



Zoning Ordinance

Module 1 & Module 2: Consolidated Draft

Technical and Policy Committee Draft

November 2013

If you are viewing a digital version of this Zoning Ordinance, you may click on any cross-reference (click [here](#) → Article 1) and you will be taken automatically to the appropriate page.

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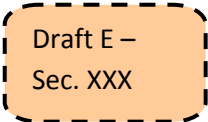
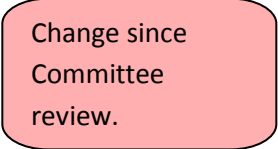



Note to Draft Reviewers

This draft Zoning Ordinance shows when language in the existing Zoning Ordinance has been deleted, modified or retained. Changes in punctuation and capitalization are not shown with editing marks. Seemingly insignificant edits are made at times in an effort to consistently use certain terms. For example, the word “allowed” may be show stricken and replaced with the word “permitted.” One word is not necessarily better than the other. The change is made for the sake of consistency throughout the document.

Here are a few notes that should help in the review of this draft.

Editing Marks

| | |
|---|---|
| Existing Text | Text from the existing Zoning Ordinance that has not been modified. |
| Added Text Deleted Text | Text that has been added to or deleted from the existing regulations |
| COMMENTARY / QUESTON / NOTE | Poses questions and provides commentary to the draft reviewers. Boxes marked as “COMMENTARY” are intended to remain in the adopted document. Questions and Notes should be addressed and deleted prior to adoption. |
|  | Notes within the margin that show the location in the Zoning Ordinance of text that is existing, modified or deleted. The reference in the call-out applies to all subsequent text in the draft until the next call-out appears in the margin. |
|  | Shows where language from Draft E has been copied over to this draft. A citation is provided. |
|  | Shows changes that have taken place sing the Technical Committee or Policy Committee last view the Module 1 or Module 2 draft |
|  | Idea brought up in Zoning Ordinance Critique |

Module 2

The purpose of Module 2 is to create the zoning district and use standards of the New Zoning Ordinance.

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ARTICLE 1 GENERAL PROVISIONS

Art.1,
Sec. 1

Note to Reviewers: This Article establishes mundane but important provisions that apply to the entire Zoning Ordinance. Very little material suitable for this Article was in the existing Zoning Ordinance, hence the abundance of underlined words.

Sec. 1.1. Short Title

This Code section Zoning Ordinance shall be 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

Note to Reviewers: Some of these statements may disappear, depending on the actual content of the adopted ordinance.

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 private property owners from potentially detrimental land use activities on neighboring properties and to provide a reasonable balance between the private property owner's freedom to develop 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 Circulation

To minimize or avoid congestion on public streets and to ensure safe, convenient and efficient traffic circulation.

Draft E –
Sec. 1.04

Article 1 General Provisions

Sec. 1.3. Authority

1.2.7 **Environmental Integrity**

To preserve and enhance the scenic beauty, aesthetics and environmental integrity of the County.

1.2.8 **Compatibility**

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

1.2.9 **Density and Intensity**

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

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. **General Rules of Construction**

1.5.1 The following general rules of statutory construction apply when interpreting this Ordinance.

- 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.

Article 1 General Provisions
Sec. 1.5. General Rules of Construction

- 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.
- 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 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" has no regulatory effect. It is intended solely as a guide for administrative officials and the public.

COMMENTARY: *When commentaries 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.

COMMENTARY: *For 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.*

Question to Plan Commission: *Staff originally proposed rounding up in all cases. Policy committee requested rounding down in all cases. How about using the normal practice of rounding up if decimal is over 0.5?*

- 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,

Some
from
Draft E –
Sec. 1.07

that provision is construed as authorizing the department head or official to delegate that responsibility to a designee.

Note to Reviewers: *The language in O above prevents the repeating of the phrase "...the Plan Director, or his duly appointed designee, may approve...."*

- 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.

~~Also it is the intention of this Specification not to in any manner or form conflict with the Subdivision Control Ordinance and that Ordinance jurisdiction over the Platting and recording of real estate.~~

- 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. 7.3.

- 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

Note to Reviewers: *These provisions relate to petitions submitted prior to adoption of this Ordinance but that would not be eligible for final decisions until after adoption.*

Draft E –
Sec. 1.10

1.9.1 Planned Unit Development

A submitted application for a General or Detailed Planned Unit Development that is deemed sufficient for review prior to [insert effective date] 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 [insert effective date] 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 [insert effective date] 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 [insert effective date] 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 [insert effective date] 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;

Article 1 General Provisions

Sec. 1.10. Compliance

Draft E –
Sec. 1.10

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 [insert effective date] 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.

1.9.6 **Improvement Location Permit**

Any submitted application for an Improvement Location Permit that is deemed sufficient for review prior to [insert effective date] 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

Draft E –
Sec. 1.05

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 [insert effective date].

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;

Change since
Committee
review

Article 1 General Provisions

Sec. 1.12. Severability

Change since
Committee
review

- B. Waive any right of the Town of Avon 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

Draft E –
Sec. 1.06

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

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review

After the effective date of this Ordinance, all provisions of the Zoning Ordinance of Elkhart County adopted January 18, 1960, and as amended from time to time, are expressly repealed.

Sec. 1.14. Effective Date

This Ordinance was adopted on [insert adoption date] and became effective on [insert effective date].

~~Buildings Under Construction~~

Art.3,
Sec. 6

~~Nothing in this ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to January 18, 1960 and upon which building actual construction has been diligently carried on if that building is completed on or before February 1, 1961.~~

Article 1 General Provisions

Sec. 1.14. Effective Date

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ARTICLE 2 DEVELOPMENT REVIEW BODIES

Note to Reviewers: *The purpose of this Article is to list out the review and final action responsibilities of each development review body. Much of this Article is underlined as new text, but the content is the same or similar to existing responsibilities of each development review body.*

Administration

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.

2.3.2 Review and Recommendation

Note to Reviewers: *Since this is a Zoning Ordinance, the plat review authority of the Plan Commission is not mentioned here.*

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.

Article 2 Development Review Bodies

Sec. 2.4. Board of Zoning Appeals

2.3.3 Rules of Procedure

Note to Reviewers: This is added here to parallel the existing rules of procedure requirement for the BZA.

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

Art.6,
Sec.1

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review

The Elkhart County Advisory Board of Zoning Appeals is hereby established an Advisory Board of Zoning Appeals in accordance with Indiana Code Section 36-7-4-900 et seq. For the purpose of this Article, the term "Board" refers to the County Advisory Board of Zoning Appeals. Any reference to the "Board of Zoning Appeals" in this Ordinance is deemed to be 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 Sec. 2.05 of the Board of Zoning Appeals Rules of Procedure; and
- D. Appeal of Administrative or Hearing Officer Decision.

2.4.3 Composition, Jurisdiction and Appointment

Art.6,
Sec.2

Note to Reviewers: Duplicates between the Zoning Ordinance and BZA rules of procedure are shown as stricken. Removal of some words in this and other Sections of the Zoning Ordinance draft is in keeping with an attempt at the use of "Plain English" drafting standards. Also, "must" and "shall" are often used interchangeably in ordinances. In an effort to be consistent, "must" is used throughout rather than "shall".

In addition to the Membership, Officer and Staff provisions in the Board of Zoning Appeals Rules of Procedure, the following provisions apply.

~~The County Advisory Board of Zoning Appeals shall consist of five members.~~

~~The County Advisory Board of Zoning Appeals shall have full concurrent jurisdiction of the subject matter provided for in this Code Section, except that power over subject matter exclusively delegated to the Hearing Office by this Article.~~

Article 2 Development Review Bodies

Sec. 2.4. Board of Zoning Appeals

Art.6,
Sec.2

- A. The members of the County Advisory Board of Zoning Appeals shall must be appointed pursuant to State law and after the primary term, each member shall serve for a four-year term.
- B. Each member shall must reside or own property within the jurisdiction of this Ordinance established in Sec. 1.4. in the geographic area under the jurisdiction of the division of the County Advisory Board of Zoning Appeals to which he is appointed. Each appointment authority referenced in paragraph C below may, at any time, appoint one or more alternate members who shall must be available to replace any member who becomes disqualified under State law. The terms of these members shall expire on December 31 of the last year of their designated term.
- C. The members of the County Advisory Board of Zoning Appeals shall must be appointed and serve for the following primary terms consistent with the provisions of Indiana Code Section 36-7-4-902.

The Board of County Commissioners shall appoint a member of the County Plan Commission who shall serve a term of one year.

Art.6,
Sec.2

The Board of County Commissioners shall appoint a member who shall serve a term of two years.

The County Plan Commission shall appoint one member from its own membership who shall serve a term of three years.

The County Council shall appoint a member who shall serve a term of four years.

The Board of County Commissioners shall appoint a member who shall serve a term of four years.

Organization

Art.6,
Sec.3

Note to Reviewers: Election of Chair and Vice-Chair is covered in rules of procedure.

At the first meeting of each year, the Board shall elect a Chairman and a Vice-Chairman from among its members. The Board may appoint and fix the compensation of a Secretary and those employees necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the County Council and State law.

2.4.4 Rules of Procedure and Fees

Note to Reviewers: Fees are addressed in Sec. 3.1.

Art.6,
Sec.4

The Board of Zoning Appeals shall must adopt the Rules of Procedure concerning matters such as the filing of Appeals, applications for Variances and Special-Uses-development review applications, the giving of public notice and the conduct of hearings. The respective application fee, as established by the Elkhart County Advisory Plan Commission and set forth in its Uniform Schedule of Fees to its Rules of Procedure, shall be paid at the time of the filing.

Article 2 Development Review Bodies

Sec. 2.5. Hearing Officer

Meetings and Records

Art.6,
Sec.5

Note to Reviewers: *Meetings and Records are covered in rules of procedure.*

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare written findings of fact and record the vote, disqualification, abstention, or failure to vote of each member upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record.

Conflict of Interest

Note to Reviewers: *Conflicts of Interest are covered in rules of procedure.*

Art.6,
Sec.8

No member of the Board shall participate in a hearing or decision of the Board concerning a matter in which he has a direct or indirect financial interest or, which for any other reason brought to the attention of the Board, results in his disqualification either by himself or by the Board. The Board shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision. That alternate member, if any, shall be appointed by the same body which appointed the regular member who has been disqualified.

2.4.5 Outside Communication

No person shall ~~may~~ communicate with any Board of Zoning Appeals member prior to a hearing or decision with the intent to influence the actions of any member of the Board regarding any matter pending before the Board. However, the Staff may file a written statement staff report with the Board setting forth findings of facts or its opinions recommendation concerning that matter.

2.4.6 Judicial Review by Certiorari

Art.6,
Sec.10

Every decision by the Board of Zoning Appeals shall be is subject to judicial review ~~by certiorari~~.

Sec. 2.5. Hearing Officer

2.5.1 Establishment

Art.6,
Sec.11

The Plan Commission shall, after April 1, 1984, 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 takes final action on the following development review applications: ~~shall have the following powers and duties:~~

A. Special Use Permit for mobile home; and

The exclusive right to hear and approve or deny all Specification J one (1) family and two (2) family mobile, compact or expandable homes, special uses only.

B. Developmental Variance.

Article 2 Development Review Bodies

Sec. 2.6. Technical Review Committee

The exclusive right to hear and approve or deny variances from the development standards of the Zoning Ordinance.

2.5.3 Rules of Procedure

The rules of procedure adopted by the Board of Zoning Appeals under Sec. 2.4 of this Article in their entirety shall 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

Note to Reviewers: Since this is a Zoning Ordinance, the plat review authority of the Technical Committee is not mentioned here.

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

Note to Reviewers: "C" below would likely apply to complex rezonings involving commitments.

- 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.

B. Other Members

Note to Reviewers: "5" below could be a public utility representative or the Parks Director for larger projects.

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



Article 2 Development Review Bodies

Sec. 2.7. Plan Director

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

Note to Reviewers: *BZA Rules of Procedure cover appointment of the Zoning Administrator.*

~~The Board of County Commissioners shall appoint the Zoning Administrator who shall be a member of the Plan Commission staff.~~

~~The term of the Zoning Administrator shall expire on December 31 of the year appointed. Each appointment shall be made for one year, with the term commencing on January 1. The Zoning Administrator is hereby designated and authorized to enforce this Ordinance under the rules promulgated by the County Plan Commission.~~

~~The Zoning Administrator may designate, upon approval of the Plan Commission, certain persons who shall have full power to act for and on his or her behalf. The Zoning Administration shall be deemed a part of the Planning Department.~~

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.

Note to Reviewers: *If Zoning Administrator has review authority over C of Os this will mean Planning staff will conduct site visits prior to issuance a C of O to ensure compliance with the ILP and/or DPUD drawings.*

Article 2 Development Review Bodies

Sec. 2.8. Zoning Administrator

B. **Final Action**

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

1. Administrative Adjustment;
2. Written Interpretation;
3. Improvement Location Permit; and
4. Temporary Use Permit.

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~~Issue all Improvement Location Permits and keep permanent records of them; and~~

~~Certify the County Certificates of Occupancy to the requirements of this ordinance, and keep permanent records of them.~~

Note to Reviewers: *In actual practice, the Building Commissioner approves C of Os.*

2.8.2 Other Duties

~~Conduct inspections of buildings, structures, and uses of land to determine compliance with the terms of this ordinance;~~

A. **Record Keeping**

The Zoning Administrator must maintain permanent and current records of this Ordinance, including all Zoning Ordinance Text Amendments and Zoning Maps Amendments, Special Uses Permits, Variances, Appeals of Administrative and Hearing Officer Decisions, and all development review procedures on which the Zoning Administrator takes final action. variations; and

~~Provide and maintain a public information bureau to provide information concerning all matters arising out of this ordinance.~~

B. **Administration of the Flood Plain Regulations Insurance Program**

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

Specifications L,
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~~Ensure that all development activities within the Special Flood Hazard Areas of the jurisdiction meet the requirements of this Ordinance.~~

~~Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.~~

Article 2 Development Review Bodies

Sec. 2.9. Building Commissioner

~~Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sec. 7.4.2 of this Ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).~~

~~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. 7.4.3 of this Specification constructed in the Special Flood Hazard Area. The surveyor's or engineer certificate is the responsibility of the homeowner to secure.~~

~~Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.~~

~~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.~~

~~Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to FEMA.~~

Sec. 2.9. Building Commissioner

2.9.1 Review and Recommendation

The Building Commissioner reviews and makes recommendations on Temporary Use Permit applications.



2.9.2 Final Action

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

- A. Building Permit;
- B. Sign Permit; and
- C. Certificate of Occupancy.



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 | Brd. of County Comm. or Other Legislative Body | Reference |
|---|-----------------------|----------------------|---------------|----------------------------|-----------------|-------------------------|-----------------|--|-----------|
| Building Commissioner | | | | | | | | | |
| 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 |
| Temporary Use Permit | R | D | | | | | | | Sec. 3.12 |
| Hearing Officer Action | | | | | | | | | |
| Special Use Permit (Mobile Home) | | R | | | <D> | | | | Sec. 3.6 |
| Developmental Variance | | R | | | <D> | | | | Sec. 3.7 |
| Board of Zoning Appeals Action | | | | | | | | | |
| Special Use Permit (Mobile Home) | | R | | | | <D>* | | | Sec. 3.6 |
| Special Use Permit (Non-Mobile Home) | | R | | | | <D> | | | Sec. 3.6 |
| Use Variance | | R | | | | <D> | | | Sec. 3.7 |
| Developmental Variance | | R | | | | <D>* | | | Sec. 3.7 |
| Appeal of Administrative or Hearing Officer Decision | | | | | | <D> | | | Sec. 3.16 |
| Board of County Commissioners or Other Legislative Body Action | | | | | | | | | |
| Zoning Ordinance Text Amendment; | | | R | | | | <R> | <D> | Sec. 3.2 |
| Zoning Map Amendment (Rezoning) | | | R | | | | <R> | <D> | Sec. 3.3 |
| General Planned Unit Development | | | R | C | | | <R> | <D> | Sec. 3.4 |
| Detailed Planned Unit Development | | | R | C | | | <R> | <D> | Sec. 3.5 |

R = Review and Recommendation

D = Decision

C = Determination of technical correctness or incorrectness

< > = Public Hearing Required

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

Article 2 Development Review Bodies

Sec. 2.10. Summary of Review Authority

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ARTICLE 3 DEVELOPMENT REVIEW PROCEDURES

Sec. 3.1. Common Review Procedures

Note to Reviewers: These Common Review Procedures establish provisions that apply to several or all development review procedures detailed in this Article. This avoids repetition in the rest of the Article.

3.1.1 Conformity with Development Regulations

Note to Reviewers: This provision nullifies erroneously issued permits or approvals.

