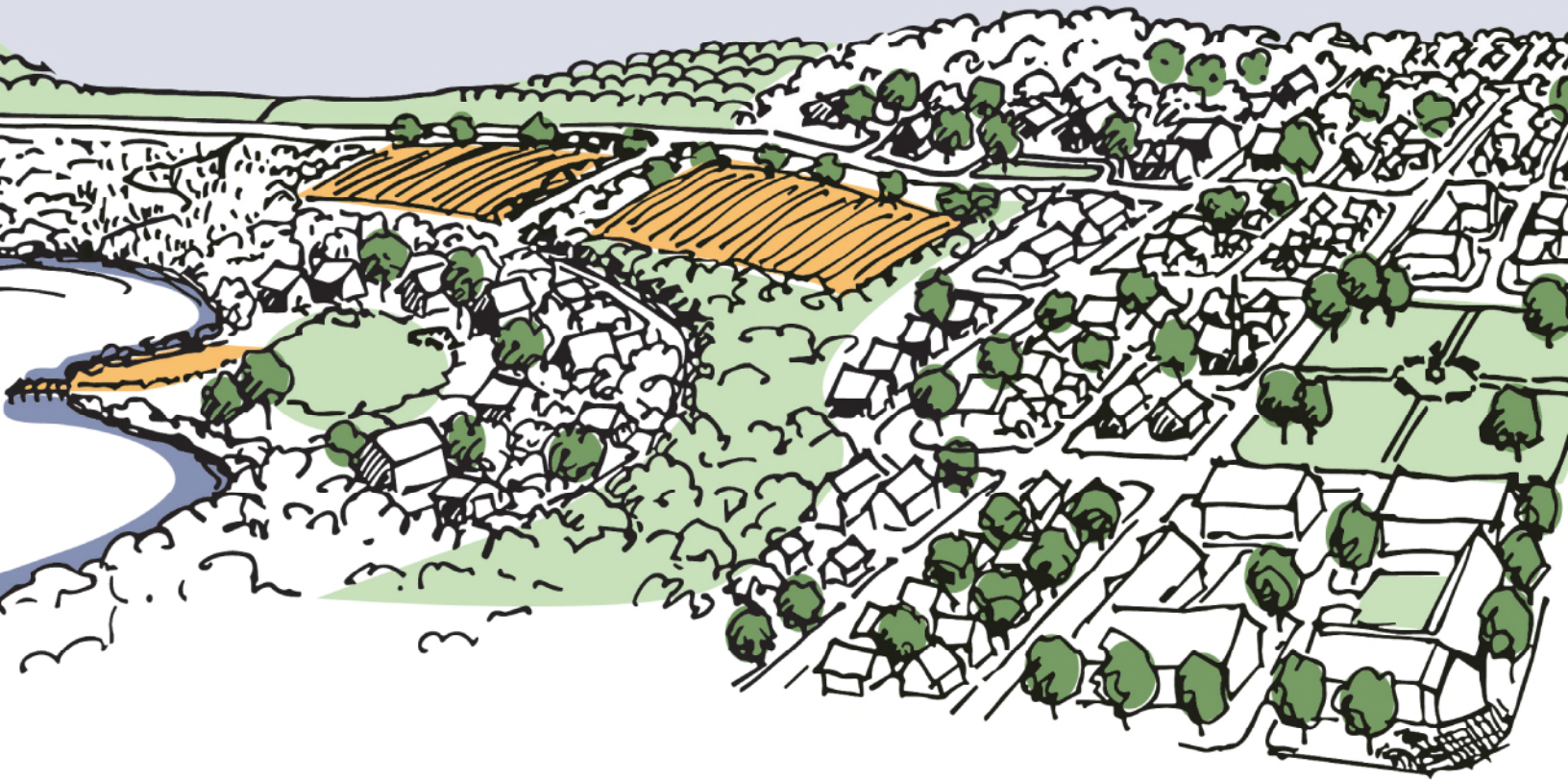




ELKHART COUNTY DEVELOPMENT ORDINANCE

ELKHART
COUNTY

INDIANA



PLANNING &
DEVELOPMENT
ELKHART COUNTY

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158.06 BUFFERING AND SCREENING

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158.06(A) Purpose

The purpose of this Article is to require buffering and screening that will:

- (1) Mitigate the negative effects of noise and glare from buildings, uses, vehicle lights and outdoor lighting on the public right-of-way and neighboring property;
- (2) Conserve and stabilize neighboring property values; and
- (3) Otherwise facilitate the maintenance and creation of an attractive and prosperous community.

