Ponding Soils

A. Applicability

1. Except as exempted in paragraphs 2 and 3 below, the provisions of this Section apply to all residential primary structures.
2. 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.
3. 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.

Article 4 District Developmental Standards

Sec. 4.4. Residential Developmental Standards

B. Ponding Soils Map

1. The Zoning Administrator must maintain a Ponding Soils Map pursuant to the Plan Commission Rules of Procedure.
2. The Ponding Soils Map shows soils that are likely to enable flooding of residential structures.
3. 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 hydrologic engineer provides information to the Zoning Administrator demonstrating that the Map is in error.

C. Residential Development

1. 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:
 - a. Provide certified information from a soil scientist, geotechnical engineer or hydrologic engineer satisfactorily demonstrating that the Map is in error for the portion of property upon which the residential structure is proposed to be built;
 - b. Receive approval of a Use Variance in accordance with Sec. 3.7 of this Ordinance; or
 - c. Construct the home with a slab-on-grade floor and footings at frost depth, in accordance with the Building Code.
2. 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.

4.4.8 Developmental Standards for Permitted Nonresidential Uses

The following developmental standards apply to the primary structures of permitted nonresidential uses in residential zoning districts.

Article 4 District Developmental Standards**Sec. 4.4. Residential Developmental Standards**

Nonresidential Use	Zoning District		
	A-1	R-1, R-2, R-3	R-4
Lot Size (min.)			
Area (sq ft)	3 Acres	15,000	10,000
Width (ft)	100	100	75
Setbacks (min ft.)			
Front	75	50	50
Side (interior)	10	10	5
Side (corner)	45	45	30
Rear	15	15	10
Height (max ft.)	30	30	30
Building Coverage (max. %)			
Interior	25	25	30
Corner	30	30	35
Parking Setback (min. ft. from centerline of ROW / front property line)	35/10	35 / 10	55 / 15

(Amended
January 21,
2020 PC
2020-01)

Sec. 4.5. Nonresidential Developmental Standards

Nonresidential development in permitted nonresidential zoning districts, , as established in the Use Tables in Sec. 5.1 and Article 6, must be in accordance with the following table.

Nonresidential Use	B-1	B-2	B-3	M-1	M-2
Setbacks (min ft.)					
Front	55	55	55	75	75
Side (interior)	10	10	10	25	25
Side (adjacent* to Res use or district)	25	25	25	50	50
Rear	15	15	15	15	15
Height (max ft.)	40	60	60	60	60
Building Coverage (max. %)	50	75	75	75	75
Parking Setback (min. ft. from centerline of ROW / front property line)	55 / 15	55 / 15	55 / 15	55 / 15	55 / 15

*"Adjacent" includes "across the street from" on a nonresidential corner lot

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ARTICLE 5 USE STANDARDS

Sec. 5.1. Use Table

5.1.1 General

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.

5.1.2 Prohibited Uses

Any use not permitted by right, permitted subject to limitations, or permitted by Special Use Permit, and that the Zoning Administrator cannot reasonably interpret as being allowed under the guidance of the criteria in Sec. 5.2.1C, is a prohibited use unless a Use Variance is approved in accordance with Sec. 3.7.

5.1.3 Legend for Interpreting Use Table

The following table sets forth the meaning of the symbols used in the Use Table below.

Symbol	Meaning
P	Permitted by right in district indicated
L	Permitted by right subject to limitations in district indicated
S	Requires a Special Use Permit in district indicated
P/S	Permitted by right or requires a Special Use Permit, depending on the standards in Sec. 5.3
L/S	Permitted by right subject to limitations or requires a Special Use Permit, depending on the standards in Sec. 5.3
[blank cell]	Prohibited in district indicated

5.1.4 Use Table

The following table sets forth the Use Categories, specific primary uses and the zoning districts in which those uses are permitted by right, permitted subject to limitations, require a Special Use Permit approved in accordance with Sec. 3.6 or are prohibited.

(Amended January 21, 2020 PC 2020-01)

Article 5 Use Standards

Sec. 5.1. Use Table

Key: P = Permitted by right L = Permitted subject to limitations S = Special Use Permit [blank] = Prohibited

Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	Standards
	RESIDENTIAL USES											
Household Living [see 5.2.2A]	Single-family detached dwelling	P	P	P	P	P	P	P				
	Cottage dwelling			L	L	L						5.3.1
	Zero Lot Line Dwelling	L	L	L	L	L						5.3.2
	Single-Family Attached Dwelling	L	L	L	L	L						5.3.3
	Two-Family Dwelling	P		P	P	P	P	P				
	Manufactured (single-wide) or mobile home structure, park or subdivision	S		S	S	S						5.3.4
	Manufactured (double wide) or modular home	P	P	P	P	P	P	P				
	Multiple-family dwelling or complex				L	L	L	L				5.3.5
	Upper-story dwelling					L	L	L	L			5.3.6
Group Living [see 5.2.2B]	All Group Living except as listed below:			S	S	P	P					
	Group home, eight residents or fewer		P	P	P	P	P	P				
	Group home, more than eight residents		S	S	S	S						
	PUBLIC & CIVIC USES											
Community Service [see 5.2.3A]	All Community Service		S	S	S	L/S	P	P	P	S	S	5.3.7
Day Care [see 5.2.3B]	All Day Care				S	S	P	P	P	S	S	
Educational Facilities [see 5.2.3C]	All Educational Facilities except as listed below:	S	S	S	S	S	S	S	S	S	S	
	Public or private elementary, middle or high school	S	S	S	S	S	P	P	P			
Government Facilities [see 5.2.3D]	All Government Facilities except as listed below:	S	S	S	S	S	S	S	S	S	S	
	Detention center, jail or prison						S	S	S	S	S	
	Post office		S	S	S	P	P	P	P	P	P	
Medical Facilities [see 5.2.3E]	All Medical Facilities except as listed below:	L/S				L/S	P	P	P	P	S	5.3.8, 5.3.29
	Hospital						S	P	P	P	P	
Parks and Open Areas [see 5.2.3F]	All Parks and Open Areas	S	S	S	S	S	S	S	S	S	S	
Passenger Terminals [see 5.2.3G]	All Passenger Terminals except as listed below:						P	P	P	P	P	
	Airport or heliport								S	S	S	

Article 5 Use Standards

Sec. 5.1. Use Table

Key: P = Permitted by right L = Permitted subject to limitations S = Special Use Permit [blank] = Prohibited												Standards
Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	
Places of Worship [see 5.2.3H]	All Places of Worship	L	S	S	S	L/S	P	P	P	P	P	5.3.9, 5.3.29
Social Service Establishment [see 5.2.3I]	All Social Service Establishments	S	S	S	S	S	S	S	S	S	S	
Utilities [see 5.2.3J]	Minor Utilities	P	P	P	P	P	P	P	P	P	P	
	Major Utilities	S	S	S	S	S	S	S	S	S	S	
	Wireless communication facility	See Sec. 5.4										
COMMERCIAL USES												
Indoor Recreation [see 5.2.4A]	All Indoor Recreation except as listed below:	S				S	P	P	P	P	P	
	Adult business										S	
	Bar, microbrewery or tavern							P	P	P	P	
	Casino	S					S	S	S			
	County club	L	P	P	P	P	P	P	P			5.3.29
	Membership club or lodge	S			S	S	P	P	P	P	P	
	Tattoo parlor						L	L	L			5.3.10
	Winery	S						P	P	P	P	
Offices [see 5.2.4B]	All Offices except as listed below:					L	P	P	P	P	P	5.3.11
	TV or radio studio					L	L	L	P	P	P	5.3.12
Outdoor Recreation [see 5.2.4C]	All Outdoor Recreation except as listed below:						S	S	S	S	S	
	Campground	S					S	S	S			
	Farmers Market, outdoor	S					P	P	P			
	Event Venue	S					S	S	P			
	Marina	S	S	S	S	S	S	S	S	S	S	
	Stable, public or commercial	S										
	Stadium, arena, running track or ball field	S	S	S	S	S	S	P	P	S	S	
Outdoor Recreation [see 5.2.4C]	Track, vehicle race	S					S	S	S	P	P	5.3.13

Article 5 Use Standards

Sec. 5.1. Use Table

Key: P = Permitted by right L = Permitted subject to limitations S = Special Use Permit [blank] = Prohibited												Standards
Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	
Overnight Accommodations [see 5.2.4D]	All Overnight Accommodations except as listed below:						P	P	P	P		
	Bed and breakfast inn	S	S	S	S	S	L	L	L			5.3.14
	Resort	S	S	S	S	S	S	S	S			
Parking, Commercial [see 5.2.4E]	All Commercial Parking except as listed below:						P	P	P	P	P	
	Truck, tractor, trailer or bus storage or parking yard, lot or garage	S					S	S	P	P	P	
Restaurants [see 5.2.4F]	All Restaurants except as listed below:	S				P	P	P	P	P		
	Catering establishment, small scale	S					P	P	P	P		
	Restaurant, drive-in or drive-through	S				L	L	P	P	P		5.3.15
Retail Sales & Service [See 5.2.4G]	All Retail Sales and Service (Sales-Oriented) except as listed below:					L	P	P	P	P	P	5.3.16
	Building supplies or home improvement	S					P	P	P	P	P	
	Fireworks sales	L					L	L	L	L	L	5.3.17, 5.3.29
	Garden supplies	S					P	P	P	P	P	
	Pet shop or groomer, outdoor pens or runs	L					P	P	P	P		5.3.29
	All Retail Sales and Service (Service-Oriented) except as listed below:					L	P	P	P	P	P	5.3.16
	Barber or beauty shop	S	S	S	S	S	P	P	P			
	Funeral home					S	P	P	P			
	Kennel	L					S	S	S	S	S	5.3.18, 5.3.29
	Veterinary clinic or hospital with outdoor pens or runs	L					L	P	P	P		5.3.19, 5.3.29
Retail Sales & Service [See 5.2.4H]	All Retail Sales and Service (Repair-Oriented)	S				L	P	P	P	P	P	5.3.16
Self-Service Storage [see 5.2.4H]	All Self-Service Storage	S						S	P	P	P	
Vehicle Sales & Service [see 5.2.4I]	Major Vehicle Repair								P	P	P	
	Minor Vehicle Servicing							P	P	P	P	5.3.20
	All Vehicle Sales and / or Service (General) except as listed below:							P	P	P	P	
	Fuel Sales, Retail						L	P	P	P	P	5.3.21

Article 5 Use Standards

Sec. 5.1. Use Table

Key: P = Permitted by right L = Permitted subject to limitations S = Special Use Permit [blank] = Prohibited												Standards
Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	
	INDUSTRIAL USES											
Heavy Industrial [see 5.2.5A]	Intense Heavy Industrial except as listed below:										S	
	Concentrated animal feeding operation	See Sec. 6.5, A-4, Concentrated Animal Feeding Protection District										
	Wrecking, junk or salvage yard										S	5.3.22
	Less Intense Heavy Industrial except as listed below:										P	
	Bulk storage of explosives or other hazardous materials										L	5.3.23
	Fertilizer manufacturing and storage	S									L	5.3.23
Light Industrial [See 5.2.5B]	All Light Industrial except as listed below:								L	P	P	5.3.24
	Building and development contractor establishment								L	P	P	5.3.25
	Welding, tool repair or machine shop	S							L	P	P	5.3.26
Warehousing & Freight Movement [see 5.2.5C]	All Warehousing and Freight Movement uses	S					S	S	S	P	P	
Waste-Related Service [see 5.2.5D]	All Waste-Related Service uses except as listed below:						S	S	S	S	S	
	Recycling facility									S	S	5.3.27
	Tire recycling or recapping									S	S	

Article 5 Use Standards

Sec. 5.1. Use Table

Key: P = Permitted by right L = Permitted subject to limitations S = Special Use Permit [blank] = Prohibited												
Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	Standards
Wholesale Trade [see 5.2.5E]	All Waste-Related Service uses except as listed below:								S	S	S	
	Fuel sales, bulk	S							S	P	P	
	OPEN USES											
Agriculture [see 5.2.6A]	All Agriculture Uses except as listed below:	L	S	S	S	S	S	S	S	S	S	5.3.28
	Agri-Business	L										5.3.29
	Floriculture, horticulture, pasturage, row and field crops, viticulture or orchard	P	P	P	P	P	P	P	P	P	P	
	Greenhouse, retail	S	S	S	S	S	P	P	P	S	S	
	Livestock sale or auction	S								P	P	
	Roadside stand	S	S	S	S	S						
	Scenic or sightseeing tour	P					P	P	P			
	Stable, private and noncommercial	P	S	S	S	S	S	S	S	S	S	
Resource Extraction [see 5.2.6B]	All Resource Extraction uses	P/S						S	S	P	P	5.3.30

Sec. 5.2. Use Categories

5.2.1 General

A. 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 Article 11. 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 Sec. 3.10, that the proposed use is similar to a permitted, limited or special use.

B. Basis for Classifications

Use Categories classify land uses based on common functional or physical characteristics. Characteristics include the type and amount of activity, how goods or services are sold or delivered, and likely impact on surrounding properties and site conditions. The Use Categories provide a systemic basis for assigning land uses to appropriate zoning districts and for consistently regulating similar uses in regard to parking and other requirements in this Ordinance.

C. Use Interpretation

1. The Zoning Administrator must use the following criteria to determine the appropriate Use Category or similar use for a proposed use not specifically addressed in this Ordinance:
 - a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each Use Category;
 - b. The amount of site area or floor space and equipment devoted to the activity;
 - c. Amounts of sales from each activity;
 - d. The number of employees in each activity;
 - e. Hours of operation;
 - f. Building and site arrangement;
 - g. Types of vehicles used and their parking requirements;
 - h. The number of vehicle trips generated;
 - i. How the use is advertised; and
 - j. The likely impact on surrounding properties including but not limited to impacts of dust, noise and lighting.

Article 5 Use Standards

Sec. 5.2. Use Categories

2. The Zoning Administrator must take into consideration the zoning district purpose statements in Sec. 4.2 for any such determinations.
3. 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 Use Category or similar use is treated in the use tables.
4. 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 an established Use Category, then the proposed use is permitted only following either approval of a Zoning Ordinance Text Amendment or a Use Variance.

D. Developments with Multiple Primary Uses

Developments with multiple primary uses must conform to the following provisions.

1. When all primary uses of a development fall within the same Use Category, the entire development is assigned to that Use Category.
2. When the primary uses of a development fall within different Use Categories, each primary use is classified in the applicable Use Category and each use is subject to all applicable regulations for that Use Category.

EXAMPLE: *Where a use has a specific use standard applied in the use table (such as a minimum site acreage), the standard applies even when that use is part of a development with multiple primary uses.*

E. Characteristics

The "Characteristics" subsection of each Use Category table below describes the common characteristics of each primary use.

F. Primary Uses

The "Primary Uses" portion of each Use Category table lists primary uses common to that Use Category. The names of these sample uses are generic and are based on common meanings, not on what a specific use may call itself.

EXAMPLE: *A use that calls itself "Wholesale Warehouse," but sells mostly to retail consumers, is included in the Retail Sales and Service category rather than the Wholesale Trade category.*

G. Accessory Uses

Accessory uses are generally allowed by right in conjunction with a primary use. However, specific accessory uses with parenthetical cross-references in the Use Category tables are permitted subject to additional standards in Sec. 5.5.

H. Uses Not Included

The "Uses Not Included" column provides cross-references to uses that may appear to be part of a particular category, but that are explicitly handled in a different Use Category.

5.2.2 Residential Uses

The following tables set forth the primary uses, accessory uses and uses not included in each residential use category.

A. Household Living

Characteristics: Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis in structures with self-contained dwelling units, including kitchens.		
Primary Uses	Accessory Uses	Uses not Included
Single-family dwellings: detached, cottage, zero lot line, and attached Two-family dwelling Manufactured home (single- or double-wide) structure, subdivision or park Modular home Mobile home structure, subdivision or park Multiple-family dwelling Upper-story residential	Accessory dwelling unit (5.5.3) Adult or child care home (5.5.4) Bed and Breakfast Homestay (5.5.5) Boat house (5.5.6) Bus parking, outdoor (5.5.11) Children's playhouse Domestic storage Garage, private or shed Garage sale (5.5.7) Firearms range, outdoor noncommercial Garden Greenhouse or nursery (noncommercial) Guest house Home occupation (5.5.8) Home workshop / business (5.5.9) Leasing office for manufactured home park or apartment complex Manufactured (double-wide) or Modular home Manufactured (single-wide) or Mobile home (5.5.3G) Minor utilities Model home with sales office in model home Personal residential storage (5.5.10) Pool house Private community center Radio antenna, amateur Solar panel array (5.5.12) Other Special Uses as permitted by the Board of Zoning Appeals (Amended January 21, 2020 PC 2020-01) Swimming pool Other miscellaneous household amenities	Group home for the physically disabled, mentally retarded, or emotionally disturbed that are not considered single-family residences (see Group Living) Hospice or nursing or rest home (see Group Living) Hotel, motel or bed and breakfast (see Overnight Accommodations)

Article 5 Use Standards
Sec. 5.2. Use Categories

B. Group Living

Characteristics: Residential occupancy of a structure by a group of people that does not meet the definition of Household Living. Tenancy is usually arranged on a monthly or longer basis. Generally, Group Living structures have a common eating area for residents, and the residents may receive care or training. Caregivers may or may not reside on site.

Primary Uses	Accessory Uses	Uses not Included
Assisted living facility Boarding house Fraternity, sorority or dormitory Group home for the physically and/or cognitively disabled, that are not considered single-family residences Hospice or nursing or rest home Orphanage	Associated office Facilities for treatment of sickness, injuries or surgical care Food preparation and dining facility Garden Greenhouse or nursery (noncommercial) Minor utilities Pool house Private community center Swimming pool Recreational facility Other miscellaneous household amenities	Halfway house (see Social Service Establishments) Drug, alcohol or psychiatric treatment center (see Social Service Establishments) Transient shelter (see Social Service Establishments) Hotel, motel or bed and breakfast (see Overnight Accommodations)

5.2.3 Public and Civic Uses

The following tables set forth the primary uses, accessory uses and uses not included in each public and civic use category.