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 (DPUD) |
| 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 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 |
| | DPUD Development Plan |
| Administrative | |
| Administrative decisions are those in which regulations contained in this Ordinance are applied to specific development applications. Administrative decisions may require the exercise of very limited discretion. | Administrative Adjustment |
| | Written Interpretation |
| | Improvement Location Permit |
| | Temporary Use Permit |
| | Building Permit |
| | Sign Permit |
| | Certificate of Occupancy |

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures



3.1.3 Sequence of Development Approval

Note to Reviewers: This provision requires that legislative decisions, such as rezoning, occur prior to quasi-judicial or administrative decisions. This prevents staff and other review bodies from wasting time reviewing proposals that are out of sequence.

Where more than one development 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.

- 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.

Example: Although Building Permits and Certificates of Occupancy are both Administrative Decisions, Sec. 3.13 of this Article requires that a Building Permit be approved before a Certificate of Occupancy can be approved.

3.1.4 Application Requirements

A. Application Initiation

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

| Procedure | Property Owner or Land Contract Purchaser | Plan Commission | 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 By application (petition) from must contain the signatures of the property owners of at least fifty percent of the land involved in the request.

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Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

B. Forms

1. Development 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.

Change since
Tech
Committee
review

C. Fees

All development review applications for amendments, except those originated by the County Plan Commission, the Board of County Commissioners or an appropriate legislative body, shall must be accompanied by the fee in accordance with Uniform Schedule of Fees established by the Elkhart County Advisory Plan Commission in its Rules of Procedure.

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D. Application Sufficiency Review

Note to Reviewers: *This sufficiency review is already happening and ensures that the members of the Technical Review Committee are not wasting their time attempting to review applications that do not contain the needed materials. **The subdivision control ordinance should be amended to include identical language to cover plat submittals.***

1. A determination of whether a development review application is sufficient or not for formal review must be made by the Plan Director, for those development review procedures listed in Sec. 2.6.2, within two days 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.

Note to Reviewers: *"4" below says that just because something is determined as sufficient for review, does not mean that it is technically correct. A correctness determination, based on the content of the submittal, is made by the Technical Review Committee.*

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

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**

Note to Reviewers: *This technical correctness review is already happening and ensures that the members of the Plan Commission are not wasting their time attempting to review applications that do not meet the basic requirements of this or other development-related County ordinances. **The subdivision control ordinance should be amended to include identical language to cover plat submittals.***

1. A determination of whether a development review application is technically correct or not must be made by the Chair of the Technical Review Committee, for those development review procedures listed in Sec. 2.6.2, within 10 days of the application submittal deadline.

Note to Reviewers: *Tech Corrections meeting is held at most 9 days after submittal deadline. This language refers to Sec. 2.6.2, which gives the Technical Review Committee correctness review responsibility over GPUDs, DPUDs, and complex rezoning with commitments.*

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

Note to Reviewers: *4 above describes the Tech Corrections meeting process. If the applicant is unable to supply corrections required at the Tech Corrections meeting (the Friday after the Tech Committee meeting), then the application must be reviewed again at the next Tech Committee Meeting (the next month).*

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

Article 3 Development Review Procedures

Sec. 3.1. Common Review Procedures

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.

***Note to Reviewers:** In other codes I've done, more attention is paid to establishing public notice and public hearing procedures, but those are currently contained in the Rules of Procedure for BZA and PC and seem to be working fine as-is.*

3.1.6 Unanimous Vote Required

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If the Plan Commission does not approve the enactment of any proposed amendment recommends denial of a development review application for which it has review and recommendation authority, then it shall become effective only by a unanimous vote of the Board of County Commissioners, or other appropriate legislative body, is required for approval.

3.1.7 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.

Change since
Tech
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review

***Note to Reviewers:** For example if the Board of County Commissioners approves a DPUD with a required change to the DPUD site plan, then a modified plan must be submitted to the Director for the file.*

- 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.

3.1.8 Revocation of Permit or Approval

***Note to Reviewers:** Allows for revocation of an approval if statements on the application or drawing are false or misleading or if a project is not built according to approved plans. A. below comes almost directly from State Law.*

- 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.

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Sec. 3.1. Common Review Procedures

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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 Planned Unit Development Detailed Site Plan, Detailed Development Plan, or Ordinance;
3. An approved Special Use Permit or Variance;
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.

3.1.9 **Previously Denied Applications**

Note to Reviewers: *This subsection says that a request is only acceptable, if the same request was turned down in the last 12 months, under certain conditions in the Rules of Procedure.*

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.

3.1.10 **Modification of Approved Site Plan**

- A. The Plan Director may allow minor modifications to an approved site plan, **for a Developmental or Use Variance, a Special Use Permit or a Detailed Planned Unit Development**, if the modifications meet the criteria below.

Note to Reviewers: *This applies to DPUDs, Variances and Special Use Permits. Stricken language below only applied to DPUDs.*

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** must not vary more than **five** feet from the previously approved position. **Shifts in structure position away from an abutting street must not vary more than 10 feet from the previously approved position.** In no case may such a shift encroach into any required setback **or farther into a required setback than the approved Developmental Variance allows.**

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Sec. 3.1. Common Review Procedures

3. Additional height of a structure must not exceed 10 percent of the previously approved height.

Question for Policy Committee: *Other criteria? Shifts in structure related to percentage of lot width or depth?*

- B. For all other requested modifications, the Plan Director may either:
 1. Present the request as a staff item, which does not require public notice or a public hearing, for consideration as a minor modification before the Plan Commission or Board of Zoning Appeals, as appropriate; or
 2. Require that the request be processed as a major modification with submittal of a new application to be reviewed in accordance with the procedures established in this Article.

Major or Minor changes to the Detailed Planned Unit Development

No changes be made in the approved Detailed Planned Unit Development during construction of the Planned Unit Development except as follows:

Specific
ations I,
Sec. 13

Minor changes in the location, bulk, area, and height of buildings and other site improvements may be authorized by the Staff.

The Staff may refer minor change requests to the Plan Commission with information on the request.

Major changes will require an amendment to the Detailed Planned Unit Development Ordinance.

3.1.11 Development of a Planned Unit Development Without Site Plan

Note to Reviewers: *Properties with old-style PUDs but no Site Plan or Development Plan must either be rezoned to a base zoning district or to a true DPUD, except for the construction of a house, where houses are permitted.*

- A. 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 a property that has an approved Planned Unit Development applied to it on the Zoning Map, but that has no approved General Development Plan, Detailed Development Plan or Detailed Site Plan, then the owner must either:
 1. Submit a Zoning Map Amendment application for a base zoning district in accordance with Sec. 3.3 to have the 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.
- B. A permitted single-family dwelling may be erected, reconstructed, altered, moved, converted, extended or enlarged on a property that has an approved Planned Unit Development but that has no approved General Development Plan, Detailed Development Plan or Detailed Site Plan.



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3.1.12 Commitments

Note to Reviewers: Modified to allow the BZA or Plan Commission to impose commitments, as allowed by State law.

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- A. 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. ~~a Special Use or a Variance from the terms of the Zoning Ordinance.~~ The owner must record those commitments ~~shall be recorded~~ in the office of the County Recorder and ~~shall the commitment must~~ take effect upon the granting of the final approval. ~~Special Use or Variance.~~ A recorded commitment ~~shall be~~ 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 ~~made~~ at a public hearing after notice as provided by ~~rule~~ the applicable body's Rules of Procedure.

3.1.13 Appeals

A. **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.

B. **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

Amendments



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 to this Ordinance shall be in conformance must conform with Indiana Code Section 36-7-4-500 et seq. and Indiana Code Section 36-7-4-600 et seq.

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3.2.2 Review Process

Note to Reviewers: The existing procedures read well, but are being replaced with new wording that accomplishes the same purpose, but that reads consistently with the wording for review processes associated with other applications. Provisions related to unanimous vote required by County Commission if Plan Commission recommends denial are located in Sec. 3.1. above.

Any proposed amendment shall be submitted to the Plan Commission for report and recommendation prior to any action on it by the Board of County Commissioners.

A. Plan Director Review

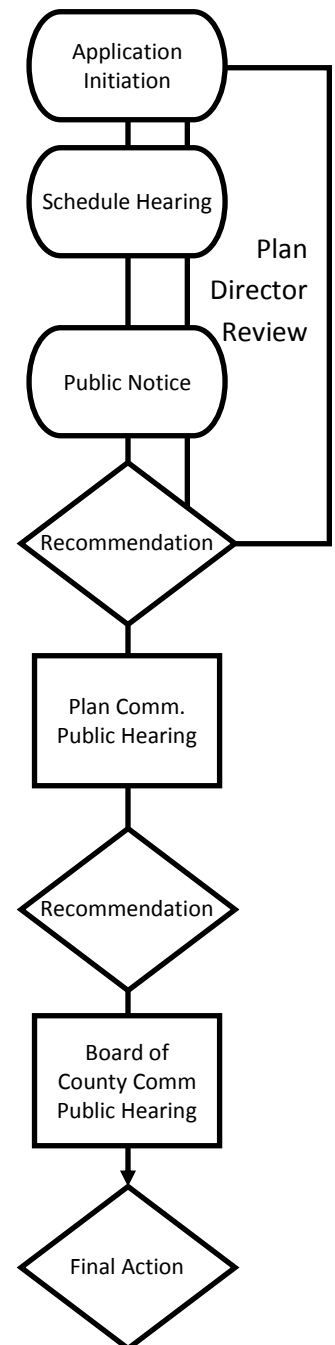
The Plan Director must review the submitted application and make a recommendation to the Plan Commission.

B. Plan Commission Review

Following notice in accordance with the Plan Commission Rules of Procedure, the Plan Commission must hold a public hearing and 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 may 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. 3.1.7.

D. Town Council Final Action

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 legislative body.
2. The appropriate legislative body may 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 legislative body if it takes a positive action on the Amendment.
4. The Amendment may only be finally approved if the appropriate legislative body approves or approves with modifications the Amendment.

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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 amendment promotes the purpose of this Ordinance as established in Sec. 1.2.
- B. The amendment is consistent with the Comprehensive Plan.

Sec. 3.3. Zoning Map Amendment (Rezoning)



3.3.1 Applicability

- A. For the purpose of establishing and maintaining sound, stable and desirable development within the County, the Zoning Map may be amended for reasons including but not limited to:
1. Rezoning an area; or
 2. Extending the boundary of an existing zoning district.
- B. All Zoning Map Amendments to this Ordinance shall be in conformance 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 review the submitted application 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 make a recommendation to the appropriate legislative body.

C. **Legislative Body Final Action**

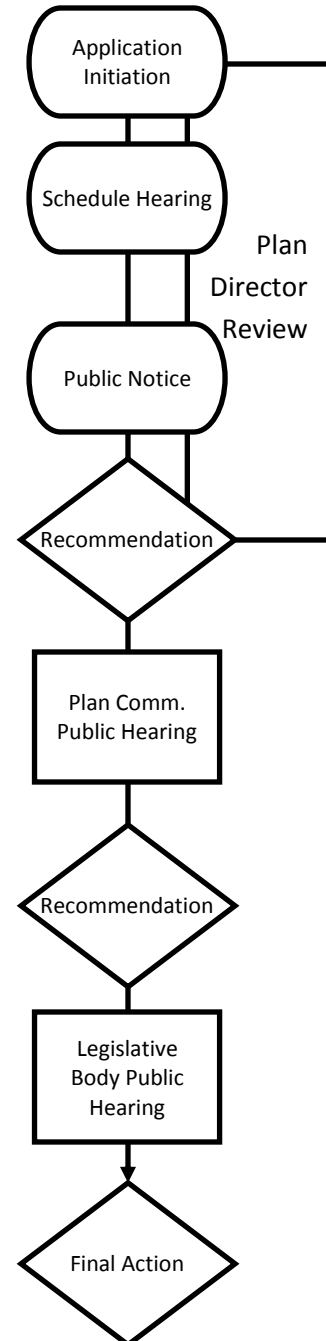
The appropriate legislative body may hold a public hearing and approve, approve with commitments or deny the Zoning Map Amendment.

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:

Note to Reviewers: A through E below are state mandated criteria for rezoning and the staff already uses them when producing a staff recommendation. Other criteria are recommended in the Plan, but the Policy Committee voted to not include them in the Zoning Ordinance draft. These recommended criteria include: proximity to vacant or underutilized properties with the requested zoning district, proximity to urban growth area, and proximity to public facilities such as schools, libraries, etc.

- A. The requested Zoning Map Amendment complies with the Comprehensive Plan;
- B. The request is in character with current conditions, structures and uses on the subject property and in its surroundings.



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Sec. 3.3. Zoning Map Amendment (Rezoning)

- C. The request promotes the most desirable use of the subject property.
- D. The request conserves property values.
- E. The request promotes 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.

Requirements

- B. ~~The Elkhart County Plan Commission and Board of County Commissioners shall~~ may consider proposals for Planned Unit Development as a:
1. General Planned Unit Development; or
 2. Detailed Planned Unit Development.
- C. ~~An approved~~ The General Planned Unit Development application procedures will allow a petitioner to receive a change to the ~~zone maps~~ Zoning Map without a Detailed Site Plan or Detailed Development Plan, 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 Ordinances must be followed by an adopted and recorded Detailed Planned Unit Development Ordinance prior to the issuance of any Improvement Locations Permit and or Building Permits. The Detailed Planned Unit Development may be for all or a portion of the property covered by the General Planned Unit Development.

Specifications
I, Sec. 4

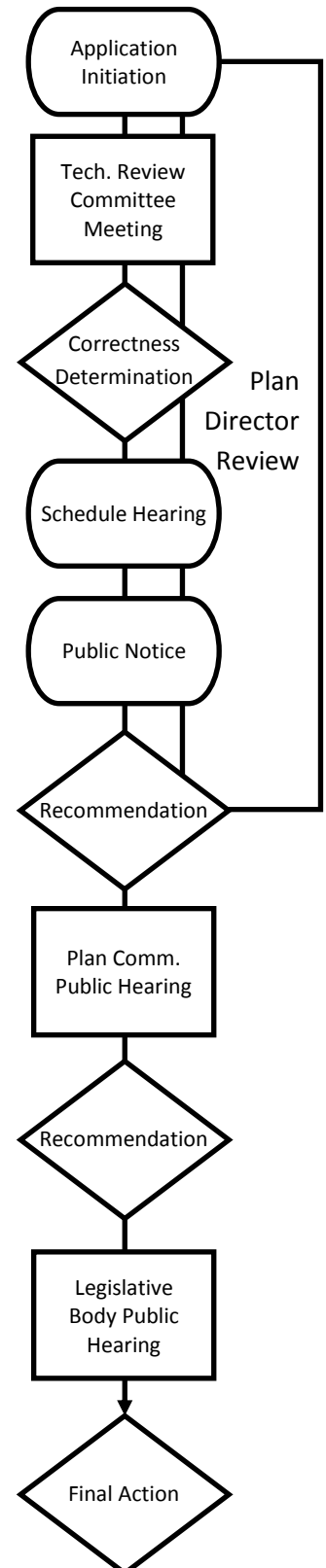
2. is a change since
Committee review. 7
year time limit instead
of 2.

~~This Ordinance shall provide for compliance with Specifications I by requiring All General Planned Unit Developments to be superseded within two years by a Detailed Planned Unit Development.~~

~~The consideration, of all applications, shall be based on the criteria established by this Specification at the time of application filing and consideration.~~

3.4.2 Review Process and Criteria

- A. Except as modified below, the Plan Commission and



Article 3 Development Review Procedures

Sec. 3.4. General Planned Unit Development

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.

- 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.

