

Elkhart County ZONING ORDINANCE



ADOPTED: December 15, 2014

EFFECTIVE: February 2, 2015

LAST AMENDED: N/A

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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.

Article 1 General Provisions

Sec. 1.3. Authority

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 10 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 10 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.

B. Administration of the Flood Plain Regulations

The Zoning Administrator must act as the Floodplain Administrator and review all development proposals to insure compliance with the intent of the flood insurance program and shall include, but not be limited to the following duties:

1. Ensure that all development activities within the Special Flood Hazard Areas of the jurisdiction of this Ordinance meet the requirements of this Ordinance;
2. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sec. 7.5.2 of this Ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation);
4. Maintain a record of the surveyor's or engineer's certificate of the "as-built" elevation of the lowest floor (including the basement) of all new and/or substantially improved buildings and the "as built" flood proofed elevation of all buildings subject to Sec. 7.5.3 of this Ordinance constructed in the Special Flood Hazard Area. The surveyor's or engineer certificate is the responsibility of the homeowner to secure;
5. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance;
6. Submit reports as required for the National Flood Insurance Program;
7. Maintain for public inspection and furnish upon request information on regulatory flood data, Special Flood Hazard Area maps, copies of Indiana Department of Natural Resources permits and letters of recommendation, federal permit documents and "as built" elevation and flood proofing data for all buildings constructed subject to this ordinance; and

Article 2 Development Review Bodies

Sec. 2.9. Building Commissioner

8. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Administration.

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

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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

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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 or not for formal review must be made by the Plan Director within 48 hours of the application submittal.
2. An application that contains all of the information required by the Rules of Procedure of the Plan Commission or Board of Zoning Appeals, as appropriate, must be deemed sufficient for formal review.
3. If the application is determined to be insufficient for formal review, the Plan Director must notify the applicant in writing. The notification must list all missing items. The applicant must submit the required materials within 48 hours of the submittal deadline in order to be placed on the Technical Review Committee agenda. If the required materials are not submitted within the 48-hour period, the application is deemed rejected and not accepted for submittal.
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

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notification, the applicant may submit corrections before the next application submittal deadline for additional review at the next Technical Review Committee meeting.

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;

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4. An approved Improvement Location, Building or Sign Permit; or
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.

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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 Development of an Obsolete Planned Unit Development

- A. A Planned Unit Development approved prior to December 31, 1996, is deemed obsolete.
- B. Except as it relates to a permitted single-family dwelling, if a property owner requests to erect, reconstruct, alter, move, convert, extend or enlarge a structure or improvement on an obsolete Planned Unit Development, then the property owner must either:

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1. Submit a Zoning Map Amendment application for a base zoning district in accordance with Sec. 3.3 to have the obsolete Planned Unit Development designation removed from the property; or
 2. Submit a General or Detailed Planned Unit Development application in accordance with Sec. 3.4 or Sec. 3.5.
- C. A permitted single-family dwelling may be erected, reconstructed, altered, moved, converted, extended or enlarged on a property that has an obsolete Planned Unit Development without the property owner undertaking either of the actions described in paragraph B above.

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.

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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

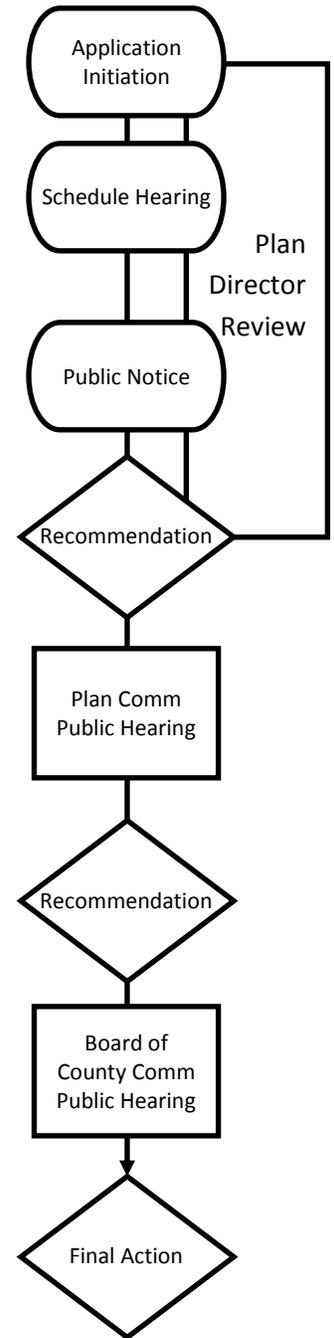
Following notice in accordance with the Plan Commission Rules of Procedure, the Plan Commission must hold a public hearing and may make a recommendation to the Board of County Commissioners.

C. Board of County Commissioners Final Action

- 1. Except as modified in subsection D below, 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.

D. Town Council Final Action for Flood Hazard Control

- 1. After it has approved a Zoning Ordinance Text Amendment related to flood hazard control that specifically and directly impacts an incorporated



town within the jurisdiction of this Ordinance, the Board of County Commissioners must forward the Amendment to the appropriate Town Council.

2. The Town Council must hold a public hearing and approve, approve with modifications or deny the Amendment.
3. The Board of County Commissioners may only forward such Amendment to the appropriate Town Council if it takes a positive action on the Amendment.
4. The Amendment may only be finally approved if the appropriate Town Council approves or approves with modifications the Amendment.

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;
- 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.

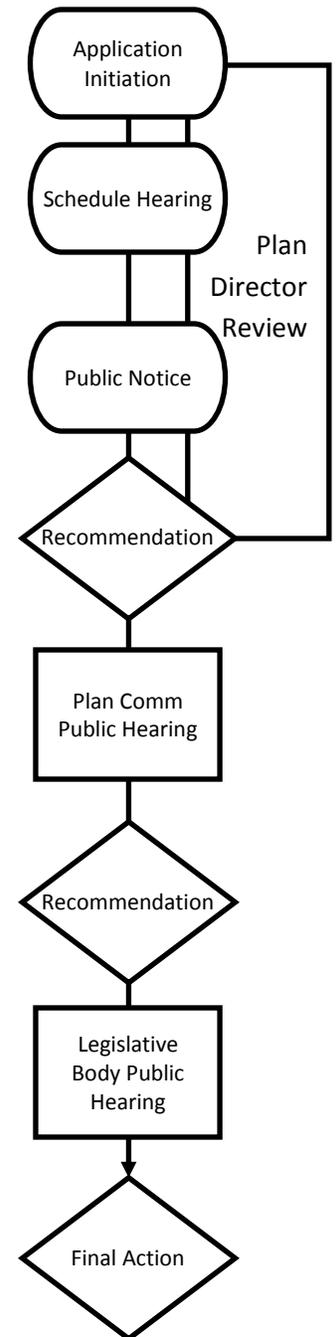
C. Legislative Body Final Action

- 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;



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Sec. 3.3. Zoning Map Amendment (Rezoning)

- E. Responsible growth and development.

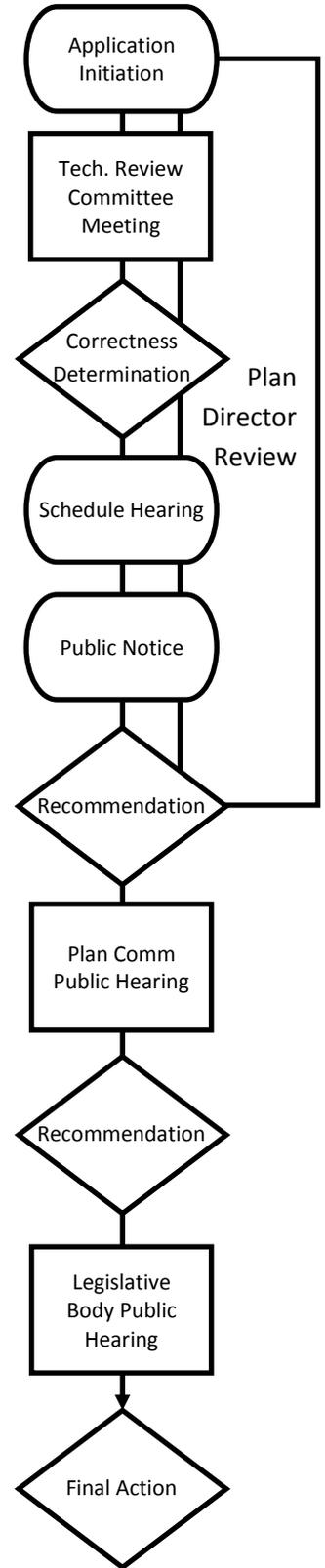
Sec. 3.4. General Planned Unit Development

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.



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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

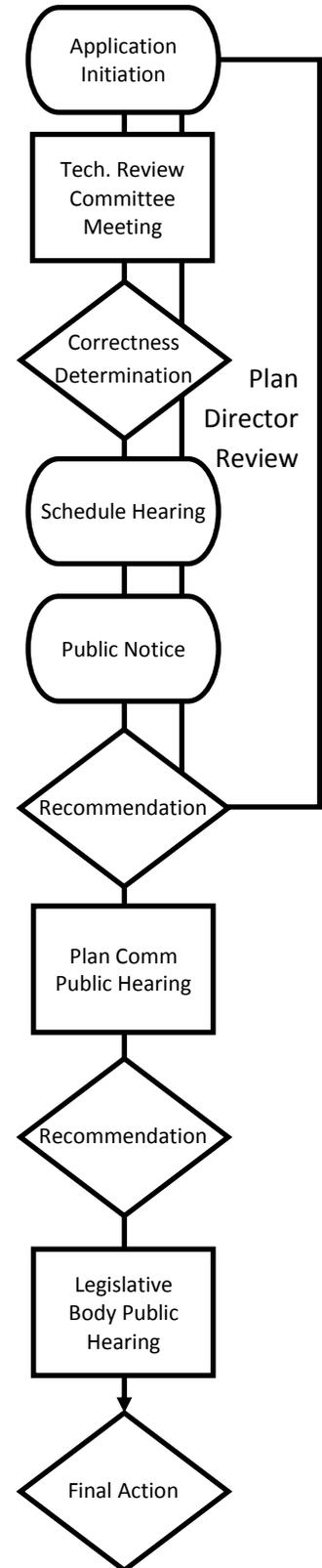
3.5.1 Applicability

- 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;



- 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

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 Recorders Office of Elkhart County any documents or plats for any real estate within the jurisdiction of this Ordinance with any designations of "Planned Unit Development" or "PUD" unless it complies with this Ordinance.

B. Recording of a Detailed Planned Unit Development Plat

The approved DPUD Plat must be recorded by the applicant with the County Recorder's Office within ten working days of receipt of the signed documents from the legislative body. The Plan Director may extend the deadline to record the Plat with a written request from the land owner.