A. Community Service

Characteristics: Uses of a public, nonprofit, or charitable nature providing ongoing education, training or counseling to the general public on a regular basis, without a residential component.		
Primary Uses	Accessory Uses	Uses not Included
Assembly, meeting, event or exhibition hall Community center Library Museum Philanthropic institution Senior or youth center Other uses meeting the characteristics of the Community Service Use Category	Associated office and storage Associated retail sales related to the primary use Food preparation and dining facility Garden Limited retail sales area Minor utilities Recreation facility	Athletic, swim, tennis or health club (see Retail Sales and Service) Church, mosque, synagogue or temple (Place of Worship) Counseling office (Office) Drug, alcohol or psychiatric treatment center (see Social Service Institutions) Park (Parks and Open Areas) Private community center (See Household Living: Accessory Uses) Transient shelter (see Social Service Institutions)

B. Day Care

Characteristics: Uses providing care, protection, and supervision for at least 17 children or adults on a regular basis away from their primary residence. Care is typically provided to a given individual for fewer than 18 hours each day, although the facility may be open 24 hours each day.		
Primary Uses	Accessory Uses	Uses not Included
Adult care center Child care center Nursery school or pre-school Other uses meeting the characteristics of the Day Care Use Category	Associated office and storage Food preparation and dining facility Garden Minor utilities Recreation facility	Adult or child care home (see Household Living: Accessory Uses) On-site day care in connection with a business or other primary use where children are cared for while parents or guardians are occupied on the premises (see appropriate Use Category under Accessory Uses)

Article 5 Use Standards
Sec. 5.2. Use Categories

C. Educational Facilities

Characteristics: Public and private schools at the elementary, middle, or high school level that provide basic academic education. Also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree usually in a campus setting.		
Primary Uses	Accessory Uses	Uses not Included
College, university or seminary Nursing or medical school not associated with a hospital Public or private elementary, middle or high school Other uses meeting the characteristics of the Educational Facilities Use Category	Accessory dwelling unit (5.5.3) Assembly hall Associated office and storage Auditorium or theater Before- and after-school day care Concession Dormitory Food preparation and dining facility Garden Laboratory Library Medical clinic Minor utilities Recreation facility	Music, art or photographic studio or classroom (see Retail Sales and Service) Driving, vocational, trade and other commercial school (see Retail Sales and Service) Nursery school or pre-school (see Day Care) Riding academy (see Outdoor Recreation)

D. Government Facilities

Characteristics: Offices, storage, maintenance, and other facilities for the operation of local, state, or federal government.		
Primary Uses	Accessory Uses	Uses not Included
Town, city, county, state or federal office, parking lot or maintenance area Detention center, jail or prison Emergency services, police or fire station Post office Other uses meeting the characteristics of the Governmental Facilities Use Category	Associated helicopter landing facility Associated storage Day care for children of employees Dormitory Medical clinic for employees or inmates Meeting space Minor utilities Fleet maintenance Food preparation and dining facility Fueling facility Recreation facility	Park (see Parks and Open Areas) Utility (see Utilities)

Article 5 Use Standards
Sec. 5.2. Use Categories

E. Medical Facilities

Characteristics: Uses providing medical or surgical care to patients. Some uses may offer overnight care.		
Primary Uses	Accessory Uses	Uses not Included
Acupuncture clinic Blood or blood plasma center Chiropractor Drug, alcohol or psychiatric treatment center, out-patient or in-patient Hospital Medical or dental office or laboratory Other uses meeting the characteristics of the Medical Facilities Use Category	Associated helicopter landing facility Associated office and storage Associated retail sales related to the primary use Classrooms Day care for children of employees or patients Dormitory Fleet maintenance Food preparation and dining facility Garden Minor utilities Place of worship Pharmacy Recreation facility	Nursing or medical school not associated with a hospital (see Educational Facilities) Urgent care or emergency medical center (see Retail Sales and Service)

F. Parks and Open Areas

Characteristics: Uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas, or community gardens, and having few structures.		
Primary Uses	Accessory Uses	Uses not Included
Botanical garden, nature preserve or trail Campground without overnight accommodations Cemetery, columbarium, mausoleum or memorial park Dog park, public Park or playground Recreational trail Other uses meeting the characteristics of the Parks and Open Areas Use Category	Associated office and storage Associated retail sales related to the primary use Boat launch Concession Dining area Garden Minor utilities Recreation facility Single attached residential unit for caretaker	Campground with overnight accommodations (see Overnight Accommodations) Crematorium (see Light Industrial) Golf course, driving range or mini-golf course (see Outdoor Recreation) Recreational vehicle park (see Overnight Accommodations) Water park (see Outdoor Recreation)

Article 5 Use Standards
Sec. 5.2. Use Categories

G. Passenger Terminals

Characteristics: Public or commercial facilities for the takeoff and landing of airplanes and helicopters, and terminals for taxi, rail or bus service.		
Primary Uses	Accessory Uses	Uses not Included
Airport or heliport Bus passenger terminal, taxi dispatch center, train passenger terminal Other uses meeting the characteristics of the Passenger Terminal Use Category	Associated office and storage Associated retail sales related to the primary use Concession Fleet maintenance Freight handling area Fueling facility Minor utilities	Associated helicopter landing facility (see Government Facilities or Medical Facilities) Scenic or sightseeing tour (see Agriculture)

H. Places of Worship

Characteristics: Places of assembly that provide meeting areas for religious practice.		
Primary Uses	Accessory Uses	Uses not Included
Church, mosque, synagogue or temple Other uses meeting the characteristics of the Places of Worship Use Category	Assembly hall Associated office and storage Associated retail sales related to the primary use Classrooms Day care Food preparation and dining facility Garden Minor utilities Library Nursery school or pre-school Recreation facility Residences for clergy	Social Service Establishment uses (see Social Service Establishments)

Article 5 Use Standards
Sec. 5.2. Use Categories

I. Social Service Establishments

Characteristics: Uses that primarily provide treatment of those with psychiatric, alcohol, or drug problems, and transient housing related to social service programs.		
Primary Uses	Accessory Uses	Uses not Included
Halfway house Drug, alcohol or psychiatric treatment center, in-patient and out-patient Soup kitchen Domestic abuse or transient shelter Other uses meeting the characteristics of the Social Service Establishments Use Category	Associated office and storage Class rooms Day care for children of employees or clients Dormitory Food preparation and dining facility Garden Library Meeting space Minor utilities Recreation facility Other miscellaneous household amenities	Detention center, jail or prison (see Government Facilities)

J. Utilities

Characteristics: Minor: Public or private infrastructure serving a limited area with no on-site personnel; 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.		
Primary Uses	Accessory Uses	Uses not Included
Minor Utilities: Cell antenna Public or municipally-owned utilities Solar panel array (roof-mounted or ground-mounted 850 square feet or less) Stormwater retention or detention facility Telephone exchange Water or wastewater pump station Major Utilities: Cell tower Electrical substation Electric or gas generation plant Solar panel array (wall- or ground-mounted and greater than 850 square feet) Television or radio transmission tower Water treatment plant Water tower or tank Other uses meeting the characteristics of the Utilities Use Category	Associated office and storage Fleet maintenance Minor utilities Storage structures	Landfill (see Waste-Related Service) Utility office (see Office) TV or radio studio (see Office)

Article 5 Use Standards
Sec. 5.2. Use Categories

5.2.4 Commercial Use Categories

The following tables set forth the primary uses, accessory uses and uses not included in each commercial use category.

A. Indoor Recreation

Characteristics: Generally commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting.		
Primary Uses	Accessory Uses	Uses not Included
Adult business (see Article 11) Bar, microbrewery or tavern Bowling alley Casino Convention center County club Dance hall Fitness gym Gymnastic, dance or martial arts facility Indoor firearms range Membership club or lodge Movie or other theater Pool hall Skating rink Tattoo parlor Tennis or racquetball facility Other uses meeting the characteristics of the Indoor Recreation Use Category	Associated office and storage Associated retail sales related to the primary use Concession Food preparation and dining facility Minor utilities Swimming pool, indoor	Outdoor Recreation uses (see Outdoor Recreation)

B. Offices

Characteristics: Activities conducted in an office setting and generally focusing on business, professional or financial services. Accessory uses generally have no external access or signs.		
Primary Uses	Accessory Uses	Uses not Included
Offices or agencies for services such as advertising, bill collection, charitable organization, consulting, counseling, data processing, investment or brokerage, real estate or insurance, sales, temporary employment or travel Bank or savings and loan Professional service such as lawyer, accountant, designer, bookkeeper, engineer or architect Travel agent TV or radio studio Utility office Other uses meeting the characteristics of the Office Use Category	Associated storage Day care for children of employees Medical clinic for employees Minor utilities Food preparation and dining facility for employees Recreation facility for employees Private telecommunication or transmission tower	Building and development contractors specializing in building, excavating, heating, plumbing, landscaping or electrical and others who perform services off-site, but store equipment and materials on-site (see Light Industrial) Government office (see Governmental Facilities) Mail order house (see Wholesale Trade) Medical or dental office or laboratory (see Medical Facilities) Research, testing or development laboratory (see Light Industrial) Urgent care or emergency medical center (see Retail Sales and Service)

Article 5 Use Standards
Sec. 5.2. Use Categories

C. Outdoor Recreation

Characteristics: Generally commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an outdoor setting.		
Primary Uses	Accessory Uses	Uses not Included
Outdoor activity such as archery range, batting cage, corn maze, firearms range, swimming pool, tennis court, water park or riding academy Amusement park Animal racing or training Drive-in theater or amphitheater Fairgrounds or rodeo grounds Farmers market, outdoor Flea market, outdoor Golf course, driving range or mini-golf course Marina Paintball facility Ski slalom course Stable, public or commercial Stadium, arena, running track or ball field Track, vehicle race Other uses meeting the characteristics of the Outdoor Recreation Use Category	Associated office and storage Associated retail sales related to the primary use Boat launch Classrooms Concession Food preparation and dining area Minor utilities Single attached residential unit for caretaker	Indoor Recreation uses (see Indoor Recreation) Parks and Open Area uses (see Parks and Open Areas)

D. Overnight Accommodations

Characteristics: Bedroom and bathroom units arranged for short term stays of less than 30 days for rent or lease.		
Primary Uses	Accessory Uses	Uses not Included
Bed and breakfast inn Campground with overnight accommodations Hotel or motel Recreational vehicle park Resort Other uses meeting the characteristics of the Overnight Accommodations Use Category	Associated office and storage Meeting space Minor utilities Recreational facility Restaurant Swimming pool	Campground without overnight accommodations (see Outdoor Recreation) Convention center (see Indoor Recreation) Halfway house or transient shelter (see Social Service Facility)

Article 5 Use Standards
Sec. 5.2. Use Categories

E. Parking, Commercial

Characteristics: Facilities that provide parking not accessory to a primary use, for which a fee may or may not be charged.		
Primary Uses	Accessory Uses	Uses not Included
Park-and-ride facility Parking lot or structure, commercial Parking lot or structure, off-site Truck, tractor, trailer or bus storage or parking yard, lot or garage Other uses meeting the characteristics of the Commercial Parking Use Category	Associated office and storage Minor utilities	Bus passenger terminal, taxi dispatch center, train passenger terminal (see Passenger Terminals) Transfer and storage business (such as for recreational vehicles) where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred

F. Restaurants

Characteristics: Establishments that prepare and sell food for on-premises or off-premises consumption.		
Primary Uses	Accessory Uses	Uses not Included
Brewpub Catering establishment, small scale Coffee shop Restaurant, standard Restaurant, drive-in or drive-through Pizza delivery facility Yogurt or ice cream shop Other uses meeting the characteristics of the Restaurant Use Category	Associated office and storage Drive-through facility Minor utilities Outdoor dining area Recreational facility	Bar or Tavern (see Indoor Recreation) Catering establishment, large scale (see Industrial Service)

G. Retail Sales and Service

Characteristics: Companies or Individuals involved in the sale, lease, or rental of new or used products, or providing personal services or repair services to the general public.		
Primary Uses	Accessory Uses	Uses not Included
Sales-Oriented: Store selling, leasing or renting consumer, home, and business goods including, but not limited to, alcoholic beverages, animal feed, antiques, appliances, art, art supplies, baked goods (retail), bicycles, books, building supplies, cameras, candy, carpet and floor coverings, crafts, clothing, collectibles, computers, convenience goods, electronic equipment, electronic and mixed media, fabric, fireworks, flowers, furniture, garden supplies, gifts or novelties, groceries, hardware, home improvement supplies, household products, jewelry, luggage, medical supplies, musical instruments, office supplies, pawned items, pets, pet supplies, pharmaceuticals, photographic	Associated office and storage Concession Day care for children of employees Food preparation and dining area Minor utilities Single attached residential unit for caretaker	Car wash (see Vehicle Sales and Service) Fuel sales (see Vehicle Sales and Service) Restaurant use (see Restaurants) Sale or service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (see Vehicle Sales and Service) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, or store fixtures (see Wholesale Trade)

Article 5 Use Standards
Sec. 5.2. Use Categories

Characteristics: Establishments that prepare and sell food for on-premises or off-premises consumption.		
Primary Uses	Accessory Uses	Uses not Included
<p>supplies, picture frames, plants, postal substation, printed materials, produce, school or teacher supplies, seeds, souvenirs, shoes, sporting goods, stationery, tobacco and related products, toys, vehicle parts and accessories</p> <p>Service-Oriented: Animal grooming Barber or beauty shop Driving, vocational, trade and other commercial school Dry cleaning and pressing establishment Funeral home or mortuary Laundromat Kennel Massage, nail or tanning establishment Music, art or photographic studio or classroom (see Retail Sales and Service) Optician or optometrist Pet groomer Photocopy, blueprint, package shipping and quick-sign service Photography studio Psychic or medium Shoe repair Tailor Taxidermist Upholsterer Urgent care or emergency medical center Veterinary clinic or hospital</p> <p>Repair-Oriented: Store offering repair of appliances, bicycles, canvas products, clocks, electronics, jewelry, locks and keys, musical instruments, office equipment, shoes, watches Tailor, milliner or upholsterer</p> <p>Other uses meeting the characteristics of the Retail Sales and Service Use Category</p>		

Article 5 Use Standards
Sec. 5.2. Use Categories

H. Self-Service Storage

Characteristics: Facilities providing separate storage areas for personal or business use designed to allow private access by the tenant for storing or removing personal property.		
Primary Uses	Accessory Uses	Uses not Included
Boat or recreational vehicle storage Mini-warehouse or multistory enclosed storage facility Other uses meeting the characteristics of the Self-Service Storage Use Category	Associated office and storage Minor utilities Moving vehicle rental Single attached residential unit for caretaker	Manufacturing storage area (see Industrial Use Categories) Transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred (see Warehouse and Freight Movement)

I. Vehicle Sales and Service

Characteristics: Direct sales of and service to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats, and recreational vehicles. Uses classified as Minor Vehicle Service provide service while the customer waits, same day pick-up of the vehicle or allow customers to leave a vehicle on-site for less than 24 consecutive hours.		
Primary Uses	Accessory Uses	Uses not Included
General: Car wash Fuel sales Manufactured home, mobile home, portable building or trailer sales or rental Truck stop Vehicle sales, rental, or leasing facilities (including passenger vehicles, motorcycles, trucks, boats and recreational vehicles) Vehicle Repair, Major: Alignment shop, auto body shop, auto upholstery shop, towing service Other repair of cars, trucks, motorcycles, RVs and boats not included in Minor Vehicle Repair below Vehicle Servicing, Minor: Quick lubrication facilities, battery sales and installation, auto detailing, minor scratch and dent repair, bed liner installation, tire sales and mounting Other uses meeting the characteristics of the Vehicle Sales and Service Use Category	Associated office and storage Car wash Concession Food preparation and dining area Fueling facility Minor utilities Sale of auto parts Towing Vehicle storage	Retail or wholesale sales of agriculturally-related supplies and equipment (see Agriculture) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, or store fixtures (see Wholesale Trade) Vehicle parts sale as a primary use (see Retail Sales and Service) Tire recycling or recapping (see Waste-Related)

5.2.5 Industrial Use Categories

The following tables set forth the primary uses, accessory uses and uses not included in each industrial use category.

A. Heavy Industrial

Characteristics: 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. Factory production and industrial yards are located here. Sales to the general public are rare.		
Primary Uses	Accessory Uses	Uses not Included
Intense Heavy Industrial: Manufacture, assembly or processing of acid, acetylene gas, ammonia, asphalt, bones, celluloid, cement, creosote, disinfectant, dyes or inks, fat, fertilizer, fireworks, glue, grease, gunpowder, gypsum, insecticide, lard, lime, paint, petroleum, plaster of Paris, poison, rubber, salt, shellac, tallow, tar, turpentine, varnish, vinegar, or yeast Arsenal Coke oven Fertilizer storage Incinerator for reduction of garbage, dead animals, offal, refuse or automobile bodies (non-governmental) Smelter Slaughtering, packaging or processing of animals Wrecking, junk or salvage yard Uses declared a nuisance in court Less Intense Heavy Industrial: Manufacture, assembly or processing of batteries, aircraft, alcoholic beverages (wholesale), asbestos and asbestos products, automobiles or trucks, boxes or crates or pallets, brick or tile or terra cotta, building materials, chalk, charcoal, chemicals, chlorine, coffins, corrugated metal, cotton oil, gas, gelatin, glass, graphite, hemp, lacquer, linoleum, machinery, manufactured or mobile homes, metal, motors or engines, paraffin, plastic, porcelain, recreational vehicles, railroad vehicles and equipment, tires, trailers, wax Boiler works Bulk storage of explosive or hazardous materials Concentrated animal feeding operation	Associated office and storage Associated retail sales related to the primary use Day care for children of employees Fleet maintenance Food preparation and dining facility Fueling facility Medical clinic for employees Meeting space Minor utilities Recreation facility Single attached residential unit for caretaker	Microbrewery (see Restaurants) Recycling facility (see Waste-Related Service)

Article 5 Use Standards
Sec. 5.2. Use Categories

A. Heavy Industrial

Characteristics: 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. Factory production and industrial yards are located here. Sales to the general public are rare.		
Primary Uses	Accessory Uses	Uses not Included
Concrete batching and asphalt processing and manufacture Feed milling Grain elevator Railroad yard or repair shop Sawmill Wool scouring and pulling Uses declared a nuisance in court Other uses meeting the characteristics of the Heavy Industrial Use Category		

B. Light Industrial

Characteristics: Uses engaged in the manufacturing, assembly or processing of industrial, business or consumer goods, usually from basic finished inputs such metal, stone, glass, plastic or rubber. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.		
Primary Uses	Accessory Uses	Uses not Included
Manufacture or assembly of appliances, artificial limbs, awnings, beds, blinds, boats, books, brooms, buses, carpet, clothing or textiles or canvas, cosmetics, equipment, electrical items, felt, hardware, ice, jewelry, medical, optical or dental instruments or supplies, mirrors, medical instruments, musical instruments, perfume, pharmaceuticals, shoes, shutters or shades, signs, toys Bakery, wholesale Bottling or canning Building and development contractors specializing in building, excavating, heating, plumbing, landscaping or electrical and others who perform services off-site, but store equipment and materials on-site Bulk mailing service Catering establishment, large scale Clothing or textile manufacturing Creamery Crematorium Engraver Food processing Janitorial and building maintenance service, exterminator, maintenance yard or facility	Associated office and storage Associated retail sales related to the primary use Associated showroom Day care for children of employees Fleet maintenance Food preparation and dining facility Fueling facility Medical clinic for employees Meeting space Minor utilities Recreation facility Single attached residential unit for caretaker Wholesale and/or retail sales	Catering establishment, small scale (see Restaurant) Mining or excavating (see Resource Extraction) Outdoor storage yard (see Warehousing and Freight Movement) Recycling facility (see Waste-Related Service) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures (see Wholesale Trade)

Article 5 Use Standards
Sec. 5.2. Use Categories

A. Heavy Industrial

Characteristics: 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. Factory production and industrial yards are located here. Sales to the general public are rare.		
Primary Uses	Accessory Uses	Uses not Included
Laundry, dry-cleaning, and carpet cleaning plants Metal plating Metal shop Printing, publishing, and lithography Repair of scientific or professional instruments, electric motors Research, testing, and development laboratory Smoking or processing of meat products Stone cutting Welding, tool repair or machine shop Woodworking, including cabinet makers and furniture manufacturing Other uses meeting the characteristics of the Light Industrial Use Category		

C. Warehousing and Freight Movement

Characteristics: Uses involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer with little on-site sales activity to customers.		
Primary Uses	Accessory Uses	Uses not Included
Bulk storage, including cold storage plants, household moving and general freight storage, nonflammable liquids, separate warehouse used by retail store Bus shop, garage or storage Express hauling Food packing and distribution Motor freight or truck terminal Outdoor storage yard Parcel delivery station Semi-trailer parking Transfer and storage business (such as for recreational vehicles) where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred Trucking company Other uses meeting the characteristics of the Warehousing and Freight Movement Use Category	Associated office and storage Day care for children of employees Fleet maintenance Food preparation and dining facility Fueling facility Medical clinic for employees Meeting space Minor utilities Outdoor storage yard Recreation facility Single attached residential unit for caretaker	Bulk storage of flammable liquids, fats or oils (see Heavy Industrial) Mini-warehouse or multistory enclosed storage facility (see Self-Service Storage)

Article 5 Use Standards
Sec. 5.2. Use Categories

D. Waste-Related Service

Characteristics: Uses characterized by receiving solid or liquid wastes from others for transfer to another location and uses that collect sanitary wastes or that manufacture or produce goods or energy from the composting of organic material.		
Primary Uses	Accessory Uses	Uses not Included
Animal waste processing Animal waste energy converter Composting facility Landfill Manufacture and production of goods from composting organic material Recycling facility Tire recycling or recapping Wood chipping Wrecking yard Other uses meeting the characteristics of the Waste-Related Service Use Category	Associated office and storage Fleet maintenance Fueling facility Minor utilities Repackaging and shipment of byproducts	Stockpiling of sand, gravel, or other aggregate materials (see Resource Extraction) Water treatment plant (see Utilities)

E. Wholesale Trade

Characteristics: Uses involved in the sale, lease, or rent of products to Industrial, Institutional or commercial businesses only. The uses emphasize on-site sales or order-taking and often include display areas. Business may or may not be open to the general public. Products may be picked up on-site or delivered to the customer.		
Primary Uses	Accessory Uses	Uses not Included
Fuel sales, bulk Mail-order business Sale or rental of machinery, equipment, heavy equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures Wholesale or auction of food, clothing, auto parts, or hardware Other uses meeting the characteristics of the Wholesale Trade Use Category	Associated office and storage Associated showroom Day care for children of employees Fleet maintenance Food preparation and dining facility Medical clinic for employees Meeting space Minor fabrication Minor utilities Product repair Recreation facility Repackaging of goods Single attached residential unit for caretaker Warehouse	Warehouse and Freight Movement Use (see Warehouse and Freight Movement) Wholesale club (see Retail Sales and Service)

Article 5 Use Standards
Sec. 5.2. Use Categories

5.2.6 Open Uses

The following tables set forth the primary uses, accessory uses and uses not included in each open use category.