General Planned Unit Development Application

Specifications
I, Sec. 3

~~For a properly filed application has been received by the staff the application will be reviewed by the following:~~

~~Division of Planning~~

~~Division of Health~~

~~Division of Engineering~~

~~Division of Code Enforcement~~

~~County Surveyor~~

~~The review will consist as follows:~~

~~For non-compliance with Specifications I.~~

~~Suggestions to meet the purposes and criteria established by Specifications I.~~

~~The review and comments will be forwarded to the Elkhart County Plan Commission and placed in the file.~~

Site Plan Review Committee Review of GPUD

~~All petition filed as a General Planned Unit Development can request that the review and recommendation be processed by the Site Plan Review Committee~~

Specifications
I, Sec. 6

Submittal Requirements

Note to Reviewers: *Submittal requirements do not have to be set out in an ordinance.*

General Planned Unit Developments

Article 3 Development Review Procedures
Sec. 3.4. General Planned Unit Development

Procedures For Application:

Submittal Requirements:

Specifications
I, Sec. 6

Applicant shall submit the following:

~~Application forms adopted by the Plan Commission; The respective application fee, as established by the Elkhart County Advisory Plan Commission and set forth in its Uniform Schedule of Fees in its Rules of Procedure, shall be paid at the time of the filing of the application.~~

~~Legal Description for parcel;~~

~~Narrative of Request describing the following:~~

~~Intention for ownership;~~

~~The approximate locations of the proposed land uses and the approximate percentage of site for each use;~~

~~Intentions regarding water and sewage disposal;~~

~~How development is relates with surrounding land uses; and~~

~~Other information necessary to determine compliance with this Ordinance.~~

~~reports: The following reports must be prepared by a qualified person and shall contain the requested information in its entirety:~~

~~Soil Report (if on site septic systems are to be considered):~~

~~This report must be written by a person(s) determined by the Health Department to be proficient in the identification of soils and their properties. (Since all permits for septic systems will require some form of on-site soil investigation, the format of the reports should comply with the standards established by the Elkhart County Health Department for residential and commercial septic systems).~~

~~The Soil Reports must have the following information:~~

~~Soil Boring / Soil Pit location Site plan.~~

~~Soil Profile Logs for all borings or pits.~~

~~Depth to All Limiting Layers (e.g. Water Tables, Loading Rates Greater than 0.75 gallons per day per square foot or Less than 0.25 gallons per day per square foot,)~~

~~Municipal Sewer and Water Report: This report must have the following information:~~

~~Distance to nearest public water or sewer utility.~~

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Sec. 3.4. General Planned Unit Development

If development is to be on private well and septic reason for not extending and connection. (e.g. not in service area of utility)

General Development Plan Requirements All General Development Plans will be on not less than eleven

Specifications

I, Sec. 6

by seventeen inches sheets. Ten copies must be submitted along with the application. with all of
following items must be addressed or shown on the Development Plan:

Name of Planned Unit Development with location description to the Quarter Quarter Section, Township, Range, and Political Township. The name of Planned Unit Developments must be unique and not similar in nature to other recorded Planned Unit Developments or Subdivisions;

Legal description;

Drawn to Scale used;

Date of Drawing;

North Arrow;

Boundary of Planned Unit Development shown by a heavy line unique to drawing;

Locations of all existing easements and rights of way;

All easements and rights of way to be dedicated for public use;

All bearings, lengths, widths and instrument numbers (for all previously recorded documents);

All corporate boundaries, townships, county and section lines and previously platted tracts adjacent to the Planned Unit Development;

Approximate Location of the Special Flood Hazard Area (One hundred year flood zone) by a unique line;

A general location map showing the Planned Unit Development;

Adjacent parcels boundaries lines shown in hatched lines;

A certification by owner(s) of property agreeing to the Planned Unit Development and the Development Plan;

Certifications of compliance with this Ordinance to be signed by the Chairman and the Secretary of the Plan Commission;

Certifications of Adoptions and Compliance with this Ordinance by the legislative body with jurisdiction over the real estate within the Planned Unit Development;

Planned Unit Development ordinance number;

Soils as identified in the Soil Report;

Article 3 Development Review Procedures

Sec. 3.4. General Planned Unit Development

~~Identifications of all proposed land uses; and~~

~~Approximate location of all residential and commercial driveways adjacent to and within 200 feet.~~

~~when a Detailed Planned Unit Development consists of a portion of the original General Planned Unit Development, the application must include its relationship to all real estate adopted by the General Planned Unit Development. Exceptions will be for GPUD's initiated by the Legislative Body.~~

3.4.3 Duration

~~Time Limits and Limitations of General Planned Unit Developments~~

A. General

~~All real estates properties zoned General Planned Unit Development must have an application for a Detailed Planned Unit Development filed within two years of the ordinance adoptions by the legislative body approval of the General Planned Unit Development. Should If an application for a Detailed Planned Unit Development is approved be for a portion of a General Planned Unit Development, then the seven two-year time limit will for the remainder of the property must be extended from the adoption date of the Detailed Planned Unit Development Ordinance. 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.~~

Specifications
I, Sec. 12

B. Exceptions

~~All General Planned Unit Developments when initiated by the appropriate legislative body will be for indefinite period of time do not expire.~~

C. Extensions

- ~~1. Any General Planned Unit Development will~~ 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 extensions requests must in writing stating reasons why the Detailed Planned Unit Developments could not be filed within the seven two-years time limit.~~

2. is a change since Committee review. 7 year time limit instead of 2.

~~All real estate zoned GPUD will be subject to the limitations and restrictions established by this ordinance for non-conforming uses.~~

~~All real estate zoned General Planned Unit Development may have a portion of the real estate subject to an application for a Detailed Planned Unit Development map amendment.~~



Sec. 3.5. Detailed Planned Unit Development

3.5.1 Applicability

- A. The Detailed Planned Unit Development 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 Detailed Site Plan and Detailed Development Plan.
- B. In addition, see Sec. 3.4.1.

Planned Unit Development Districts:

The Elkhart County Plan Commission shall consider proposals for Planned Unit Development as a:

Detailed Planned Unit Development; or

General Planned Unit Development.

Planned Unit Development Designations

The designation will be made on the Zoning Maps of Elkhart County, the Incorporated towns of Wakarusa, Bristol, Middlebury and Millersburg by the following

DPUD—Detailed Planned Unit Development.

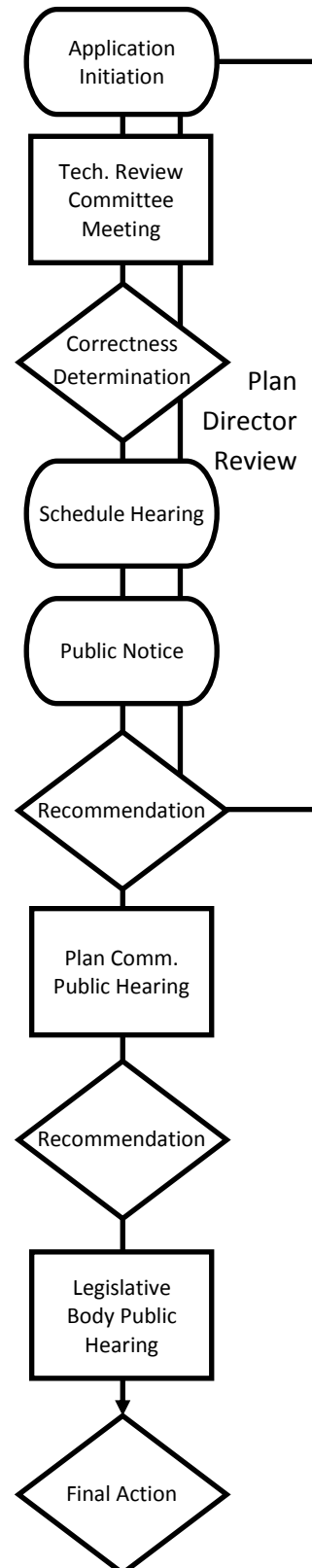
GPUD—General Planned Unit Development.

In addition to the GPUD and DPUD designation the underlying zoning district will be added as a suffix with a hyphen.

Example: GPUD-A 1, GPUD-B 1, DPUD-B 2, etc..

3.5.2 Review Process

- A. **Detailed Site Plan and Planned Unit Development Ordinance**
1. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the Detailed Site Plan and Detailed Planned Unit Development 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



Specifica
tions I,
Sec. 2

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

recommendation by the Plan Commission, the Technical Review Committee must deem the Detailed Site Plan and supporting submittals a correct application. The process for determination of correctness is described in subsection 3.1.4E.

Legislative Body Action

Specifications I,
Sec. 10

3. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require additional modifications to the submitted Detailed Site Plan or Detailed Development Plan deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, modifications related to:
 - 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 Detailed Planned Unit Development Ordinance mandate any of the design elements listed in paragraph 3 above for the project.

B. Detailed Development Plan

1. A Detailed Development Plan associated with a Detailed Planned Unit Development 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 Detailed Development Plan portion of a Planned Unit Development application, following the review process 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 Detailed Development Plan a correct application. The process for determination of correctness is described in subsection 3.1.4E.

Adopt an ordinance as follows:

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

~~A Detailed Planned Unit Development Ordinance in conjunction with or without an Ordinance to amend or change the zone maps as certified by the Plan Commission.~~

~~A General Planned Unit Development Ordinance in conjunction with or without an Ordinance to amend or change the zone maps as certified by the Plan Commission.~~

~~This ordinance must be followed by a Detailed Planned Unit Development Ordinance within the time limitations imposed and before any development.~~

~~A Corridor Planned Unit Development Ordinance in conjunction with or without an Ordinance to amend or change the zone maps as certified by the Plan Commission.~~

~~This ordinance must be followed by a Detailed Planned Unit Development Ordinance within the time limitations imposed and before any development.~~

Specifications I,
Sec. 3

Adopt an ordinance as proposed and impose:

Reasonable Conditions

Conditions for issuance of Improvement locations permits.

Reject the proposal

Return petition for further review and consideration by the Plan Commission.

This action will be considered a tabling by the Legislative Body.

Procedures for Applications:

The establishment of a Planned Unit Development Districts is an amendment to the Zoning Maps referenced by the Zoning Ordinance and must be in compliance with this Specification.

A Petition to establish a Planned Unit Development District (General and Detailed) can be filed by the following:

The Legislative Body as a directive to the Plan Commission; or

All applications must be filed with the Elkhart County Advisory Plan Commission as prescribed in Section 4 of this Specification and the Rules of Procedures adopted by the Plan Commission.

All petitions for General Planned Unit Development Applications and Detail Plan Unit Development Applications shall be considered at a public hearing.

The public hearing will be set for a Plan Commission Meeting date after a properly filed application has been received by the staff.

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Sec. 3.5. Detailed Planned Unit Development

Specif
icatio
ns I,
Sec. 3

All petitions will be referred for review and recommendations prior to the Public Hearing as follows:

Detailed Planned Unit Development Application

After a properly filed application has been received by the staff, the application will be set for the next Site Plan Review committee meeting.

The Site Plan Review Committee will meet with the applicants representative and discuss the following:

All non-compliance with Specifications I.

Suggestions to meet the purposes and criteria established by Specifications I.

The Committees recommendations of Compliance

The recommendations will be forwarded to the Elkhart County Plan Commission and placed in the file.

Legal Advertisement as Required by State Law

Note to Reviewers: public notice is covered by the Plan Commission Rules of Procedure

Notice to neighboring property owners shall be by:

First class mail.

Ten days prior to the public hearing.

Sent to all property owners within 300 feet of the real estate addressed in the application.

For all petitions a minimum of four property owners nearest to the petition will be notified.

Of these four none may be the owner of the property subject to this notice.

These property owners names and mailing addresses will be taken from the records in the office of the Auditor of Elkhart County, as they exist on the date of acceptance of the application.

If for any reason the list of property owners is more than 60 days old that list must be re-submitted to the office of the Auditor of Elkhart County for updating.

It shall be the intent of the Elkhart County Plan Commission to reasonably comply with this provision of notice; And that minor omissions of names from the list caused by the County action will not be considered a defect in giving notice under this provision.

Posting of the property subject to the petition shall be ten days prior to the public hearing at or within site of a public right of way with signs provided by the staff at the time of application filing.

Specif
icatio
ns I,
Sec. 3

3.5.3 Review Criteria

~~b. Consideration of Proposal for a Planned Unit Development~~

Specifications
I, Sec. 1

The Elkhart County Advisory Plan Commission and the appropriate legislative body ~~shall~~ must review and give reasonable regard to ~~all the~~ proposed Detailed Planned Unit Developments based on the degree to which the proposal meets all of the following criteria.

Specifications
I, Sec. 1

- A. The proposal is consistent with the Comprehensive Plan. ~~;~~ and
- B. The proposal has demonstrated how the impacts of any increased traffic will be minimized, lessened, or reduced. ~~;~~ and
- C. The proposal ~~recognizes the~~ addresses potential conflicts with and attempts to conserve the value of adjacent properties. ~~land uses.;~~ and

~~The proposal demonstrates integration with the adjacent land uses in a manner that attempts to conserve adjacent property values; and~~

- D. The proposal is consistent with the ~~intent~~ Purpose of the Zoning Ordinance as established in Sec. 1.2. ~~to promote public health, safety and general welfare; and~~
- E. The proposal is consistent with the Applicability of a Planned Unit Development as established in Sec. 3.5.1. ~~purposes of this Specification; and~~
- F. The proposal is responsible development and growth.
- G. The proposal complies with ~~When the Plan Commission and Legislative Body is considering a map amendment to DPUD, for a portion of an established GPUD, the Plan Commission and Legislative Body must give reasonable regard to the existing General Planned Unit Development.~~
- H. The Detailed Development Plan complies with the approved Detailed Site Plan and Planned Unit Development Ordinance.

Specifications
I, Sec. 12

Specifications
I, Sec. 4

Submittal Requirements

Note to Reviewers: *Submittal requirements do not have to be set out in an ordinance.*

Applications for Planned Unit Developments:

Purpose

It is the intention of this ordinance to allow for two different applications, a General Planned Unit Development and a Detailed Planned Unit Development.

Detail Planned Unit Developments

Article 3 Development Review Procedures
Sec. 3.5. Detailed Planned Unit Development

Procedures For Application:

Submittal Requirements:

Specifications
I, Sec. 5

Petitioner shall submit the following:

Application forms adopted by the Plan Commission;

The respective application fee, as established by the Elkhart County Advisory Plan Commission and set forth in its Uniform Schedule of Fees in its Rules of Procedure, shall be paid at the time of the filing of the application.

Legal Description for parcel;

Narrative of Request describing the following:

Intention for ownership;

Proposed Land uses and Percentage of site for each uses (e.g. Open Space, Buffers, Single Family residential, Two Family Residential, Multi-Family Residential, Professional Office, Limited Business, General Business, Business and Wholesale, Limited Manufacturing, General Manufacturing);

Intentions regarding water and sewage disposal;

Listing of all deviations from the development standards requested;

Dwelling Densities for residential;

How development relates with surrounding land uses; and

Other information necessary to determine compliance with this Ordinance.

reports: The following reports must be prepared by a qualified person and shall contain the requested information in its entirety:

Specifications
I, Sec. 5

Report (if on site septic systems are to be considered) Soil Report —

This report must be written by a person(s) determined by the Health Department to be proficient in the identification of soils and their properties. (Since all permits for septic systems will require some form of on site soil investigation, the format of the reports should comply with the standards established by the Elkhart County Health Department for residential and commercial septic systems)

The Soil Reports must have the following information:

Soil Boring / Soil Pit location Site plan.

Soil Profile Logs for all borings or pits.

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Sec. 3.5. Detailed Planned Unit Development

~~Depth to All Limiting Layers (e.g. Water Tables, Loading Rates Greater than 0.75 gallons per day per square foot or Less than 0.25 gallons per day per square foot,)~~

~~Municipal Sewer and Water Report: This report must have the following information:~~

~~Distance to nearest public water or sewer utility.~~

~~Projected cost for extension and connection~~

~~If development is to be on private well and septic reason for not extending and connection. (e.g. not in service area of utility)~~

Note to Reviewers: Staff has received feedback from Tech Committee that the Highway Drainage Standards should apply to PUDs, rather than the stricken provisions below. See reference to Highway Standards in Article 6.