3.5.7 Flood Hazard Control Deviations

No deviations from the Flood Hazard Control standards in Sec. 7.5 are permitted. All deviations from Sec. 7.5 must be processed as Developmental Variances in accordance with Sec. 3.7.

3.5.8 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.

3.5.9 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 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 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.

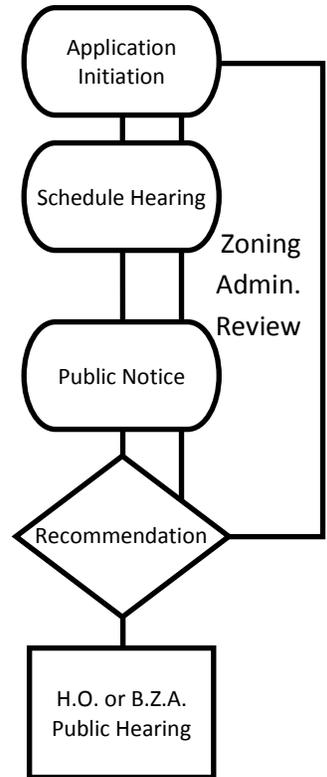
D. Seasonal Delays

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

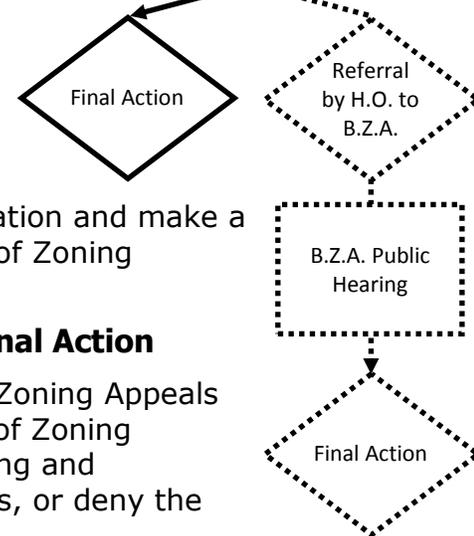
Application for a Special Use Permit must occur in conjunction with the submittal of a site plan.

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.



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Sec. 3.6. 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 measurable numerical standard such as a setback, lot size or height) must be processed as a Use Variance in accordance with this Section. A Variance is considered an exception to the regulations, rather than a right, and must be the minimum necessary to afford relief.

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.

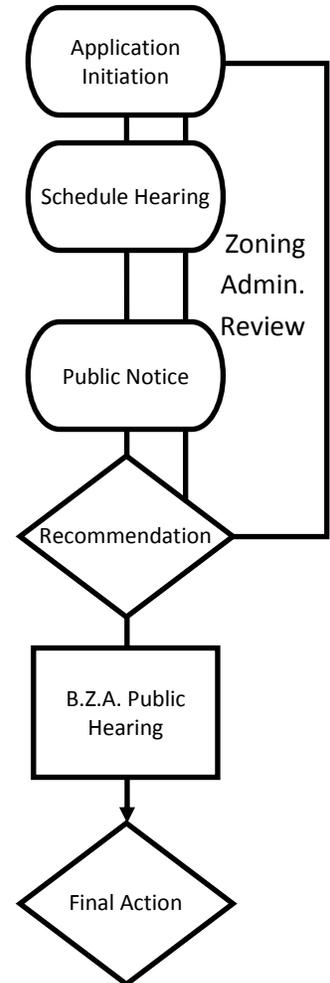
C. Board of Zoning Appeals Final Action

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.

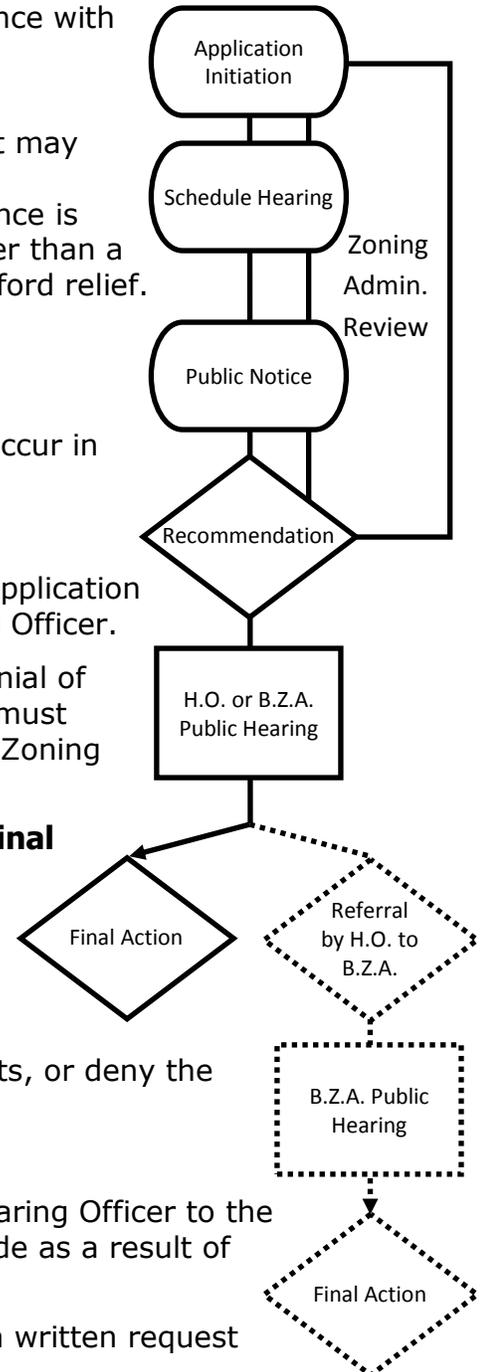
C. Hearing Officer or Board of Zoning Appeals Final Action

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:

- 1. The receipt by the Zoning Administrator of a written request



Article 3 Development Review Procedures

Sec. 3.8. Developmental Variance

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 Variances in a Flood Hazard Area

- A. The Board of Zoning Appeals may not issue a Variance for a residential use or structure within a floodway.
- B. The Board of Zoning Appeals may issue a Variance from the provisions in Sec. 7.5 for a nonresidential use or structure subject to the following standards and conditions:
 1. Any Variance issued for a nonresidential use or structure in a floodway, flood plain or flood fringe, subject to Sec. 7.5.2, requires a permit from Indiana Department of Natural Resources.
 2. A Variance to the Building Protection Standards of Sec. 7.5.3 may be issued 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.
 3. A Variance may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.
 4. The Board of Zoning Appeals must issue a written notice to the recipient of a Variance that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.

Article 3 Development Review Procedures

Sec. 3.8. Developmental Variance

5. The granting of the requested Variance from the provisions in Sec. 7.5 must not increase flood heights, create additional public expense, create a nuisance, cause fraud or victimization of the public, or conflict with existing laws and ordinances.

3.8.5 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

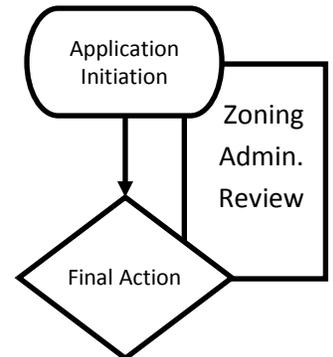
- A. Administrative Adjustments are minor specified deviations from otherwise applicable standards of this Ordinance as specified in this Section.
- B. Except as provided in Sec. 3.9.4 below, the Zoning Administrator has the authority to approve an Administrative Adjustment of up to 10 percent of any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



Article 3 Development Review Procedures

Sec. 3.9. Administrative Adjustment

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.

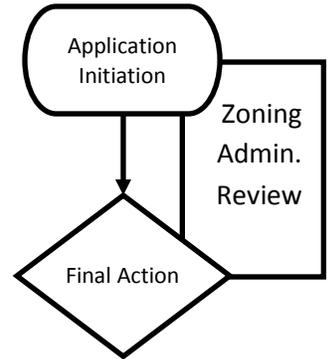
Sec. 3.10. Written Interpretation

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 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. **Signs**

An Improvement Location Permit is not required prior to obtaining a Sign Permit.
 - 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.

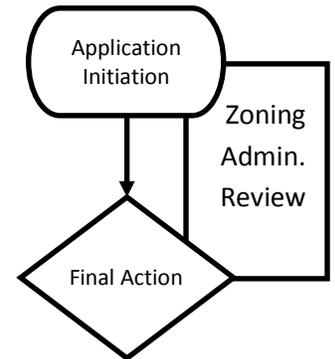
3.11.3 Review Process

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 Improvement Location Permit Required Within a Special Flood Hazard Area

- A. No development is permitted in the Special Flood Hazard Area without first obtaining an Improvement Location Permit. The Zoning Administrator may not issue an Improvement Location Permit if the

Article 3 Development Review Procedures

Sec. 3.11. Improvement Location Permit

proposed development does not meet the requirements of this subsection.

- B.** The Zoning Administrator must determine if the structure or the site is located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined.
 - 1.** If the structure is in an identified floodway the Zoning Administrator must require the applicant to secure a permit from the Department of Natural Resources for any construction in a floodway. The Improvement Location Permit can only be released if it is as restrictive or more restrictive than the permit issued by the Department of Natural Resources.
 - 2.** If the structure is located in an identified floodway fringe, the Zoning Administrator must issue the Improvement Location Permit provided:
 - a.** The provisions contained in Sec. 7.5 of this Ordinance have been met; and,
 - b.** That the lowest floor of any new or substantially improved structure must be at or above the Flood Protection Grade.
 - 3.** If the structure is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate). The Zoning Administrator must require the applicant to secure a permit or letter of recommendation approving the proposed development from the Department of Natural Resources. The improvement Location Permit can only be issued if it is as restrictive or more restrictive than the permit issued by the Indiana Department of Natural Resources.

3.11.6 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.
- 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

[Reserved]

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

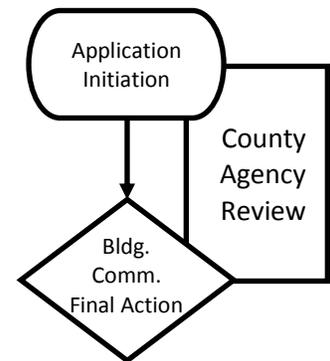
A. Prior County Agency Review

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. 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.

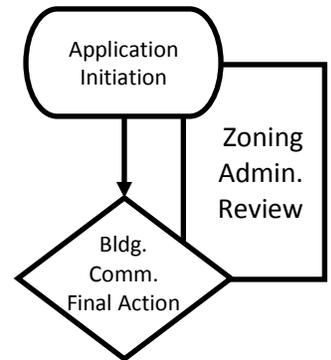
3.14.3 Review Criteria

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

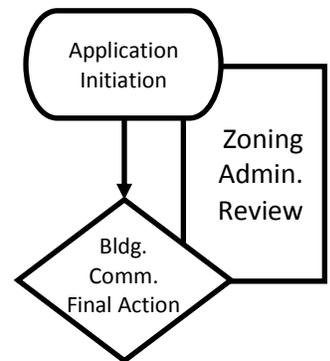
The Zoning Administrator must review the submitted application and make a recommendation to the Building Commissioner.