158.06(B) Applicability

This Section applies in the following circumstances:

- (1) New nonresidential development or change in use from residential to nonresidential
- (2) For existing structures and land uses when expanding the use, the areas required to comply with Buffering and Screening are the yards adjacent to the expansion or to the areas disturbed during the expansion.

158.06(C) General

- (1) A buffer is a specified land area, located parallel to and within the outer perimeter of a property and extending to the property line, together with the plantings required within the buffer. A buffer may also contain a barrier such as a wall or fence where additional screening is necessary to achieve the required level of buffering.
- (2) A screening device is a set of living evergreen plantings or man-made fences or walls of required height and material. Screening devices hide certain outdoor appurtenances from the public right-of-way and neighboring private property.
- (3) Water, sanitary sewer, electrical, telephone, natural gas, cable, storm drainage or other service lines are permitted within buffers. Monument signs, as established in [Sec. 158.08](#), are allowed within parking buffers.

- (4) The parking of vehicles as well as the outdoor storage, display and sales of merchandise are prohibited in a required buffer.
- (5) A required buffer may not encroach into required on-site drainage. In addition, a required buffer may not be placed within the 75-foot setback required of County-regulated drains unless approved by the Elkhart County Drainage Board.
- (6) Installation and Maintenance
 - (a) All required buffers and landscaped areas must be maintained to the standard to which they were designed and installed. Areas must be maintained free of trash and weeds and must not deteriorate into an unsafe condition. All plantings must be installed so that they may be maintained without trespassing onto the adjacent property.
 - (b) Wherever a buffer or landscaping is required adjacent to a parking space, such landscaping must be protected by bumper blocks, posts or curbing to avoid damage to the buffer or landscaping by vehicles.
 - ~~(c) Required buffers or landscaping must be installed during the first planting season after the start of any construction in the development, unless otherwise required by the Zoning Administrator.~~
 - (c) If there is construction as part of the development, the required buffers or landscaping must be installed within 1 year of the completion of the final building inspections, unless otherwise required by the Zoning Administrator.
- (7) Alternative Compliance with Buffer Requirements

The buffer requirements may be modified with approval by the Zoning Administrator upon a finding that:

 - (a) A modification would be consistent with the purpose of this Ordinance and of this Section;
 - (b) Such modification would not adversely affect the land use compatibility or public interest;
 - (c) Financial hardship is not the justification for the alternative compliance request; and
 - (d) The subject site or modified buffer complies with one or more of the following criteria:
 - ~~i. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;~~
 - ii. The buffer is parallel and adjacent to property that is undevelopable due to access to public roadways, topography, ~~shape or property~~ or property shape;
 - iii. ~~iii.~~ The buffer is between uses that are to be developed under a Detailed Planned Unit Development; or
 - iiii. ~~iv.~~ The buffer is parallel and adjacent to an existing railroad right-of-way.

158.06(F) Boundary Buffer Specifications

(1) Width

The width of a buffer may be narrower than required by a maximum of one-half of the required width provided that the average width of the entire buffer is the minimum required.