~~Storm Water Drainage Report (Note: A rational model may be substituted for the following requirements) This report must contain the calculations for:~~

~~Off-site Information~~

~~The watershed size draining onto the site with the projected runoff.~~

~~The project runoff should use the methodology shown in this subsection.~~

~~Undeveloped Site~~

~~Projected runoff from the undeveloped site~~

~~The project runoff should use the methodology shown in this subsection~~

~~Developed Site:~~

~~Projected Developed runoff from site.~~

~~The project runoff should use the methodology shown in this subsection~~

~~Site Retention Calculation:~~

~~The developer will be required to retain one hundred percent of the project increased runoff; Plus twenty percent of the undeveloped runoff.~~

~~Runoff projection Model~~

~~CFR = ART x PPR x .25 (3 inch rain event)~~

~~CFR = Cubic Feet of Runoff.~~

~~ART = Square foot area of Runoff based on development type (e.g. Undisturbed grasses, Sodded grass areas, Wooded areas, Pavement area, Drives, Roads, Buildings etc...)~~

Specifications
I, Sec. 5

Article 3 Development Review Procedures
Sec. 3.5. Detailed Planned Unit Development

~~PPR = Percent of projected runoff for the development type.~~

~~A drawing showing:~~

~~Off-site watershed;~~

~~Area Runoff Type;~~

~~Storm-water retention~~

~~Traffic Projection and Thoroughfare Report – This report must contain the following:~~

~~Description of existing road surface and right of way (e.g. two lane vs four lane, concrete vs chip and seal, swale vs curb and gutter, ten foot lanes vs twelve foot lanes etc...)~~

~~Vehicle counts from state or local information's sources.~~

~~Projected vehicle counts to and from development with peak times.~~

~~Projected vehicle count broken down by end trip generated and drive by.~~

~~Project Demographic for all Residential Developments (over five acres): The purpose of this report will be to better inform the support services for any given area schools, fire protection, and police of future impacts on their programs.~~

~~Site Improvement Report:~~

~~Listing of all site improvements;~~

~~Projected cost of improvements; and~~

~~Time line for installations.~~

Specifications
I, Sec. 5

~~Development Plan Requirements – All Development Plans will be on a 18 inch by 24 inch mylar with ten
6. All of the following items must be addressed or shown on the Development Plan:~~

~~Name of Planned Unit Development with location description to the Quarter Quarter Section, Township, Range, and Political Township. The name of Planned Unit Developments must be unique and not similar in nature to other recorded Planned Unit Developments or Subdivisions;~~

~~Legal description;~~

~~Scale used must be either one inch equals 100 feet or one inch equals 50 feet;~~

~~Date of Drawing;~~

~~Surveyors Certificate;~~

~~North Arrow;~~

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Sec. 3.5. Detailed Planned Unit Development

~~Boundary of Planned Unit Development shown by a heavy line (unique to drawing) indicating all bearing and lengths. All changes in bearings on the boundary must be shown as monument. The monuments will be noted as being installed after construction of all public or site improvements;~~

~~Locations of all existing easements and rights of way; All easements and rights of way to be dedicated for public use; All bearings, lengths, widths and instrument numbers (for all previously recorded documents);~~

~~All corporate boundaries, townships, county and section lines and previously platted tracts adjacent to the Planned Unit Development;~~

~~Location of the Special Flood Hazard Area (if site is within the One hundred year flood zone) by a unique line;~~

~~General location map showing the Planned Unit Development;~~

~~All development setback lines to property and right of way centerlines;~~

~~Notarized certification by owner(s) of property agreeing to the Planned Unit Development and the Development plan;~~

~~Certifications of compliance with Specifications I. Signed by the Chairman and the Secretary of the Plan Commission;~~

~~Certifications of Adoptions and Compliance with Specifications – I by the Legislative Body with jurisdiction over the real estate within the Planned Unit Development;~~

~~Affidavit statement;~~

~~Recorder Statement; and~~

~~Planned Unit Development Ordinance Number.~~

~~Site Plan/Support Drawing : All of the following items must be addressed or shown on the Support Drawing with eleven copies (all improvements must be shown in order to reduce the need for major / minor change decision in the future):~~

~~Name of Planned Unit Development;~~

~~Legal Description;~~

~~Scale used [must be either one inch equals 100 feet or one inch equals 50 feet];~~

~~Developments building set back lines;~~

~~Name of Surveyor and address;~~

~~North Arrow;~~

Article 3 Development Review Procedures
Sec. 3.5. Detailed Planned Unit Development

~~Building Coverage calculations;~~

~~All proposed structure(s) and Improvements;~~

~~All phasing of projects;~~

~~Building Separations on site;~~

~~Building separations to adjacent off site buildings within 100' of petitioners property;~~

~~Demonstrations of Vehicle and Pedestrian Circulation;~~

~~Parking areas;~~

~~Landscaping;~~

~~Height, scale, materials, and style of improvements;~~

~~Signage (location, height, and size);~~

~~Recreation Space;~~

~~Outdoor Lighting (all lighting must be maintained to reduce off-site impacts);~~

~~Name of Owner and Developer and address;~~

~~Map of Planned Unit Development by unique and identified line;~~

~~Lot parcels boundaries lines shown in hatched lines;~~

~~All property lines and easements;~~

~~All monuments and corner marker;~~

~~All residential and commercial driveways adjacent to and within 200 feet;~~

~~Locations of all existing utilities;~~

~~Location and distances to sanitary sewer and municipal water;~~

~~Location of existing well and septic onsite;~~

~~Using the best available information show the location of all off-site well(s) and septic(s) within 100' of the petitioners property;~~

~~Location of all onsite well(s), septic(s) area and septic repair area(s);~~

~~Soils as identified in the Soil Report;~~

~~The one hundred year floodplain designated by a unique line;~~

Specifications
I, Sec. 5

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

Specifications
I, Sec. 5

hours in two foot intervals;

ifications of all land uses;

All information shown on the General Development Plan from the GPUD ordinance. (If the petition is for a portion of GPUD)

3.5.4 Concurrent Submittal

An applicant may submit a Detailed Development Plan concurrent with the Detailed Site Plan and supporting materials. However, the appropriate legislative body must approve the Detailed Site Plan and Detailed Planned Unit Development Ordinance prior to approval of the Detailed Development Plan.

3.5.5 Planned Unit Development Ordinance

Specifications
I, Sec. 9

The All ordinance that approves the Detailed Planned Unit Development adopted by the legislative body with jurisdiction over the real estate after "certification of the proposal" from the Elkhart County Plan Commission. The Planned Unit Development Ordinance may contain the following:

- A. Written text as prescribed by the Legislative Body;
- B. A legal description of a parcel the subject property;
- C. Specific development requirements, including any additionally imposed design elements listed in subsection 3.5.2A.3;
- D. The Detailed Development Plan to be incorporated by reference for Detailed Planned Unit Developments or the General Development Plan for General Planned Unit Developments;
- E. The Detailed Site Plan/ Support Drawing to be incorporated by reference for Detailed Planned Unit Developments only;
- F. List of permitted uses and range of uses;
- G. Documentation and supporting information that may be required;
- H. Limitations to the Detailed Planned Unit Development;
- I. List of all conditions imposed on the Detailed Planned Unit Development; 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

Specifications
I, Sec. 11

It shall be the intention of this Specification to is prohibited the recording to record in the Records Office of Elkhart County any documents or plats for any real estate within the un-incorporated

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

~~areas of Elkhart County, the Town of Millersburg, the Town of Bristol, the Town of Middlebury, the Town of Wakarusa jurisdiction of this Ordinance with any designations of "Planned Unit Development" or "PUD" unless it complies with this Specification Ordinance.~~

B. **Recording of a Planned Unit Development-Detailed Development Plan**

~~The approved Detailed Planned Unit Development Ordinance shall Development Plan must be recorded by the staff applicant with the County Recorder's Office within ten working days of receipt of the signed documents from the legislative body and receipt of checks for recording from the petitioner.~~

3.5.7 **Flood Hazard Control Deviations**

Limitations for Planned Unit Development Proposals

~~All proposals for General Planned Unit Developments and Detailed Planned Unit Developments will be limited by the following:~~

~~No designated uses listed in the Conditional Industrial Unit Development will be permitted within a Planned Unit Development District.~~

Specifications
I, Sec. 1

~~No deviations from the development Flood Hazard Control standards in Sec. 7.4 will be are permitted pertaining to Specifications L Flood Hazard Control. All variances deviations from Sec. 7.4 must be processed as Developmental Variances in accordance with Sec. 3.7. requested from the Board of Zoning Appeals.~~

~~BASIC REQUIREMENTS.~~

Specifications
O, Sec. 1

~~A CORRIDOR DISTRICT boundary shall encompass those properties fronting along the District's major arterial and properties fronting intersecting streets that are functionally or physically related to the major arterial. The length and depth of individual DISTRICTS will vary depending upon the character of the DISTRICT itself. Character factors include the size and capacity of the major arterial and intersecting streets, lot sizes, topography, existing development patterns, utilities, etc. Boundaries will be determined at the time a DISTRICT is created.~~

~~PROCEDURES FOR ESTABLISHING DISTRICT~~

~~General Requirements.~~

~~An application for establishing a PLANNED DEVELOPMENT CORRIDOR DISTRICT shall be filed as a zoning map amendment to this Ordinance, comply with Elkhart County Plan Commission Rules of Procedure and the Corridor District Ordinance and be filed no less than 30 days prior to the Plan Commission~~

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

meeting at which it is to be heard. A proposal to establish a DISTRICT may be initiated by the Plan Commission or by a petition signed by the property owners of no less than 75% of the land involved.

Preliminary Review:

Specifications O,
Sec. 1

Preliminary review of a proposed CORRIDOR DISTRICT is required for those applications initiated by petition of property owners. Prior to filing an application for a CORRIDOR DISTRICT, the petitioner(s) shall submit to the Planning and Development Department no less than six (6) copies of the proposal for a DISTRICT.

The proposal shall include a map indicating the boundaries of the proposed DISTRICT, any use or developmental standard restrictions being recommended and any other information required by the Department. Elkhart County Technical Committee shall review the proposal for compliance with all applicable County Ordinances and the Comprehensive Plan.

General discussions may be conducted between the Department staff and the petitioner(s) to clarify the proposal or to incorporate necessary modifications.

Plan Commission Action:

The Plan Commission shall conduct a public hearing on a proposed CORRIDOR DISTRICT and forward its recommendation, consisting of any conditions, standards or restrictions, and the CORRIDOR DISTRICT boundary map to the County Commissioners for final action.

Final CORRIDOR DISTRICT Approval

Final CORRIDOR DISTRICT plan, consisting of the boundary map and all conditions, standards, or restrictions recommended by the Plan commission shall be forwarded to the County Commissioners for appropriate final action.

All development within a CORRIDOR DISTRICT shall comply with the final DISTRICT plan (map, conditions, standards and restrictions) as approved by the County in conjunction with the requirements of the underlying zoning district(s)

Rezoning

Rezoning within an established CORRIDOR DISTRICT shall follow the standard rezoning procedures except as modified in this Section. All use and developmental standards of the underlying zoning district shall remain in force unless modified by this Section, in which case the standards of the CORRIDOR DISTRICT shall have precedence.

Zoning Clearance Permit

A detailed site plan shall be submitted to the Planning and Development Department staff prior to the issuance of an Improvement Location Permit and any building permits. Staff shall review the plan to

~~insure conformity with the conditions, standards, restrictions and provisions of the approved CORRIDOR DISTRICT and shall have the authority to require and approve final site plan standards within the parameters established by the DISTRICT plan and this Ordinance. An Improvement Location Permit shall be issued only upon acceptance of the site plan by staff.~~

3.5.8 Effect of Overlay

~~An approved Detailed Planned Unit Development overlay zoning district, This district when designated on the zoning maps by the adoption of a Detailed Planned Unit Development Ordinance, will supersede 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

Note to Reviewers: *This Subsection was approved by the Board of County Commissioners on 10/21/2013.*

A. Applicability

The provisions of this Section apply solely to nonresidential and mixed use Detailed Planned Unit Development (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 or mixed use DPUD that received final approval on or after March 3, 1997.
2. An As-Built Drawing, at the same scale and on the same paper size as the approved DPUD ~~Detailed Site Plan~~ Site Plan / Support Drawing, 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 Detailed Site Plan ~~/ Support Drawing~~ 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 Detailed Site Plan ~~/ Support Drawing~~;
- iii. A drainage failure occurred in a previous phase of the same development and such failure affected the watershed of the development; or

Significant change since Committee review. Board of County Commissioners adopted standards for as-builts for DPUDs.

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

- 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 Detailed Site Plan / ~~Support Drawing~~. 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

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

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.

Article 3 Development Review Procedures

Sec. 3.5. Detailed Planned Unit Development

Conditional Industrial Unit Development

Note to Reviewers: *The Technical Committee recommends that the Conditional Industrial Unit Development procedure be removed from this Ordinance. Now that the Plan Commission can recommend, and the County Commissioners can require, commitments as part of a basic rezoning, the usefulness of a CIUD is minimal.*

All Special Uses and all Conditional Uses as approved under the Zoning Ordinance, Number 1680, for the City of Elkhart, Indiana, as amended, located in the unincorporated areas of the County, shall remain as Special Uses or Conditional Uses, and all conditions set forth for those uses shall remain in force, unless those uses, conditions or both shall be amended under this ordinance.

Specifications

F, F

Article 3 Development Review Procedures

Sec. 3.6. Special Use Permit



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.

The General provisions applicable to the district in which the Special Use is located are also applicable to the Special Use in that district.

- 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 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.

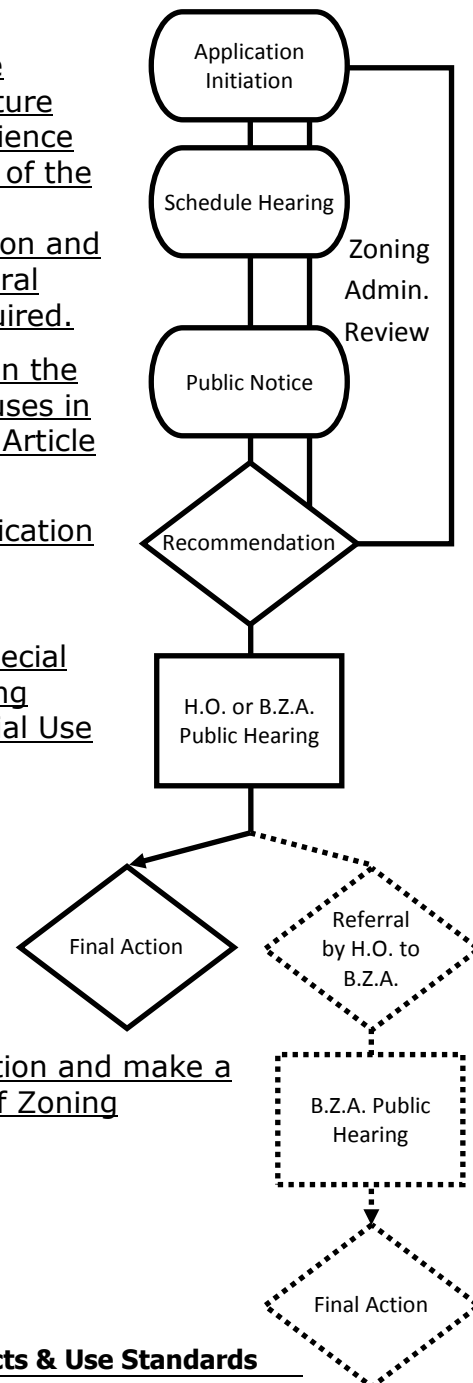
3.6.2 Review Process

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.



Article 3 Development Review Procedures

Sec. 3.6. Special Use Permit

C. Hearing Officer or Board of Zoning Appeals Final Action

Following notice in accordance with the Board of Zoning Appeals Rules of Procedure, the Hearing Officer or Board of Zoning Appeals, as appropriate, must hold a public hearing and approve, approve with conditions or commitments, or deny the Special Use Permit.

D. Referral

The applicant may obtain a transfer from the Hearing Officer to the Board of Zoning Appeals before a decision is made as a result of any of the following:

1. The receipt by the Zoning Administrator of a written request for such transfer by the applicant;

Note to Reviewers: 1. above may apply to a situation where the petitioner requests the petition to go to the BZA immediately upon submittal or after the Hearing Officer imposes commitments or conditions that the petitioner does not agree with.

2. A staff recommendation related to the impositions of conditions or requirements of commitments; or
3. Any other adverse action by the Staff or Hearing Officer. ~~shall permit the applicant to obtain a transfer to the Board before obtaining a decision.~~

The Board of Zoning Appeals may, after public hearing and hearing according to law, grant the permit, and may impose conditions on the use which the Board deems essential to insure that the Special Use is consistent with the spirit, purpose and intent of this ordinance, shall not substantially and permanently injure the appropriate use of neighboring property, and shall substantially serve the public convenience and welfare.

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.

Hearing Officer

~~A special use may only be approved by the Hearing Officer upon a written determination that:~~

- A. The Special Use is consistent with the ~~spirit, purpose and intent of this Ordinance as established in Sec. 1.2.~~
- B. The Special Use ~~That it~~ will not substantially and permanently injure the appropriate use of neighboring property. ~~÷ and~~
- C. The Special Use ~~That it~~ will substantially serve the public convenience and welfare.