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. 3.5.9.

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

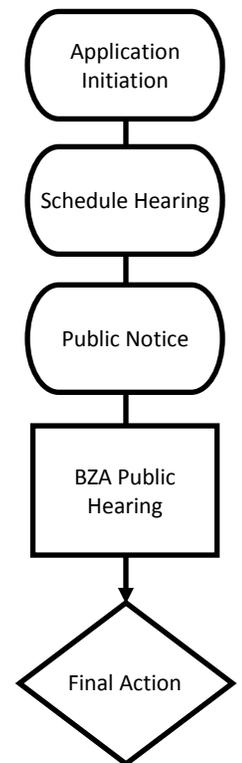
An Appeal of a Hearing Officer decision must be filed within five days from the date of the decision. All other Appeals must be filed within 10 days from the date of the order, requirement, decision or determination.

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.



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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

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

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 Minimum 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. Any single lot or parcel of land, held by one owner which was of record on or before January 18, 1960, that does not meet the requirements for minimum lot area, may be utilized for a single-family detached or two-family detached dwelling when permitted by the applicable zoning district, if the required lot areas are not less than sixty percent of the minimum required area.
- 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.*

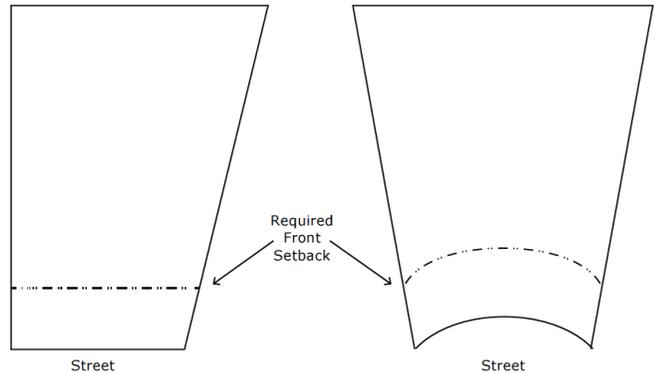
4.3.3 Minimum Lot Width

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.

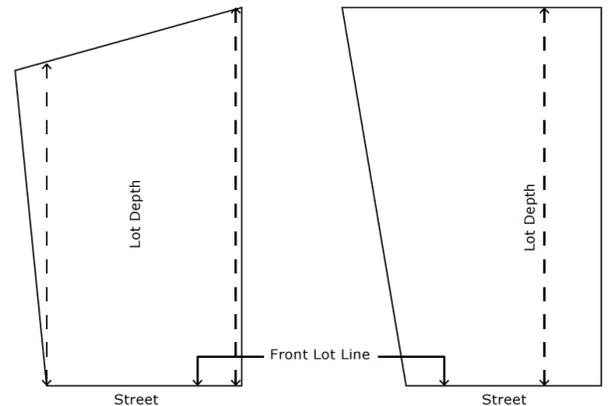
B. Special Cases

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. Any single lot or parcel of land, held by one owner which was of record on or before January 18, 1960, that does not meet the requirements for minimum lot width, may be utilized for a single-family detached or two-family detached dwelling when permitted by the applicable zoning district, if the required lot widths are not less than sixty percent of the minimum required lot width.



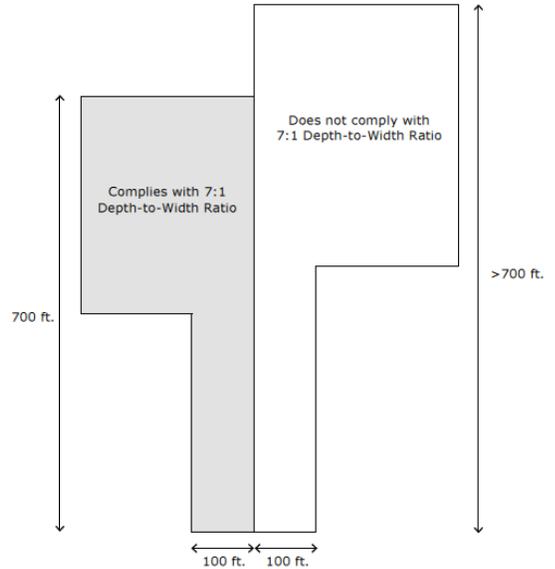
4.3.4 Minimum Lot Depth

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 three 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. The exception to the depth to width ratio shall be on 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 Minimum 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.

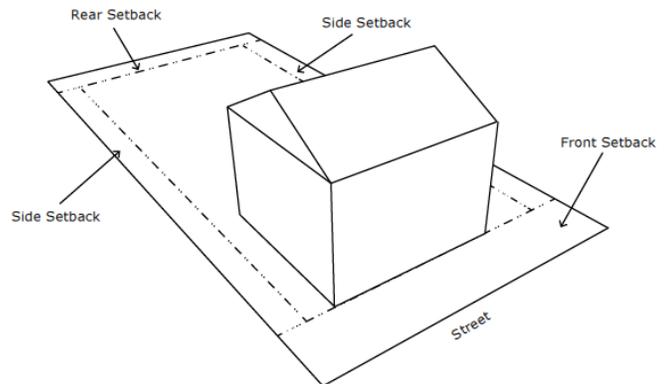
B. Measurement Methodology

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 stairway and necessary landings may project into required setbacks, provided they are setback a minimum of three feet from all property lines.
- 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.

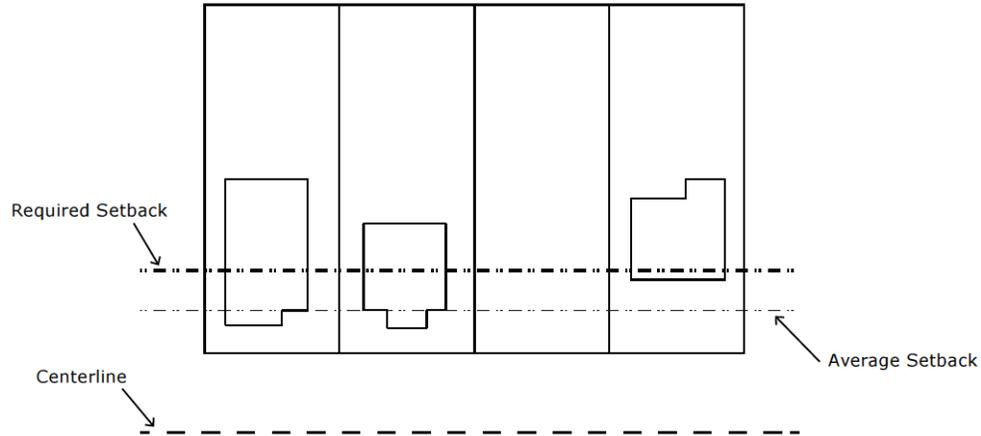
2. Front Setback

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.

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Sec. 4.3. Measurements and Special Cases



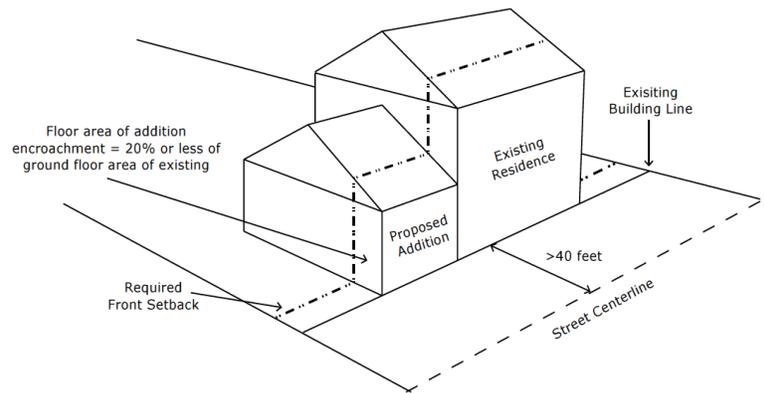
b. Platted Setbacks

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. The existing yards were created prior to February 1, 1960 or in conformance with the Zoning Ordinance in effect on February 1, 1960.



- 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 ground 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, accessory structure or fence 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 Road or Street	60 ft.
Named Street	See Sec. 4.4.8 or Sec. 4.5
Open Use Categories	
Federal or State Highway or Major Road	120 ft.
Numbered County Road or Street	80 ft.
Named Street	75 ft.

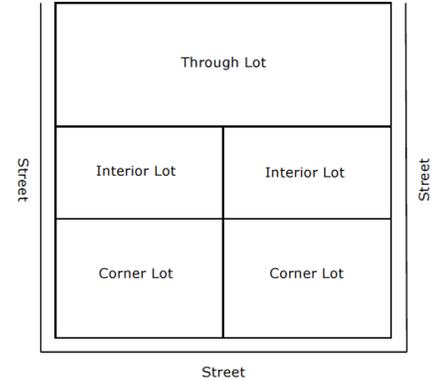
- ii. Where the developmental standards in Article 4 through Article 6 conflict with this table, the standards of this table control.
- iii. For the purposes of the table above, the following roads are designated as "Major Roads".

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.
- b. For residential uses, except apartments, the minimum rear setback is 20 percent of the depth of the lot, with a minimum setback of 15 feet and a maximum setback of 25 feet. For apartments, the minimum rear setback is 20 percent of the depth of the lot, with a minimum setback of 20 feet.



4. Corner Lots

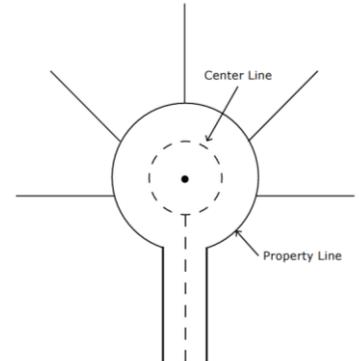
If a side property line abuts a street, as on a corner lot, then a front setback is required adjacent to each street.

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.