(2) Trees

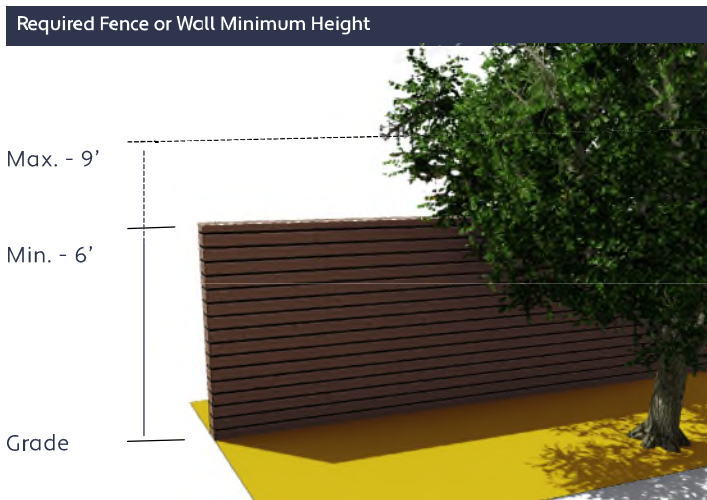
- (a) Required trees in a buffer must be a minimum of 8 feet in height from ground level to top of crown at installation and may be planted at regular intervals or in a meandering manner.
- (b) Existing trees on site that are greater than eight feet in height may be preserved within a buffer for credit.
- (c) Buffers planted below overhead utility lines must contain tree species that do not exceed 20 feet in height at maturity.

(3) Shrubs

Required shrubs in a buffer must be a minimum of 4 feet in height from ground level to top of crown at installation, evergreen, and may be planted at regular intervals or in a meandering manner.

(4) Fences and Walls

- (a) Required fences and walls must be a minimum of 6 feet and a maximum of 9 feet in height.
- (b) Wooden posts in opaque fences must be set in a masonry support column every 40 feet.
- (c) A non-opaque fence may consist of wrought iron, vinyl, or other material acceptable to the Zoning Administrator.
- (d) Breaks in a fence may be provided for pedestrian connections to adjacent developments.



(5) Berms

- (a) Required shrubs and fences, but not required trees or walls, in a buffer may be replaced with a berm or series of berms.
- (b) Berms must have a minimum height of 4 feet with an average height of 6 feet per 100-foot buffer segment.

- (c) Side slopes may not be less than 4 feet horizontal for each 1-foot vertical with at least a 2-foot flat area on the top.
- (d) In order to accommodate a berm, the buffer may need to be wider than required in the table above.

(6) Federal/State Highway or Major Road

Where a boundary buffer is required adjacent to a Federal/State Highway or Major Road, the buffer may be reduced by one class, except that a required Class 1 buffer may not be reduced.

158.06(G) Trash & Recycling Service Area Screening

- (1) Trash collection, trash compaction, recycling collection and other similar service areas must be located on the side or rear of the building and be effectively screened from view from residential properties or public rights-of-way, not including an alley.
- (2) Screening enclosures must consist of an opaque fence or wall compatible with the dominant material of the primary structure. Enclosures must be a minimum of 6 feet in height.
- (3) All refuse and recycling service areas must be located a minimum of 25 feet away from any abutting residentially used or zoned property. This distance may be reduced to 10 feet if the service area is screened by a masonry wall.

158.06(H) Loading Dock Screening

- (1) Loading docks must be completely screened from residentially zoned or used properties.
- (2) Screening must consist of walls or plant material totaling 8 feet in height at installation. Wall materials must be compatible with the dominant material of the primary structure.
- (3) Loading docks not in the B-3, M-1 or M-2 zoning district must be located to the side or rear of buildings, unless the loading docks is wholly within an enclosed building.

158.06(I) Outdoor Storage Screening

- (a) Commercial, nonagricultural outdoor storage, as defined in Article 2, is prohibited in the A-1, A-3, A-4, B-1, B-2, B-3, R-1, R-2, R-3, and R-4 zoning districts.
- (b) No outside storage is permitted within the following areas:
 - i. Required front or side setbacks; or
 - ii. Required off-street parking areas or fire lanes.
- (c) The following types of outdoor storage are exempt from screening requirements:
 - i. Commercial vehicles related to a permitted business on-site; and
 - ii. Finished recreational vehicles, automobiles, portable buildings, boats, trailers, manufactured homes and other similar vehicles or equipment produced or sold by a permitted use on-site.

158.06(J) Lighting

- (1) All exterior lighting shall be designed in a consistent and coordinated manner for the entire site.
- (2) All exterior lighting shall be shielded to avoid casting light above three-tenths (0.3) foot candles or glare upon any property located in a residentially zoned district or used for residential purposes.
- (3) All exterior lighting shall be shielded to avoid casting light above five-tenths (0.5) foot candles or glare upon any property located in a non-residentially zoned district.
- (4) Exterior lighting whose light source is visible from off-site shall be prohibited on properties commercial or industrial in use. Specialized or decorative parking, site, and pedestrian lighting with a visible light source is permitted with the approval of the Zoning Administrator.
- (5) All exterior lighting shall be shielded so as to not cause fugitive light on street right-of-way.