A. Agriculture

Characteristics: Uses primarily related to the raising of animals and crops that do not exceed the threshold for Concentrated or Intensive Animal Feeding Operations, and the secondary enterprises associated with agricultural production.		
Primary Uses	Accessory Uses	Uses not Included
Agri-business Agricultural implement sales and service Chick hatchery Dairy Domestic animal raising including cattle, horses, hogs, donkeys, sheep, goats, swine, poultry, rabbits and other small animals, apiculture, aquaculture, or animal breeding and development Ferrier Floriculture, horticulture, pasturage, row and field crops, viticulture or orchard Greenhouse, retail Greenhouse, wholesale Livestock sale or auction Roadside stand Scenic or sightseeing tour Stable, private and noncommercial Other uses meeting the characteristics of the Agriculture Use Category	Associated office Accessory dwelling unit (5.5.3) Barn, silo, stable (private) or other agricultural storage Buildings associated with agricultural uses being pursued on site Greenhouse, commercial or noncommercial Home occupation (5.5.8) Home workshop / business (5.5.9) Minor utilities Parking and storage of operable farm vehicles and farm machinery Roadside stand Single-family dwelling Slaughtering, processing and packaging of animals raised on-site U-pick facility	Animal products, packing and processing (see Heavy Industrial) Animal waste energy converter (see Waste-Related Service) Animal waste processing (see Waste-Related Service) Concentrated or intensive animal feeding operation (see Heavy Industrial) Manufacture and production of goods from composting organic material (see Waste-Related Service) Slaughtering, packaging or processing of animals (see Heavy Industrial)

B. Resource Extraction

Characteristics: Characterized by activities that extract minerals and other solids and liquids from land on which the use is established.		
Primary Uses	Accessory Uses	Uses not Included
Mine or quarry Extraction of sand, gravel, minerals, natural gas or oil Other uses meeting the characteristics of the Resource Extraction Use Category	Associated office and storage Minor utilities Outdoor storage yard Resource processing Stockpiling of resources extracted from the site	Building and development contractors specializing in building, excavating, heating, plumbing, landscaping or electrical and others who perform services off-site, but store equipment and materials on-site (see Light Industrial)

Sec. 5.3. Specific Use Standards

COMMENTARY: These standards only apply to uses in the use table marked with an “L” or an “S”. These standards do not apply to uses marked with a “P” in the use table.

5.3.1 Cottage Dwelling

A traditional dwelling is permitted in accordance with the use tables in this Article subject to the following standards.

- A. A traditional dwelling may only be constructed fronting on a maintained and usable public sidewalk in an infill context or as part of a larger greenfield development with interconnected public sidewalks.
- B. A traditional dwelling must have a covered, but not enclosed, front porch a minimum of 10 feet wide by six feet deep.
- C. Vehicular access for a traditional dwelling must take place from a rear public or private alley.
- D. A traditional dwelling must be served by public wastewater or other approved system.
- E. The property owner must provide to the Zoning Administrator a site plan, based on a Certificate of Survey prepared by a registered Indiana Land Surveyor, that shows existing and proposed improvements at the time of application for an Improvement Location Permit. The site plan must contain sufficient detail to demonstrate compliance with the standards of this Ordinance.

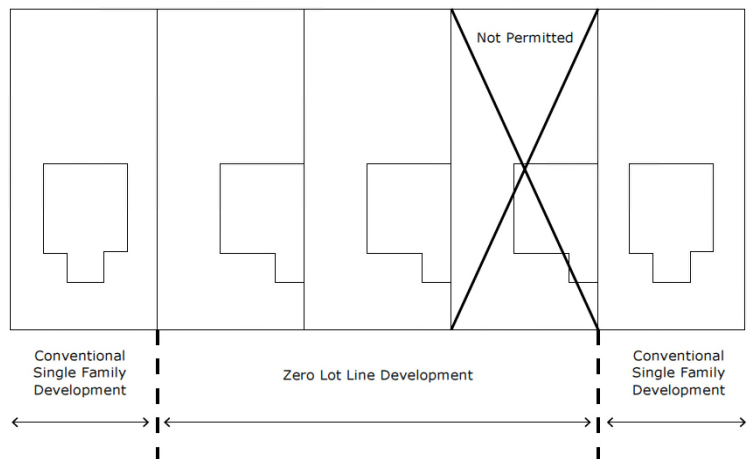
5.3.2 Zero Lot Line Dwelling

A zero lot line dwelling is permitted in accordance with the use tables in this Article subject to the following standards.

A. Single Side Setback

A zero side setback is not allowed on a side yard adjacent to a residential unit that is not a zero lot line dwelling. The side yard adjacent to a residential unit that is not a zero lot line dwelling must have a minimum setback required of a conventional single-family detached dwelling.

Each lot line with zero side setback must be indicated on the secondary plat for the subdivision.



B. Maintenance Easement

An easement to allow for maintenance or repair of the zero lot line dwelling is required on the lot adjacent to the zero side setback. The easement on the adjacent property must provide a minimum of five feet of unobstructed space. The easement must be recorded on the secondary plat for the subdivision.

C. Privacy Windows

If the side wall of the zero lot line dwelling is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side setback of the adjacent property are not allowed. Windows that do not allow visibility into the side setback of the adjacent property, such as a clerestory window or a translucent window, are allowed provided they comply with applicable building code requirements.

D. Public Wastewater

A zero lot line dwelling must be served by public wastewater or other approved system.

E. Eaves Prohibited

Eaves are prohibited on the building along the zero side setback.

F. Survey Required

The property owner must provide to the Zoning Administrator a site plan, based on a Certificate of Survey prepared by a registered Indiana Land Surveyor, that shows existing and proposed improvements at the time of application for an Improvement Location Permit. The site plan must contain sufficient detail to demonstrate compliance with the standards of this Ordinance.

5.3.3 Single-Family Attached Dwelling

A single-family attached dwelling is permitted in accordance with the use tables in this Article subject to the following standards.

- A.** Each dwelling unit must be totally separated from each adjacent unit by an unpierced fire-rated wall extending from ground to roof.
- B.** A single-family attached dwelling must be served by public wastewater, or other approved system.
- C.** The property owner must provide to the Zoning Administrator a site plan, based on a Certificate of Survey prepared by a registered Indiana Land Surveyor, that shows existing and proposed improvements at the time of application for an Improvement Location Permit. The site plan must contain sufficient detail to demonstrate compliance with the standards of this Ordinance.

5.3.4 Manufactured (Single-Wide) or Mobile Home Structure, Park or Subdivision

A single-wide manufactured or mobile home structure, park or subdivision is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

A. Single-Wide Manufactured or Mobile Home Structure

A single-wide manufactured or mobile home structure that is not part of a mobile home park or mobile home 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 mobile home is used by an aged or infirm relative of the family residing in the primary dwelling.

B. Single-Wide Manufactured or Mobile Home Park

1. Drainage Requirements

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

2. 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.

3. 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.

4. Distance from Park Boundaries

No single-wide manufactured or mobile home may be located closer than 30 feet to any park property line. If the park abuts a public road, then the standard setback line for that roadway as established in Article 4 for conventional housing 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.

5. Distance from Existing Housing

A single-wide manufactured or mobile home must be located at least 300 feet from any existing habitable residential dwelling not owned by the mobile home park owner.

6. Distance from Residential District or Subdivision

A single-wide manufactured or mobile home 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.

C. Single-Wide Manufactured or Mobile Home Subdivision

1. Minimum Site Area

A single-wide manufactured or mobile home subdivision must have a minimum site area of 10 acres.

2. Subdivision Control Ordinance

Single-wide manufactured or mobile home subdivisions must be planned and platted in compliance with the Subdivision Control Ordinance requirements for any residential subdivision in the particular districts where the subdivision is proposed.

3. 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.

4. Distance from Subdivision Boundaries

No single-wide manufactured or mobile home 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 in Article 4 for conventional housing prevail. 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.

5. Distance from Existing Housing

A single-wide manufactured or mobile home must be located at least 300 feet from any existing habitable residential dwelling not part of the single-wide manufactured or mobile home subdivision.

6. Distance from Residential District or Subdivision

Any single-wide manufactured or mobile home 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.

5.3.5 Multiple-Family Dwelling

A multiple-family dwelling is permitted in accordance with the use tables in this Article provided that prior to issuance of an Improvement Location Permit, the land owner must submit a concept plan for development of the

property that shows site elements such as all proposed building locations, driveways, parking, access, and drainage.

5.3.6 Upper-Story Dwelling

An upper-story dwelling is permitted in accordance with the use tables in this Article and Article 6 provided that a minimum of one off-street parking space is provided per dwelling.

5.3.7 Community Service Use

A Community Service use is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The net floor area of all primary and accessory structures must be less than 4,000 square feet.
- B. The primary structure must be setback from a single- or two-family dwelling a minimum of 40 feet.
- C. A Community Service use that cannot meet these net floor area and setback standards requires a Special Use Permit.

5.3.8 Medical Facilities Use

A Medical Facility use is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. In the R-4 zoning district, the net floor area of all primary and accessory structures must be less than 10,000 square feet.
- B. In the A-1 zoning district, the net floor area of all primary and accessory structures must be less than 2,500 square feet.
- C. The primary structure must be setback from a single- or two-family dwelling a minimum of 60 feet.
- D. A Medical Facility that cannot meet these net floor area and setback standards requires a Special Use Permit.

5.3.9 Places of Worship Use

A Place of Worship use is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The net floor area of all primary and accessory structures must be less than 6,000 square feet.
- B. The primary structure must be setback from a single- or two-family dwelling a minimum of 40 feet.
- C. A Place of Worship that cannot meet these net floor area and setback standards requires a Special Use Permit.

5.3.10 Tattoo Parlor

A tattoo parlor is permitted in accordance with the use tables in this Article and Article 6 provided that the use is more than 300 feet from any of the following Use Categories:

- A. Place of Worship;
- B. Educational Facility; or
- C. Day Care.

5.3.11 Office Use

An Office use is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The net floor area of all primary and accessory structures must be less than 2,000 square feet.
- B. The primary structure must have a roof pitch between a 3/12 and 4/12.
- C. 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.

5.3.12 TV or Radio Studio

A TV or radio studio is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. Private telecommunication or transmission towers by Special Use.
(Amended January 21, 2020 PC 2020-01)
- B. On-site commercial satellite dishes greater than five feet in diameter by Special Use
(Amended January 21, 2020 PC 2020-01)

5.3.13 Track, Vehicle Race

A vehicle race track is permitted in accordance with the use tables in this Article and Article 6 provided the track is more than 1000 feet from any Residential zoning district or any residential use not on the same parcel.

5.3.14 Bed and Breakfast Inn

A bed and breakfast inn is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The bed and breakfast inn may have a maximum of 14 guest rooms.
- B. The bed and breakfast inn may provide sleeping accommodations for no more than 30 consecutive days to a particular guest.

- C. The property on which a bed and breakfast inn is currently legally operated shall be allowed, in addition to any other sign(s) permitted by this Ordinance, one additional non-illuminated wall or freestanding sign not to exceed four square feet in area.

5.3.15 Restaurant, Drive-In or Drive-Through

A drive-in or drive-through restaurant is permitted in accordance with the use tables in this Article and Article 6 provided that no drive-through speaker is oriented to face a single- or two-family dwelling or R-1 or R-2 zoning district.

5.3.16 Retail Sales and Service

A Retail Sales and Service use is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The net floor area of all primary and accessory structures must be less than 6,000 square feet.
- B. The primary structure must be setback from a single- or two-family dwelling a minimum of 60 feet.

5.3.17 Fireworks Sales

A fireworks sales establishment that is permanent and open year-round is permitted in accordance with the use tables in this Article and Article 6 provided that the fireworks sales may not be located within a 100-foot radius of a residential use or zoning district, fuel sales, fuel storage tank or any other land use that contains highly flammable materials on-site. The distance is measured from the nearest property line to nearest property line in all directions.

5.3.18 Kennel

A kennel is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. In an Agricultural zoning district, the minimum lot area for a kennel is three acres.
- B. Any runs, pens, facilities, fencing and structures, must be:
 - 1. Setback a minimum of 200 feet from the nearest primary residence not occupied by the kennel operator; and
 - 2. Setback a minimum of 50 feet from any other property line.

5.3.19 Veterinary Clinic or Hospital with Outdoor Pens

A veterinary clinic or hospital with outdoor pens is permitted in accordance with the use tables in this Article and Article 6 provided that in the B-1 zoning district, any outdoor pen must be setback from a residential dwelling a minimum of 100 feet.

5.3.20 Vehicle Sales and Service (Minor Vehicle Servicing)

A minor vehicle servicing establishment is permitted in accordance with the use tables in this Article and Article 6 provided that a minimum of 10 percent of the site must be landscaped. One canopy tree or evergreen tree and one ornamental tree is required per 1,000 square feet of required landscaped area in addition to any required buffering in accordance with Sec. 7.3.

EXAMPLE: A 20,000 square-foot lot for an oil change business would need 2,000 square feet set aside for landscaping and would need two canopy or evergreen trees and two ornamental trees.

5.3.21 Fuel Sales

A fuel sales establishment is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. A minimum of 10 percent of the site must be landscaped with one canopy tree or evergreen tree and one ornamental tree per 1,000 square feet of required landscaped area.
- B. A maximum of four fuel pumps are permitted.
- C. Fuel pumps, vacuum, air, and water stations as well as other similar equipment are prohibited between the primary structure and the property line of a residentially-zoned property.
- D. Any freestanding light fixtures between the primary structure and the property line of a residentially-zoned property must be a maximum of 15 feet in height.
- E. No car wash is allowed with the fuel sales use if the property abuts a residentially-zoned property.

5.3.22 Wrecking, Junk or Salvage Yard

A wrecking, junk or salvage yard is permitted in accordance with the use tables in this Article and Article 6 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 eight feet in height.

5.3.23 Bulk Storage of Explosives, Fertilizer or Other Hazardous Materials

Bulk storage of explosives, fertilizer or other hazardous materials is permitted in accordance with the use tables in this Article and Article 6 provided that if the materials are stored in tanks, each tank, as allowed by State or Federal standards, may have of 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.

5.3.24 Light Industrial Uses

A Light Industrial use is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The net floor area must not exceed 6,000 square feet.
- B. The Light Industrial use must be conducted without noise, vibration, smoke, odors, heat, glare or fire hazards that might be disturbing to occupants of adjacent buildings.

5.3.25 Building and Development Contractor Establishment

A building and development contractor establishment is permitted in accordance with the use tables in this Article and Article 6 provided that no fabricating takes place on the premises and all storage of material takes place within a building.

5.3.26 Welding, Tool Repair or Machine Shop

A welding, tool repair or machine shop is permitted in accordance with the use tables in this Article and Article 6 provided that the shop must not be equipped with punch presses exceeding 50 ton pressure, drop forges, riveting and grinding machines or any other equipment which may create noise, vibration, smoke, odors, heat, glare or fire hazards, that might be disturbing to the occupants of adjacent properties.

5.3.27 Recycling Facility

A recycling facility is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. The minimum lot size for the facility is 40 acres.
- B. The land owner must submit the following materials when applying for a Special Use Permit for the facility.
 - 1. Copies of all approved federal, state or local permits that pertain to the site, if available at the time of application submittal;
 - 2. A Report from a soil scientist, geotechnical engineer or hydrologic engineer addressing measures being taken to prevent groundwater contamination from the activity;
 - 3. A Phase I Environmental Site Assessment and Phase II Assessment if a Phase I recommends it so;
 - 4. A boundary survey showing all easements of record; and
 - 5. Plans showing current and proposed grading, lighting utilities, improvements, materials processing and storage.
- C. If copies of all approved federal, state or local permits that pertain to the site, are not available at the time of application submittal, then such permits must be submitted prior to issuance of an Improvement Location Permit.

5.3.28 Agricultural Uses

An Agricultural Use is permitted in accordance with the use tables in this Article and Article 6 provided that the minimum lot area for an agricultural use is three acres in the A-1 zoning district. An agricultural use in the A-1 zoning district on a property smaller than three acres in area requires a Special Use Permit.

5.3.29 Non-Agricultural Use

A use allowed in the A-1 zoning district that is from a non-agricultural or nonresidential Use Category is permitted in accordance with the use table in this Article and Article 6 provided that a Class I boundary buffer is established, as described in Sec. 7.3, where the use is adjacent to a residential use in an R-1, R-2 or R-3 zoning district.

- A. All Non-agricultural on less than three acres must apply for a Special Use. (Amended January 21, 2020 PC 2020-01)

5.3.30 Resource Extraction Uses

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 and Article 6 by right or by Special Use Permit.

5.3.31 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 one and one half (1 1/2) tons capacity, or which has a bed more than eight (8) feet long, may be parked upon any land or premises in any Residential District, or any 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.

(Amended January 21, 2020 PC 2020-01)

Sec. 5.4. Wireless Communication Facilities

This Section establishes standards for the location of wireless communication facilities.

5.4.1 Applicability

For purposes of this Section, 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. 5.4.4 below.

5.4.2 Special Use Permit Required

A. General

1. A Special Use Permit is required in accordance with Sec. 3.6 for a new wireless support structure or for a "substantial modification" of a wireless support structure as defined in Indiana Code 8-1-32.3-11.
2. As a part of the Special Use Permit application, the petitioner must submit the following:
 - a. A Federal Aviation Administration Form 7460-1, Notice of Proposed Construction or Alteration;
 - b. An engineering report on collapsibility of the wireless support structure;
 - c. 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
 - d. 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:
 - i. Would not result in the same wireless service functionality, coverage, and capacity;
 - ii. Is technically infeasible; or
 - iii. Is an economic burden to the applicant.

- e. Obtain driveway permit from Elkhart County Highway Department (Amended January 21, 2020 PC 2020-01)

B. Ability for Future Co-Location and Height Standards

1. A new wireless communication facility must be designed to allow a minimum co-location of two additional antennas from two additional providers.
2. 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.
3. 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.
4. 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.
5. Any wireless support structure 100 feet or less in overall height need not be painted red and white.

C. Setbacks

1. 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.
2. 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.
3. 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.

D. Illumination

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

E. 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.

F. Screening

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

1. Except as provided in paragraph below, woven wire or chain link fences that are 80 percent open or solid fences made from wood or other materials that are less than 50 percent 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.
2. 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.
3. 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.
4. 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.

G. Parking

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

H. 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.

I. 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.

5.4.3 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:

- A. Existing utility towers;
- B. Existing structures;
- C. Manufacturing zoning districts;
- D. Commercial zoning districts;
- E. Agricultural zoning districts;
- F. Residential zoning districts.

5.4.4 Wireless Communication Facilities Permitted by Right

A. 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.

B. 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.

C. 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.

Sec. 5.5. Accessory Uses and Structures

An accessory use or structure may be established provided that it is associated with a primary use in the Use Category tables in Sec. 5.2 and that it complies with the standards of this Section.