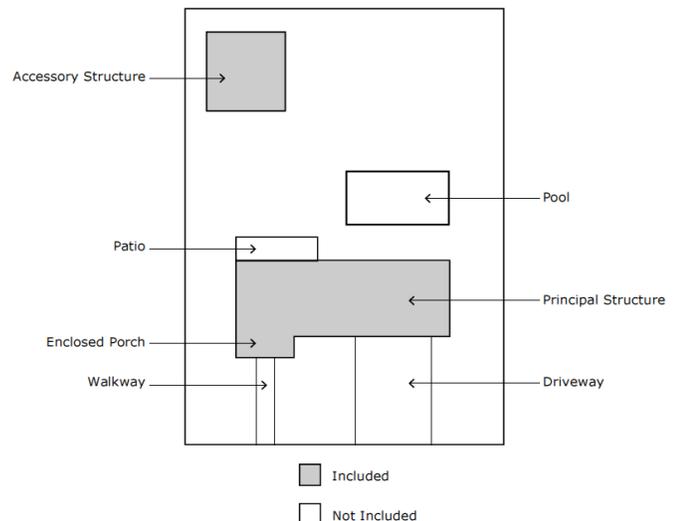
7. Roundabout Lots

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

4.3.7 Maximum Building Coverage

A. Measurement Methodology

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



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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 Minimum Ground Floor Area

Ground floor area is measured as the square-foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground level, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

4.3.9 Gross Floor Area

Gross floor area of a building or structure is measured as the floor 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. Gross floor area does not include any area used for:

- A. Storage accessory to the primary use of a building;
- B. Incidental repairs;
- C. Processing or packaging of merchandise;
- D. Show windows, or offices incidental to the management or maintenance of a store or building;
- E. Rest rooms;
- F. Utilities; or
- G. Dressing, fitting or alteration rooms.

4.3.10 Maximum 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

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Sec. 4.3. Measurements and Special Cases

immediately adjacent to the building to the highest point of the roof in the case of a flat roof; to the average point between the eaves and ridge of a gable, hip, or gambrel roof; and to the deck line of a mansard roof.



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 Maximum Density

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

4.3.12 Minimum 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.

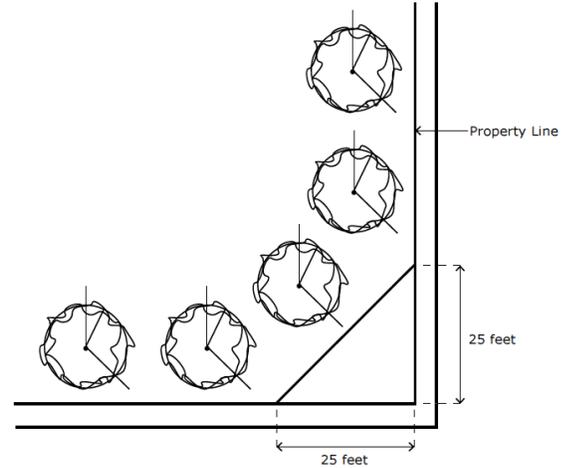
Article 4 District Developmental Standards

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

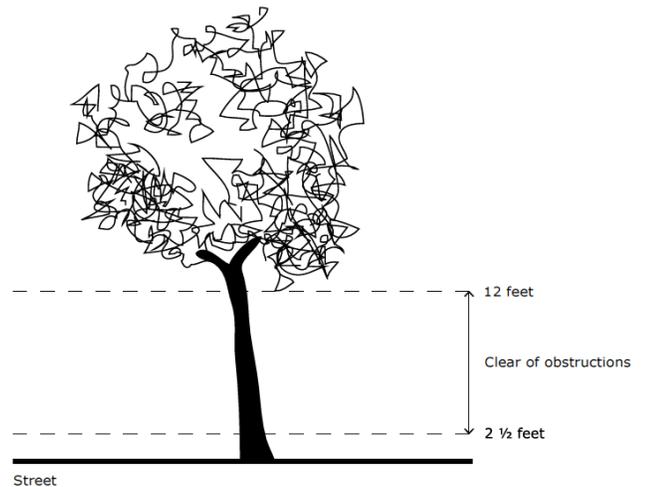
4.3.13 Intersection Visibility Triangle

- 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 10 and in no case may there be more than one such building on one zoning lot.



Sec. 4.4. Residential Developmental Standards

4.4.1 General

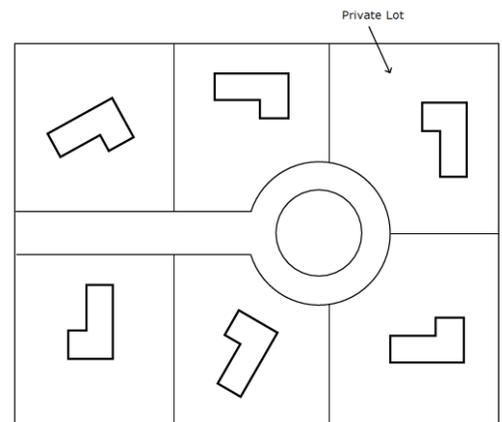
Residential development in permitted zoning districts, as established in the Use Tables in Sec. 5.1 and Article 6, must conform to the developmental requirements of this Section.

4.4.2 Subdivision Types

Two types of residential subdivisions are permitted, as follows.

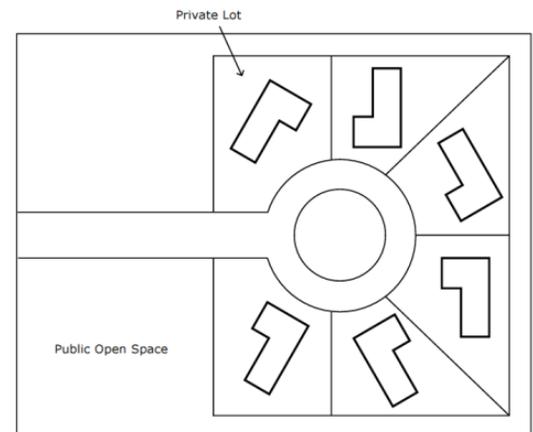
A. Conventional Subdivision Option

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.

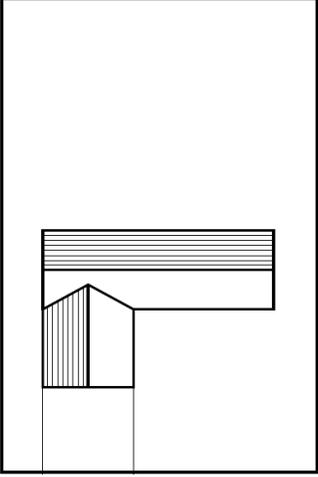
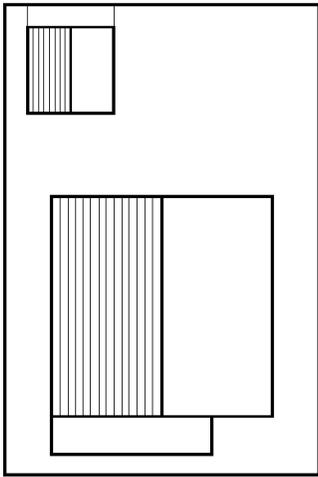


3. A density bonus of three units per acre, rather than approximately two units per acre in the A-1 zoning district under the conventional subdivision option, serves as an incentive to develop a cluster subdivision, which is often more sensitive to the ecological and historic amenities of the site.
4.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

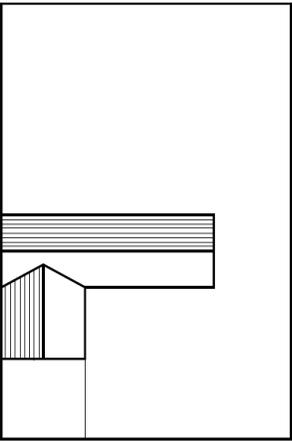
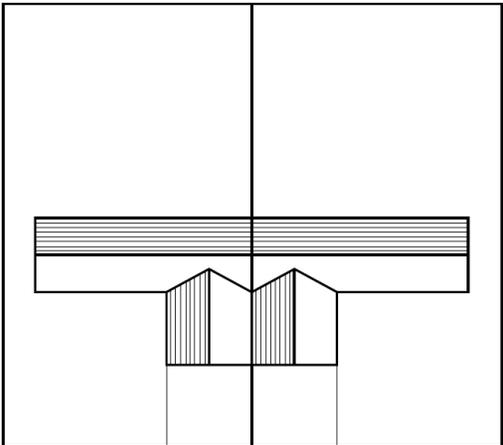
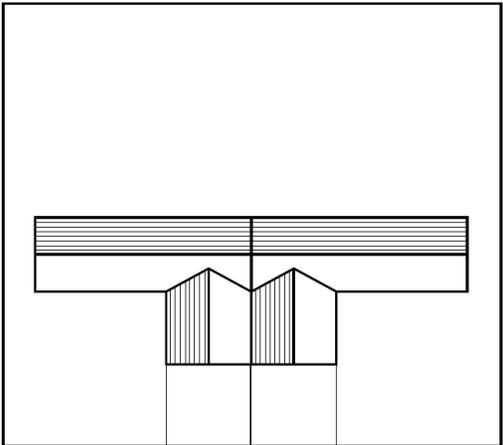
4.4.3 Optional Housing Types

A. Definitions

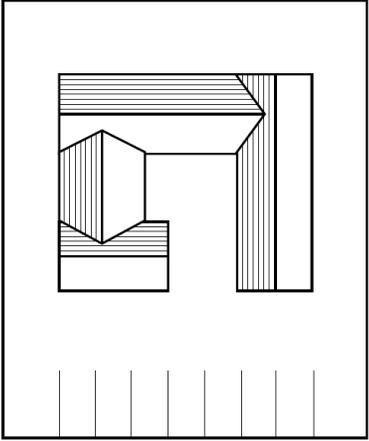
The following optional housing types are established to provide a common terminology for housing in the County and to facilitate a mixing of types, without special approval, if the free market dictates the need for such mixing of housing types.

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.</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 and public wastewater service.</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.</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. Public wastewater service is required.</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.</p>	

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 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>	

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
Ground Floor Area (min. sq. ft.)			
Single-Story	900	900	900
Two-Story	600	600	600

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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
Ground 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
Ground 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
Ground 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
Ground 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

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.
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 ground 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.

B. Ponding Soils Map

1. The Zoning Administrator must maintain a Ponding Soils Map pursuant to the Plan Commission Rules of Procured.
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)	15,000	10,000
Width (ft)	100	75
Setbacks (min ft.)		
Front	50	50
Side (interior)	10	5
Side (corner)	45	30
Rear	15	10
Height (max ft.)	30	30
Building Coverage (max. %)		
Interior	25	30
Corner	30	35
Parking Setback (min. ft. from centerline of ROW / front property line)	35 / 10	55 / 15

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.