- (c) **Surfacing**
Off-street parking areas and driveways must be surfaced with dust free materials such as Asphalt (Bituminous Concrete), Concrete (Cement with various sized aggregate), paving brick, gravel, permeable pavement, or other materials agreed to in writing by the Zoning Administrator; and all materials must be maintained in good condition.
- (c) **Lighting**
~~Any device illuminating an off-street parking area must reflect that light away from all adjoining residential properties.~~
See [Sec. 158.06\(J\)](#).

2) Computation of Required Parking Spaces

The minimum number of required parking spaces is obtained by calculating the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking spaces for one use may not provide the required parking spaces for any other use in the same building or on the same lot, ~~except as allowed in by an Alternative Parking Plan in Sec. 158.07(C)(6).~~

(3) Minimum Required Off-Street Parking Spaces

- (a) Requirements for the minimum number of required off-street parking spaces in relation to the use of the property are established in the table on the following pages. The parking requirements for any use not specified in the table below are the same as for a similar use, as determined by the Zoning Administrator based on the criteria in [Sec. 158.10\(K\)\(3\)](#).
- (b) The Zoning Administrator may require a land owner to provide additional off-street parking, even if the number of off-street parking spaces provided meets the minimum requirement for the established use, if customers or employees are consistently required to park on the street or other properties due to a lack of available off-street parking.

Use	Min. Required Off-Street Parking Spaces
NFA - Net Floor Area	sq. ft. - Square Feet
Agricultural Uses	
Agri-business	1 per 400 sq. ft. retail floor area + 1 per 2,000 sq. ft. outdoor sales area
Agriculture, Field and Row Crops	None
Agriculture, Livestock	None
Concentrated animal feeding operation	See Sec. 158.04(D) .
Greenhouse, retail	1 per 1,000 sq. ft. NFA
Livestock sale or auction	1 per 4 seats
Roadside Stand, tree farm, u-pick produce	1 per 400 sq. ft. retail floor area + 1 per 2,000 sq. ft. outdoor sales area
Stable, private and noncommercial	1 per stall
Stable, public or commercial	1 per stall
Winery	1 per 400 sq. ft. retail floor area + 1 per 2,000 sq. ft. outdoor sales area
Industrial Uses	
Animal Processing	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Bulk storage of explosives/hazardous material	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Contractor Offices and Yards	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Fertilizer manufacturing and storage	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Heavy Industrial, Intense	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Heavy Industrial, Less Intense	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Light Industrial	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Resource Extraction	1 per employee on the largest shift
Warehousing and Freight Movement	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area
Waste-Related Service	1 per 300 sq. ft. office space + 1 per 4 acres outdoor storage area
Welding, tool repair or machine shop	1 per 300 sq. ft. office space + 1 per 1,000 sq. ft. outdoor storage area + 1 per 2,500 sq. ft. indoor storage area

- vi. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- vii. Reconstruction or repairs made to a repetitive loss structure.
- viii. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(b) **Residential Construction**

- i. New construction or substantial improvement of any residential structures shall meet provisions described in [Sec. 158.09\(E\)\(1\)](#) and applicable general standards described in [Sec. 158.09\(E\)\(2\)](#).
- ii. In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of [Sec. 158.09\(E\)\(3\)\(b\)\(iii\)](#). Should fill be used to elevate a structure, the standards of [Sec. 158.09\(E\)\(3\)\(b\)\(iv\)](#) must be met.
- iii. Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - I. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in "FEMA Technical Bulletin 1".
 - II. Flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 1. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 3. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 4. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
 5. Doors and windows do not qualify as openings.
 6. Openings may be equipped with

screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

- 7. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
- III. The floor of such enclosed area must be at or above grade on at least one side.
- iv. A residential structure may be constructed on fill in accordance with the following:
 - I. Fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
 - II. Fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - III. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
 - IV. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - V. Fill shall be composed of clean granular or earthen material.
- v. ~~VI.~~ A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(c) **Non-Residential Construction**

- i. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in [Sec. 158.09\(E\)\(1\)](#) and applicable general standards described in [Sec. 158.09\(E\)\(2\)](#).
- ii. In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of [Sec. 158.09\(E\)\(3\)\(b\)\(iii\)](#). Should

security devices, and has no permanently attached additions), or

- II. Meet the requirements for “manufactured homes” as stated earlier in this section.