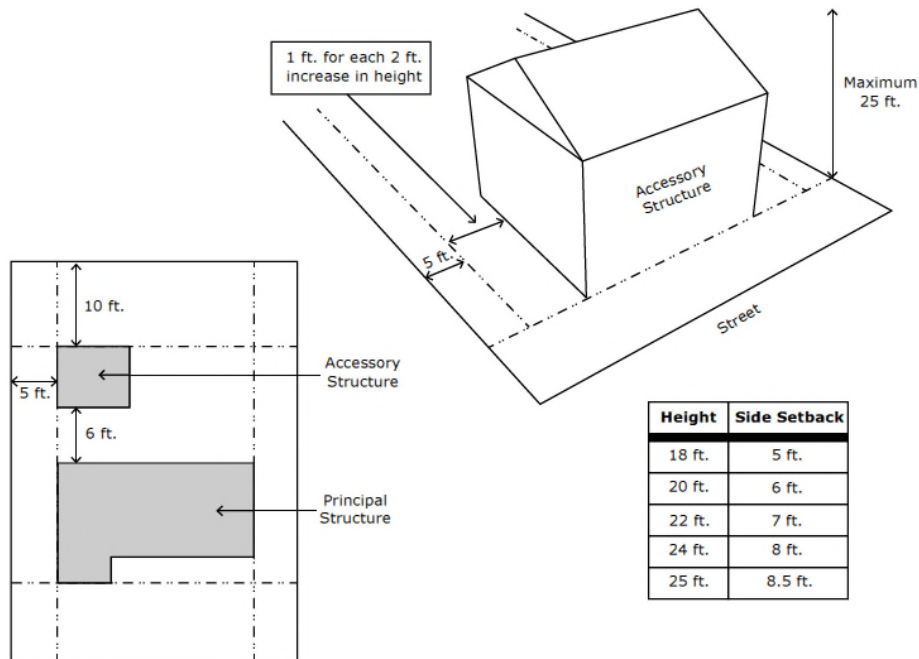
5.5.1 General Standards

- A. The accessory use or structure must be subordinate to and serve a primary use or primary structure.
- B. Except as provided in this Section, a non-agricultural accessory structure must be subordinate in height to the primary structure.
- C. Accessory uses located in residential zoning districts must not be used for commercial purposes other than authorized home occupations or home workshop / businesses.
- D. 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.
- E. An accessory use or structure must contribute to the comfort, convenience, or necessity of occupants of the primary use or structure served.
- F. An accessory use or structure must be located on the same zoning lot, in the same zoning district and under the same ownership as that of the primary use or structure served.
- G. 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.

5.5.2 Setbacks

- A. No detached accessory structure may be located closer than six feet to any other structure.
- B. Detached accessory structures have a minimum side setback of five feet. Detached accessory structures have a minimum rear setback of 10 feet.
- C. Accessory structures must comply with the front setback standards for the primary structure established in Article 4.
- D. Except as provided below, 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 five-foot side setback is increased one foot for each two feet that the structure is above 18 feet.

Article 5 Use Standards
Sec. 5.5. Accessory Uses and Structures



5.5.3 Accessory Dwelling Unit

- 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 Facilities use category on property one acre or more in lot area in the A-1 zoning district.
- B. 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. Where associated with a single-family dwelling in the A-1 zoning district, the accessory dwelling unit is allowed by right subject to the limitations in this Section.
- D. 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.
- E. The maximum height of an accessory dwelling unit is a single story of livable space.
- F. When associated with a single-family dwelling, the owner of the property must reside in either the primary dwelling or the accessory dwelling unit.
- G. 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. 3.6 is required.

- H. An accessory dwelling unit must be served by the same curb cut that serves the primary dwelling or Educational Facility.
- I. A minimum of one off-street parking space must be provided in addition to the off-street parking required for the primary dwelling or Educational Facility.
- J. An accessory dwelling must either be located within the primary structure (and meet the primary structure setback and yard requirements) or meet the standards in Sec. 5.5.2 above.

5.5.4 Adult or Child Care Home

An adult or child care home is allowed by Special Use Permit in association with a single-family dwelling in the A-1, R-1, R-2, R-3, R-4, B-1 and B-2 zoning districts.

5.5.5 Bed and Breakfast Homestay

A bed and breakfast homestay is allowed by Special Use Permit in association with a single-family dwelling in the A-1, R-1, R-2, R-3, R-4, B-1 and B-2 zoning districts subject to the following standards.

- A. A bed and breakfast homestay may have a maximum of six guest rooms.
- B. A bed and breakfast homestay may provide sleeping accommodations for no more than 15 consecutive days to a particular guest.
- C. The property on which a bed and breakfast homestay is currently legally operated shall be allowed, in addition to any other sign(s) permitted by this Ordinance, one additional non-illuminated wall or freestanding sign not to exceed four square feet in area.

5.5.6 Boat House

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

5.5.7 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 six 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 five 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.

5.5.8 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 one 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.

5.5.9 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, 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 two employees, associates or partners who do not occupy the residence. A Developmental Standard Variance must be approved in accordance with Sec. 3.6 is required in order to have more than two outside employees.
- C. The property on which a home workshop/business is currently legally operated shall be allowed, in addition to any other sign(s) permitted by this Ordinance, one additional non-illuminated wall or freestanding sign not to exceed four square feet in area. If freestanding, the sign must be set back a minimum of 55 feet from the center line of the right-of-way and a minimum of 15 feet from the front property line. The freestanding sign may not exceed four feet in height.

- D. Outdoor display or storage is prohibited. Unless shown in detail on the adopted site plan to include graphically compliance with Sec. 7.3 Buffering and Screening; more specifically the Buffer Planting Specifications Class II.
- E. A home workshop or business must not produce noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.
- F. Except as provided in paragraph G below, the total square footage of all accessory structures, excluding agricultural buildings, must not exceed 110 percent of the net floor area of the primary dwelling.
- G. On properties in the A-1 zoning district that are three 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 percent of the net floor area of the primary residential structure.
- H. Off-street parking spaces must be provided for all employees who do not occupy the residence and approved for the Home Work/Shop in addition to the dwelling unit requirement.

(Amended January 21, 2020 PC 2020-01)

5.5.10 Personal Residential Storage

- A. Structures for storage of personal items, such as a private garage or storage shed, are allowed in association with a Household Living use subject to the following standards.
 - 1. Items stored must not be associated with a nonresidential use or activity.
 - 2. Except as provided in paragraph C below, the total square footage of all accessory structures must not exceed 110 percent 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 percent of the net floor area of the primary residential structure.

5.5.11 Parking, Outdoor Bus

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- and B- zoning districts subject to the following standards.

- A. The property must have a minimum lot area of one acre.
- B. An outdoor bus parking area must be screened from view from the public right-of-way and neighboring residential properties by one or more of the following:
 - 1. An opaque fence or masonry wall a minimum of six feet in height;
 - 2. Evergreen plantings a minimum of eight feet in height at the time of installation; or
 - 3. The dwelling itself.
- C. The bus parking area must be behind the plane of the front wall of the dwelling.
- D. In the A-1 and R- zoning districts, an indoor bus parking structure must be designed and constructed to compliment the primary dwelling.
- E. The parking area must be situated so that a backing motion into the public right-of-way is not necessary.
- F. A Special Use Permit approved in accordance with Sec. 3.6 is required if the subject property or property owner is unable to meet the requirements of this Section.

5.5.12 Solar Panel Array

A solar panel array is permitted in association with any Use Category subject to the following standards.

- A. Building-Mounted Arrays
 - 1. Roof-mounted solar panel arrays are permitted by right provided 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, nor may they extend more than 12 inches beyond any edge of the roof.
 - 2. 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.
 - 3. A roof-mounted solar panel array that cannot meet these placement standards requires a Special Use Permit

Article 5 Use Standards

Sec. 5.6. Temporary Uses

4. Roof-mounted solar panel arrays are exempt from the building height requirement.

B. Ground-Mounted Array

1. Ground-mounted solar panel arrays require a Special Use Permit or are permitted by right subject to limitations as set forth in the table below.

Size of Ground-Mounted Array	Property Size	Special Use Permit Needed?
Greater than 1500 sq. ft.	Any sized Property	Yes
Any sized array	Less than 3 acres	Yes
1500 sq. ft. or less	3 acres or more	No, permitted by right as long as it meets setback requirements for an accessory structure

(Amended January 21, 2020 PC 2020-01)

Sec. 5.6. Temporary Uses

[Reserved]

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ARTICLE 6 SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS

The special purpose and overlay zoning districts in this Article establish procedures and standards that replace or supplement the provisions in the remainder of this Ordinance.

Sec. 6.1. E-3, Office and Business Park District

6.1.1 Review Process

A. Rezoning

A rezoning to the E-3 zoning district must follow the same process as that established for a Zoning Map Amendment in Sec. 3.3.

B. Site Plan

1. 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.
2. The Plan Director must review the Site Plan and approve it or refer it to the Plan Commission.
3. The Plan Commission must approve or deny the Site Plan at a public meeting.
4. 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

In determining whether to approve or deny a Site Plan, the applicable review bodies must pay reasonable regard to the following criteria.

1. The Site Plan complies with the provisions of this Section and other applicable provisions of this Ordinance.
2. The Site Plan shows that the proposed development presents a unified and organized arrangement of structures, parking areas, lighting, landscaping and related facilities.
3. 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.

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3, Office and Business Park District

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.

6.1.2 Dimensional Standards

The following table sets forth the dimensional standards in the E-3 zoning district.

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

6.1.3 Use Standards

The following uses are permitted by right, permitted subject to limitations or permitted by Special Use Permit. Any specific use or Use Category not listed in the table is prohibited in the E-3 zoning district.

Use	Permitted by Right or Subject to Limitations	Special Use	Standard
Residential Uses			
Multiple-family dwelling or complex	✓		
Hospice or nursing or rest home		✓	
Home workshop/business		✓	
Public & Civic Uses			
College, university or seminary		✓	
Community Service Uses [see 5.2.3A]		✓	
Day Care Uses, except as listed below [see 5.2.3B]:		✓	
Child care center	✓		A
Government Facilities Uses [see 5.2.3D]		✓	
Hospital		✓	

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3, Office and Business Park District

Use	Permitted by Right or Subject to Limitations	Special Use	Standard
Parks and Open Area Uses [see 5.2.3F]			
Major Utility Uses [see 5.2.3J]		✓	
minor Utility Uses [see 5.2.3J]	✓		
Passenger Terminal Uses [see 5.2.3G]		✓	
Place of Worship [see 5.2.3H]		✓	
Commercial Uses			
Commercial Uses, except as listed below [see 5.2.4]:	✓		B
Hotel or motel	✓		C
Restaurant, fast food	✓		D
Restaurant, standard	✓		E
Industrial Uses			
Light Industrial Service Uses [see 5.2.5B]	✓		
Warehousing and Freight Movement Uses [see 5.2.5C]	✓		
Wholesale Trade Uses [see 5.2.5E]	✓		
Open Uses			
Agricultural Uses [see 5.2.6A]		✓	
Resource Extraction Uses [see 5.2.6B]	✓	✓	5.3.30

- A. A child care center is permitted in the E-3 zoning district subject to the following standards.
1. A child care center must be enclosed within the larger office building, except for outdoor play areas.
 2. A child care center must only serve the needs of the development of which it is a part.
- B. A Commercial Use is permitted in the E-3 zoning district provided the combined area of the commercial sites (including building, parking, drainage, and landscaping) does not exceed six percent of the total acreage of the project.
- C. A hotel or motel is permitted in the E-3 zoning district provided that the net floor area of the hotel or motel does not exceed 20 percent of the net floor area of office space within the development.
- D. A fast food restaurant is permitted in the E-3 zoning district subject to the following standards.
1. Drive-up or drive-through windows are prohibited.
 2. A fast food restaurant must be enclosed entirely within a larger office building and comprising no more than 10 percent of the constructed square footage of the building.

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3, Office and Business Park District

- E. A standard restaurant is permitted in the E-3 zoning district subject to the following standards.
1. A standards restaurant must be enclosed entirely within a larger office building.
 2. A standard restaurant must comprise no more than 10 percent of the net floor area of the building.

6.1.4 Off-Street Parking

- A. Off-street parking must comply with the following standards.

Standard	Requirement
Min. Front Setback (ft. from prop. line)	
Along Major Arterials	80
Along Secondary Arterials	60
Along Named County Roads	50
Min. Side Setback (ft. from prop. Line)	
Adjacent to R- or A- Zoning Districts	50
Adjacent to B-, M- or E- Zoning Dists.	5
Min. Rear Setback (ft. from prop. line)	
Adjacent to R- or A- Zoning Districts	25
Adjacent to B-, M- or E- Zoning Dists.	5

- B. Minimum off-street parking and loading ratios must comply with the requirements table in Sec. 7.2.4.
- C. A parking area buffer in accordance with the standards in Sec. 7.3.3 must be provided.

6.1.5 Access and Circulation

- A. 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.
- B. 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.

6.1.6 Outdoor Display and Storage

Permitted uses must have no outdoor display or unscreened outdoor storage. Screening of outdoor storage must comply with the provisions in Sec. 7.3.

6.1.7 Signs

A. General

1. The sign types permitted in the E-3 zoning district are as set forth in the table found in Sec. 7.4.5 of this Ordinance.

B. Monument Sign Standards

A monument 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.

6.1.8 Landscaping and 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

1. The Site Plan must include a Landscape Plan that must be drawn to scale and include the following information:
 - a. Property owner's name, address, telephone number and email address;
 - b. Land Surveyor's, Professional Engineer's, registered Architect's or registered Landscape Architect's name, address, telephone number and email address;
 - c. Landscape designer's or contractor's name, address, telephone number, and email address if such has been hired;
 - d. Existing and proposed structures;
 - e. Parking areas and driveway;
 - f. Walkways;
 - g. 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;
 - h. An indication of those existing trees or wooded areas that will be preserved;
 - i. 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
 - j. Type and location of all other landscape materials, both natural and man-made.
2. 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.

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3, Office and Business Park District

C. Areas to be Landscaped

1. 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:
 - a. At least one canopy tree or ornamental tree per 4,000 square feet of yard area for the first 25,000 square feet; and
 - b. One additional canopy tree or ornamental tree per 6,000 feet of yard area above 25,000 square feet
2. 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.

EXAMPLE: A 50,000 square-foot yard would require 10 canopy or ornamental trees. 2 of those trees could be substituted with a total of 20 shrubs.

3. A parking area buffer in accordance with the standards in Sec. 7.3.3 must be provided.
4. 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.
5. 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.
6. 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.

D. Landscape Materials

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:

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3, Office and Business Park District

1. Plant Material

a. 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	Minimum Size
Deciduous Canopy Tree	2 ½ inches DBH
Ornamental Tree	2 inches DBH
Evergreen Tree	6 feet overall height

DBH = Diameter at Breast Height

b. Shrubs or Hedges

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

c. Ground Cover and Vines

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

2. Other Landscape Materials

The following additional landscape materials may be utilized:

- a. 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 percent of the total square footage of the landscaped area;
- b. Berms;
- c. Lakes, ponds, streams, or fountains;
- d. Ornamental fences or masonry walls, architecturally compatible with surrounding development; and
- e. Patios, decks, trellises, and other similar landscape features.

6.1.9 Building Exterior

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.

A. Primary Façade Materials

1. Except as modified in this Section, a minimum of 40 percent of the surface area of a primary façade, as defined in Article 11, must consist of one or more of the following materials:
 - a. Natural stone;

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3, Office and Business Park District

- b. Fired brick;
 - c. Split-faced block;
 - d. Tile;
 - e. Granite;
 - f. Marble;
 - g. Stucco;
 - h. Exterior Insulation and Finish Systems (EIFS);
 - i. Insulated metal panels; or
 - j. Other material acceptable to the Plan Director or Plan Commission.
2. 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.

B. 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.

C. Secondary Façade

The primary façade materials standards in paragraph A above do not apply to a secondary façade, as defined in Article 11.

D. Building Articulation

The building material requirement of 40 percent coverage in subsection A above may be reduced to 20 percent if a minimum of three of the following features are provided on or adjacent to a primary façade:

1. Canopies or awnings;
2. Arcades;
3. Peaked roofs;
4. Outdoor patios;
5. Architectural details such as decorative tile work, brick work or moldings that are integrated into the building design;
6. Foundation plantings; or
7. Columns.

Sec. 6.2. GPUD- and DPUD-, General and Detailed Planned Unit Development Overlays

6.2.1 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.

6.2.2 Dimensional and Use Standards

- A. The dimensional standards may vary from the requirements in Article 4, Article 5 or Article 6.
- 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 Article 5 or Article 6.

6.2.3 Access and 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.

6.2.4 Off-Street Parking and Loading, Buffering and 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 7.

6.2.5 Water and 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.

6.2.6 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

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.2. GPUD- and DPUD-, General and Detailed Planned Unit Development Overlays

certified by a registered Indiana Land Surveyor or Professional Engineer.

Sec. 6.3. W-, Wellhead Overlay

6.3.1 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.

6.3.2 District Boundary

The boundaries of the W- overlay are the five-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.

6.3.3 Review Process

- A. The following persons may initiate a rezoning request for the W-overlay zoning district:
 - 1. The water utility or agency that operates the wellhead; or
 - 2. Those enabled to apply for a rezoning in subsection 3.1.4A.
- B. The review process follows that established in Sec. 3.3.

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.4. A-3, Farmland Preservation District

Sec. 6.4. A-3, Farmland Preservation District

Question for Reviewers: *What is the purpose of this District? (Other than what the formalized purpose statement says)*

6.4.1 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.

6.4.2 Use Standards

The following uses are permitted by right, permitted subject to limitations or permitted by Special Use Permit. Any specific use or Use Category not listed in the table is prohibited in the A-3 zoning district.

Use	Permitted by Right or Subject to Limitations	Special Use	Standard
Residential Uses			
Single-family detached dwelling		✓	A
Commercial Uses			
Flea market, outdoor		✓	
Kennel	✓		5.3.18
Pet shop, outdoor pens or runs		✓	
Veterinary clinic or hospital with outdoor pens		✓	
Open Uses			
Agricultural Uses except as listed below [see 5.2.6A]:	✓		B
Livestock sale or auction		✓	
Roadside stand		✓	
Resource Extraction Uses [see 5.2.6B]	✓	✓	5.3.30

A. Single-Family Detached Dwelling

A single-family detached dwelling is allowed in the A-3 zoning district provided that the dwelling is only for the owners of the subject property, family members employed in the agricultural operations on the premises, or tenants involved in the agricultural operations on the premises.

B. Agricultural Uses

An Agricultural use is allowed in the A-3 zoning district subject to the following standards.

1. The maximum building coverage for buildings associated with an Agricultural Use being pursued on site is five percent.
2. 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.

6.4.3 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:
 - 1. Off-site surface drainage impacts;
 - 2. Subsurface tiling systems impacts;
 - 3. Irrigation accommodations; and
 - 4. 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 his or her 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.

Sec. 6.5. **A-4, Concentrated Animal Feeding Protection District**

6.5.1 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 subsection 6.5.2B.
- 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.

6.5.2 Use Standards

The following uses are permitted by right, permitted subject to limitations or permitted by Special Use Permit. Any specific use or Use Category not listed in the table is prohibited in the A-4 zoning district.

Use	Permitted by Right or Subject to Limitations	Special Use	Standard
Residential Uses			
Single-family detached dwelling		✓	6.4.2A
Commercial Uses			
Kennel	✓		5.3.18
Industrial Uses			
Concentrated Animal Feeding Operation		✓	B
Open Uses			
Agricultural Uses except as listed below [see 5.2.6A]:	✓		
Roadside stand		✓	
Resource Extraction Uses [see 5.2.6B]	✓	✓	5.3.30

A. Single-Family Detached Dwelling

A single-family detached dwelling is allowed in the A-4 zoning district provided that the dwelling is only for the owners of the subject property, family members employed in the agricultural operation on the premises, or tenants involved in the agricultural operations on the premises.