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						5.3.2
	Single-Family Attached Dwelling		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
	Modular or double-wide manufactured 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		5.3.7
Day Care [see 5.2.3B]	All Day Care				S	S	P	P	P	S		
Educational Facilities [see 5.2.3C]	All Educational Facilities except as listed below:	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		

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
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		
	Airport or heliport								S	S	S	
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		
	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		
	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		5.3.11
	TV or radio studio					L	L	L	P	P		5.3.12
Outdoor Recreation [see 5.2.4C]	All Outdoor Recreation except as listed below:	S					S	S	S	S		
	Animal racing or training	S										
	Farmers Market, outdoor	S					P	P	P			
	Golf driving range	S					S	S				
	Marina	S	S	S	S	S	S	S	S	S	S	
	Stable, public or commercial	S										
Stadium, arena, running track or ball	S	S	S	S	S	S	P	P	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
	field											
Outdoor Recreation [see 5.2.4C]	Track, vehicle race	S					S	S	S	P	P	5.3.13
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			5.3.16
	Agri-business	L										5.3.29
	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			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	

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
Retail Sales & Service [see 5.2.4G]	All Retail Sales and Service (Repair-Oriented)	S				L	P	P	P	P		5.3.16
Self-Service Storage [see 5.2.4H]	All Self-Service Storage							S	P	P	P	
Vehicle Sales & Service [see 5.2.4I]	All Vehicle Sales and Service (Major Vehicle Repair)								P	P	P	
	All Vehicle Sales and Service (Minor Vehicle Servicing)							L	P	P	P	5.3.20
	All Vehicle Sales and Service (General) except as listed below:								P	P		
	Fuel Sales, Retail						L	P	P	P		5.3.21
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	P	P	
Waste-Related Service	All Waste-Related Service uses except as listed below:						S	S	S	S	S	
	Recycling facility										S	5.3.27

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
[see 5.2.5D]	Tire recycling or recapping									S	S	
Wholesale Trade	All Waste-Related Service uses except as listed below:								S	S	S	
[see 5.2.5E]	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
	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 10. 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.

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 Dock or pier (noncommercial) 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 Minor utilities Mobile Home (5.3.4) 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 (5.5.13) 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)

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 disabled, mentally retarded, or emotionally disturbed 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 Institutions) Drug, alcohol or psychiatric treatment center (see Social Service Institutions) Transient shelter (see Social Service Institutions) 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 Rummage sale (5.5.12)	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 Rummage sale (5.5.12)	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)

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	Accessory dwelling unit (5.5.3) Assembly hall Associated office and storage	Music, art or photographic studio or classroom (see Retail Sales and Service)

Article 5 Use Standards
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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
Public or private elementary, middle or high school Other uses meeting the characteristics of the Educational Facilities Use Category	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 Rummage sale (5.5.12)	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)

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 Hospital Medical or dental office or laboratory Other uses meeting the	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	Drug, alcohol or psychiatric treatment center, in-patient (see Social Service Institutions) Nursing or medical school not associated with a hospital (see Educational Facilities) Urgent care or emergency medical center (see Retail Sales and Service)

Article 5 Use Standards
 Sec. 5.2. Use Categories

Characteristics: Uses providing medical or surgical care to patients. Some uses may offer overnight care.		
Primary Uses	Accessory Uses	Uses not Included
characteristics of the Medical Facilities Use Category	Food preparation and dining facility Garden Minor utilities Place of worship Pharmacy Recreation facility Rummage sale (5.5.12)	

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 Dock or pier (noncommercial) Garden Minor utilities Recreation facility Rummage sale (5.5.12) 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)

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

Article 5 Use Standards
Sec. 5.2. Use Categories

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 Rummage sale (5.5.12)	Social Service Establishment uses (see Social Service Establishments)

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 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 Rummage sale (5.5.12) Other miscellaneous household amenities	Detention center, jail or prison (see Government Facilities) Drug, alcohol or psychiatric treatment center, out-patient (see Medical 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	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
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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
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		

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.

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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 10) 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)

Article 5 Use Standards
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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
		Sales and Service)

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 Dock or pier 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)

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,	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

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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
<p>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 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</p>		<p>trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, or store fixtures (see Wholesale Trade)</p>

Article 5 Use Standards
Sec. 5.2. Use Categories

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
Urgent care or emergency medical center Veterinary clinic or hospital 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 Other uses meeting the characteristics of the Retail Sales and Service Use Category		

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	Associated office and storage Car wash Concession Food preparation and dining area Fueling facility Minor utilities Sale of auto parts Towing	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

Article 5 Use Standards
Sec. 5.2. Use Categories

<p>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.</p>		
Primary Uses	Accessory Uses	Uses not Included
<p>vehicles, motorcycles, trucks, boats and recreational vehicles)</p> <p>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</p> <p>Vehicle Servicing, Minor: Quick lubrication facilities, battery sales and installation, auto detailing, minor scratch and dent repair, bed liner installation, tire sales and mounting</p> <p>Other uses meeting the characteristics of the Vehicle Sales and Service Use Category</p>	<p>Vehicle storage</p>	<p>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)</p>

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

<p>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.</p>		
Primary Uses	Accessory Uses	Uses not Included
<p>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,</p>	<p>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</p>	<p>Microbrewery (see Restaurants) Recycling facility (see Waste-Related Service)</p>

Article 5 Use Standards
Sec. 5.2. Use Categories

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
<p>poison, rubber, salt, shellac, tallow, tar, turpentine, varnish, vinegar, or yeast</p> <p>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</p> <p>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</p> <p>Boiler works Bulk storage of explosive or hazardous materials Concentrated animal feeding operation Concrete batching and asphalt processing and manufacture Feed milling Grain elevator Railroad yard or repair shop Sawmill</p>	<p>Meeting space Minor utilities Recreation facility Single attached residential unit for caretaker</p>	

Article 5 Use Standards
Sec. 5.2. Use Categories

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
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	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	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

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
maintenance service, exterminator, maintenance yard or facility 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	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

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
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		

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	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	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

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
Wholesale or auction of food, clothing, auto parts, or hardware Other uses meeting the characteristics of the Wholesale Trade Use Category	Minor utilities Product repair Recreation facility Repackaging of goods Single attached residential unit for caretaker Warehouse	

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 Dock or pier (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 and Article 6 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.

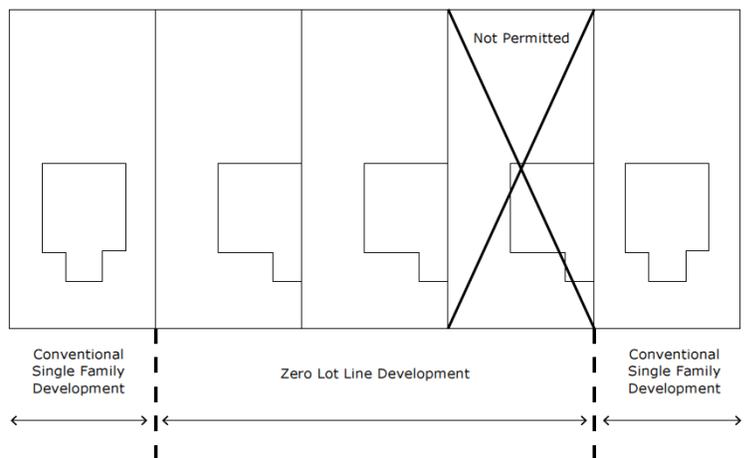
5.3.2 Zero Lot Line Dwelling

A zero lot line dwelling is permitted in accordance with the use tables in this Article and Article 6 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 and Article 6 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 and Article 6 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 gross 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 gross 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 gross floor area of all primary and accessory structures must be less than 10,000 square feet.
- B. In the A-1 zoning district, the gross 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 gross 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 gross 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 gross 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 gross 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 are prohibited.
- B. On-site commercial satellite dishes greater than five feet in diameter are prohibited.

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 minimum of seven and 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 bed and breakfast inn is limited to one sign not to exceed four square feet.

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 gross 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 gross 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.

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.

Sec. 5.4. Wireless Communication Facilities

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

5.4.1 Applicability

This Section applies to wireless communication facilities under the Telecommunications Act of 1996. 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 communication facility.
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 tower; and
 - c. Supporting evidence that co-location of the proposed facility with an existing approved tower or facility cannot be accommodated, including a listing of all existing towers and facilities within a two mile radius of the proposed tower location, a description of each existing site, and an indication of the ability or inability to co-locate on each existing site, according to the following criteria:
 - i. No existing towers or facilities are located within a two mile radius of the proposed tower location.
 - ii. Existing towers or facilities are not of sufficient height to meet the petitioner's engineering requirements.
 - iii. Existing towers or facilities do not have sufficient structural strength to support the applicant's proposed antenna or related equipment.
 - iv. The petitioner's planned equipment would cause frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause frequency interference with the applicant's planned equipment that cannot be reasonably prevented.
 - v. Unwillingness of the owner of the existing tower or facility to entertain a co-location proposal.

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Sec. 5.4. Wireless Communication Facilities

- vi. Existing towers are located beyond a reasonable distance to provide necessary coverage.

B. Ability for Future Co-Location and Height Standards

1. A new facility must be designed to allow a minimum co-location of two additional antennas from two additional providers.
2. All option and site lease agreements may not be written to prohibit the possibility of co-location.
3. A 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 communication tower may be mounted upon measured from the grade to the highest point of the tower.
4. The Board of Zoning Appeals must evaluate the proposed type of construction of the tower (mono pole, guy wire or free standing) based upon adjacent land uses and character of adjacent properties.
5. The Board of Zoning Appeals may require camouflage on a new wireless communication tower. A tower 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.
6. Any tower 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 tower, but not less than 50 feet.
2. Towers must be setback from any residential use a minimum of one and one half times the height of the tower. This standard does not apply to the residence owned by the person leasing or selling the property for the purposes of locating the tower.
3. The Board of Zoning Appeals may require a greater setback where a proposed tower 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

Towers must not be illuminated, except in accordance with state or federal regulations.

E. Staffing and Vehicular Access

Other than periodic visits for maintenance, the 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 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

No signs are permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state, or local agency. Such signs may not exceed five square feet in area.

I. Removal

When the 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 communication towers 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. Towers 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 towers 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 tower will not interfere with other communications (such as radio or television);
 - b. An engineering report on collapsibility of the tower; and
 - c. A letter stating the facility operator will disassemble the tower and bring the property back to grade when the tower 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.