Article 3 Development Review Procedures

Sec. 3.6. Special Use Permit

~~The Hearing Officer may impose conditions as part of his approval.~~

Board of Zoning Appeals

~~shall hear, and approve or deny, all special uses as specified in the Zoning Ordinance. A special use may be approved under this section only upon a written determination that:~~

~~The special use is consistent with the spirit, purpose and intent of this ordinance;~~

~~It will not substantially and permanently injure the appropriate use of neighboring property; and~~

~~It will substantially serve the public convenience and welfare.~~

~~The Board may impose conditions as part of its approval.~~

~~Every application for Special Use Permit shall be accompanied by the fee set by the Elkhart County Advisory Plan Commission in its Uniform Schedule of Fees to its Rules of Procedure.~~

3.6.4 Duration

~~All Special Uses and all Conditional Uses as approved under the Zoning Ordinance, Number 1680, for the City of Elkhart, Indiana, as amended, located in the unincorporated areas of the County, shall remain as Special Uses or Conditional Uses, and all conditions set forth for those uses shall remain in force, unless those uses, conditions or both shall be amended under this Ordinance.~~

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 ~~must~~ may be granted for a limited period of time ~~by the Board of Zoning Appeals~~. 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. ~~have been complied with:~~
1. The property and mobile home have adhered to all conditions and commitments imposed on the original Special Use Permit. ~~have been adhered to, and;~~
 2. The property and mobile home have been maintained in a respectable good condition. ~~;~~ and

~~The mobile home and its location remain consistent with the County Comprehensive Plan.~~

~~The land owner and occupants are the same as considered by the Board of Zoning Appeals.~~

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 will ~~will~~ must be sent to the applicant.
- D. If the Zoning Administrator declines to renew the Special Use Permit, then a letter of denial will ~~will~~ must be sent to the applicant. The ~~staff will~~ Zoning Administrator must, within 30 days of the denial letter, set the renewal request for consideration before the full Board Hearing Officer as a staff item which does not require public notice or a public hearing.

Sec. 3.7. Use Variance

Note to Reviewers: Staff's critique recommendation was to remove the Use Variance from the Zoning Ordinance since hardship related to needing to establish a particular use is difficult to justify. However, the policy committee wanted to retain it. The Staff would still rather not have it in the Zoning Ordinance.

3.7.1 Applicability

The Board of Zoning Appeals may vary the use standards of this Ordinance for projects that meet all of the criteria set forth in this Section. Any Variance request not related to the developmental or dimensional requirements of this Ordinance (i.e. those requirements related to a measureable numerical standard such as a setback, lot size or height) must be processed as a Use Variance in accordance with this Section. A Variance is considered an exception to the regulations, rather than a right, and must be the minimum necessary to afford relief.

Significant
change since
Tech
Committee
review

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.

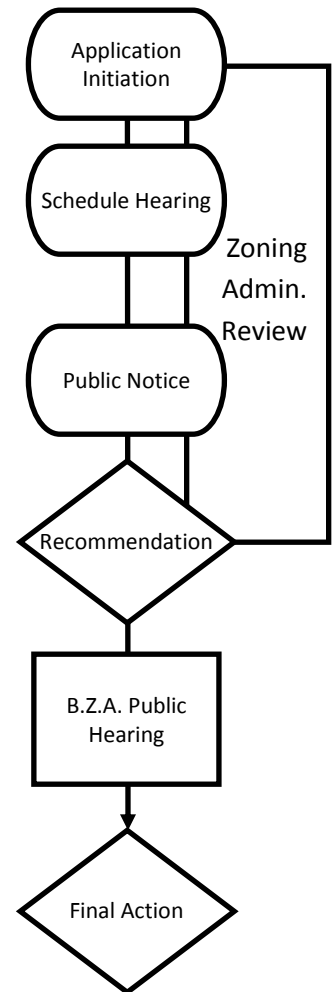
C. Board of Zoning Appeals Final Action

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.

- The approval will not be injurious to the public health, safety, morals and general welfare of the community.
- 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.



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Article 3 Development Review Procedures

Sec. 3.7. Use Variance

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

3.7.4 Duration

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7.10.F

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.

~~shall hear, and approve or deny, variances of use from the terms of the Zoning Ordinance.~~

~~A use variance may be approved by the Board only upon a written determination that:~~

Sec. 3.8. Developmental Variance



3.8.1 Applicability

Significant
change since
Tech
Committee
review

- 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.

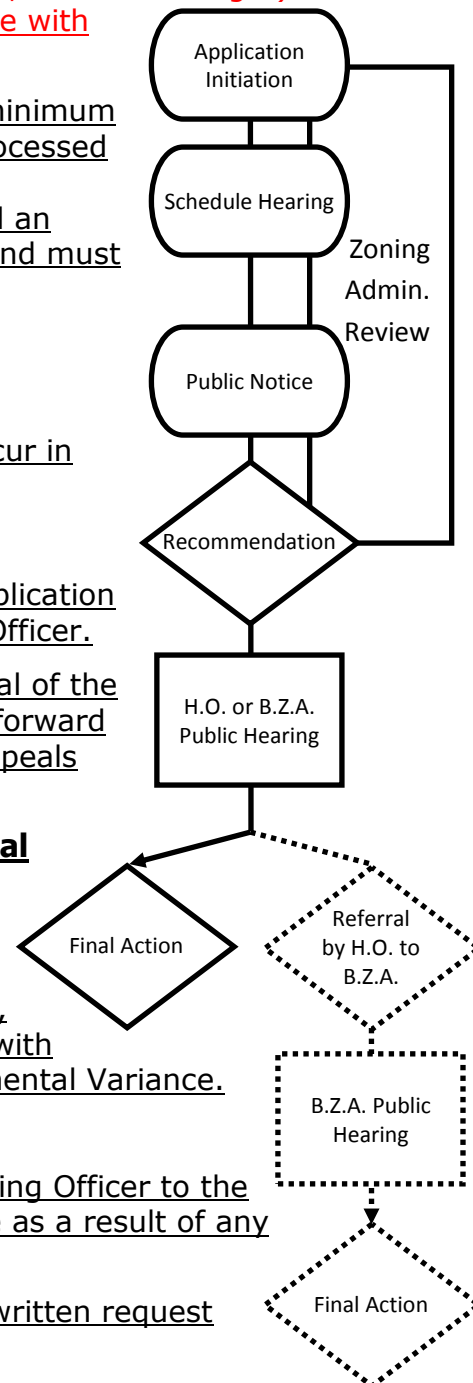
C. Hearing Officer or Board of Zoning Appeals Final Action

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 for such transfer by the applicant;



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Sec. 3.8. Developmental Variance

Note to Reviewers: 1. above may apply to a situation where the petitioner requests the petition to go to the BZA immediately upon submittal or after the Hearing Officer imposes commitments or conditions that the petitioner does not agree with.

2. A staff recommendation related to the impositions of conditions or requirements of commitments; or
3. Any other adverse action by the Staff or Hearing Officer. ~~shall permit the applicant to obtain a transfer to the Board before obtaining a decision.~~

shall hear, and approve or deny, variances from the development standards of the Zoning Ordinance.

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 Variance may be approved by the Hearing Officer only upon a written determination that:~~

Note to Reviewers: Staff wanted to add criteria that require that the hardship be based on a condition unique to the subject property, that the need for the variance isn't the applicant's own fault and that the basis of the request not solely be based on economics. However, these additional criteria are not in the state statutes and all communities researched stuck to these standard criteria.

- 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. ~~;~~ and
- C. The strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.
- D. In a Flood Hazard Area, the granting of the requested Variance from the provisions in Sec. 7.4 will 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.

~~A variance may be approved by the Board only upon a written determination that:~~

~~The approval will not be injurious to the public health, safety, morals and general welfare of the community;~~

~~The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and~~ _____

Art.6,
Sec.11

Specifications
L, Sec. 7

Art.6,
Sec.7

Article 3 Development Review Procedures

Sec. 3.8. Developmental Variance

~~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

~~The Board shall hear requests for variances as permitted by Article 6, Section 7, a.(4) from the standards, terms and provisions of this specification provided the applicant demonstrates that:~~

~~There exists a good and sufficient cause for the requested variance;~~

~~The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant; and~~

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L, Sec. 7

The Board of Zoning Appeals may issue a Variance ~~to the terms and provisions of this specification~~ from the provisions in Sec. 7.4 subject to the following standards and conditions:

- A. ~~The Board of Zoning Appeals may not grant a No Variance or exception~~ for a residential use within a floodway, subject to Sec. 7.4.2, may be granted.
- B. Any Variance ~~or exception~~ for a nonresidential use granted in a floodway, flood plain or flood fringe, subject to Sec. 7.4.2, ~~will~~ requires a permit from Indiana Department of Natural Resources.
- C. A ~~Variances or exceptions~~ to the Building Protection Standards of Sec. 7.4.3 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

A. thru D. is a change since Committee review. Word smithing related to floodplain wording.

Note to Reviewers: *The one-acre maximum lot size and rules about surrounding properties are Federal law.*

- D. A ~~Variance or exception~~ 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, Districts, and~~ Objects.

~~All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and~~

- E. The Board of Zoning Appeals ~~shall~~ 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.

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.

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7.10.F

Sec. 3.9. Administrative Adjustment

Note to Reviewers: As of November 20, 2012, this procedure is being proposed as an amendment to existing Zoning Ordinance. It will be included here in its final adopted form. What follows are draft provisions that are pending adoption by the Board of County Commissioners.



3.9.1 Applicability

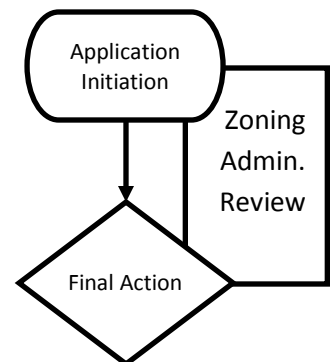
- A. Administrative Adjustments are minor specified deviations from otherwise applicable standards of this Ordinance as specified in this Section.
- B. Except as provided in Sec. 3.9.4 below, the Zoning Administrator has the authority to approve an Administrative Adjustment of up to 10 percent of any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



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Sec. 3.9. Administrative Adjustment

- D. No Administrative Adjustment is allowed that would result in a separation between ~~any two~~ the proposed buildings and a building on neighboring property of less than five feet.

3.9.4 Review Criteria

In determining whether to approve, approve with conditions or deny an Administrative Adjustment, the Zoning Administrator must consider the following criteria.

- A. The Administrative Adjustment does not adversely affect the permitted use of adjacent property or the physical character of the surrounding area
- B. Granting the Administrative Adjustment will be generally consistent with the purpose of this Ordinance as established in Sec. 1.2.
- C. The Administrative Adjustment requested is the minimum adjustment necessary for reasonable use of the property and compliance with this Zoning Ordinance.

3.9.5 Relief Not Cumulative

The Zoning Administrator may grant only one form of administrative relief established in this Zoning Ordinance related to the standard for which relief is being sought. Other forms of administrative relief include, but are not limited to, those established in Article 4.

Note to Reviewers: *The citation above is for setback averaging and the 20% rule that allows encroachment along a building line into a setback. Similar wording to this could be repeated in the setback averaging and 20% sections.*

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.



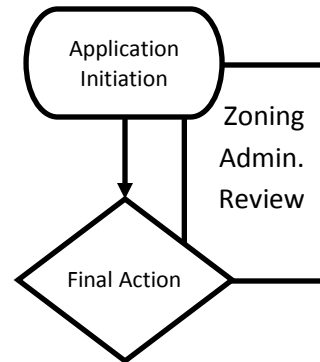
Sec. 3.10. Written Interpretation

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

and Plats



3.11.1 Applicability

A. is a change since Committee review. ILP requirement for parking spaces removed.

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

Note to Reviewers: Staff wanted to include "Paving of an area greater than 539 square feet or an area greater than 10 percent of the square footage of paved area on the property; or" but the Policy Committee wanted it removed. This would require an ILP for 3 or more off-street parking spaces or increasing the paved area on a property by 10% of its existing square footage. The reason for this trigger is to allow for drainage review and other types of review.

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.

Note to Reviewers: 4 above requires an ILP for a significant change in use. For example, a change in use from a book store to a barber shop would not require an ILP. A change from a book store to a restaurant would require an ILP. The reason for this trigger is to allow for parking review and other types of review.

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~~no structure, improvement or use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvement or use and its location conform with the County Comprehensive Plan and County ordinances and an Improvement Location Permit for that structure, improvement or use has been issued.~~

- 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.

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Sec. 3.11. Improvement Location Permit

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7.02.B

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.

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.

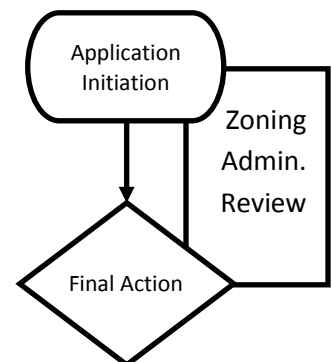
3.11.3 **Review Process**

~~The Zoning Administrator shall issue an~~ must approve, approve with conditions or deny the Improvement Location Permit, upon written application.

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. ~~when~~ The proposed structure, improvement or use and its location conform in all respects to the County Comprehensive Plan complies with the provisions of this Ordinance and any applicable Written Interpretations.



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Sec. 3.11. Improvement Location Permit

- B. The proposed structure, improvement or use complies with any approved plat or Planned Unit Development, Special Use Permit or Variance governing the subject property.

Location of Buildings-

Except as otherwise provided in this ordinance, no Improvement Location Permit shall be issued for any building unless

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- C. The proposed building structure, improvement or use is to be located on a lot or parcel of land which property that:

1. Abuts a public street which- right-of-way that has been constructed or for which a bond has been accepted, guaranteeing its construction; or

Has been accepted by the Board of County Commissioners and which:

Has been constructed and paved, or for which a surety or bond has been accepted, guaranteeing its construction, paving, or both; or

Has been maintained as a numbered public state, federal or County road; or

Has been constructed and maintained by the County or is maintained to County standards; and

2. Has indirect access to a public right-of-way Is on through a permanent access easement of access to a public street, approved as a lot width Variance in accordance with Sec. 3.7. by the Board of Zoning Appeals after a public hearing.

Under the provisions of IC 13-2-22 a permit (or Letter of Review and Release) from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

Art.5,
Sec.4

3.11.5 Improvement Location Permit Required Within a Special Flood Hazard Area

Note to Reviewers: Any opportunity to shorten this part would be welcome.

Specifications
L, Sec. 2

- A. No development is permitted in the Special Flood Hazard Area without first obtaining an Improvement Location Permit. The Zoning Administrator shall may not issue an Improvement Location Permit if the proposed development does not meet the requirements of this specification subsection.

The application for an Improvement Location Permit shall be accompanied by the following:

Note to Reviewers: Submittal requirements do not have to be set out in an ordinance.

Article 3 Development Review Procedures

Sec. 3.11. Improvement Location Permit

~~A description of the proposed development;~~

~~A site development plan drawn to scale showing:~~

~~Existing and proposed structures;~~

~~Existing and proposed land grades;~~

~~Location in relationship to existing roads, streams, and property lines;~~

~~All distances (must be dimensioned) between structures, lot lines (property lines), roads, and streams, etc.....~~

~~A legal description of the property site and the existing parcel code number (tax code number).~~

~~Elevation of lowest floor (including basement) of all proposed structures at the Flood Protection Grade.~~

B. ~~The Zoning Administrator~~ County Engineer or a Municipal Engineer, as appropriate, ~~shall~~ 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. ~~;~~ and

1. If the structure is in an identified floodway the ~~Zoning Administrator~~ County Engineer or a Municipal Engineer ~~shall~~ must require the applicant to secure a permit ~~(or statement of release)~~ 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 ~~Indiana~~ Department of Natural Resources. ~~;~~ or

2. If the structure is located in an identified floodway fringe, the ~~Zoning Administrator~~ County Engineer or a Municipal Engineer ~~will~~ must issue the Improvement Location Permit provided:

a. The provisions contained in Sec. 7.4 of this ~~specification~~ Ordinance have been met; and,

b. That the lowest floor of any new or substantially improved structure ~~shall~~ 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~~ County Engineer or a Municipal Engineer ~~shall~~ must require the applicant to secure a permit or letter of recommendation approving the proposed development from the ~~Indian~~ 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.

Specifications
L, Sec. 2

Article 3 Development Review Procedures

Sec. 3.11. Improvement Location Permit

All development other than structural shall require an Improvement Location Permit released as regulated in Section 2. c. of this specification.

3.11.6 Duration

Art.5,
Sec.2

That permit shall be valid for six months after the date of issuance, or for the length of validity of a Building Permit, if that Building Permit is obtained for the structures or buildings covered by the Improvement Location Permit within the six month limitation.

Draft E –
Sec.
7.02.F

- 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 ~~shall have the power to~~ 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.

Every application for an Improvement Location Permit shall be accompanied by:

Note to Reviewers: *Submittal requirements do not have to be set out in an ordinance.*

Art.5,
Sec.2

A site plan drawn to scale showing the ground area of the building or structure, the building lines in relation to lot lines, the number of stories or the height of building or structure, the use to be made of the building, or structure, or land, and all other information required by the Zoning Administrator for the proper enforcement of this ordinance.

The respective application fee, as established by the Elkhart County Advisory Plan Commission and set forth in its Uniform Schedule of Fees to its Rules of Procedure, shall be paid at the time of the filing of the application.

The site plan shall be attached to the application for an Improvement Location Permit when it is submitted to the Zoning Administrator and shall be retained by the Plan Commission as a public record.