B. Concentrated Animal Feeding Operation

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

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.5. A-4, Concentrated Animal Feeding Protection District

1. 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.
2. 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.
3. 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 following table.

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

6.5.3 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 his or her 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.

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.5. A-4, Concentrated Animal Feeding Protection District

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Article 7 General Development Standards

Sec. 7.1. Applicability

ARTICLE 7 GENERAL DEVELOPMENT STANDARDS

Sec. 7.1. Applicability

7.1.1 The provisions of this Article apply as shown in the table below.

Type of Development	Off-Street Parking, Loading & Stacking	Buffering & Screening	Signs	Flood Hazard Control
New nonresidential development or change in use from residential to nonresidential	✓	✓	✓	✓
Increase in multiple-family units by 5 or more	✓	✓	✓	✓
Increase in nonresidential NFA and/or impervious surface by 21% or more	✓	✓	✓	✓
Increase in nonresidential NFA and/or impervious surface by a maximum of 20%	✓			✓
Construction of new sign or modification of existing sign			✓	

✓ = Section applies

NFA = Net Floor Area

For the purposes of this Article, “nonresidential” includes multiple-family dwellings

7.1.2 The table above does not apply to any residential use.

7.1.3 Increases in net floor area or impervious surface are cumulative over a five-year period.

Sec. 7.2. Off-Street Parking, Loading and Stacking

7.2.1 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.

7.2.2 General

- A. 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.
- B. An application for an Improvement Location Permit for a new or enlarged building, structure, or use, must 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.

7.2.3 Off-Street Parking General Provisions

A. Extent of Control

The off-street parking and loading requirements of this Section apply as follows:

- 1. 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.
- 2. 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.

B. Existing Parking and 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.

C. 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.

7.2.4 Schedule of Minimum Off-Street Parking Requirements

- 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 below. 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. 5.2.1.

Use Category	Specific Use	Minimum Off-Street Parking Spaces
SF = square feet NFA = net floor area		
Residential Use Categories		
Household Living [see 5.2.2A]	Multiple-family dwelling or complex	1.5 spaces per 1 bedroom unit, 2 spaces per 2 or more bedroom units
	Manufactured or mobile home park	2 per home space plus 1 per 5 home spaces for guest parking
	Upper-story residential	1 per dwelling unit
	All other uses	2 per dwelling unit
Group Living [see 5.2.2B]	Fraternities, sororities and dormitories	1 per 2 beds
	All other uses	1 per 2 dwelling units and 1 per employee on largest shift
Public and Civic Use Categories		
Community Service [see 5.2.3A]	Assembly, meeting, event or exhibition hall	1 per 50 SF NFA used for assembly , meetings, events or exhibition plus 1 per 5,000 square feet of outdoor space used for the same purposes
	All other uses	1 per 200 SF NFA plus 1 per employee on largest shift
Day Care [see 5.2.3B]	All uses	1 per employee on largest shift plus 1 per 4 children
Educational Facilities [see 5.2.3C]	Elementary or middle school, public or private	1 per 2 employees on largest shift plus 2 per classroom
	All other uses	10 per classroom

Article 7 General Development Standards
 Sec. 7.2. Off-Street Parking, Loading and Stacking

Use Category	Specific Use	Minimum Off-Street Parking Spaces
SF = square feet NFA = net floor area		
Government Facilities [see 5.2.3D]	Penal or correctional institution	1 per employee on largest shift plus 1 per 5 cells
	All other uses	1 per official vehicle plus 1 per employee on largest shift plus 1 per 200 SF NFA
Medical Facilities [see 5.2.3E]	Hospital	1 per 3 beds plus 1 per employee on largest shift
	All other uses	1 per each 250 SF NFA plus 1 per employee on largest shift
Parks and Open Areas [see 5.2.3F]	All other uses	1 per 10,000 SF outdoor area
Passenger Terminals [see 5.2.3G]	Airport	1 per employee on largest shift plus 1 per 1,000 SF hangar space or outdoor aircraft storage space
	All other uses	1 per 4 seats of waiting area
Places of Worship [see 5.2.3H]	All uses	1 per 4 seats in main place of assembly
Social Service Establishments [see 5.2.3I]	All uses	1 per 300 SF office area plus 1 per employee on largest shift
Utilities [see 5.2.3J]	All uses	1 per vehicle required to serve the utility
Commercial Use Categories		
Indoor Recreation [see 5.2.4A]	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 SF NFA , plus 1 per 2 seats in main place of assembly or recreation
Offices [see 5.2.4B]	All uses	1 per 300 SF NFA
Outdoor Recreation [see 5.2.4C]	Circus, carnival, fair or corn maze	50 per acre
	Golf course, driving range, or mini golf course	3 per hole plus 1 per 4 seats in accessory restaurant, bar or banquet facility
	Stable, public or commercial	1 per stall
	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 SF NFA
Overnight Accommodations [see 5.2.4D]	Campground with overnight accommodations or recreational vehicle park	1 per pad
	All other uses	1 per guest room
Parking, Commercial [see 5.2.4E]	All uses	None
Restaurants [see 5.2.4F]	All uses	1 per 3 seats

Article 7 General Development Standards
 Sec. 7.2. Off-Street Parking, Loading and Stacking

Use Category	Specific Use	Minimum Off-Street Parking Spaces
SF = square feet NFA = net floor area		
Retail Sales and Service [see 5.2.4G]	Appliance or furniture store	1 per 400 SF retail floor area
	Electronic and mixed media store	1 per 350 SF retail floor area
	Funeral home or mortuary	1 per 4 seats in main place of assembly
	Kennel	1 per 2 employees plus 1 per 800 SF waiting room area plus 1 per 5 boarding animals, based on the maximum number of boarders that can be handled by the kennel at any one time
	Veterinary clinic or hospital	1 per 300 SF NFA plus 1 per examining room
	All other uses	1 per 300 SF retail floor area
Self-Service Storage [see 5.2.4H]	All uses	1 per 300 SF office space
Vehicle Sales and Service [see 5.2.4I]	Car wash	2 per bay
	Fuel sales	1 per 250 SF retail sales area
	Vehicle, manufactured home, mobile home, portable building or trailer sales, rental, or leasing	1 per 500 SF showroom floor area plus 1 per 2,000 SF outdoor sales area
	All other uses	5 per bay or 1 per 250 SF NFA, whichever is greater
Industrial Use Categories		
Heavy Industrial [see 5.2.5A]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area
Light Industrial [see 5.2.5B]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area
Warehousing and Freight Movement [see 5.2.5C]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area
Waste-Related Service [see 5.2.5D]	All uses	1 per 300 SF office space plus 1 per 4 acres outdoor storage area
Wholesale Trade [see 5.2.5E]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area
Open Use Categories		
Agricultural [see 5.2.6A]	Agri-business or agricultural implement sales and service	1 per 400 SF retail floor area plus 1 per 2,000 SF outdoor sales area
	Greenhouse, commercial	1 per 1,000 SF NFA
	Livestock sale or auction	1 per 4 seats
	Roadside Stand	1 per 300 SF NFA
	Scenic or sightseeing tour	1 per 300 SF NFA
Resource Extraction [see 5.2.6B]	All uses	1 per employee on the largest shift

- 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.

7.2.5 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. 7.2.8.

7.2.6 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.

7.2.7 Design and Maintenance of Parking Areas

A. Dimensions

1. 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
2. One-way aisles between off-street parking spaces set at 45-degree angles must have a minimum width of 12 feet. Two-way aisles between off-street parking spaces set at 90-degree angles must have a minimum width of 24 feet.
3. The Zoning Administrator may approve parking space angles and aisle configurations not described in paragraph 2 above provided the design supports the purpose of this Section as set forth in Sec. 7.2.1.

B. Required Setbacks

1. A parking space must 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, in the A-1, R-1, and R-2 zoning districts.

2. A parking space must 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, in the R-3, R-4, B-1, B-2, B-3, M-1 or M-2 zoning districts.

C. Surfacing

1. Except as permitted in paragraph 2 below, 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, or gravel; and must be maintained in good condition.
(Amended January 21, 2020 PC 2020-01)
2. The surfacing requirement in paragraph 1 above does not apply to parking areas or driveways accessory to single-family dwellings and Agricultural Use categories permitted in the A-1, A-3, A-4 and A-5 zoning districts.

D. Lighting

Any device illuminating an off-street parking area must reflect that light away from all adjoining residential properties.

7.2.8 Alternative Parking Plans

The required number of off-street parking spaces in Sec. 7.2.4 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.

1. The shared parking spaces must be on the same lot.
2. Total off-street parking provided must be sufficient to meet the requirements of the greatest combined peak parking demands.
3. 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.

1. 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.
2. Off-site parking may not be used to satisfy the required parking ratios for residential uses.
3. Required parking spaces reserved for persons with disabilities may not be located off-site.
4. The off-site parking must be located wholly within a zoning district that allows the primary use.
5. 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.

7.2.9 Off-Street Loading and Unloading Docks

A. Schedule of Minimum Loading Requirements

1. 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.

Use Category	Net Floor Area (square feet)	Minimum Off-Street Loading Berths
	SF = square feet NFA = net floor area	
Public and Civic Use Categories		
Medical Facilities [see 5.2.3E]	40,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF NFA

Article 7 General Development Standards
 Sec. 7.2. Off-Street Parking, Loading and Stacking

Use Category	Net Floor Area (square feet)	Minimum Off-Street Loading Berths
SF = square feet NFA = net floor area		
Commercial Use Categories		
Indoor Recreation [see 5.2.4A]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF NFA
Offices [see 5.2.4B]	40,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF NFA
Overnight Accommodations [see 5.2.4D]	0 – 40,000	1
	Over 40,000	1 plus 1 additional space per additional 150,00 SF NFA
Restaurants [see 5.2.4F]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF NFA
Retail Sales and Service [see 5.2.4G]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF NFA
Vehicle Sales and Service [see 5.2.4.I]	8,000 – 25,000	1
	Over 25,000	1 plus 1 additional space per additional 25,000 SF NFA
Industrial Use Categories		
All Industrial use categories [see 5.2.5A through 5.2.5E]	8,000 – 40,000	1
	Over 40,000	1 plus 1 additional space per additional 60,000 SF NFA

2. 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.

B. Design of Loading Docks

1. 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.

2. Surfacing

An off-street loading berth must consist of a hard-surfaced, dust-free area that must be maintained in good condition.

3. 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.

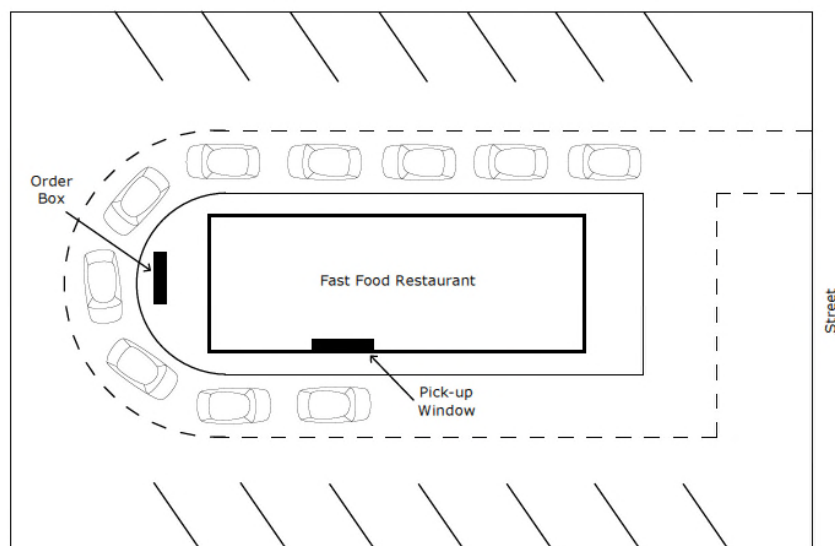
7.2.10 Vehicle Stacking Areas

A. Minimum Number of Spaces

1. Requirements for the minimum number of required off-street stacking spaces for certain specific uses are established in the table below.

Activity	Minimum Spaces	Measured From
Automated teller machine	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

2. Stacking spaces are measured starting at the location listed in the "Measured From" column in the table above.



B. Design of Stacking Areas

Required stacking spaces are subject to the following design standards:

1. Dimensions

A required stacking space must be a minimum of 9 feet in width and 20 feet in depth.

2. Location

Stacking spaces must not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

3. 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.

Sec. 7.3. Buffering and Screening

7.3.1 Purpose

- A. The purpose of this Section 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.

7.3.2 General

- A. 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.
- B. 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.
- C. Water, sanitary sewer, electrical, telephone, natural gas, cable, storm drainage or other service lines are permitted within buffers. Monument signs, as established in Sec. 7.4, are allowed within parking buffers.
- D. The parking of vehicles as well as the outdoor storage, display and sales of merchandise are prohibited in a required buffer.
- E. 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.
- F. For existing land uses when expanding the use; the areas required to comply with Buffering and Screening are the yards adjacent to the expansion or areas disturbed during the expansion.

7.3.3 Parking Area Buffer

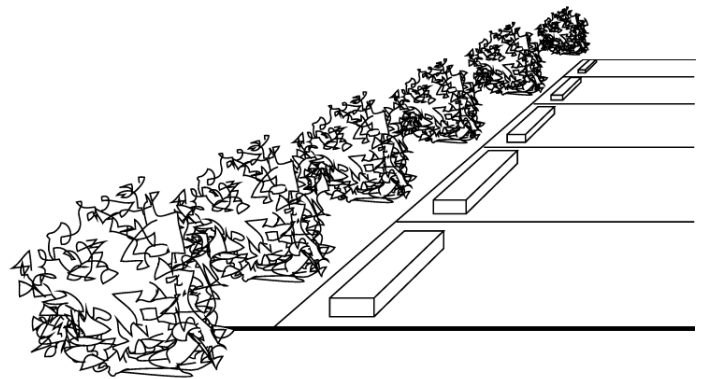
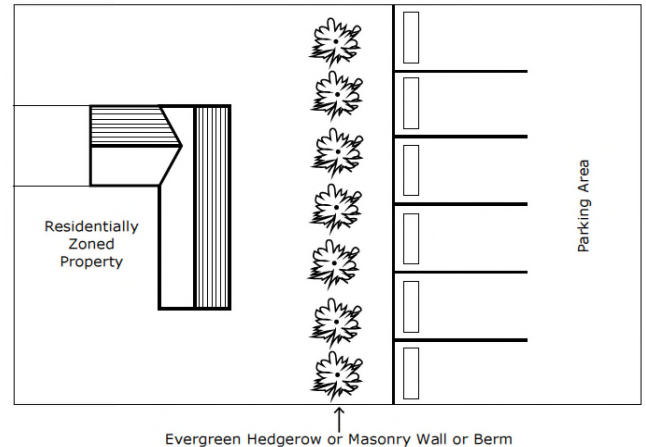
- A. The purpose of a parking area buffer is to reduce the effect of noise and glare of vehicles on the public right-of-way and on residential properties.
- B. A parking area buffer is required for nonresidential uses in the residential, B-1, B-2, B-3, E-3, M-1 or M-2 zoning districts where such

Article 7 General Development Standards

Sec. 7.3. Buffering and Screening

nonresidential uses abut a public right-of-way or a residentially used or zoned property.

- C. 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 minimum of 10 feet in width.
- D. The parking area buffer must contain a continuous four-foot high evergreen hedgerow, berm, masonry wall or a combination of any of these elements.
- E. A parking area buffer is not required under the following circumstances:
 - 1. 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;
 - 2. 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
 - 3. 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.
- F. If a parking area buffer and a boundary buffer are both required along the same property line, then only the boundary buffer need be provided.



7.3.4 Boundary Buffer

A. Applicability

Except as required in the Specific Use Standards in Sec. 5.3, the boundary buffer requirement does not apply to the A-1 zoning districts, nor does it apply to residential uses in any zoning district.

B. Boundary Buffer Table

The following table is established in order to ensure compatibility between potentially incompatible zoning districts. The table

Article 7 General Development Standards

Sec. 7.3. Buffering and Screening

determines the required buffer class (I, II, or III) between a subject property and its adjacent zoning districts.

		Adjacent District							
		A-1, R-1, -2, -3 (Res. use)	R-4 (Res. use)	B-1	B-2	B-3	E-3	M-1	M-2
Subject District	R-1, - 2, -3, -4 (Nonres. use)	I	--	--	--	--	--	--	--
	B-1	I	--	--	--	--	--	--	--
	B-2	II	I	I	--	--	I	--	--
	B-3	II	II	I	I	--	I	--	--
	E-3	II	II	I	I	--	--	--	--
	M-1	III	III	II	I	I	I	--	--
	M-2	III	III	III	II	I	II	--	--

C. Buffer Planting Specifications

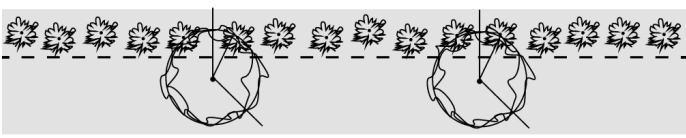
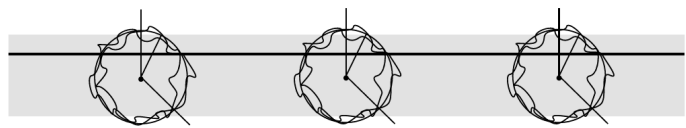
1. General Provisions

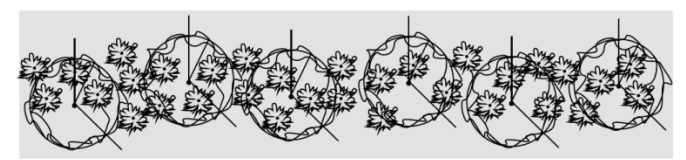
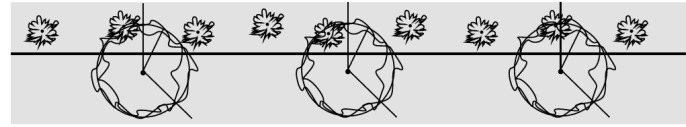
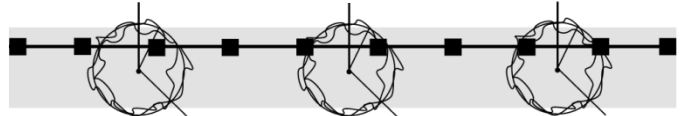
- a. The following tables establish the specific width and material for a Class I, II, and III buffer. Each buffer Class has three Types (A, B, and C) from which a designer may choose. Wider buffers require fewer materials, while narrower buffers require more materials. Where a Class I buffer is required, the property owner may voluntarily provide a Class II or Class III buffer. Where a Class II buffer is required, the property owner may voluntarily provide a Class III 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. Where required shrubs are accompanied by a fence or wall, the shrubs must be located on the side nearest to the adjacent property.