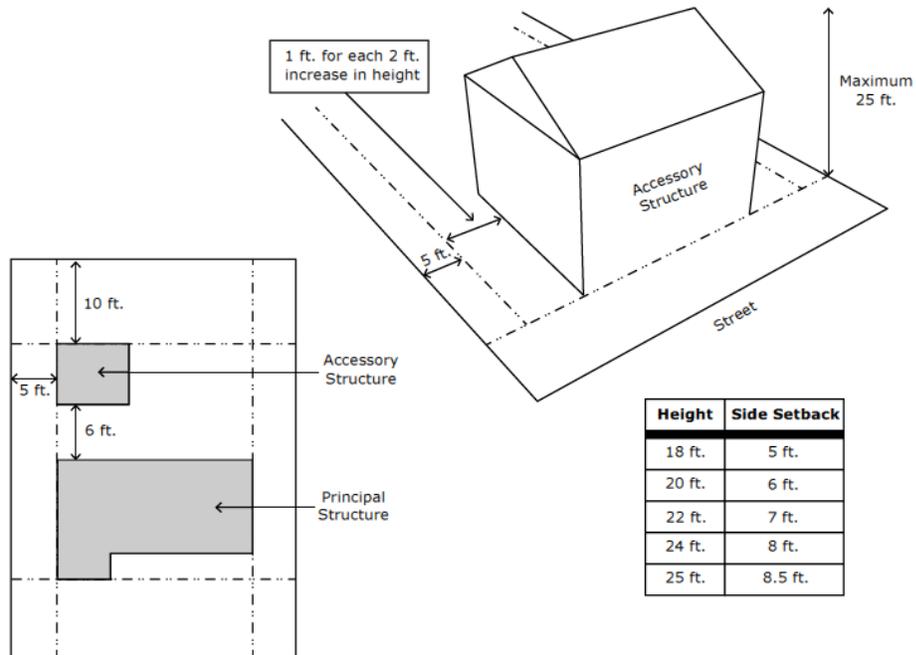
5.5.1 General Standards

- 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.

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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 gross above-ground floor area of 600 square feet and a maximum gross floor area of 1,000 square feet. An accessory dwelling with attached personal storage space may have up to 1,200 square feet gross floor area.
- 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 mobile or manufactured home may not be used as an accessory dwelling unit. A Special Use Permit in accordance with Sec. 3.6 is required.

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Sec. 5.5. Accessory Uses and Structures

- 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. A bed and breakfast homestay is limited to one 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, all articles not sold must be removed from the front and side yards.
- D. Garage or yard sales are limited to the hours from sunrise to sunset.
- E. All signs erected for a garage or yard sale must be removed at the conclusion of the sale.

Article 5 Use Standards

Sec. 5.5. Accessory Uses and Structures

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. Signs advertising the home occupation are prohibited.
- F. 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.
- G. 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 Special Use Permit approved in accordance with Sec. 3.6 is required in order to have more than two outside employees.
- C. A home workshop/business is limited to one non-illuminated wall or freestanding sign not to exceed four square feet. 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.
- E. A home workshop or business must not produce noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.

Article 5 Use Standards

Sec. 5.5. Accessory Uses and Structures

- 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 gross 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 gross floor area of the primary residential structure.
- H. One off-street parking space must be provided per 200 square feet of gross floor area devoted to the home workshop/business, in addition to the dwelling unit requirement.

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 gross 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 gross 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.

Article 5 Use Standards

Sec. 5.5. Accessory Uses and Structures

- 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 Rummage Sale

A rummage sale is permitted as an accessory use subject to the following standards.

- A. No sale may be conducted for longer than 10 consecutive days or more than 20 days of any calendar year by the same organization or on the same property.
- B. All signs erected for a Rummage Sale must be removed at the conclusion of the sale.

5.5.13 Solar Panel Array

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

A. Roof-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.

B. Wall- or Ground-Mounted Arrays

- 1. Wall-mounted solar panels require a Special Use Permit approved in accordance with Sec. 3.6.
- 2. 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.

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

Size of Ground-Mounted Solar Array	Property Size	Special Use Permit Needed?
Greater than 850 sq. ft.	Any sized property	Yes
Any sized array	Less than 3 acres	Yes
850 sq. ft. or less	3 acres or more	No, permitted by right subject to limitations in paragraph 3 below

3. Ground-mounted solar panel arrays 850 square feet or less in area on properties three acres or more in lot area are permitted by right provided that the arrays have a minimum setback of 120 feet from any property or right-of-way line.

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 gross floor area of the hotel or motel does not exceed 20 percent of the gross 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 gross 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. Monument signs, as defined in Sec. 7.4, and wall signs are the only sign types permitted in the E-3 zoning district. All other sign types, whether described in Sec. 7.4 or not, are prohibited.

Article 6 Special Purpose and Overlay Zoning Districts

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

2. Monument signs must comply with the following standards.

Monument Sign Standards	Requirement
Min. Front Setback (ft. from prop. line)	
Front	30
Side	30
Max. Overall Height (ft.)	8
Max. Overall Width (ft.)	10
Max. Message Height (ft.)	4
Max. Message Width (ft.)	10
Max. Combined Area of All Signs Requiring a Permit	1 sq. ft. per 2 linear ft. of frontage not to exceed 200 sq. ft.

3. Wall signs must comply with the following standards.

Wall Sign Standards	Requirement
Max. Height	Not to exceed roof line
Max. Area	Not to exceed 5% of building façade

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;

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

- 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.

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

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

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:

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;

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- 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 10, must consist of one or more of the following materials:
 - a. Natural stone;
 - 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 10.

Article 6 Special Purpose and Overlay Zoning Districts

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

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

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.4. A-3, Farmland Preservation District

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. Such signs require a sign permit in accordance with Sec. 3.14.

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. Such signs require a sign permit in accordance with Sec. 3.14.

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 GFA and/or impervious surface by 21% or more	✓	✓	✓	✓
Increase in nonresidential GFA and/or impervious surface by a maximum of 20%	✓			✓
Construction of new sign or modification of existing sign			✓	

✓ = Section applies

GFA = Gross 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 gross 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, gross 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 GFA = gross 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 GFA 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 GFA 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

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Use Category	Specific Use	Minimum Off-Street Parking Spaces
	SF = square feet GFA = gross floor area	
Government Facilities [see 5.2.3D]	Penal or correctional institution	1 per employee on largest shift plus 1 per 5 cells
	Post office	1 per official vehicle plus 1 per employee on largest shift plus 1 per 200 SF GFA
	All other uses	1 per employee on largest shift
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 GFA 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 GFA , plus 1 per 2 seats in main place of assembly or recreation
Offices [see 5.2.4B]	All uses	1 per 300 SF GFA
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 GFA
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

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Use Category	Specific Use		Minimum Off-Street Parking Spaces
	SF = square feet	GFA = gross floor area	
Restaurants [see 5.2.4F]	All uses		1 per 3 seats
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 GFA 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 GFA, 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 GFA
	Livestock sale or auction		1 per 4 seats
	Roadside Stand		1 per 300 SF GFA
	Scenic or sightseeing tour		1 per 300 SF GFA
	All other uses		None

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Use Category	Specific Use	Minimum Off-Street Parking Spaces
	SF = square feet GFA = gross floor area	
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 and must be maintained in good condition.
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	Gross Floor Area (square feet)	Minimum Off-Street Loading Berths
	SF = square feet GFA = gross 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 GFA

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Use Category	Gross Floor Area (square feet)	Minimum Off-Street Loading Berths
	SF = square feet GFA = gross 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 GFA
Offices [see 5.2.4B]	40,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
Overnight Accommodations [see 5.2.4D]	0 – 40,000	1
	Over 40,000	1 plus 1 additional space per additional 150,00 SF GFA
Restaurants [see 5.2.4F]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
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 GFA
Vehicle Sales and Service [see 5.2.4I]	8,000 – 25,000	1
	Over 25,000	1 plus 1 additional space per additional 25,000 SF GFA
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 GFA

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.

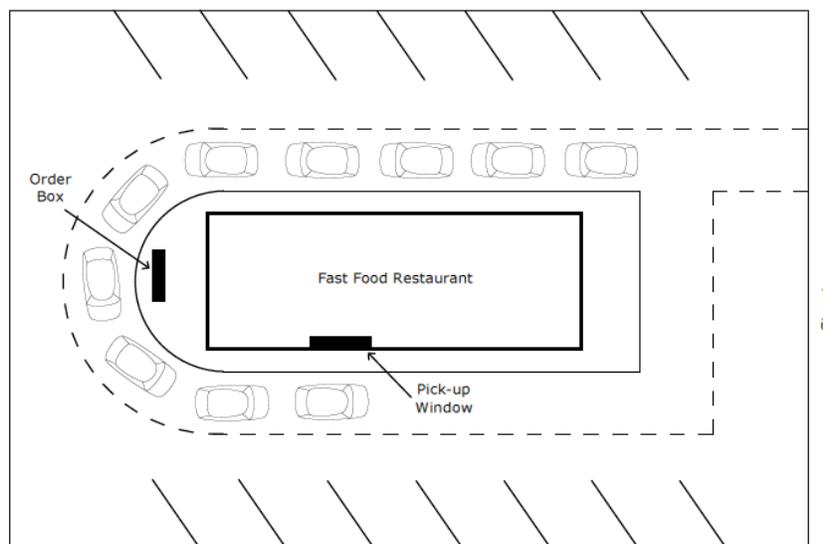
7.2.10 Vehicle Stacking Areas

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.

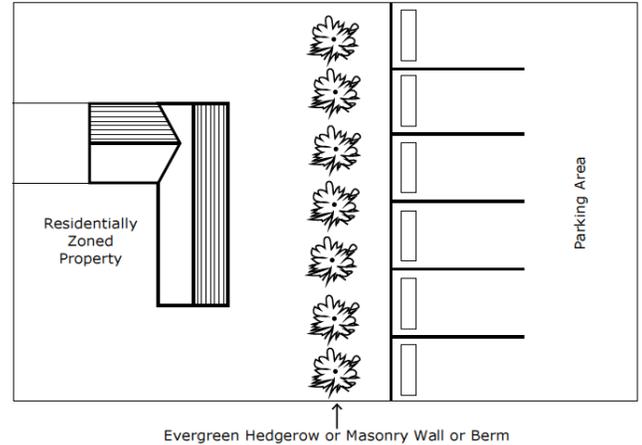
7.3.3 Parking Area Buffer

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

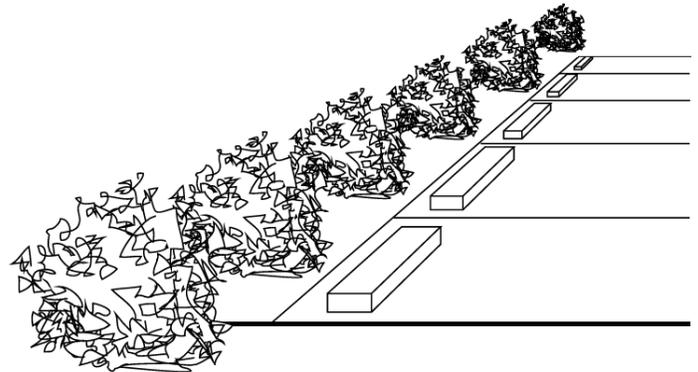
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- C. The parking area buffer must consist of a landscaped area along the entire applicable perimeter of the parking area, except for permitted driveways, and must be a minimum of 10 feet in width.
- D. The parking area buffer must contain a continuous 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 determines the required buffer class (I, II, or III) between a subject property and its adjacent zoning districts.