~~(e)~~ ~~(e)~~ **Accessory Structures**

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- i. Shall have a floor area of 400 square feet or less.
- ii. Use shall be limited to parking of vehicles and limited storage.
- iii. Shall not be used for human habitation.
- iv. Shall be constructed of flood resistant materials.
- v. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- vi. Shall be firmly anchored to prevent flotation.
- vii. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- viii. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in [Sec. 158.09\(E\)\(3\)\(b\)\(iii\)](#).
- ix. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

~~(f)~~ ~~(j)~~ **Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.**

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- i. Shall have open sides (having not more than one rigid wall).
- ii. Shall be anchored to prevent flotation or lateral movement.
- iii. Shall be constructed of flood resistant materials below the FPG.
- iv. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.
- v. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

~~(g)~~ ~~(f)~~ **Above Ground Gas or Liquid Storage Tanks.**

Within SFHAs, all newly placed or replacement aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in [Sec. 158.09\(E\)\(3\)\(c\)](#).

(4) Standards for Subdivision and Other New Developments

- (a) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres, whichever is less.
- (e) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (f) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
- (g) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

(5) Standards for Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

158.10 ADMINISTRATION

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158.10(A) General

(1) Purpose

This Section outlines the different development review bodies and assigns them their authority.

158.10(B) Board of County Commissioners & Other Legislative Bodies

(1) Final Action

The appropriate legislative body as outlined in the table below takes final action on the following development review applications within their respective jurisdictions:

- (a) Development Ordinance Text Amendment;
- (b) Zoning Map Amendment (Rezoning);
- (c) General Planned Unit Development; and
- (d) Detailed Planned Unit Development.

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

158.10(C) Plan Commission

(1) Designation

The Elkhart County Plan Commission is an Advisory Plan Commission in accordance with Indiana Code Section 36-7-4-200 et seq. Any reference to the “Plan Commission” in this Ordinance is deemed to be a reference to the Elkhart County Advisory Plan Commission. The Plan Commission exercises jurisdiction over the geographic area designated in Sec. 158.01(F).

(2) Review & Recommendation

The Plan Commission reviews and makes recommendations to the appropriate legislative body as outlined in 158.10(C) on the following development review applications:

- (a) Development Ordinance Text Amendment;
- (b) Zoning Map Amendment (Rezoning);
- (c) General Planned Unit Development; and
- (d) Detailed Planned Unit Development.

(3) Final Action

The Plan Commission takes final action on the following development review applications:

- (a) Minor and Major Subdivisions; ~~and~~
- (b) Major and minor changes to a Plan Commission approved site plan; and
- (c) **Developmental Variances as part of Minor and Major Subdivision approval.**

(4) Rules of Procedure

The Plan Commission must adopt Rules of Procedure concerning matters such as the filing of development review applications, the giving of public notice and the conduct of hearings.

158.10(D) Board of Zoning Appeals

(1) Designation

The Elkhart County Board of Zoning Appeals continues as an Advisory Board of Zoning Appeals under this Ordinance and in accordance with Indiana Code Section 36-7-4-900 et seq. Any reference to the “Board of Zoning Appeals” in this Ordinance is deemed to be a reference to the Elkhart County Advisory Board of Zoning Appeals.

(2) Final Action

The Board of Zoning Appeals takes final action on the following development review applications:

- (a) Special Use Permit except for those related to mobile homes;
- (b) Use Variance;
- (c) Developmental Variance or Special Use Permit referred to the Board by the Zoning Administrator, Hearing Officer, petitioner or remonstrator in accordance with the Board of Zoning Appeals Rules of Procedure; and
- (d) Appeal of Administrative or Hearing Officer Decision.