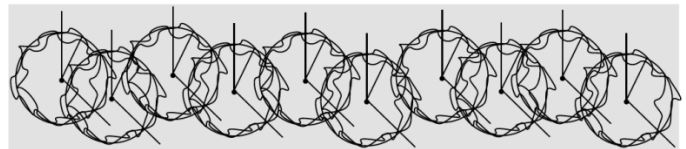
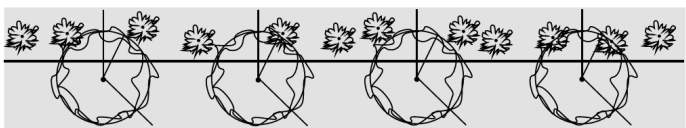
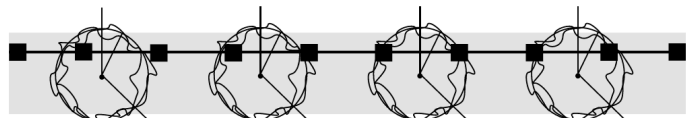
Class I	Materials per 100 Linear Feet	Conceptual Illustration
Type A	Width: 25 ft. Trees: 4 Shrubs: 24 Barrier: None	

Article 7 General Development Standards

Sec. 7.3. Buffering and Screening

Class I	Materials per 100 Linear Feet	Conceptual Illustration
Type B	Width: 15 ft. Trees: 2 Shrubs: 16 Barrier: Non-opaque fence	
Type C	Width: 10 ft. Trees: 3 Shrubs: 0 Barrier: Opaque fence	

Class II	Materials per 100 Linear Feet	Conceptual Illustration
Type A	Width: 25 ft. Trees: 6 Shrubs: 24 Barrier: None	
Type B	Width: 15 ft. Trees: 3 Shrubs: 9 Barrier: Opaque fence	
Type C	Width: 10 ft. Trees: 3 Shrubs: 0 Barrier: Wall	

Class III	Materials per 100 Linear Feet	Conceptual Illustration
Type A	Width: 25 Trees: 10 Shrubs: 0 Barrier: None	
Type B	Width: 15 Trees: 4 Shrubs: 12 Barrier: Opaque fence	
Type C	Width: 10 Trees: 4 Shrubs: 0 Barrier: Wall	

7.3.5 Buffer Specifications

A. 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.

B. Trees

1. Required trees in a buffer must be a minimum of eight feet in height at installation and may be planted at regular intervals or in a meandering manner.
2. Existing trees on site that are greater than eight feet in height may be preserved within a buffer for credit.
3. Buffers planted below overhead utility lines must contain tree species that do not exceed 20 feet in height at maturity.

C. Shrubs

Required shrubs in a buffer must be a minimum of four feet in height at installation and may be planted at regular intervals or in a meandering manner.

D. Barriers

1. Required fences and walls must be a minimum of six feet and a maximum of nine feet in height.
2. Wooden posts in opaque fences must be set in a masonry support column every 40 feet.
3. A non-opaque fence may consist of wrought iron, vinyl, or other material acceptable to the Zoning Administrator.
4. Breaks in a fence may be provided for pedestrian connections to adjacent developments.
5. Finished sides of fences must be located toward the adjacent property.

E. Berm Replacement

1. Required shrubs and fences, but not required trees or walls, in a buffer may be replaced with a berm or series of berms. Berms must have a minimum height of four feet with an average height of six feet per 100-foot buffer segment. Side slopes may not be less than four feet horizontal for each one foot vertical with at least a two-foot flat area on the top. In order to accommodate a berm, the buffer may need to be wider than required in the table above.
2. Required walls may not be replaced with a berm.

7.3.6 Alternative Compliance With Buffer Requirements

- A. The buffer requirements may be modified with approval by the Zoning Administrator upon a finding that:
 - 1. A modification would be consistent with the purpose of this Ordinance and of this Section;
 - 2. Such modification would not adversely affect the land use compatibility or public interest; and
 - 3. The subject site or modified buffer complies with one or more of the following criteria:
 - a. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;
 - b. The buffer is parallel and adjacent to property that is undevelopable due to access to public roadways, topography, shape or property;
 - c. The buffer is between uses that are to be developed under a Detailed Planned Unit Development; or
 - d. The buffer is parallel and adjacent to an existing railroad right-of-way.
- B. Financial hardship is not justification for alternative compliance.

7.3.7 Buffering and Landscaping 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.

7.3.8 Screening

A. Trash and Recycling Service Areas

- 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.

Article 7 General Development Standards

Sec. 7.3. Buffering and Screening

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 six 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.

B. Loading Docks

Loading docks are subject to the following screening requirements.

1. Loading docks must be completely screened from residentially zoned or used properties.
2. Screening must consist of walls or plant material totaling eight 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.
4. Loading docks in all zoning districts must be a minimum of 25 feet away from any abutting residentially used or zoned property.

C. Outdoor Storage

1. Commercial, nonagricultural outdoor storage, as defined in Article 11, is prohibited in the A, B and R zoning districts.
2. No outside storage is permitted within the following areas:
 - a. Required front or side setbacks; or
 - b. Required off-street parking areas or fire lanes.
3. The following types of outdoor storage are exempt from the requirements of this Section:
 - a. Commercial vehicles related to a permitted business on-site; and
 - b. 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.

Sec. 7.4. Signs

7.4.1 Purpose

- A. 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.
- B. 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.

7.4.2 Sign Type Definitions

ELECTRONIC MESSAGE BOARD. A part of a sign on which the copy changes automatically through the use of electronic technology.

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.

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.

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.

Article 7 General Development Standards

Sec. 7.4. Signs

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.

SIGN, PORTABLE. A sign constructed on frames with wheels intended for convenient movement with changeable letter boards and copy.

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.

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."

SIGN, WALL. A sign painted on or attached parallel to the exterior wall of a building or structure.

7.4.3 General Sign Provisions

A. Applicability

1. Generally

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.

B. Unlawful Signs

1. A sign may not be erected or maintained in violation of the requirements of this Section or of the Sign Permit requirements in Sec. 3.14. An unlawful sign is not a nonconforming sign and must be removed or brought into compliance.
2. If the Zoning Administrator finds that a sign is erected or maintained in violation of this Section or Sec. 3.14, the Zoning Administrator must give written notice of the violation to the permittee or the owner of the property where the violation exists.
3. 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.
4. The Zoning Administrator may immediately and without notice or compensation remove any sign that presents an immediate peril to persons or property.

Article 7 General Development Standards

Sec. 7.4. Signs

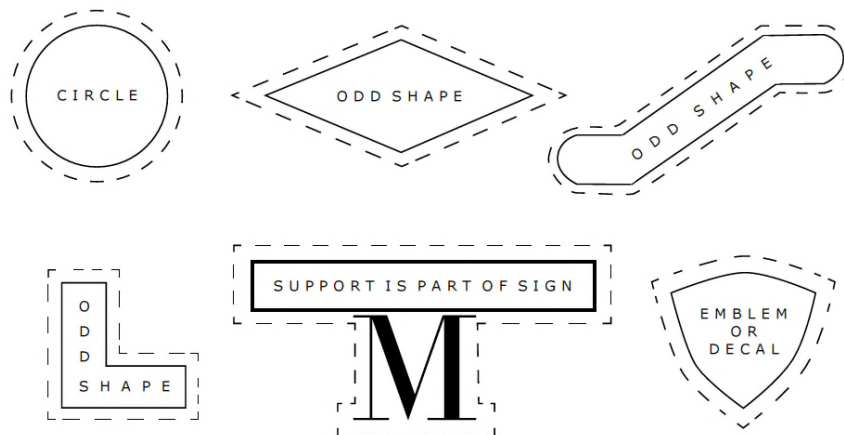
5. It is prohibited to place a sign in the public right-of-way without permission from the Board of County Commissioners or appropriate legislative body.

7.4.4 Sign Measuring Standards

The following principles control the measurement of sign area, sign height and sign setback.

A. Sign Area

1. 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.



COMMENTARY: 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.

2. 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.

Article 7 General Development Standards

Sec. 7.4. Signs

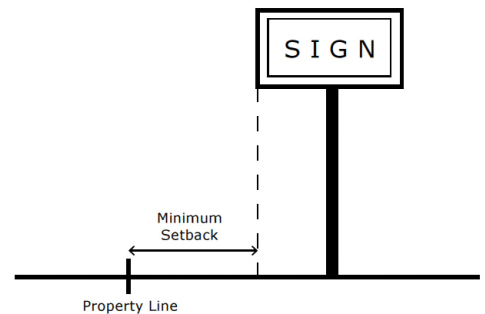


COMMENTARY: Channel letter signs, mounted logos, and similar devices are treated differently than signs in cabinets – the wall area between multiple elements does not count as sign area.

3. The area for a sign with more than one face is measured by adding together the area of all sign faces.

B. 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.



C. Sign Setback

The setback of a sign is measured as the shortest distance from each property line to the leading edge of the sign.

D. 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.

7.4.5 Standards According to Sign Type

1. The standards applicable to each permitted sign type are set forth in the table below. (Amended January 21, 2020 PC 2020-01)

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Wall Signs						
Wall Signs	B, M	<p>MAXIMUM PER WALL SIGN: The area of any one wall sign shall be no greater than 300 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area of all wall signs on the zoning lot shall be no greater than 300 sq. ft.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x frontage of the zoning lot.</p>	Cannot exceed roof line	Yes	None	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	<p>MAXIMUM PER WALL SIGN: The area of any one wall sign shall be no greater than 32 sq. ft.</p> <p>MAXIMUM SIGNS: All wall signs on the zoning lot shall be no greater than 64 sq. ft.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x frontage of the zoning lot.</p>	Cannot exceed roof line	Yes	None	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.

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Wall Signs	Wall Signs					
	E-3	<p>MAXIMUM PER WALL SIGN: The area for any one wall sign shall be no larger than 32 sq. ft.</p> <p>MAXIMUM SIGNS: All wall signs on the building façade shall be less than 5% of that facades' area.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 2x frontage of the zoning lot up to a maximum of 200 sq. ft.</p>	Cannot exceed roof line	Yes	None	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.
	A-1	<p>MAXIMUM PER WALL SIGN: The wall sign shall not exceed 32 sq. ft.</p> <p>MAXIMUM SIGN: Only one (1) Wall sign is permitted.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x frontage of the zoning lot.</p>	Cannot exceed roof line	Yes	None	The sign shall not be illuminated; 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.

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Freestanding Signs (includes yard signs and any other freestanding signs not otherwise defined.)	Freestanding Signs					
	A-1, R-1, R-2, R-3	<p>MAXIMUM PER FREESTANDING SIGN: The freestanding sign shall not exceed 8 sq. ft.</p> <p>MAXIMUM SIGN: Only one (1) Freestanding sign is permitted.</p> <p>ZONING LOT MAXIMUM: No greater than 8 sq. ft. with only one sign per zoning lot. Exception: signs granted as part of a Special Use Permit site plan.</p>	Maximum height is 4 ft.	No	None	All signs must be set back a minimum of 3 ft. from any property and right-of-way line.
	B, M	<p>MAXIMUM PER FREESTANDING SIGN: The maximum area for any one freestanding sign shall be no greater than 300 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area for all free standing signs on the zoning lot shall not exceed the ZONING LOT MAXIMUM.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot.</p>	Maximum height is 40 ft.	Yes	None	The location of the sign may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway, sign placement must be a minimum of 55 feet from the centerline, or at the right-of-way line, whichever is greater.

Article 7 General Development Standards

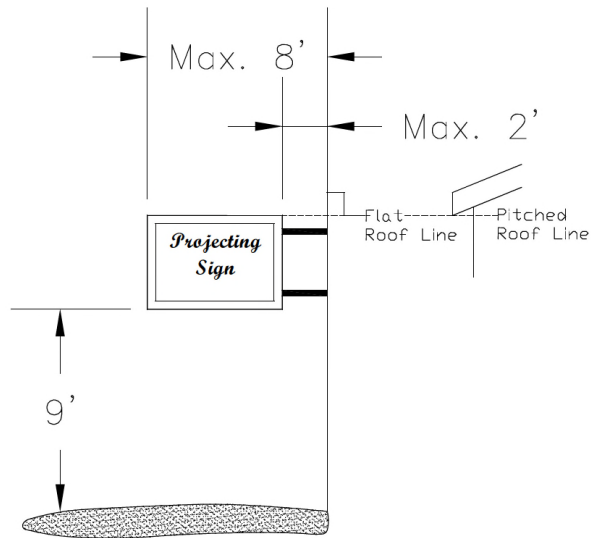
Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Freestanding Signs						
Freestanding Signs (includes yard signs and any other freestanding signs not otherwise defined.)	A-3, A-4	<p>MAXIMUM PER FREESTANDING SIGN: The maximum area for any one freestanding sign shall be no than 200 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area for all freestanding signs on the zoning lot shall not exceed the ZONING LOT MAXIMUM.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 2x frontage of the zoning.</p>	Maximum height is 40 ft.	Yes	None	The location of the sign may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway, sign placement must be a minimum of 55 feet from the centerline, or at the right-of-way line, whichever is greater.

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Projecting Signs						
Projecting Signs	R-4, B, M	MAXIMUM PER PROJECTING SIGN: The projecting sign shall not exceed 50 sq. ft. for a horizontal sign ; 100 sq. ft. for a vertical sign .	Cannot exceed roof line of building to which sign attached	Yes	None	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. Maximum projecting from the building facade is 8 feet.
		MAXIMUM SIGNS: The combined area for all projecting signs on the zoning lot shall be no greater than 200 sq. ft. ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x the frontage of the zoning lot.				



Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Electronic Message Board	Electronic Message Board					
	B, M	<p>MAXIMUM PER ELECTRONIC MESSAGE BOARD SIGN: the maximum area for any one Electronic Message Board sign shall be no greater than 48 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area for Electronic Message Board on the zoning lot shall not exceed the ZONING LOT MAXIMUM.</p> <p>ZONING LOT MAXIMUM: Maximum combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x frontage of zoning lot.</p>	Maximum height is 40 ft.	Yes	None	<p>The intensity of illumination must not change until sunset when it must be reduced to a maximum of 500 NIT until sunrise.</p> <p>NIT is calculated based on the light meter specification of the manufacturer.</p> <p>There must be a 300 feet minimum separation between electronic message boards and an existing residence.</p> <p>Flashing is prohibited.</p> <p>The location of sign may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway in the unincorporated areas of the County, sign placement must be a minimum of 55 feet from the centerline or at the right-of-way line, whichever is greater.</p>

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Special Use Permit Signage						
Special Use Permit Signage: Message Board, Electronic	A, R	<p>MAXIMUM PER SIGN: The Maximum area of any Electronic Message Board sign shall be no greater than 32 sq. ft.</p> <p>MAXIMUM SIGNS: Only one (1) Electronic Message Board sign per zoning lot; AND the Electronic Message Board sign must be shown and identified on the adopted Special Use Site Plan to be allowed.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x the frontage of the zoning lot.</p>	Maximum height is 20 ft.	Yes	None	<p>The intensity of illumination must not change until sunset when it must be reduced to a maximum of 500 NIT until sunrise.</p> <p>NIT is calculated based on the light meter specification of the manufacturer.</p> <p>There must be a 300 feet minimum separation between electronic message boards and an existing residence.</p> <p>Flashing is prohibited.</p> <p>The location of sign may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway in the unincorporated areas of the County, sign placement must be a minimum of 55 feet from the centerline or at the right-of-way line, whichever is greater</p>
Special Use Permit Signage: Signs (Non-Message Board, Electronic)	A, R	<p>MAXIMUM PER SIGN: The Maximum area of any sign shall be no greater than 300 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area for all signs on the zoning lot shall not exceed the ZONING LOT MAXIMUM; AND all signs must be shown on the adopted Special Use Site Plan to be allowed.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot.</p>	Maximum height is 40 ft.	Yes	None	<p>The location of the sign may be permitted at the right-of-way line except on a Major Road or a federal or state highway. On such road or highway, sign placement must be a minimum of 55 feet from the centerline, or at the right-of-way line, whichever is greater.</p>

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Monument Signs	Monument Signs					
	B, M, R-4	<p>MAXIMUM PER MONUMENT SIGN: The area of any one wall sign shall be no greater than 32 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area for all signs on the zoning lot shall not exceed the ZONING LOT MAXIMUM.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 6x frontage of the zoning lot.</p>	Maximum height is 4 ft.	Yes	None	<p>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.</p> <p>Only one monument sign permitted per zoning lot. Sign must have a setback 10 ft. away from any public right-of-way and property line.</p>
	E-3	<p>MAXIMUM PER MONUMENT SIGN: The area for any one Monument Sign shall be no larger than 32 sq. ft.</p> <p>MAXIMUM SIGNS: The combined area for all signs on the zoning lot shall not exceed the ZONING LOT MAXIMUM.</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of Sign Type shall be no greater than 2x frontage of the zoning lot up to a maximum of 200 sq. ft.</p>	Maximum height is 8 ft.	Yes	None	<p>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.</p> <p>Maximum message area height is 4 ft., maximum message area width is 10 ft. Maximum overall width is 10 ft. Sign must have a setback of 30 ft. from front / side property line.</p>

Article 7 General Development Standards

Sec. 7.4. Signs

Sign Type	District	Area	Height	Permit Required	Time Limit	Additional Standards
Portable Sign	Portable Sign					
	B, M	<p>MAXIMUM PER PORTABLE SIGN: The area of any sign shall be no greater than 32 sq. ft.</p> <p>MAXIMUM SIGNS: Only one (1) Portable sign per zoning lot</p> <p>ZONING LOT MAXIMUM: The combined area of all signs on the zoning lot regardless of sign type shall be no greater than 6x the frontage of the zoning lot.</p>	6 ft.	Yes	Yes	<p>1 (one) sign permitted per Zoning Lot.</p> <p>Blinking lights are prohibited.</p> <p>Setbacks: Minimum setback of 5 feet from the public right-of-way and 75 feet from a residentially zoned property.</p> <p>Time Limits: Max. 60 days per calendar year Max. 30 consecutive days Min. 15 days between removal and replacement</p>

7.4.6 Signs Near Public Parks and Residential Districts

- A. 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.
- B. No sign greater than 32 square feet may be located within 75 feet of any property located in a Residential zoning district.

7.4.7 Signs for Special Uses

- A. A use with an approved Special Use Permit is allowed sign(s) of the structural type, size, number and placement as designated by the adopted site plan or approved commitments of the Special Use Permit.
- B. The sign must be setback a minimum of 50 feet from any side or rear property line and must not create a safety hazard for vehicles entering and leaving the site.
- C. The location of the sign may be permitted at the right-of-way line except on a Major Road, as designated in in the table in paragraph 4.3.6C.2.d or a federal or state highway. On such roads and highways, sign placement must be a minimum of 55 feet from the centerline or 15 feet from the right-of-way line, whichever is greater.
- D. If no signs have been designated on the adopted site plan or if signs are not address in the approved commitments of the Special Use Permit, then a sign may be permitted in compliance with the sign standards of this Section. (Amended January 21, 2020 PC 2020-01)
- E. Home Work Shop/Business Special Use signs are limited as described in Article 5 Use Standards Sec 5.5 Accessory Uses and Structure subsection Sec. 5.5.9.

(Amended January 21, 2020 PC 2020-01)

Article 7 General Development Standards

Sec. 7.4. Signs

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ARTICLE 8 NONCONFORMITIES

Sec. 8.1. General

- 8.1.1** Nonconformities are those land uses, signs, structures or parcels or lots of record that were legally established or erected prior to February 2, 2015, and that do not comply with the requirements of this Ordinance or that became nonconforming as a result of subsequent amendments to this Ordinance. Nonconformities are not made illegal by the adoption of this Ordinance; however, nonconformities may not be modified except in accordance with this Article.
- 8.1.2** 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.

Sec. 8.2. Nonconforming Parcel or Lot of Record

- 8.2.1** A parcel or lot that does not meet one or more of the dimensional standards of this Ordinance, but was legally established and recorded prior to February 2, 2015, is deemed a legal nonconforming parcel or lot of record.
- 8.2.2** 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.
- 8.2.3** 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 must lose its nonconforming status. Thereafter, future division of the combined parcel lot must conform to the requirements of this Ordinance and the Subdivision Control Ordinance.

Sec. 8.3. Nonconforming Use

- 8.3.1** 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.
- 8.3.2** 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 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.

8.3.3 Nothing in this Ordinance may be interpreted in a manner that is inconsistent with Indiana Code 36-7-4-616 regarding agricultural nonconforming uses.

8.3.4 The lawful change of tenant or ownership of a nonconforming use without a change in use does not cause the loss of nonconforming rights.

Sec. 8.4. Nonconforming Structure

8.4.1 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.

8.4.2 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 10 Flood Hazard Areas) provided that:
 - 1. 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
 - 2. 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.