Any decision of the Zoning Administrator concerning the issuance of an Improvement Location Permit may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by that decision.



Sec. 3.12. Temporary Use Permit

Note to Reviewers: A temporary use permit puts tighter control on minor, temporary uses and most importantly requires that the area be cleaned up after the use ceases.

In addition, it could be used in situations when a person wants to establish a use that requires BZA approval, but the submittal deadlines and public notice requirements will require a considerable delay before the use can commence. The person could get a Temporary Use Permit in the interim before the actual decision by the BZA.



3.12.1 Applicability

A temporary use, as established in Sec. 5.6, may not operate for more than nine days unless the land owner obtains a Temporary Use Permit. The permit identifies the specific use, the period of time for which it is approved, and any special conditions attached to the approval.

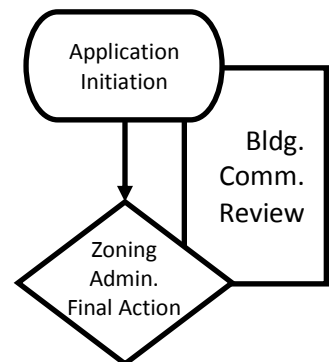
12.2 Review Process

A. Building Commissioner Review and Recommendation

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

B. Zoning Administrator Final Action

1. The Zoning Administrator must approve, approve with conditions or deny the Temporary Use Permit.
2. The Zoning Administrator must review all signs in conjunction with the issuance of the permit. Such signs must be in accordance with the requirements of this Ordinance.



3.12.3 Review Criteria

In determining whether to approve, approve with conditions or deny a Temporary Use Permit, the Zoning Administrator must consider the following criteria.

- A. The extent to which the temporary use complies with the purpose of this Ordinance, the zoning district in which it is located and any specific temporary use standards in Sec. 5.6.
- B. The extent to which the temporary use does not impair the normal, safe and effective operation of a permanent use on the same site.
- C. The degree that the temporary use endangers or is materially detrimental to the public health, safety or general welfare or is injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.

3.12.1. is a change since Committee review. Temp Use Permit needed if in operation for more than 9 days. Was originally written with no max. time limit.

Article 3 Development Review Procedures

Sec. 3.12. Temporary Use Permit

3.12.4 Duration

Unless otherwise permitted in the Specific Temporary Use Standards in 5.6.2F, a Temporary Use Permit expires 90 days after approval.

Sec. 3.13. Building Permit

Note to Reviewers: Elkhart County already has building permits in place, of course, but no procedures in writing in the Zoning Ordinance.



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

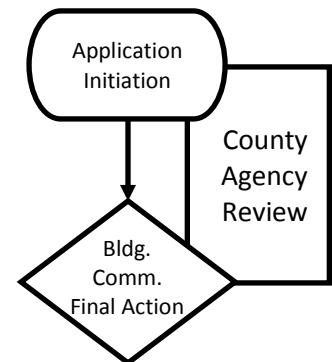
A. Prior County Agency Review

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 Commission must consider the following criteria.

- A. The application and proposed structure conforms to all prior approved development applications for the property.
- B. The building plans conform to the Building Code and other applicable construction codes adopted by the County.

Article 3 Development Review Procedures

Sec. 3.13. Building Permit

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

Note to Reviewers: Elkhart County requires permits for signs, but has no procedures in writing in the Zoning Ordinance.



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.

Note to Reviewers: Only changing out the sign face of an existing sign does not require a sign permit.

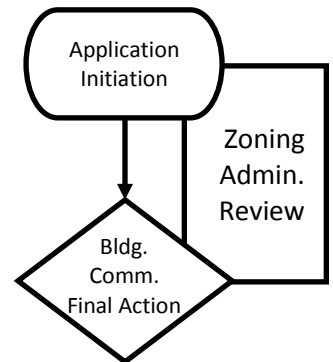
3.14.2 Review Process

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. 7.3 and any additional sign standards adopted by an appropriate legislative body.

Note to Reviewers: A. above refers to Town Sign standards adopted by Middlebury and possibly others in the future.

- B. The subject sign is consistent with the provisions of an approved 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

Art.5,
Sec.3

- A. No land ~~shall~~ or building may be occupied or used ~~and no building erected, reconstructed or structurally altered, occupied or used,~~ in whole or in part, for any purpose whatsoever, ~~until the Zoning Administrator has issued~~ 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, and its use, and required site improvements comply with all applicable provisions of this Ordinance and other County regulations applicable to the building or premises or the use in the district in which it is to be located.
- B. No change in use ~~shall~~ may be made in any building, or part of it, ~~and no building shall be erected, reconstructed or structurally altered until the Zoning Administrator has issued a~~ 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

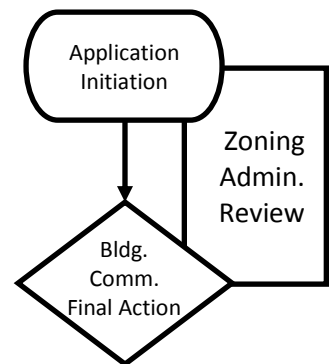
The Zoning Administrator must review the submitted application and make a recommendation to the Building Commissioner.

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 ~~shall~~ must be applied for simultaneously with the application for an Improvement Location Permit and ~~shall~~ must be issued within 10 days after the lawful erection, ~~reconstruction, or structural alteration, moving, conversion, extension or enlargement of~~ that building has been completed.
2. No Improvement Location Permit ~~shall~~ may be issued for ~~excavation or for the erection, reconstruction or structural alteration of any building before the person seeking an Improvement Location Permit has applied for a Certificate of Occupancy.~~



Article 3 Development Review Procedures

Sec. 3.15. 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.

~~The Zoning Administrator shall not issue any permit to make that change unless The building is in conformity with the provisions of this Ordinance.~~

- A. The location of the structure and required improvements on the property are in accordance with the approved Improvement Location Permit and Building Permit.
- B. Where a change of use in an existing structure is proposed, the use conforms to the use regulations in Article 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. is a change since Committee review. Refers to newly adopted DPUD provisions

3.15.4 **As-Built Drawing Required for Certain DPUDs**

Certain nonresidential 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**

Note to Reviewers: *This should go without saying but it appears to be a common problem.*

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 ~~shall~~ must be kept on file in the office of the ~~Zoning Administrator~~ Plan Director. Copies ~~shall~~ must be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and ~~shall~~ must be available for public inspection as provided by State law.

Art.5,
Sec.3

Sec. 3.16. Appeal of Administrative or Hearing Officer Decision



3.16.1 Applicability

Powers and Duties

Art.6,
Sec.12

- A. Any order, requirement, decision or determination of an Administrative Official 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. The Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination appealed from as in its opinion ought to be done. ~~in the premises and~~ To that end, ~~the Board shall have~~ has all the powers vested in the person ~~or board~~ from whom the appeal is taken.
- C. The Board of Zoning Appeals hearing on the appeal ~~shall be~~ is de novo, in the same manner as the petition originally filed with the Board.

Art.6,
Sec.12

~~Shall hear and determine appeals from and review any order, requirement, decision or determination made by Administrative Official Hearing Officer Staff Member or Administrative Board designated by Ordinance, other than the Plan Commission, made in the enforcement of the Zoning Ordinance, and the Subdivision Ordinance or the issuance of building and occupancy permits under Title 36, Article 7 of the Indiana Code;~~

Art.6,
Sec.12

3.16.2 Review Process

A. Initiation

An Appeal ~~shall~~ must be filed within ~~14~~ 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.

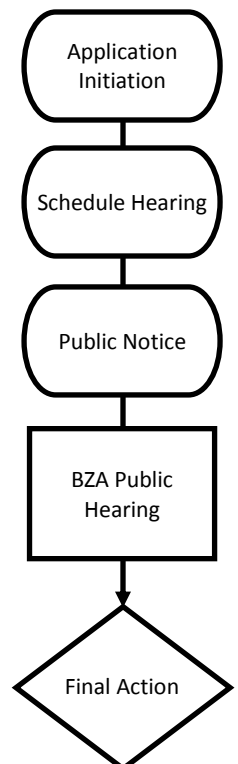
3.16.2.A. is a change since Committee review. Changed to match state statutes.

Art.6,
Sec.6

~~Appeals. Any order, requirement, decision or determination of the Administrative Official, Hearing Office or Staff Member may be appealed to the Board by any person claiming to be adversely affected by that order decision or determination.~~

Art.6,
Sec.12

~~Notice of hearing on the appeal shall be given 14 days prior to the Board of Zoning Appeals hearing date and may be made a part of the Notice of Hearing by the Hearing Examiner.~~



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ARTICLE 4 DISTRICT DEVELOPMENTAL STANDARDS

DISTRICTS AND ZONE MAPS.

Art.2,
Sec. 1

Sec. 4.1. General

4.1.1 Zoning Districts

- A. The County is hereby divided into ~~12~~ zoning districts ~~known and designated throughout this Ordinance as follows.~~
- 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 Hereinafter | |
|--|-------------------------|--|
| Residential Districts | | |
| Rural Residential | RR | New |
| Single-Family Residential | R-1 | |
| Two-Family Residential | R-2 | |
| Multiple-Family Residential | R-3 | |
| Residential Mixed Use Multiple-Family Residential and professional office | R-4 | New name & new standards |
| Nonresidential Districts "B" Business Districts | | |
| Agricultural | A-1 | |
| Limited Neighborhood Business | B-1 G | |
| General Business | B-2 G | |
| Business and Wholesale Heavy Business | B-3 G | |
| "M" Manufacturing Districts | | |
| Limited Manufacturing | M-1 G | |
| General Heavy Manufacturing | M-2 G | |
| Restricted Manufacturing District | M-3C | Unused on map so removed |
| Special Purpose and Overlay Districts | | |
| Office Park | E-1 | |
| Business Park | E-2 | Merge Office & Business Park |
| Gateway Interchange Park | E-3 E-2 | |
| General Planned Unit Development <u>Overlay</u> | -GPUD | |
| Detailed Planned Unit Development <u>Overlay</u> | -DPUD | |
| Town Residential <u>Overlay</u> | -TR | New |
| Wellhead Protection <u>Overlay</u> | -WP | |
| <u>County Road 17 Overlay</u> | <u>-CR-17</u> | County staff currently working on Plan for this area |



Article 4 District Developmental Standards

Sec. 4.1. General

| Name of District | Designation Hereinafter |
|-----------------------------|-------------------------|
| Conservation | A-2 |
| Farmland Preservation | A-3 |
| Confined Feeding Protection | A-4 |
| Intense Livestock Operation | A-5 |

Unused - Floodplain

Note to Reviewers: The "C" is stricken from each district designation. The "C" is not used on the zoning map or in everyday use.

Note to Reviewers: The Special Purpose and Overlay zoning districts will be handled in Module 3.

Planned Development Corridor District designations.

The designation will be made on the Zoning Maps of Elkhart County, the incorporated towns of Wakarusa, Bristol, Middlebury and Millersburg by the following:

The letter combinations "PCD" with the underlying zoning district will be added as a suffix with a hyphen. (Example: PCD-A-1, PCD-B-1, PCD-M-1 etc.)

4.1.2 Zoning Map Zone Maps

Availability For Public Inspection

Duty of the County Recorder.

The County Recorder shall keep two copies of the Zone Maps referred to in Article 2, Section 2, and of the Specifications referred to in Article 3, Section 10 on file for public inspection during the regular office hours of the County Recorder.

Note to Reviewers: Staff attempted to designate the digital zoning map as the official zoning map, but state law prohibits this.

- The Zoning Maps, dated October 30, 1959, are is hereby incorporated by reference into this Ordinance. This incorporation includes any amendments to the Zoning Map that may be made from time to time.
- The Zoning Map Zone Maps shows the areas included in the above zoning districts. All notations, references, indications and other matters shown on the Zoning Map Zone Maps are as much a part of this Ordinance as if they were fully described in its text.
- Two copies of these the Zoning Maps are on file in the office of the County Recorder Auditor, one copy is on file in the office of the Plan Director and such maps are available for public inspection.
- The Plan Director is responsible for maintaining the Zoning Map and must post all amendments to the map as soon as possible after the effective date of the Zoning Map Amendment.

Art.9,
Sec. 1

Art.2,
Sec. 2

Change since
Committee
review. Digital
changed to
paper.

Art.2,
Sec. 3

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 Map Zone Maps, the Zoning Administrator must make a determination based on the following rules of interpretation shall apply:
 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 shall 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 shall must be determined by use of the scale of the Zoning Map Zone Maps.
 3. If the boundary remains uncertain, the Board of Zoning Appeals shall must interpret the intent of the Zoning Map Zone Maps to determine the location of the boundary in question.

Art.2,
Sec. 4

4.1.4 Procedure Relating to ~~Annexed or~~ Disannexed or Vacated Areas

- A. Territory ~~annexed or~~ disannexed ~~from~~ by a town or city on or after February 1, 1960 ~~shall~~ must remain as zoned ~~or be designated as a comparable County zoning district unless changed by an amendment of this Ordinance~~ a Zoning Map Amendment.
- B. If an appropriate legislative body vacates any street, alley, public way, railroad right-of-way, waterway, or other similar area ~~is legally vacated~~, the zoning districts adjoining each side of that street, alley, public way, railroad right-of-way, waterway, or similar areas, shall must be extended to the center of that vacation. All area included in the vacation shall must then be subject to all appropriate regulations of the extended districts.

Change since
Committee
review. Word
smithing.

Art.2,
Sec. 5

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, ~~shall be~~ are deemed to be in the same ~~use~~ 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, ~~shall be~~ is deemed to be the same as that of the abutting property up to that center line.

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

Rezoning of Public and Semi-Public Areas

Note to Reviewers: *This stricken portion assumes that the Zoning Map is going to call out schools and other public uses as such. But this is not the case.*

Art.3,
Sec. 8

An area indicated on the zoning map as a public park, recreation area, public school site, cemetery, or other similar open space, shall not be used for any other purpose than that designated. When that use of the area is discontinued, it shall automatically be zoned to the most restricted adjoining district until or unless appropriate zoning is authorized by the Board of County Commissioners within three months after the date of application filed for rezoning.

Sec. 4.2. Zoning District Purpose Statements

Note to Reviewers: *Purpose statements are important because they set the tone for what land uses will be allowed in the district and what the development standards for each district will be. Purpose statements should also be considered by the Plan Commission and Board of County Commissioners when making a rezoning decision.*

4.2.1 **RR, Rural Residential**

The purpose of the RR, Rural Residential, zoning district is to accommodate low intensity single-family detached dwellings and other compatible and supporting uses in harmony with nearby natural settings or agricultural areas on larger lots with large setbacks. The district should be applied in areas with no existing or proposed public wastewater service. Application of the district should not cause a hindrance to the future growth and annexation of the municipalities in the County.

4.2.2 **R-1, Single-Family Residential**

Similar
to Draft
E

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**

Similar
to Draft
E

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 **A-1, Agricultural District**

Specific
ations
A, Sec.
A

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, cluster residential subdivisions and other compatible and supporting uses.

4.2.7 **B-1, Neighborhood Business**

Note to Reviewers: Staff proposed the following sentence for the B-1 purpose statement “The zoning district is appropriately applied at the intersection of a local and a collector road or of two collector roads.” However, the Policy Committee voted to remove it.

Similar
to Draft
E

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.

4.2.8 **B-2, General Business**

Note to Reviewers: Staff proposed the following sentence for the B-2 purpose statement “The zoning district is appropriately applied at the intersection of collector or arterial roads or adjacent to such roads.” However, the Policy Committee voted to remove it.

Similar
to Draft
E

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.

4.2.9 **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.

4.2.10 **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.

4.2.11 **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.

4.2.12 **E-1, Office and Business Park District**

Specifications E,
Sec. 1

Change since
Committee
review.
Removal of
street reference
at direction of
Policy
Committee.

~~PURPOSE. Office Park District—~~ The purpose of the E-1, Office and Business Park, zoning district is to promote and accommodate ~~creates a higher standard for aesthetic development of large tracts of land in a park like setting for administrative, professional, or clerical~~ office, warehousing and distribution, and research and development-oriented light industrial operations. An office or business park is to be designed and conducted as an integrated facility for a number of separate office buildings and supporting secondary uses. Such a development is planned, designed, and constructed 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 located adjacent to major arterials and are served by collector streets and~~ are customarily operated during daylight hours and involves no outside display or selling of merchandise.