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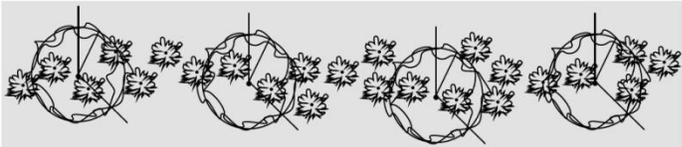
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		Adjacent District							
		A-1, R-1, -2, -3 (Res. use)	R-4 (Res. use)	B-1	B-2	B-3	E-3	M-1	M-2
Subject District	R-1, -2, -3, -4 (Nonres. use)	I	--	--	--	--	--	--	--
	B-1	I	--	--	--	--	--	--	--
	B-2	II	I	I	--	--	I	--	--
	B-3	II	II	I	I	--	I	--	--
	E-3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

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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.

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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.

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

SIGN, AGRICULTURAL. A sign identifying the farm on which it is placed or advertising the produce or animals raised on the property.

SIGN, CONSTRUCTION. A specific type of freestanding sign intended to provide information about current construction on a site and the parties involved in the project.

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, DIRECTIONAL. A permanent sign that directs the flow of traffic or pedestrians and that contains no commercial message.

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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.

SIGN, NAMEPLATE OR IDENTIFICATION. A specific type of wall sign that identifies the occupant, whether persons or a business, and address of a structure.

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, REAL ESTATE. A sign that is used to advertise the sale, lease or rental of property.

SIGN, SUBDIVISION ENTRY. A sign designating the entry into a residential or nonresidential subdivision.

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.

2. Exemptions

The following signs or sign elements are exempt from the provisions of this Section but are subject to any other applicable laws and regulations:

- a. Address and postbox numerals;

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- b. Governmental signs that the City, Town, county, state or federal government erects in furtherance of their governmental responsibility;
- c. Public notice or warning that a valid and applicable federal, state or local law requires;
- d. Sign inside a building, not attached to a window or the exterior side of a door, and not legible from outside of the building;
- e. Flags, emblems or insignias of a nation, state, political subdivision or organization, or a school or religious group;
- f. Sign located completely within an enclosed building;
- g. Works of art that do not include a commercial message;
- h. Memorial signs or tablets including headstones in cemeteries; and
- i. Agricultural signs that are four square feet or less in area.

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

C. Non-Commercial Messages Permitted in Substitution

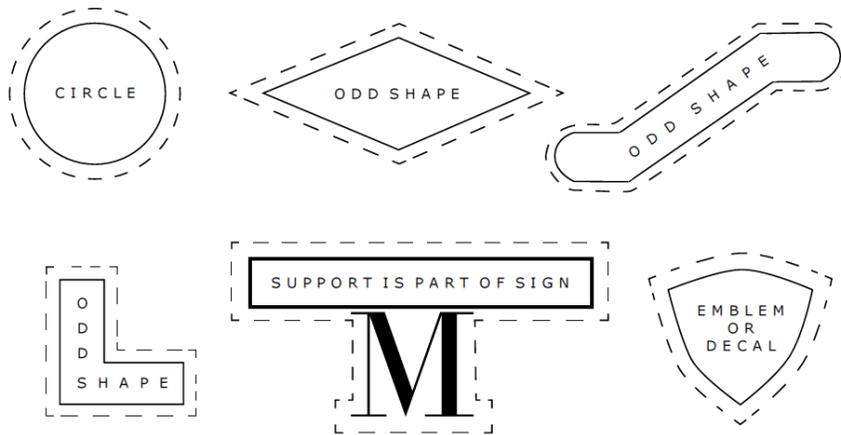
- 1. Any sign allowed under this Section may contain, in lieu of any other copy, any lawful noncommercial message that complies with all other requirements of this Section.
- 2. The right that this subsection creates is one of substitution and not one of addition

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.

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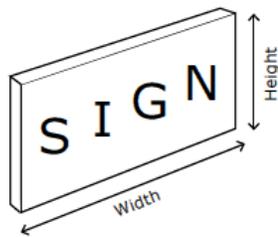
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COMMENTARY: Channel letter signs, mounted logos, and similar devices are treated differently than signs in cabinets – the wall area between multiple elements does not count as sign area.

- The area for a sign with more than one face is measured by adding together the area of all sign faces, except where the angle at which the two sign faces are placed does not exceed 60 degrees or where the sign faces are parallel and not more than 36 inches apart.

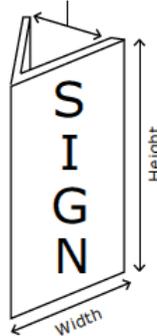
COMMENTARY: It is presumed that where sign faces are placed less than 60 degrees apart, both faces are not readable from any one point.



2 SIDED FLAT SIGN

$Width \times Height = \text{Sign Area}$

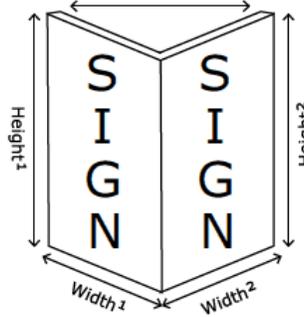
60° AND UNDER



**2 SIDED ANGLED SIGN
60° AND UNDER**

$Width \times Height = \text{Sign Area}$

OVER 60°



**2 SIDED ANGLED SIGN
OVER 60°**

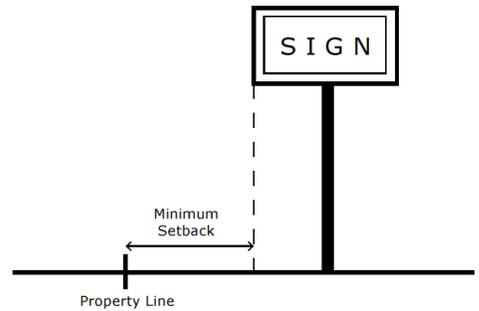
$(Width^1 \times Height^1) + (Width^2 \times Height^2) = \text{Sign Area}$

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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

The standards applicable to each permitted sign type are set forth in the table below.

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Sec. 7.4. Signs

Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
Wall Signs						
Nameplate or Identification	Residential use	1 ½ sq. ft. per unit	No	None	One permitted per dwelling unit on interior lot. One permitted per street frontage on a corner or double-frontage lot.	
	Nonresidential or multiple-family use	12 sq. ft.	No	None	One permitted per building on interior lot. One permitted per street frontage on a corner or double-frontage lot.	
Projecting sign	R-4, B and M zoning districts	50 SF for horizontal sign; 100 SF for vertical	Yes	None	The sign must be placed at least 9 feet above finished grade, a maximum of 2 feet from the face of the wall to which it is attached.	

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Sec. 7.4. Signs

Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
Wall Sign	R-4, B and M zoning districts	See A and C below	Yes	None	The sign must not cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.	
Freestanding Signs						
Construction sign	R-4, B, M and E-3 zoning districts	32 sq. ft.	No	From issuance of ILP to 30 days after issuance of Certificate of Occupancy	The sign must have a minimum setback 10 feet from any public right of way.	
Directional sign	Nonresidential use	2 sq. ft.	No	None	The sign must be set back a minimum of 3 feet from the right-of-way line.	

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Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
Freestanding sign	R-4, B and M zoning districts	See A and C below	Yes	None	<p>Maximum height is 40 feet except in the R-4 zoning district.</p> <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>	
	A-1, -3, -4 zoning districts	See B below	Yes	None		
Real Estate Sign	Residential uses	6 sq. ft.	No	Must be removed 14 days after sale or rental of the property	<p>One permitted per interior lot.</p> <p>One permitted per street frontage on a corner or double-frontage lot.</p> <p>The sign must be set back a minimum of 3 feet from any property line.</p>	

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Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
	Nonresidential uses	32 sq. ft.	No	Must be removed 14 days after sale or rental of the entirety of the property	<p>One permitted per interior lot.</p> <p>One permitted per street frontage on a corner or double-frontage lot.</p> <p>The sign must be set back a minimum of 8 feet from any property line.</p>	
Message board, electronic	<p>Permitted: B, M, and E-3 zoning districts</p> <p>Special Use Permit: A and R zoning districts</p>	See A below	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>	

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Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
Portable Sign	B and M zoning districts	32 sq. ft.	Yes	<p>Max. 60 days per calendar year</p> <p>Max. 30 consecutive days</p> <p>Min. 15 days between removal and replacement</p>	<p>1 sign permitted per zoning lot.</p> <p>Minimum setback of 5 feet from the public right-of-way and 75 feet from a residentially zoned property.</p> <p>Blinking lights are prohibited.</p>	

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Sec. 7.4. Signs

Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
Subdivision Entrance Sign	Permitted in association with a platted subdivision	96 sq. ft.	Yes	None	<p>2 signs permitted per entry.</p> <p>Signs must be attached directly to the ground by a solid base and foundation consisting of durable materials.</p> <p>Maximum height is 8 feet.</p> <p>Maximum width is 12 feet.</p> <p>Sign must be maintained on private property within a platted sign easement with a homeowners association or similar entities granted rights of maintenance and access.</p> <p>Internal or external illumination is permitted.</p> <p>The location of the sign may be permitted at the right-of-way line except on a major road. On a major road, sign placement must be a minimum of 55 feet from the centerline.</p>	

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Sec. 7.4. Signs

A. Maximum Sign Area in the R-4, B- and M- Zoning Districts

Except as limited in the R-4 zoning district in subsection C below, the maximum combined permitted sign area of all signs on a zoning lot must not exceed six times the lineal feet of frontage of that zoning lot. If more than one-half of the sign area is illuminated, the combined permitted sign area of all signs requiring a permit must not exceed three times the lineal feet of frontage of that lot.

B. Maximum Sign Area in the A- Zoning Districts

On a zoning lot of three acres or more with 200 feet or more of frontage, one sign, not to exceed 100 square feet in sign area, is permitted per 200 feet of lineal frontage.

C. Signs in R-4 Zoning District for Non-Residential Use

1. Monument signs, as defined in this Section, are the only type of freestanding sign permitted in the R-4 zoning district. The maximum overall height for such sign is four feet and the maximum sign area for such sign is 32 square feet.
2. Wall signs, as defined in this Section, are limited to a maximum total sign area of 64 square feet with no single sign exceeding 32 square feet.

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 signs of the 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.

Sec. 7.5. Flood Hazard Control

7.5.1 Purpose

The purpose of this Section is to:

- A. Guide development in designated flood hazard areas by reducing the potential for the loss of life and property and by reducing health and safety hazards;
- B. Reduce public expenditures for flood protection and relief;
- C. Lessen the burden on the taxpayer for flood control projects, repairs to flood-damage public facilities and utilities, and flood rescue and relief operations;
- D. Maintain property values and a stable tax base by minimizing the potential for creating flood damaged areas; and
- E. Make federally subsidized flood insurance available for property in the jurisdiction of the Elkhart County Plan Commission by fulfilling the requirements of the National Flood Insurance Program.