Sec. 8.5. Repair, Maintenance and Alteration

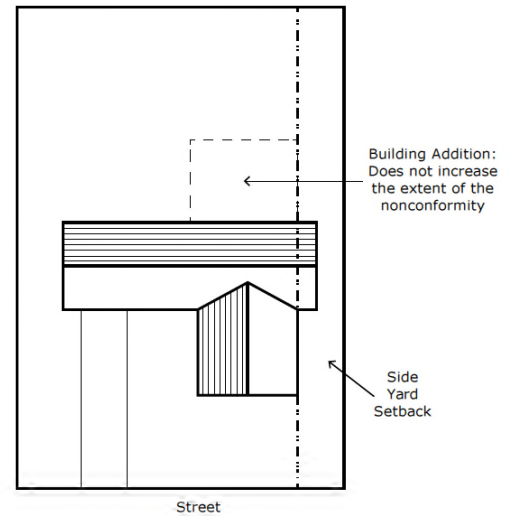
8.5.1 Ordinary day-to-day maintenance and repair work may be done on any legal nonconforming structure or structure containing a legal nonconforming use, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming structure or structure containing 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.

8.5.2 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, it loses its legal nonconforming status;
- B. The structure is fully removed or razed; or
- C. The structure is partially removed or razed resulting in a loss of 66 percent or more of its net floor area.

8.5.3 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.



Sec. 8.6. Planned Unit Developments prior to March 2nd 2015.

(Amended January 21, 2020 PC 2020-01)

8.6.1 Planned Unit Development adopted prior to 1997:

A. Purpose:

1. 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.
2. 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
3. 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.
4. 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.
5. Also, after 1997 some pre-1997 PUDs were amended and still maintained the PUD zoning district described in subsection "C".
6. The Adopted of 2015 Zoning Maps were adopted still reflecting the Pre-1997 Planned Unit Developments.
7. 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:

1. Past ordinance land use terms may differ from the present Zoning Ordinance terms; However the Zoning Administrator may act upon the ordinary intent of the PUD.
2. The following documents should be used by the Staff to consider releasing an ILP:

Article 8 Nonconformities

Sec. 8.6. Planned Unit Developments prior to March 2nd 2015.

- 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.
3. 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.
 4. 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.

8.6.2 Detailed Planned Unit Developments adopted after January 1st, 1997 and Pre-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 Zoning Ordinance terms; However the Zoning Administrator may act upon the ordinary intent of the DPUD.

ARTICLE 9 ENFORCEMENT, VIOLATIONS AND PENALTIES

Sec. 9.1. Enforcement

9.1.1 Zoning Administrator

The Zoning Administrator is authorized to administer and enforce this Ordinance. It is hereby acknowledged, understood, and declared that the Zoning Administrator is required to exercise and is vested with the authority to exercise his or her 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.

9.1.2 Enforcement Options

When a violation or alleged violation exists, the type of enforcement action will be at the discretion of the Plan Commission, Board of Zoning Appeals, Zoning Administrator, or any designated enforcement official. The following options may be used to enforce this Ordinance:

- A.** Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action 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.** Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action 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.** Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to request 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.** Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action 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.** Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action 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

Article 9 Enforcement, Violations and Penalties

Sec. 9.2. Violations

any other enforcement remedies provided for elsewhere in this Ordinance.

- F. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action 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.

Sec. 9.2. Violations

9.2.1 Actionable Violations

It shall be an actionable violation of this Ordinance to undertake any of the following actions.

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; or

G. Other Violations

Otherwise fail to comply with any of the terms or provisions of this Ordinance.

Article 9 Enforcement, Violations and Penalties

Sec. 9.3. Penalties

9.2.2 Responsibility for Violations

The owner 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.

9.2.3 New Permits at Location Where a Violation Exists

When a violation of this Ordinance has been identified on a property, the Plan Director cannot accept any new filing for any permit or petition for the property, unless it is submitted to cure a violation, until the violation is resolved. This Section in no way limits the operation of the enforcement remedies, including but not limited to civil fines, provided for in this Article.

Sec. 9.3. Penalties

9.3.1 Upon conviction, 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.

9.3.2 Each day during which a violation occurs or continues shall constitute a separate or subsequent violation.

Article 9 Enforcement, Violations and Penalties

Sec. 9.3. Penalties

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ARTICLE 10 FLOOD HAZARD AREAS

Sec. 10.1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

10.1.1 Statutory Authorization.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Commissioners of Elkhart County does hereby adopt the following floodplain management regulations.

10.1.2 Findings of Fact.

- A. The flood hazard areas of 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.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

10.1.3 Statement of Purpose.

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. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- D. Control filling, grading, dredging, and other development which may increase erosion or flood damage.

Article 10 Flood Hazard Areas

Sec. 10.1. Statutory Authorization, Findings of Fact, Purpose, and Objectives.

- E.** Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F.** Make federal flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

10.1.4 Objectives.

The objectives of this ordinance are:

- A.** To protect human life and health.
- B.** To minimize expenditure of public money for costly flood control projects.
- C.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D.** To minimize prolonged business interruptions.
- E.** To 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.** To 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.

Sec. 10.2. Definitions.

For purposes of this Article 10, the words or phrases below are defined as follows. Unless specifically defined below, words or phrases used in this Article 10 shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

- (a) Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
- (b) Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
- (c) Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
- (d) Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
- (e) Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
- (f) Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). 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.

APPEAL. A request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the one-percent annual chance flood.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See "Structure."

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

CRITICAL FACILITY. 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, installations which produce, use or store hazardous materials or hazardous waste.

D ZONE. Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

DEVELOPMENT. Any man made change to improved or unimproved real estate including but not limited to:

- (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing 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 bridges or culverts;
- (g) Storage of materials; or
- (h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing 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.

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

ELEVATION CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD INSURANCE RATE MAP (FIRM). 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.

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

FLOODPLAIN MANAGEMENT. 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. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

FLOODPROOFING (DRY FLOODPROOFING). 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. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

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

FREEBOARD. 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

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE. Those portions of the floodplain lying outside the floodway.

HARDSHIP (as related to variances of this ordinance). The exceptional hardship that would result from a failure to grant the requested variance. The Elkhart County Board of Zoning Appeals requires that the variance is 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. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURES. Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

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LETTER OF FINAL DETERMINATION (LFD). 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). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

- (a) **LETTER OF MAP AMENDMENT(LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

- (b) **LETTER OF MAP REVISION (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (c) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest elevation described among the following:

- (a) The top of the lowest level of the structure.
- (b) The top of the basement floor.
- (c) The top of the garage floor, if the garage is the lowest level of the structure.
- (d) The top of the first floor of a structure elevated on pilings or pillars.
- (e) The top of 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 flood waters unless:
 - i) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - ii) the total net area of all openings shall be at least one (1) square inch for every one 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; and,
 - iii) such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. 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."

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

MITIGATION. 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.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929 as corrected in 1929. A vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) as adopted in 1993. 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,

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

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. The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1-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.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

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

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. 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 10.3.2 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the County subject to inundation by the regulatory flood. The SFHAs of Elkhart County are generally identified as such on the Elkhart County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011 (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Article 10 Flood Hazard Areas

Sec. 10.2. Definitions.

SUBSTANTIAL IMPROVEMENT. 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.

SUSPENSION. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. 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.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. (see definition for A zone)

ZONE B, C, AND X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available

Article 10 Flood Hazard Areas

Sec. 10.3. General Provisions.

in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and

Sec. 10.3. General Provisions.

10.3.1 Lands to Which This Ordinance Applies.

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Elkhart County.

10.3.2 Basis for Establishing Regulatory Flood Data.

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- A. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Elkhart County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Elkhart County, Indiana and Incorporated Areas dated August 2, 2011 and the corresponding Flood Insurance Rate Map dated August 2, 2011.
- B. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Elkhart County, delineated as an "A Zone" on the Elkhart County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2011 provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available 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.
- C. 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 data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- D. .

10.3.3 Establishment of Floodplain Development Permit.

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.

10.3.4 Compliance.

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. No land or stream within the

SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

10.3.5 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.

10.3.6 Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- A. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles 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 elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

10.3.7 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.

10.3.8 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.

10.3.9 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

Article 10 Flood Hazard Areas

Sec. 10.4. Administration.

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.

Sec. 10.4. Administration.

10.4.1 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.

10.4.2 Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate 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.

1. A description of the proposed development.
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
3. A legal description of the property site.
4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
5. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See 10.4.3G for additional information.)

B. Finished Construction.

Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

10.4.3 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:

Article 10 Flood Hazard Areas

Sec. 10.4. Administration.

- A.** Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- B.** Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- C.** Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to 10.5.4 and 10.5.6A of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

Article 10 Flood Hazard Areas

Sec. 10.4. Administration.

- D. Reserve (duplicate of item C.
- E. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- F. Maintain and track permit records involving additions and improvements to residences located in the floodway.
- G. 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.
- H. 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 DNR 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.
- I. 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.
- J. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- K. Review certified plans and specifications for compliance.
- L. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with 10.4.2
- M. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with 10.4.2

Sec. 10.5. Provisions for Flood Hazard Reduction.

10.5.1 General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- D. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, 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. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- I. 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.

10.5.2 Specific Standards.

In all SFHAs, the following provisions are required:

- A.** In addition to the requirements of 10.5.1, all 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:
 - 1. Construction or placement of any structure having a floor area greater than 400 square feet.
 - 2. Addition or improvement made to any 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).
 - 3. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 - 4. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - 5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- B.** Residential Structures. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). 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 10.5.2D.

- C. **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) 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 10.5.2D.
- D. **Structures located in all "A Zones"** may be floodproofed in lieu of being elevated if done in accordance with the following:
1. 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 official as set forth in 10.4.3M.
 2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- D. **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.
- Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade 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. Designs must meet the following minimum criteria:
1. Provide a minimum of two openings located in a minimum of two 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 exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- E. Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
1. The 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.
 2. The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 5. The top of the lowest floor including basements shall be at or above the FPG.
- F. Standards for Manufactured Homes and Recreational Vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
1. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

Article 10 Flood Hazard Areas

Sec. 10.5. Provisions for Flood Hazard Reduction.

- a. 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.
 - b. 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 10.5.2D.
 2. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - a. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - b. 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 10.5.2D.
 3. Recreational vehicles placed on a site shall either:
 - a. be on site for less than 180 days;
 - b. be fully licensed and ready for highway use (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
 - c. meet the requirements for “manufactured homes” as stated earlier in this section.
- G. Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
 1. Shall not be used for human habitation.
 2. Shall be constructed of flood resistant materials.
 3. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

4. Shall be firmly anchored to prevent flotation.
 5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
 6. 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 10.5.2D.
- H. Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

10.5.3 Standards for Subdivision Proposals.

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals 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 shall have adequate drainage provided to reduce exposure to flood hazards.
- D. 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.

10.5.4 Standards for Identified Floodways.

Located within SFHAs, established in 10.3.2, 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. If the site is in an identified floodway, 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 a permit for construction in a floodway. Under the provisions of IC 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 etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above

the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

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 for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Sec. 10.5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect 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.

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.

10.5.5 Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Sec. 10.5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

10.5.6 Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

A. Drainage area upstream of the site is greater than one square mile:

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.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) 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.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, 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 Sec. 10.5 of this ordinance have been met.

B. Drainage area upstream of the site is less than one square mile:

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.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Sec. 10.5 of this ordinance have been met.

C. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

10.5.7 Standards for Flood Prone Areas.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Sec. 10.5.

Sec. 10.6. Variance Procedures.

10.6.1 Designation of Variance and Appeals Board.

The Elkhart County Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

10.6.2 Duties of Variance and Appeals Board.

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.

10.6.3 Variance Procedures.

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

Article 10 Flood Hazard Areas

Sec. 10.6. Variance Procedures.

- A.** The danger of life and property due to flooding or erosion damage.
- B.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- C.** The importance of the services provided by the proposed facility to the community.
- D.** The necessity of the facility to a waterfront location, where applicable.
- E.** The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- F.** The compatibility of the proposed use with existing and anticipated development,
- G.** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- H.** The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I.** The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- J.** 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.

10.6.4 Conditions for Variances.

- A. Variances shall only be issued when there is:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in exceptional hardship.
 - 3. 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.
- B. No variance for a residential use within a floodway subject to 10.5.4 or 10.5.6A of this ordinance may be granted.
- C. Any variance granted in a floodway subject to 10.5.4 or 10.5.6A of this ordinance will require a permit from the Indiana Department of Natural Resources.
- D. Variances to the Provisions for Flood Hazard Reduction of 10.5.2, 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.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- G. 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 (See 10.6.5).
- H. 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 (See 10.6.5).

10.6.5 Variance Notification.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

Article 10 Flood Hazard Areas

Sec. 10.7. Severability.

- A.** The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- B.** Such construction below the flood protection grade increases risks to life and property

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

10.6.6 Historic Structure.

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.

10.6.7 Special Conditions.

Upon the consideration of the factors listed in Sec. 10.6, and the purposes of this ordinance, the Elkhart County Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

Sec. 10.7. Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

ARTICLE 11 DEFINITIONS

Sec. 11.1. Abbreviations and Acronyms

Abbreviation or Acronym	Meaning
BZA	Board of Zoning Appeals
DPUD	Detailed Planned Unit Development
Ft.	Feet
NFA	Net Floor Area
GPUD	General Planned Unit Development
IDEM	Indiana Department of Environmental Management
Max.	Maximum
Min.	Minimum
PUD	Planned Unit Development
Nonres.	Nonresidential
Res.	Residential
Sq. Ft.	Square Feet
SUP	Special Use Permit

Sec. 11.2. Definitions

For the purpose of this Ordinance, the terms and words below are defined as follows.

ACCESSORY STRUCTURE. A structure that:

- (a) Is devoted to an accessory use;
- (a) 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, or may be detached from the primary structure, as in the case of a shed.

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.

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

Article 11 Definitions

Sec. 11.2. Definitions

at any one time in which images are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities."

ADULT BOOKSTORE, ADULT NOVELTY OR ADULT VIDEO STORE. A

commercial establishment having at least five percent of its net floor area (as established in Sec. 4.3.9) 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."
- (b) Instruments, devices or paraphernalia that depicts, is used in, or relates to "Adult Sexual Activities."

ADULT BUSINESS. Any of the following defined uses:

- (a) Adult arcade;
- (b) Adult bookstore;
- (c) Adult cabaret;
- (d) Adult entertainment facilities;
- (e) Adult motel;
- (f) Adult motion picture theater;
- (g) Adult novelty;
- (h) Adult video store;
- (i) Adult theater;
- (j) Adult sexual encounter center;
- (k) Any other business similar in nature to these described uses in this definition; or
- (l) Any other business that offers, infrequently or for limited times during a year, one or more of the defined "Adult Business" uses.

ADULT CABARET. Any establishment at which topless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers perform.

Article 11 Definitions

Sec. 11.2. Definitions

ADULT ENTERTAINMENT FACILITIES. Any commercial establishment, business or service which has at least five percent of its net floor area (as established in Sec. 4.3.9) or at least five percent 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.

ADULT MOTION PICTURE THEATER. Any place in which more than ten 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."

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."

ADULT SEXUAL ACTIVITIES. Means and includes the following:

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

Article 11 Definitions

Sec. 11.2. Definitions

ADULT SEXUAL ENCOUNTER CENTERS. A business or commercial enterprise that offers activities constituting "Adult Sexual Activities" between male and female persons and/or persons of the same sex.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment that features live performances where persons appear in a state of nudity or perform acts which depict, or specifically describe "Adult Sexual Activities."

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. Also, commercial processing of agricultural products, including livestock and poultry are included.

ALLEY. A public way not more than 30 feet wide, that afford only a secondary means of access to abutting property.

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.

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.

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.

BAR OR TAVERN. A building where liquors are sold to be consumed on the premises.

BED AND BREAKFAST HOMESTAY. An owner-occupied residence or an accessory structure that:

Article 11 Definitions

Sec. 11.2. Definitions

- (1) Provides sleeping accommodations to the public for a fee;
- (2) Is subordinate and incidental to the primary residential use of the property; and
- (3) Provides breakfast to its guests as part of the fee.

BED AND BREAKFAST INN. An establishment that:

- (1) Provides sleeping accommodations to the public for a fee;
- (2) Provides breakfast to its guests as part of the fee;
- (3) Provides a designated area within the establishment where the operator must reside;
- (4) Is residential in character; and
- (5) Is the primary use on the property.

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

BREW PUB. A restaurant with an accessory brewery that brews and sells a maximum of 9,000 barrels of beer on-site in a year.

BUILDING. See "Structure". (Also, See Article 10 - Flood Hazard Areas Section 10.2 Definitions "Structure" for specific terms and words; applicable to the **National Flood Insurance Program**)

BUILDING LINE. The line nearest the front of and across a lot established by the front most plane of a building wall.

BUILDING, PRIMARY. A building in which is conducted the primary use of the zoning lot on which it is situated.

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.

BUILDING PERMIT. A building permit as defined in the County Building Code.

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

Article 11 Definitions

Sec. 11.2. Definitions

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" below.

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

CAMPGROUND. A property where campsites are leased or rented and where three (3) or more campsites for primitive, youth camps, tents campgrounds, travel trailer, recreational vehicles, park models, or vacation mobile homes. A campground is established, operated, and maintained for recreational, health, education, sectarian, business, or tourist activities away from established residences.

(Amended January 21, 2020 PC 2020-01)

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.

CHILD CARE CENTER. A non-residential building where children receive child care from a provider licensed by the State of Indiana:

- (1) While unattended by a parent, legal guardian, or custodian;
- (2) For regular compensation; and
- (3) For more than four hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays

CHILD CARE HOME. A residential structure in which children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:

- (1) While unattended by a parent, legal guardian, or custodian;
- (2) For regular compensation; and
- (3) For more than four hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

Article 11 Definitions

Sec. 11.2. Definitions

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.

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."

DETAILED PLANNED UNIT DEVELOPMENT DISTRICT (DPUD). A zoning district for which a Detailed Planned Unit Development Ordinance has been adopted and that complies with this Ordinance.

DETAILED PLANNED UNIT DEVELOPMENT ORDINANCE. The approved rezoning ordinance that is accompanied by a Detailed Planned Unit Development Site Plan and Planned Unit Development Plat.

DETAILED PLANNED UNIT DEVELOPMENT PLAT. A drawing submitted with the application for a Detail Planned Unit Development and, upon approval, made part of the Detailed Planned Unit Development Ordinance. This plat must be signed and sealed by a registered Indiana Land Surveyor and must contain all information specified by the Zoning Ordinance and Rules of Procedure adopted by the Plan Commission.

DETAILED PLANNED UNIT DEVELOPMENT SITE PLAN. A drawing submitted with the application for a Detailed Planned Unit Development and, upon approval, made part of the Detailed Planned Unit Development Ordinance. The Site Plan must be signed and sealed by a registered Indiana Land Surveyor and must contain all information specified by the Zoning Ordinance and Rules of Procedure adopted by the Plan Commission.

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

- (1) Construction, reconstruction, or placement of any addition to a building;
- (2) 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;

Article 11 Definitions

Sec. 11.2. Definitions

- (3) Installing utilities, erection of walls and fences, construction of roads;
- (4) Construction of flood control structures such as levees, dikes, channel improvements, etc;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Outside storage of materials; or
- (8) 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 10 - Flood Hazard Areas Section 10.2 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.

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.

DWELLING. A structure or portion of it, designed or used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units and multiple-family dwelling units that meet applicable codes.

DWELLING UNIT. One or more rooms in a residential structure or apartment hotel, designed for occupancy by one family, and not more than two adult lodgers for living and sleeping purposes.

DWELLING UNIT, ACCESSORY. An attached or detached independent dwelling unit located on the same property as the primary dwelling unit.

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.

Article 11 Definitions

Sec. 11.2. Definitions

FAÇADE, PRIMARY. A building façade that is visible from a public ROW or from a residentially zoned property.

FAÇADE, SECONDARY. A building façade that is not a primary façade.

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 percent of the displayed inventory of the products sold in each farmers market is farm products or value-added farm products.

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.

FLEA MARKET, OUTDOOR. An open area where stalls or defined sales areas are set aside, rented, or otherwise provided, and where buyers and sellers engage in the purchase, sale or exchange of goods, wares or merchandise.

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

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.

GARAGE, PRIVATE. An attached or detached accessory building, designed, arranged, used or intended to be used for the storage of passenger automobiles of the occupants of the premises.

GARAGE, PARKING. A building other than a private garage, where motor vehicles, including but not limited to trucks, tractors, truck trailers, and commercial vehicles exceeding one and one-half ton capacity are parked or stored for remuneration.