E-2, Business Park District

Specifications E,
Sec. 2

~~E. Business Park District—Creates a higher standard for aesthetic development in a park like setting which provides for assembly, warehousing and distribution facilities with assorted offices for management, sales and service with no outside storage or display of product or equipment, no outside sale of merchandise, and no outside assembly being permitted. Business Parks are located adjacent to major arterials and are served by collector streets. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, open space and signage.~~

4.2.13 **E-2, E-3, Gateway Interchange Park District**

Specifications E,
Sec. 3

~~PURPOSE—It is~~ The purpose of the E-2, Gateway Interchange Park, zoning district is to accommodate large integrated developments ~~which are located adjacent to highway interchanges serviced by major arterials. All development~~ will be integrated with special attention given to aesthetic and architectural design that enhances the entryways to the Elkhart County.

4.2.14 -TR, Town Residential

The purpose of the -TR, Town Residential, overlay zoning district is to accommodate higher density residential uses on smaller lots in the municipalities over which the County has planning jurisdiction. In addition, the overlay district is intended to stabilize and preserve the character of the neighborhoods within the municipalities without creating widespread nonconformities.

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

Purpose:

Specifications
I, Sec.1

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.

~~It is The purpose of the Planned Unit Development districts to require the integration of development with all adjacent properties. The criteria for this integration shall be the giving of reasonable regard to the adjacent land uses, adjacent development patterns, and adjacent building forms.~~

B. To encourage development with such characteristics, Planned Unit Developments may allow flexibility that includes districts through incentives that are, but is not limited to the following:

1. Flexibility with Zoning Ordinance development and design standards;
2. Permitting of mixed land uses not normally allowed in the base zoning district;
3. Allowance for creative approaches to land-use development; or
4. Coordination of Public Improvements that are directly affected by the Planned Unit Development with procedures to post sureties.

~~A-2, Conservation District~~

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

~~PURPOSE. It is the purpose of this district to protect the public health, safety and general welfare by reducing the hardships and financial burdens caused by the periodic flooding of streams. The provisions of this district are intended to further locally the purpose of Indiana Code 13-2-25-1 et seq. (Indiana Flood Control Act of 1945).~~

~~LOCATION. The boundaries of this district indicate the flood plain area, which is susceptible to the risk of flooding. Exact boundaries are based upon flood elevations, topographic maps, and aerial photographs.~~

~~FUTURE CHANGES. As land within the Conservation District becomes sufficiently protected from the possibility of flooding, the rezoning of that land may be considered.~~

Note to Reviewers: The A-2 district is shown as stricken since other staff has advised that it is obsolete.

4.2.16 A-3, Farmland Preservation District

Specific
ations
A, Sec.
A

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

4.2.17 A-4, Confined Feeding Protection District

Specifications A,
Sec. A

The purpose of the A-4 Confined Feeding Protection, zoning district is to permit accommodate intensive agricultural uses confined feeding operations and to recognize certain needs of the agricultural community. The goals of an A-4 would be the zoning district are enhanced right-to-farm protection, recognition by community, promote promotion of agricultural economic development and the promotion of agricultural coexistence with residential neighborhoods.

4.2.18 A-5, Intensive Livestock Operation

Specifications A,
Sec. A

The purpose of the A-5 Intense Livestock Operation, zoning district is to address accommodate extremely large confined intensive feeding operations and to recognize certain health, safety, and general welfare needs of Elkhart County. The goals of an A-5 District would be the zoning district are the protection of the public Protect health, safety and general welfare, of residents of Elkhart County, recognition by community, promote promotion of agricultural economic development and the promotion of agricultural coexistence with residential neighbors neighborhoods.

or Planned Unit Development

re.

Change since
Committee
review. Purpose
statements for
A-4 and A-5
seemed
switched as far
as mention of
confined versus
intensive

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

Specifications
I, Sec.7

~~The Purpose in to Provide for a larger area General Planned Unit Development to cover a corridor of and consisting of larger tracts or tracts of land which may be zoned by different sections or owned by more than one land owner and to provide for orderly development along said corridor.~~

~~(All detail will be added at a later date by amendment to the Text of the Zoning Ordinance.)~~

~~PLANNED DEVELOPMENT CORRIDOR DISTRICT~~

~~———— Preamble.~~

~~Elkhart County recognizes that land use patterns along major arterials may be subject to developmental pressures that may result in the area undergoing transition from low to high intensity development.~~

~~These pressures may result from:~~

~~Improvements to the arterial itself (i.e. additional travel and turn lanes and new or improved intersection signalization) which increase traffic volumes and make existing low intensity uses, especially single family residential less desirable;~~

~~Encroachment by nearby high intensity development (i.e. multi family housing, office and business) into less intensely developed land located along the major arterial; or~~

~~A combination of these or other development factors.~~

~~The changes, actual and anticipated, within these arterial corridors directly impact:~~

~~Property (the use and enjoyment of) both within and adjoining the corridor;~~

~~The effectiveness of the arterial itself; and~~

~~The visual perception of the corridor. These impacts can be both substantial and detrimental without proper safeguards.~~

~~It is the intent of this section to establish a Planned Development Corridor District in order to:~~

~~Encourage orderly and compatible development within the Corridor District;~~

~~Preserve the carrying capacity of the corridor arterial and to encourage safe and efficient traffic flow;~~

~~Protect and preserve the quality and integrity of residential neighborhoods adjoining the corridor;~~

~~Protect existing residential uses within the corridor; and~~

~~Encourage a high standard of visual quality within the corridor.~~

~~DEFINITION AND DISTRICT DESIGNATIONS ON ZONING MAPS.~~

~~The PLANNED DEVELOPMENT CORRIDOR DISTRICT (or CORRIDOR DISTRICT) is a floating overlay zone containing design and developmental standards in addition to those of the underlying zoning district(s).~~

Specific
ations
O,
Sec.1

Article 4 District Developmental Standards

Sec. 4.2. Zoning District Purpose Statements

~~The establishment of a Corridor District does not invalidate the existing underlying zoning and its associated standards, except as specified in the approved DISTRICT CORRIDOR plan.~~

Note to Reviewers: *Corridor Overlay has never been used and is shown as stricken.*

★ Sec. 4.3. Measurements and Special Cases

Note to Reviewers: The intent of this Section is to provide methods for how various things such as height, setback, lot areas, etc are measured and to spell out specific instances where flexibility or exceptions are built in to the Ordinance.

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 and Sec. 4.5.

Art.3,
Sec. 2

No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, living area of residential buildings, or lot coverage regulations, established and specified for the use and the district in which that building is located.

Note to Reviewers: The general provisions in Sec. 1.10 and Sec. 3.1.1 already cover the stricken language above.

4.3.2 Minimum Lot Area

Lot Dimension and Area

Change since
Committee
review. Word
smithing

A. Measurement Methodology

Lot area is measured as the total area of buildable or usable ground within the boundaries of the lot excluding flood plains and floodways.

B. Special Cases

1. If when two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use zoning district in which they are located, and are contiguous and held by the same owner, then the parcel shall may be deemed one zoning lot for that use.
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 and area, may be utilized for a one-(1) single-family detached or two-family detached dwelling when permitted by the applicable zoning district, if the required yards or lot areas are not less than sixty percent of the minimum required dimensions or areas.
3. Individual lots in a subdivision receiving primary approval after [insert effective date of this Ordinance] 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

Art.3,
Sec. 4

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

no case may the maximum density for the zoning district be exceeded due to such reduced lot size.

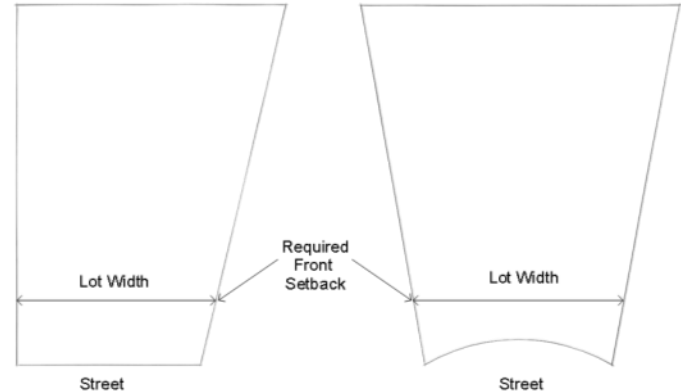
Note to Reviewers: 3 above provides a developer with flexibility, subject to limitations, on minimum lot size. It also allows lot lines to be arranged to be more sensitive to unique topography or vegetation.

Example: A 3- lot subdivision, with a minimum lot size of 7,200 square feet, could have a 6,480 square foot lot, a 7,200, and a 7,920, thus resulting in an overall average of 7,200 square feet.

4.3.3 Minimum Lot Width

A. Measurement Methodology

Lot width is measured as the horizontal distance between the side lot lines measured at right angles to the lot depth front property line or the chord of the front property line at the established front building line required front yard setback.

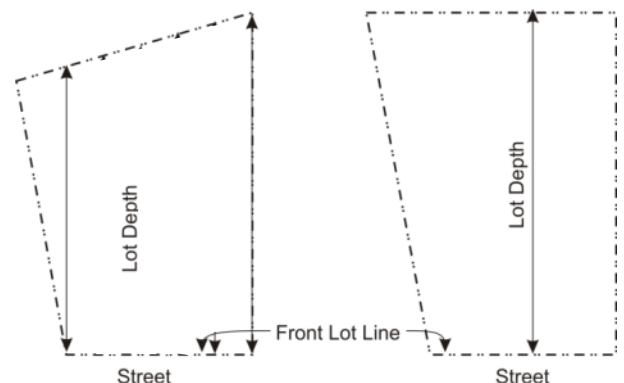


B. Special Cases

1. If ~~When~~ two or more parcels of land, each of which lacks adequate ~~area and dimension~~ width to qualify for a permitted use under the requirements of the ~~use~~ zoning district in which they are located, and are contiguous and held by the same owner, then the parcel ~~shall~~ may be deemed one zoning lot for that use.
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 ~~and area~~, may be utilized for a ~~one (1)~~ single-family detached or two-family detached dwelling when permitted by the applicable zoning district, if the required ~~yards or lot areas~~ widths are not less than sixty percent of the minimum required ~~dimensions~~ or areas 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 lot depth at 10-foot intervals.



Note to Reviewers: Staff will make graphics consistent in style as the draft moves along.

4.3.5 **Ten Three** to One Lot Dimension Ratio

Note: This provision was moved to this location from Article 4. Staff did research and from 2011 to October 2013, the average 3 to 1 Variance granted has been for properties with a 13 to 1 ratio.

Question to Reviewers: This is pretty frequently granted a Variance by the BZA. Any thoughts on making this a less frequent item before the BZA?

Change since Committee review. 3 to 1 changed to 10 to 1. & removed Plan Com authority to approve lots that do not meet requirement.

MEASUREMENTS.

The depth-to-width ratio of the buildable or usable area of a lot shall may not be greater than **three ten** 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.~~

Note to Reviewers: It is not within the realm of the Plan Commission to approve what is described in the stricken language below. Which is, the ability to approve lots that do to meet the depth to width ratio requirement.

~~Advisory Plan Commission, when considering a Major Subdivision, may approve the platting of a lot or lots that do not conform with the three to one lot dimension. The approval may be granted provided the lot width at the required front yard setback is at or greater than the development standard for that district.~~

[insert illustrations showing lot meeting 10:1, not meeting 10:1, and having 250 or more frontage]

4.3.7 **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.

~~An open space on the same zoning lot with a principal building or group of buildings which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this Code section, and which extends along a lot line and at right angles to it to a depth or width specified in the yard regulations for the district in which the zoning lot is located.~~

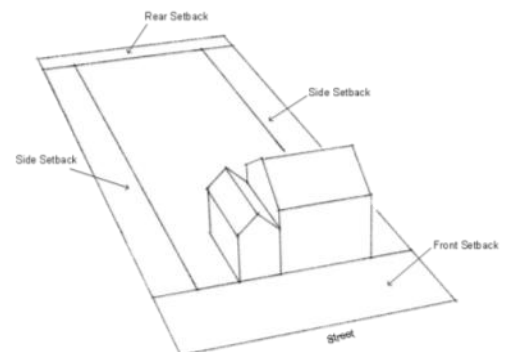
Art.1,
Sec. 2

B. Measurement Methodology

1. General Measurement

A setback is measured as the minimum distance between the nearest projection 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**

Change since Committee review.



Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

applicable.

2. **Front Setback Location**

Except in the E-1 and E-2 zoning districts, a front yard extending setback extends across the full width or depth of the zoning lot and lying lies between the front center line of the lot traveled way of the adjacent street and the nearest line part of the foundation of a building structure. In the E-1 and E-3 zoning districts, a front setback lies between the right-of-way line of the lot and the nearest part of the foundation of a structure.

Question for Tech Committee: Continue to measure front setback from street centerline?

3. **Side Setback Location**

A side setback That part of the yard lying lies between the nearest line part of the foundation of the principal a structure building and a side lot line, and extending extends from the required front yard setback line, or from the front lot line if there is no required front yard setback, to the required rear yard setback line.

4. **Rear Setback Location**

A rear setback A yard extending extends across the full width of the zoning lot and lying lies between the rear property line of the lot and the nearest line part of the foundation of a building structure.

C. **Special Cases**

1. **Encroachments Allowed in Required Setbacks**

Note to Reviewers: The allowances in a. through e. below are proposed for the sake of practicality (minor encroachments like this may already be permitted informally by policy) and for not putting constraints on providing architectural interest in a building (allowing flexibility if a property owner wishes to have a front porch or decorative windows or add visual human interest to the front of a restaurant building in the form of an outdoor dining area).

- 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

Change since
Committee
review.
Measuring
setbacks to
foundation. C.
below allows
eave
encroachments.

Change since
Committee
review.

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

Change since Committee review. PC wanted a certain maximum and to require review for barrier

Spec. B,
Sec. C

Change since Committee review. 300-foot span takes into account huge rural blocks.

Spec. C,
Sec. C

Change since Committee review. PC wanted it more clear that Zoning Ord controls if platted setback is smaller.

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-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 setback of those buildings determines the dimension of the front yard in 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. but the maximum front yard shall not be required to exceed fifty (50) feet.



b. Platted Setbacks

The minimum front setbacks required in this Ordinance apply except when the front yard or setback line established in a recorded subdivisions determines the dimensions of front yards in those blocks, except when those setback lines are less restrictive is greater than those required for the zoning district, in which case the platted setback controls. as provided in Article 1, Section 4.

c. Residential Additions

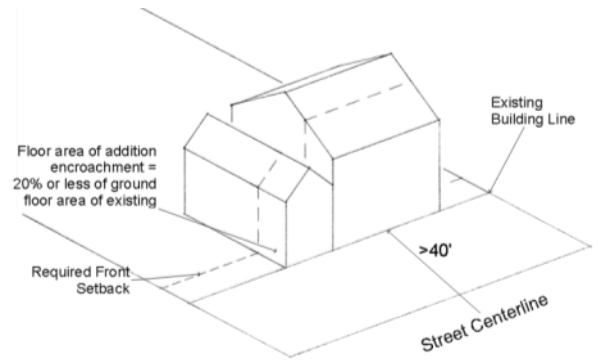
The Zoning Administrator may approve an Improvement Location Permit for a residential additions within the front yard setback. At the Zoning Administrators discretion, an Improvement Location Permit can be issued for additions to if the principal residential structure that is nonconforming because of its location in the required front yard setback. This permit can only be issued if subject to all of the following criteria has been met:

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

Spec. B,
Sec. C

- i. That The existing yards were created prior to [insert date certain] or in conformance with this the Zoning Ordinance in effect on [insert date certain], and amendments, and



Change since Committee review. "Traveled way" to make more consistent with previous language.

- ii. That The existing building line established by the principal residential structure is more than 40 feet from the centerline of any the traveled way of the adjacent road and is not presently within any public rights-of-way, and
- iii. That The proposed addition will be at or behind the existing building line, ~~established by the principal residential structure,~~ and
- iv. That The square feet gross floor area of the portion of the addition (only that area which sets situated between the established existing building line and the required building setback line) is 20 percent or less of the ground floor area of the principal residential structure, and
- v. That The yard in question is not adjacent to a designated major road classified street or federal or state highway, and

Change since Committee review. Wordsmithing.

That a site plan (as prescribed by the Plan Commission) is submitted. (Amended by PC 90-46)

d. Setback Based on Fronting Street

Art.3,
Sec.
11

FRONT YARD:

No principal building, accessory building, fence or structure shall be placed or constructed within 120 feet of the centerline of a designated major street.

- i. The table below establishes the required front setback for a principal building, accessory building 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. |
| Nonresidential Use Categories | |
| Federal or State Highway or Major Road | 120 ft. |
| Numbered County Road or Street | 60 ft. |

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

| Adjacent Road | Min. Front Setback (from ROW center line) |
|--|--|
| Open Use Categories | |
| Federal or State Highway or Major Road | 120 ft. |
| Numbered County Road or Street | 80 ft. |

- ii. Where the developmental standards in Article 4 through Article 6 conflict with this table, the standards of this table control.