7.5.2 Preventing Increased Damages

- A. No development in the Special Flood Hazard Area may create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.
- B. Within the floodway identified on the Flood Boundary and Floodway or the Flood Insurance Rate Map, the following standards apply:
 - 1. No development is allowed which, acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and
 - 2. For all projects involving channel modifications or fill (including levees) the County must submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.
- C. Within all Special Flood Hazard Areas identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided), the following standard applies: the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, must not increase the regulatory flood elevation more than one-tenth of one foot and must not increase flood damages or potential flood damages.
- D. The following materials in the Special Flood Hazard Area must be stored in a storage tank or flood-proofed building below the Flood Protection Grade and constructed according to the requirements of Sec. 7.5.3 below:
 - 1. Chemicals;

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Sec. 7.5. Flood Hazard Control

2. Explosives;
 3. Buoyant materials;
 4. Flammable liquids,
 5. Pollutants; or
 6. Other hazardous or toxic materials.
- E. New and replacement sanitary sewer lines and on-site waste disposal systems must be permitted by the Indiana State Board of Health and the Elkhart County Environmental Health Department.

7.5.3 Protecting Structures

- A. In addition to the damage prevention requirements of Sec. 7.5.2, all buildings to be located in the Special Flood Hazard Area must be protected from flood damage below the Flood Protection Grade.
- B. This building protection requirement applies to the following situations:
1. Construction or placement of any new structure having a gross floor area greater than 400 square feet;
 2. Structural alterations made to:
 - a. An existing (previously unaltered) building, the cost of which equals or exceeds 50 percent of the pre-altered building (excluding the value of the land); or
 - b. Any previously altered building;
 3. Reconstruction or repairs made to a damaged structure that are valued at or more than 50 percent of the market value of the structure (excluding the value of the land) before damage occurred;
 4. Installing a mobile home on a new site or a new mobile home on an existing site. This ordinance does not apply to returning the existing mobile home to the same site it lawfully occupied before it was removed to avoid flood damage; and
 5. Installing a recreational vehicle on a site for more than 180 days.
- C. This structure protection requirement may be met by one of the following methods. The Zoning Administrator must maintain a record of compliance with these building protection standards as required in Sec. 7.5.2 of this ordinance.
1. A residential or nonresidential structure may be constructed on fill in accordance with the following:
 - a. The fill must be placed in layers no greater than one foot deep before compacting to 95 percent of the maximum

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- density and must be certified by an engineer with approved methods.
- b.** The fill must extend a minimum of ten feet beyond the foundation of the building before sloping below the Flood Protection Grade.
 - c.** The fill must be protected against erosion and scour during flooding by vegetative cover, rip-rap, or bulkheading. If vegetative cover is used, the slopes must be no steeper than three horizontal feet to one vertical foot.
 - d.** The fill must not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e.** The lowest floor must be at or above the Flood Protection Grade.
- 2.** A residential or nonresidential structure may be elevated in accordance with the following:
- a.** The structure or improvements must be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - i.** Walls of any enclosure below the elevated floor must be designed to automatically equalize 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 enclosed area subject to flooding.
 - ii.** The bottom of all such openings must be no higher than one foot above grade.
 - iii.** Any enclosure below the elevated floor is used for nonresidential purposes and building access.
 - b.** The foundation and supporting members must be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.
 - c.** All areas below the Flood Protection Grade must be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the Flood Protection Grade. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the Flood Protection Grade.

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Sec. 7.5. Flood Hazard Control

- d. Mobile homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:
 - i. The mobile home must be elevated on a permanent foundation such that the lowest floor shall be at or above the Flood Protection Grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all mobile homes to be placed on a site:
 - (A) Outside a mobile home park or subdivision;
 - (B) In a new mobile home park or subdivision;
 - (C) In an expansion to an existing mobile home park or subdivision; or
 - (D) In an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as a result of a flood.
 - ii. In an existing mobile home park or subdivision that has not been substantially damaged by a flood, the mobile home must be elevated so that the lowest floor of the mobile home chassis is supported by reinforced piers or other foundation elements that 36 inches in height above grade and must be securely anchored to a foundation system that will resist flotation, collapse and lateral movement.
- e. A recreational vehicle placed on a site must either meet the requirements for mobile homes as established above or must:
 - i. Be on the site for less than 180 consecutive days; or
 - ii. 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).
- f. A nonresidential building may be flood proofed to the Flood Protection Grade (in lieu of elevating) if done in accordance with the following.
 - i. A Registered Professional Engineer must certify that the building has been designed so that below the Flood Protection Grade, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design must

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take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

- ii. Flood proofing measures must be operable without human intervention and without an outside source of electricity.

7.5.4 Regulatory Flood Elevation

A. The flood protection standard in this Section is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party is responsible to provide the detailed engineering study needed to replace existing data and submit it to the Department of Natural Resources for review and approval.

1. The regulatory flood elevation for the Special Flood Hazard Area is the 100 year flood profiles in the Flood Insurance Study prepared by the Federal Emergency Management Agency.
 - a. **Bristol**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
 - b. **Middlebury**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
 - c. **Unincorporated Elkhart County**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
2. The regulatory flood elevation for each Special Flood Hazard Area is that elevation delineated on the Flood Insurance Rate Maps.
 - a. **Bristol**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
 - b. **Middlebury**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
 - c. **Unincorporated Elkhart County**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.

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3. The regulatory Flood Elevation for each of the remaining Special Flood Hazard Area delineated as an "A Zone" on the Flood Insurance Rate Map exists according to the best data available as provided by the Department of Natural Resources.
 - a. **Bristol**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
 - b. **Middlebury**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.
 - c. **Unincorporated Elkhart County**
 - i. Flood Boundary Floodway Mapping date August 2, 2011.
 - ii. Flood Insurance Study date August 2, 2011.

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Sec. 7.5. Flood Hazard Control

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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 gross 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:

Article 8 Nonconformities

Sec. 8.5. Repair, Maintenance and Alteration

- 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 provided that:
 - 1. The damage or destruction does not exceed 66 percent of the gross floor area of the structure and provided all reconstruction complies with all current state and local building codes and all other applicable County regulations; or
 - 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 type.

Sec. 8.5. Repair, Maintenance and Alteration

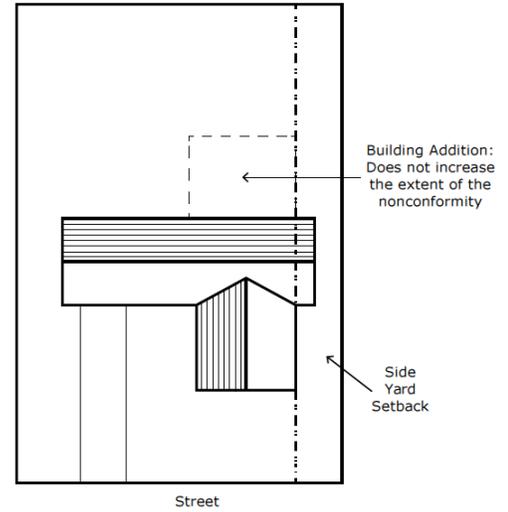
8.5.1 Ordinary day-to-day maintenance and repair work may be done on any legal nonconforming structure or structure containing a legal nonconforming use, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming structure or structure containing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



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 DEFINITIONS

Sec. 10.1. Abbreviations and Acronyms

Abbreviation or Acronym	Meaning
BZA	Board of Zoning Appeals
DPUD	Detailed Planned Unit Development
Ft.	Feet
GFA	Gross 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. 10.2. 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 10 Definitions

Sec. 10.2. 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 gross 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.

ADULT ENTERTAINMENT FACILITIES. Any commercial establishment, business or service which has at least five percent of its gross 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.

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.

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

BASEMENT. A story partly or wholly underground.

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

BASE FLOOD. See "Regulatory Flood".

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

- (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".

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 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.

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.

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;
- (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.

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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.

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.

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.

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FLOOD FRINGE. The area of the flood plain, between the floodway and the boundary of the regulatory flood or the base flood as identified by the Federal Insurance Administration.

FLOOD PROOFED BUILDING. A non-residential building designed to exclude floodwaters from its interior. All flood-proofing shall be certified by a Registered Professional Engineer to be water tight and capable of resisting the pressures, velocities, impact and uplift forces, hydrostatic pressures, impacts of ice and debris and other factors associated with the regulatory flood. All flood proofing measures are to operate without human intervention.

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 floodway fringe districts.

FLOOD PROTECTION GRADE. The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area.

FLOOD OR FLOODWATER. 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.

FLOODWAY. The channel of a stream, plus any adjacent floodplain areas, as identified by the Federal Insurance Administration, that must be kept free of encroachment so that the regulatory flood may be carried without substantial increases in flood heights.

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 both individuals with a developmental disability and individuals with a mental 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 and a sign may exist in association with the business.

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.

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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.

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.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective Federal Emergency Management map that establishes that a property is not located in a special flood hazard area. The Letter is only issued by the Federal Emergency Management Agency.

LETTER OF MAP REVISION (LOMR). An Official revision to the currently effective Federal Emergency Management Agency map. It is issued by Federal Emergency Management Agency and changes flood zones, delineations, and elevations.

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.

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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

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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.

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 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.

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.

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

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- (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".

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.

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 “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.

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

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

REGULATORY FLOOD. The 100-year flood zone on the Federal Insurance Rate Maps. This flood event has a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources. The regulatory flood elevation at any location is as defined in Sec. 7.5. The Federal Rate Maps for the following communities are to be made part of this Ordinance by this reference:

- (a) Town of Bristol, Community Number 180060, adopted 4/3/85.
- (b) Elkhart County, Community Number 180056, Adopted 11/1/79 with amended panels 0010B, 0015B, 0020B, 0050B dated 6/5/85.
- (c) Town of Middlebury, Community Number 180460, Adopted 8/15/83;

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 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 FLOOD HAZARD AREA. Those lands within the jurisdiction of Elkhart County, Town of Bristol and Town of Middlebury that are subject to inundation by the Regulatory Flood. The Special Flood Hazard Area for Elkhart County are generally identified as such on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for Elkhart County, Community Number 180056, adopted 11/1/79 with amended panels 0010B, 0015B, 0020B, and 0050B dated 6/5/85.

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 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.

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 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 which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure."

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

Article 10 Definitions

Sec. 10.2. Definitions

- (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.

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:

Article 10 Definitions
Sec. 10.2. Definitions

- (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.

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 10 Definitions
Sec. 10.2. Definitions

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