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 the Zoning Ordinance and Rules of Procedure adopted by the Plan Commission.

GENERAL PLANNED UNIT DEVELOPMENT DISTRICT (GPUD-): 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 ORDINANCE. The approved rezoning ordinance that is accompanied by a General Development Plan.

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.

GROUP HOME. A residential facility for individuals with physical and/or cognitive disability and/or illness.

HOME OCCUPATION. A gainful occupation carried on by occupants of a dwelling unit as a use which is secondary to the use of the dwelling unit for residential purposes. No evidence of the home occupation taking place exists outside of any building on the property.

HOME WORKSHOP/BUSINESS. A gainful occupation which is carried on by an occupant of a dwelling unit, along with a limited number of outside employees, as a use which is secondary to the use of the unit for residential purposes. Retail activity may take place.

HOSPICE. An inpatient facility that provides palliative care and attends to the emotional and spiritual needs of terminally ill patients.

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.

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.

IMPERVIOUS COVERAGE. Any material or structure that fully or predominately prevents absorption of stormwater into the ground.

Article 11 Definitions

Sec. 11.2. Definitions

IMPROVEMENT LOCATION PERMIT. A permit certifying that the site plans of a proposed building, structure, or use of land have been examined for compliance with all requirements of this Zoning Ordinance.

JUNK 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.

KENNEL. A property on which a combined total of more than five dogs, cats, and other household domestic animals over six months of age are kept; or on which more than two of such animals are kept for:

- (a) breeding, boarding or training for compensation; or
- (b) the purpose of sale.

LABORATORY, COMMERCIAL. A facility devoted to experimental study, testing, or analysis of chemical, biological or other substances without manufacturing, assembly, or packaging of products.

LEGISLATIVE BODY. The Board of County Commissions for Elkhart County in the un-incorporated 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. When used alone, this word means a parcel of land created in compliance with the Elkhart County Subdivision Control Ordinance unless the context of this Code section clearly indicates otherwise.

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 or reversed corner lot.

LOT, REVERSED CORNER. A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

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

LOT, ZONING. (See "Zoning Lot")

LOT LINE, FRONT. The front property line of a zoning 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.

LOT OR PARCEL OF RECORD. A legally platted or established lot or parcel of land.

LOWEST FLOOR. The lowest of the following:

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

*(Also, See Article 10 - Flood Hazard Areas Section 10.2 Definitions "Structure" for specific terms and words; applicable to the **National Flood Insurance Program**)*

MANUFACTURE. The making of anything by hand or machine.

MANUFACTURED HOME. A transportable, factory-built home that may be single-wide (one section) or double-wide (two sections) and that bears a seal certifying that it was built in compliance with Indiana Public Law 360 or a

Article 11 Definitions

Sec. 11.2. Definitions

transportable, factory-built home that may be single- or double-wide and that:

- (a) Was built after January 1, 1981; and
- (b) Bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 [42 U.S.C. 5401 et seq.] and Indiana Code 36-7-4 section 1106.

*(Also, See Article 10 - Flood Hazard Areas Section 10.2 Definitions "Structure" for specific terms and words; applicable to the **National Flood Insurance Program**)*

MARINA. A facility for fueling, berthing, securing and launching of water craft that may also include the sale, storing and servicing of the water crafts, and the sale of fuel and incidental supplies for the water craft owners, crews, and guests.

MEDICAL OR DENTAL OFFICE OR LABORATORY. An establishment where patients are admitted for special study and treatment by licensed physicians or dentists and their professional associates.

MEMBERSHIP CLUB OR LODGE. An association of persons for some common purpose which is jointly supported and meets periodically, but not groups organized primarily to render any service which is customarily carried on as a business.

MICROBREWERY. A small facility for the brewing of beer that produces less than 15,000 barrels per year. It may often include a tasting room and retail space to sell the beer to patrons on-site.

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

MOBILE HOME. A transportable factory-built home that has a width of one section and that is:

- (a) Designed as a year round residential dwelling;
- (b) Built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 [42 U.S.C. 5401 et seq.], and is not a Manufactured Home; and
- (c) Built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.

The term "mobile home" does not include a "recreational vehicle".

Article 11 Definitions

Sec. 11.2. Definitions

MOBILE HOME SUBDIVISION. (existing and new). 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 Elkhart County Subdivision Control Ordinance. If construction is completed before the effective date of the floodplain management regulations adopted by the county it is considered an existing mobile home subdivision. All others are to be considered as new mobile home subdivision.

MOBILE HOME TIE DOWN. Sufficient anchorage as per the manufacturer's specifications

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

MODULAR HOME. A residential structure that is:

- (a) Designed for the occupancy of a single family;
- (b) Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
- (c) Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

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.

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

NONCONFORMING USE, STRUCTURE, SIGN OR LOT OR 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 Zoning Ordinance or that becomes nonconforming due to an amendment to this Ordinance.

Article 11 Definitions

Sec. 11.2. Definitions

NURSING HOME OR REST HOME. A private home or facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders.

OUTDOOR STORAGE. The keeping, in an unroofed area, of any goods, raw material, merchandise, or commercial vehicles or equipment in the same place for more than 24 hours.

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.

PARCEL DELIVERY STATION. A building in which commodities, sold at retail within the area and packaged by the retailer, are assembled and routed for delivery to retail customers located within the area.

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.

PARKING LOT OR STRUCTURE, OFF-SITE. An open area or structure, located on a separate property from the associated use, and surfaced with dust free materials, other than a street or public way, intended to be used for the parking of private passenger and commercial vehicles with a manufacturer's rated hauling capacity under one and one-half tons, and available to the public, clients, customers or employees as an accommodation.

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.

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. A permitted use is designated with a "P" in the use table in Articles 5.

PLAN COMMISSION. The Elkhart County Area Plan Commission.

PLANNED UNIT DEVELOPMENT ORDINANCE (GENERAL AND DETAILED). An ordinance adopted by the Legislative Body with jurisdiction over the subject property creating a General or a Detailed Planned Unit Development after

Article 11 Definitions

Sec. 11.2. Definitions

"certification of the proposal" from the Elkhart County Plan Commission. A General or Detailed Planned Unit Development Ordinance is an amendment to the official zoning maps.

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 STRUCTURE. The main or predominant structure of any zoning lot.

PRIMARY USE. The main or predominant permitted use of any zoning 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 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.

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.

RECREATIONAL VEHICLE. 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 10 - Flood Hazard Areas Section 10.2 Definitions "Structure" for specific terms and words; applicable to the **National Flood Insurance Program**)*

RECYCLING FACILITY. A facility that is not a salvage yard and in which materials, including but not limited to paper, cardboard, wood, glass, Styrofoam and

Article 11 Definitions

Sec. 11.2. Definitions

metal, are collected, stored, flattened, crushed, melted or bundled within a completely enclosed building.

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

(Amended January 21, 2020 PC 2020-01)

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

RESTAURANTS, STANDARD, INCLUDING THOSE SERVING ALCOHOLIC BEVERAGES. 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:

- (a) 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;
- (b) A cafeteria-type operation where foods, frozen desserts or beverages generally are consumed within the restaurant building; and
- (C) A drive-through or drive-in facility does not exist on the property.

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.

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

SALES, GARAGE OR YARD A temporary sale, conducted by the owner or occupant of a residence, and conducted within or outside of a residence, garage, or other accessory buildings, which sale is of six or more items of personal property owned or in the possession of the owner or occupant of the premises.

SALES, RUMMAGE. A temporary sale, conducted by a non-profit organization such as a church, school or club, where members or associates of the group

Article 11 Definitions

Sec. 11.2. Definitions

bring articles or items to a central structure to be sold to raise money for use by the organization.

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.

SETBACK LINE, BUILDING. See Building, Setback line.

SITE IMPROVEMENTS. Elements of a property including, but not limited to, the following: drainage areas for retention and or detention, cross-access drives and easements, landscaping, berms and buffers, fencing for screening, lighting and any site improvement designated as a measure to safeguard the adjoining properties. All improvements within the dedicated right-of-way are subject to the posting of surety as required by the Elkhart County Street Standards and Subdivision Control Ordinance.

SPECIAL USE. Any use of land or buildings, or both, that requires a Special Use Permit in accordance with Sec. 3.6.

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.

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 from time to time.

STORAGE, OUTDOOR. See "Outdoor Storage".

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.

STREET. A public way other than an alley.

STREET LINE. A line separating an abutting lot, piece or parcel, from a street.

STRUCTURE. Anything constructed, erected or placed on or above ground that is enclosed by walls and/or a roof and is used to shelter or protect persons, animals, chattel, or property; including but not limited to gas or liquid storage tanks, mobile homes, prefabricated or manufactured buildings; and

Article 11 Definitions

Sec. 11.2. Definitions

recreational vehicles to be installed on or at a site for more than 180 days. But does not include anything:

- (a) That which was originally constructed to hold items and that would be transported by either being towed or driven from one location to another;
- (b) That which would have been originally designed as a truck, tractor, truck trailer or other commercial vehicle; or
- (c) That which was, at any time, considered a motorized vehicle.

*(Also, See Article 10 - Flood Hazard Areas Section 10.2 Definitions "Structure" for specific terms and words; applicable to the **National Flood Insurance Program**)*

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.

SUBSTANTIAL MODIFICATION. Any alteration, repair, enlargement or extension of an existing building. This term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing health, sanitary or safety code specifications; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or the State Survey of Historic, Architectural, Archeological and Cultural Sites, Structures, Districts and Objects.

TRACK, VEHICLE RACE. See "Vehicle Race Track."

TRAVEL OR CAMPING TRAILERS. A vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation and vacation uses, factory equipped for the road.

TRUCK, TRACTOR, TRAILER OR BUS STORAGE OR PARKING YARD, LOT OR GARAGE. A building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding one and one-half ton capacity.

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.

Article 11 Definitions

Sec. 11.2. Definitions

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.

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.

VEHICLE REPAIR, MINOR. Incidental repairs, replacement of parts, and motor service to vehicles, but not including any operation included under "Vehicle Repair, Major."

VEHICLE RACE TRACK. A racing area that may be non-profit or for-profit, public or private, paved or unpaved, and that is used by vehicles, including but not limited to bicycles, automobiles, motorcycles or any other motorized vehicles with competition against the clock or other vehicles.

VEHICLE SALES, RENTAL OR LEASING FACILITY. 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.

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

- (a) Growing grapes and manufacturing wines and brandies;
- (b) Manufacturing wines and brandies from grapes and other fruits grown elsewhere;
- (c) Blending wines and brandies; and
- (d) 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.

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.

Article 11 Definitions

Sec. 11.2. Definitions

ZONE. Same as zoning district.

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 LOT. A single tract of land located within a single block, which, at the time of filing for an Improvement Location Permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A "zoning lot" need not coincide with a lot of record.

ZONING MAPS, OFFICIAL. The Zoning Map or Maps incorporated by reference into this Ordinance.

Article 11 Definitions

Sec. 11.2. Definitions

Index

A-1 Zoning District.....	4-3	Commercial Parking.....	5-18
A-3 Zoning District		Commiments	3-7
Purpose	4-5	Common Open Space, Minimum	
Standards	6-11	Measurement	4-17
A-4 Zoning District		Standards.....	4-26
Purpose	4-6	Common Review Procedures.....	3-1
Standards	6-13	Community Service.....	5-11, 5-30
Accessory Dwelling Units	5-42	Conventional Subdivision	4-19
Accessory Uses and Structures	5-41	Corner Lots	4-13
Additions, Residential	4-11	Cottage	5-26
Administrative Adjustment.....	3-27	Cottage Dwelling.....	4-20, 4-23
Agriculture	5-25, 5-35	Cul-de-Sac Lots	4-13
Apartment.....	4-22, 4-26, 5-29	Day Care.....	5-11
Appeal of Admin. or Hearing Officer Decision. 3-40		Decision Categories	3-1
Appeal of Quasi-Judicial and Legis. Decisions 3-7		Density, Maximum.....	4-17
Applications.....	3-2	Detailed Planned Unit Development	
B-1 Zoning District.....	4-4	As-Built Drawing	3-17
B-2 Zoning District.....	4-4	Ordinance	3-17
B-3 Zoning District.....	4-4	Plat	3-16, 3-17
Bed and Breakfast Homestay.....	5-43	Review Procedure.....	3-15
Bed and Breakfast Inn.....	5-31	Site Plan and Ordinance	3-15
Board of County Commissioners.....	2-1	Developmental Variance	3-25
Board of Zoning Appeals.....	2-2	Disannexed or Vacated Areas.....	4-2
Boat House.....	5-43	DPUD- Zoning District	
Boundary Buffer	7-13	Purpose	4-5
Buffering and Screening		Standards.....	6-8
Boundary Buffer.....	7-13	Dwelling Standards, Minimum	4-28
General.....	7-12	E-3 Zoning District	
Parking Area Buffer.....	7-12	Purpose	4-4
Screening.....	7-17	Standards.....	6-1
Building and Development Contractor		Educational Facilities	5-12
Establishment.....	5-34	Effective Date	1-7
Building Commissioner	2-5	Enforcement	9-1
Building Coverage, Minimum.....	4-14	Fertilizer, Bulk Storage of	5-33
Building Height, Maximum	4-16	Fireworks Sales	5-32
Building Permit.....	3-36	Fuel Sales	5-33
Bulk Storage of Explosives	5-33	Garage or Yard Sale	5-43
Certificate of Occupancy.....	3-38	General Dev. Standards, Applicability	7-1
Cluster Subdivision		General Planned Unit Development	
General.....	4-19	Duration.....	3-14
Standards	4-26	Review Procedure.....	3-13
		Government Facilities.....	5-12

GPUD- Zoning District		Offices	5-16, 5-31
Purpose	4-5	Off-Street Loading and Unloading	7-8
Standards	6-8	Off-Street Parking	
Gross Floor Area.....	4-16	Alternative Parking Plans.....	7-7
Ground Floor Area, Minimum.....	4-15	Design and Maintenance	7-6
Group Living	5-10	General	7-2
Hazardous Materials, Bulk Storage of.....	5-33	Table	7-3
Hearing Officer	2-3	Off-Street Stacking.....	7-10
Heavy Industrial	5-21	Outdoor Bus Parking.....	5-46
Height, Maximum	4-16	Outdoor Recreation	5-17
Home Occupation	5-44	Overnight Accommodations.....	5-17
Home Worksof/Business.....	5-44	Parking Area Buffer.....	7-12
Household Living	5-9, 5-15	Parking, Commercial.....	5-18
Housing Types	4-20	Parking, Outdoor Bus.....	5-46
Improvement Location Permit		Parks and Open Areas.....	5-13
Review Process.....	3-30	Passenger Terminals	5-14
Indoor Recreation	5-16	Penalties	9-3
Industrial Use Categories	5-21	Personal Residential Storage	5-45
Intersection Visibility Trianlge	4-18	Petitions.....	3-2
Junk Yard	5-33	Places of Worship	5-14, 5-30
Jurisdiction	1-2	Plan Commission.....	2-1
Kennel	5-32	Plan Director	2-4
Legislative Bodies.....	1-2	Ponding Soils.....	4-28
Light Industrial	5-34	Public Hearings	3-4
Lot Area, Minimum	4-7	Public Notice	3-4
Lot Depth, Minimum.....	4-8	Purpose	1-1
Lot Width, Minimum.....	4-8	R-1 Zoning District	4-3
M-1 Zoning District	4-4	R-2 Zoning District	4-3
M-2 Zoning District	4-4	R-3 Zoning District	4-3
Machine Shop	5-34	R-4 Zoning District	4-3
Major Utilities	5-15	Radio Studio.....	5-31
Manufactured Homes.....	5-28	Recycling Facility.....	5-34
Measurements and Special Cases.....	4-7	Residential Additions	4-11
Medical Facilities.....	5-13, 5-30	Residential Development Standards	4-22
Minor Utilities	5-15	Residential Developmental Standards	4-19
Mobile Homes.....	5-28	Residential Use Categories 5-9, 5-11, 5-16, 5-21,	
Modification of Approved Site Plan	3-5	5-25, 6-2	
Multiple-Family Dwelling or Complex 4-22, 4-26,		Resource Extration.....	5-35
5-29		Resources Extraction	5-25
Non-Agricultural Uses	5-35	Restaurant, Drive-In or Drive-Through	5-32
Nonconforming Parcel or Lot of Record	8-1	Restaurants.....	5-18
Nonconforming Structure	8-2	Retail Sales and Service	5-18, 5-32
Nonconforming Use	8-1	Revocation of Permits	3-4
Nonconformities		Rezoning	3-11
General.....	8-1	Salvage Yard.....	5-33
Repair, Maintenance & Alteration	8-3	Screening	7-17
Nonresidential Developmental Standards...	4-31	Setback Averaging	4-10
Nonresidential Uses in Residential Districts 4-29		Setbacks, Minimum	

Encroachments	4-10	Outdoor Recreation	5-17
Front.....	4-10	Overnight Occommodations.....	5-17
Fronting Streets	4-12	Parking, Commercial.....	5-18
General.....	4-9	Parks and Open Areas.....	5-13
Methodolody	4-9	Passenger Terminals.....	5-14
Setbacks, Platted.....	4-11	Places of Worship	5-14
Seven to One Ratio	4-9	Resource Extraction.....	5-25
Sign Permit.....	3-37	Restaurants.....	5-18
Signs		Retail Sales and Service	5-18
General.....	7-19	Social Service Establishment	5-15
Measuring Standards	7-21	Utilities.....	5-15
Single-Family Attached Dwelling 4-21, 4-24, 5-27		Vehicle Sales and Service.....	5-20
Single-Family Detached Dwelling.....	4-20, 4-22	Warehousing and Freight Movement	5-23
Single-Wide Mobile Home	5-28	Waste-Related Service.....	5-24
Site Plan, Modification of Approved.....	3-5	Wholesale Trade.....	5-24
Social Service Establishment.....	5-15	Use Interpretation	5-7
Solar Panel Array.....	5-46	Use Table	5-1
Special Use Permit	3-20	Use Variance	3-23
Mobile Homes.....	3-21	Utilities.....	5-15
Specific Use Standards	5-26	Vehicle Race Track.....	5-31
Stacking, Vehicle	7-10	Vehicle Sales and Service.....	5-33
Storage, Personal Residential	5-45	Vehicles Sales and Service	5-20
Subdivision Types.....	4-19	Veterinary Clinic or Hospital (Outdoor Pens)5-32	
Sufficiency Review	3-3	Violations.....	9-2
Summary of Review Authority.....	2-5	W- Zoning District	
Tattoo Parlor	5-31	Purpose.....	4-5
Technical Correctness Review.....	3-3	Standards.....	6-10
Technical Review Committee.....	2-3, 3-3	Warehousing and Freight Movement	5-23
Through Lots	4-13	Waste-Related Service.....	5-24
Tool Repair.....	5-34	Welding, Tool Repair or Machine Shop	5-34
Track, Vehicle Race	5-31	Wholesale Trade.....	5-24
Transitional Provisions.....	1-4	Wireless Communication Facilities.....	5-36
TV Studio	5-31	Wrecking, Junk or Salvage Yard	5-33
Two-Family Dwelling.....	4-21, 4-25	Written Interpretation.....	3-29
Upper-Story Dwelling.....	5-30	Yard Sale	5-43
Use Categories	5-7	Zero Lot Line Dwelling	4-21, 4-23, 5-26
Agriculture	5-25	Zoning Administrator.....	2-4
Community Service	5-11	Zoning Districts	
Day Care.....	5-11	Establishment	4-1
Educational Facilities.....	5-12	Purpose Statements	4-3
Government Facilities	5-12	Zoning Lot	4-18
Group Living	5-10	Zoning Map	
Heavy Industrial	5-21	Establishment	4-1
Household Living.....	5-9	Streets, Alleys, ROW	4-3
Indoor Recreation	5-16	Zoning Map Amendment.....	3-11
Medical Facilities.....	5-13	Zoning Ordinance Text Amendment	3-9
Offices	5-16		

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