On federal and state highways, a distance of 120 feet from the center line of the right-of-way.

On all numbered county roads and streets, a distance of 75 feet from the center line of the right-of-way except as provided for CR 6, CR 17 and CR 20 by Ordinance PC 87-24.

Art. 3,
Sec. 11

- iii. For the purposes of the table above, the following streets and/or roads which are designated as "Major Streets Roads", a distance of 120 ft. from centerline of the right-of-way.

| 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 County Road 6 on the north end to U.S. 20 County Road 40 on the south end |
| County Road 20 | Beginning at County Road 6 on the north end to U.S. 20 on the south end |
| <u>Old U.S. 33</u> | <u>Beginning at the west County line to Elkhart city limits</u> |
| <u>Old U.S. 20</u> | <u>Portion of road within County jurisdiction</u> |

Change since
Committee
review. Add US
33 and old US 20.

Note to Reviewers: There was a suggestion to remove CR 20 from the Major Roads list but County Engineer says "The current traffic counts on CR6 are approximately 15,000 vehs per day. The counts on CR20 are approximately 11,000 vpd. For perspective, after CR17 and CR6, it ties with McKinley Hwy for the third busiest County road. At normal growth rates CR20 will reach 15,000 vpd in the next 20 years and would probably be a candidate for widening at some point before that."

Major Street Classification

Art.3,
Sec. 3

The following requirements shall apply to property that is located along a Major Street as designated in this section of the Zoning Ordinance paragraph b, below.

- iv. The following items improvements ~~will be considered exceptions to subsection (a) of this section and shall~~ have a required setback of 55 feet from the centerline of the designated Major street Road: Parking Areas, Aisles, Drives, (only drives needed to create a

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

convenient and safe ingress and egress point, to the site, will be permitted in the required front yard) and signs.

Nameplates, identification, for sale and to rent signs in residential districts are permitted as regulated in Specification H—Signs, Section 1. a. (1) and (2).

The following streets and/or roads are designated as "Major Streets":

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 County Road 6 on the north end to U.S. 20 on the south end.

County Road 20: beginning at West County Line Road on the west end to U.S. 33 on the east end.

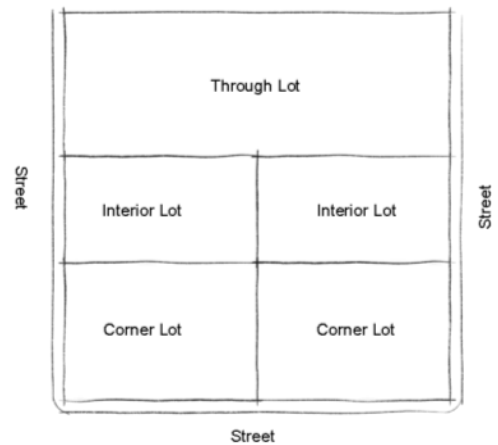
All State and Federal Highways.

3. Side Yard Setback

Question for Tech Committee: Any special situations for side yards?

4. Rear Setback

- One-half of an alley abutting the rear lot may be included as part of the in the required rear yard setback.
- For residential uses, except apartments, the minimum rear setback is 20 percent of the depth of the lot, with a minimum depth of 15 feet and need not exceed 25 feet in depth. For apartments, the minimum rear setback is 20 percent of the depth of the lot, with a minimum depth of twenty 20 feet.



5. Corner Lots

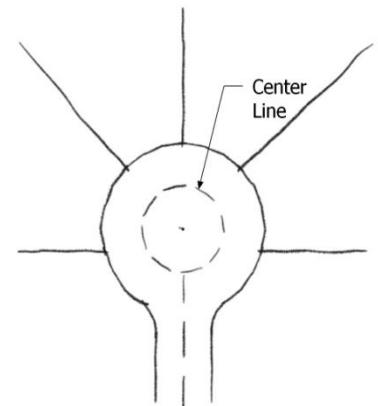
If a side yard abuts a street, as on a corner lot, then a front yard setback ~~shall be~~ is required adjacent to each street rather than a side yard.

6. Through Lots

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

7. Cul-de-Sac Lots

- On lots with frontage on the turnaround of a cul-de-sac, the street centerline encircles



Spec. B,
Sec. C

Change since
Committee review.
PC wanted
removal of
decreased setback
for corner lots.

Change since
Committee review.
PC wanted 35' min
on cul-de-sac lots.

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

the center point of the turnaround, halfway between the center point and the edge of pavement.

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

4.3.8 Maximum Building ~~Lot~~ Coverage

Art.1,
Sec. 2

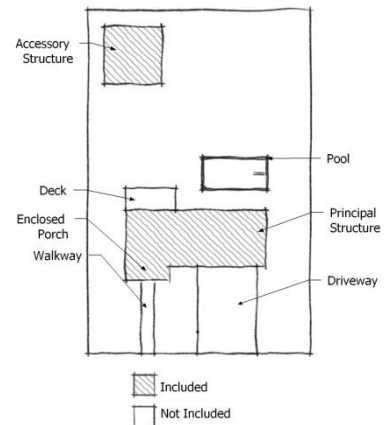
A. Measurement Methodology

Building coverage is measured as the area of a zoning lot occupied by the principal building structure ~~or buildings~~ and accessory buildings structures.

Question to Reviewers: Include septic and reserve area?

B. Special Cases

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.



Change since
Committee review.
PC wanted to tie
acceptable
features to LEED
and NAHB criteria.

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%.

Technical Committee: What other environmentally friendly improvements could be counted to allow a building coverage bonus or bonus related to some other provision in this Section?

Art.1,
Sec. 2

4.3.9 Minimum Ground Floor Area

A. Measurement Methodology

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 ~~and interior~~ stairways.

B. Special Cases

Question for Reviewers: Any examples of when we would apply special rules to ground floor area?

4.3.10 Maximum Building Height

Art.1,
Sec. 2

A. Measurement Methodology

1. Building height is measured as the vertical distance measured from the sidewalk level or its equivalent highest established curb

Change since
Committee review. PC
wanted to measure
height in this way.

Article 4 District Developmental Standards

Sec. 4.3. Measurements and Special Cases

elevation of the public right-of-way grade ~~opposite the middle of the front of~~ immediately adjacent to the building to the highest point of the roof in the case of a flat roof; to the ~~mean~~ average height-level ~~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 may be measured from the average elevation of the finished lot grade at the front of the building.

B. Special Cases

1. ~~In all districts,~~ 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. ~~Conditional Exception—~~ For all detached single- and two-family dwellings, the height of the principal building may be increased above 30 feet but not higher than 40 feet ~~or three (3) stories~~, if two side yards a minimum of 15 feet each are provided.
3. ~~In nonresidential zoning districts, the height of a building may be increased two feet, if the front and rear setbacks are increased one foot for each two feet of height above the maximum permitted height. —buildings may be erected higher than the Normal Maximum if they are set back, from front and rear property lines, one foot for each two feet of additional height above the Normal Maximum Height.~~

Specifi
cations
B, B

Specifi
cations
C, C

4.3.11 Maximum Density

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

4.3.12 Minimum Open Space

- A. Open space area in a cluster residential subdivision is measured as the area within the property lines of the open space.
- B. Required open space in a cluster residential subdivision must be measured exclusive of any individual lots.

Article 4 District Developmental Standards

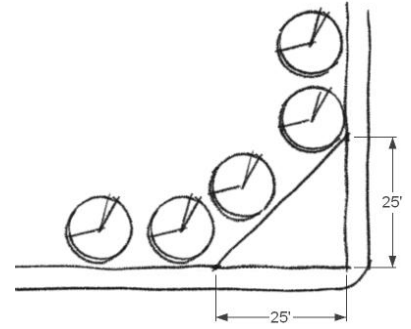
Sec. 4.3. Measurements and Special Cases

4.3.13 Intersection Visibility Triangle

~~VISION CLEARANCE AT ROAD AND STREET INTERSECTIONS.~~

~~Ten feet from the intersection of property lines.~~

At the street intersection of each 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 shall must be kept free of any obstruction to vision between the heights of two and one-half and 12 feet above the established grade.

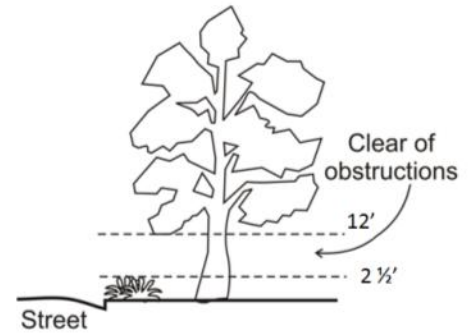


~~VISION CLEARANCE ON CORNER LOTS.~~

~~Ten (10) feet from the intersection of property lines.~~

~~VISION CLEARANCE ON CORNER LOTS.~~

~~Ten (10) feet from the intersection of property lines.~~



~~Yards, Lot Area and Size of Building~~

~~The square foot area of a private easement shall not be deemed part of the zoning lot.~~

~~No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, living area of residential buildings, or lot coverage regulations, established and specified for the use and the district in which that building is located.~~

4.3.14 Buildings on a Zoning Lot

Every building erected or structurally altered to provide dwelling units shall must be located on a zoning lot as defined in Article 10 and in no case shall 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 must conform to the developmental requirements of this Section.

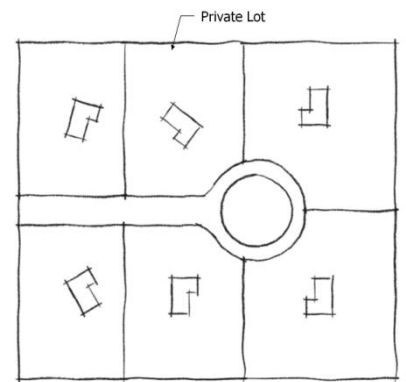
4.4.2 Subdivision Types

Two types of residential subdivisions are permitted, as follows.

Note to Reviewers: Both types of development are options. Recognizing the conventional will probably continue to be the norm for the foreseeable future, nothing in this draft requires a cluster subdivision to be developed.

A. Conventional Subdivision Option

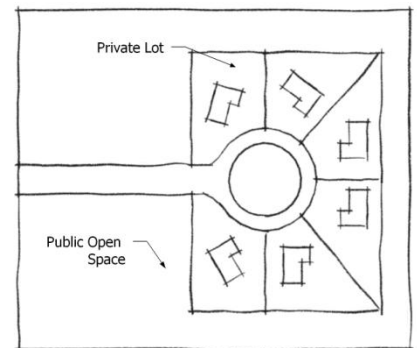
1. A conventional residential subdivision is a pattern of development that is allowed in any zoning district that allows residential uses and that provides the majority of property owners with substantial yards on their own property.
2. A conventional residential subdivision consists of attached or detached 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

Note to Reviewers: The Policy Committee has determined that clustering should be an option in the new Zoning Ordinance. More work will be needed in this Article.

1. A cluster residential subdivision is a pattern of development that is allowed in the A-1 zoning district and that allows smaller lot sizes with smaller private yards in exchange for common open space that must be preserved in perpetuity. A minimum of 25 percent of the site area in a cluster residential subdivision must be devoted to common open space, exclusive of individual lots.
2. A cluster residential subdivision consists of attached or detached dwelling units developed in accordance with the cluster developmental standards of this Section.



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

3. A density bonus of XX percent serves as an incentive to develop a cluster subdivision, which is often more sensitive to the ecological and historic amenities of the site.

Note to Reviewers: *How much of a density bonus would be enough of an incentive to encourage a cluster residential subdivision?*

4. Units per acre and percentage of dedicated open space are primary factors in the character of a cluster residential subdivision.

Note to Reviewers: *Cluster subdivisions allow for permanent rural character without forcing residents to “borrow” neighboring open space that will eventually be developed, often to their disappointment. Clusters have traditionally been allowed only by Planned Unit Development, but if allowed by right, they would be easier to build with more certainty of approval for to the developer.*

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.

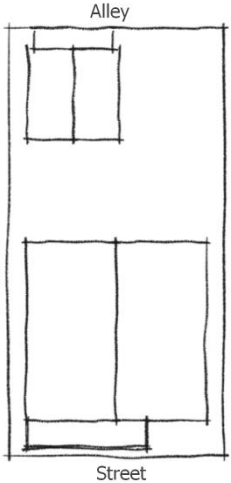
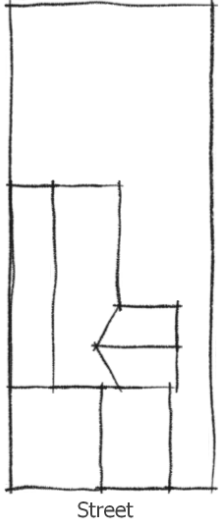
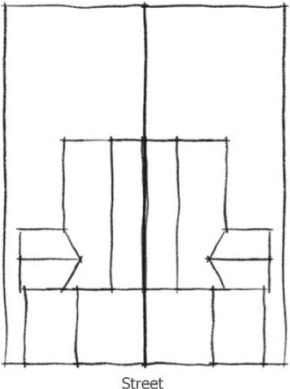
GENERAL PROVISIONS AND CONDITIONAL EXCEPTIONS APPLICABLE TO ALL RESIDENTIAL USES IN DISTRICTS WHERE PERMITTED

GENERAL PROVISIONS

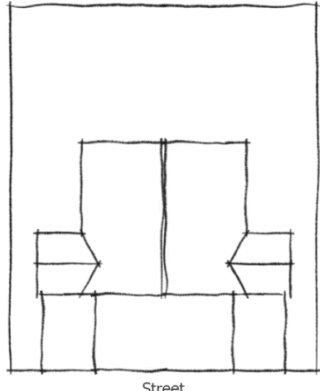
| Description | Conceptual Illustration (not to scale) |
|---|--|
| <p><u>Single-Family Detached Dwelling</u> DWELLING, ONE FAMILY. A building <u>located on a single lot</u>, designed exclusively for use and occupancy by one family and entirely separated from any other dwelling by space <u>setbacks on all sides</u>.</p> | |

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

Change since Committee review.

| Description | Conceptual Illustration (not to scale) |
|---|--|
| <p><u>Cottage Dwelling</u></p> <p><u>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.</u></p> |  |
| <p><u>Zero Lot Line Dwelling</u></p> <p><u>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.</u></p> |  |
| <p><u>Single-Family Attached Dwelling</u></p> <p><u>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.</u></p> <p>DWELLING, ROW (PARTY-WALL). A row of two to eight attached, one family, party-wall dwellings, not more than two and one-half stories in height, nor more than two rooms in depth measured from building line.</p> |  |

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

| Description | Conceptual Illustration (not to scale) |
|---|---|
| <p><u>Two-Family Dwelling</u></p> <p>DWELLING, TWO-FAMILY. A building located on a single lot designed or altered to provide dwelling units 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> |  <p align="center">Street</p> |
| <p>Multiple Family Dwelling or Complex</p> <p>A building located on a single lot or portion of it 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 both dwelling units.</p> | <p align="center">[insert]</p> |

Change since Committee review.

4.4.4 Residential Developmental Standards

Note to Reviewers: These standards remain mostly untouched. County staff will likely contract with a consultant in 2014 to create residential standards for conventional and cluster development for the various housing types in the various zoning districts.

The following developmental standards apply to the principal structures of permitted housing types in each district.

RR is Similar to Draft E

| Single-Family Detached (w/o public wastewater) | Zoning District | | | |
|--|-----------------|-------|--------|----------|
| | A-1 | RR | R-1 | R-2, R-3 |
| Lot Size (min.) | | | | |
| Area (sq ft) | ? | 1 ac. | 15,000 | 15,000 |
| Width (ft) | ? | 150 | 100 | 80 |
| Setbacks (min ft.) | | | | |
| Front | ? | 80 | 50 | 50 |
| Side | ? | 30 | 10 | 5 |
| Rear | ? | 30 | 15 | 15 |
| Height (max ft.) | ? | 40 | 30 | 30 |
| Building Coverage (max. %) | | | | |
| Interior | ? | 25 | 25 | 25 |
| Corner | ? | 25 | 30 | 30 |
| Ground Floor Area (min. sq. ft.) | | | | |
| Single-Story | ? | 900 | 900 | 900 |
| Two-Story | ? | 600 | 600 | 600 |

| Single-Family Detached (w/ public wastewater) | Zoning District | | | |
|--|------------------------|------------|-----------------|------------|
| | A-1 | R-1 | R-2, R-3 | R-4 |
| Lot Size (min.) | | | | |
| Area (sq ft) | ? | 7,200 | 7,200 | 6,000 |
| Width (ft) | ? | 60 | 50 | 50 |
| Setbacks (min ft.) | | | | |
| Front | ? | 50 | 50 | 45 |
| Side | ? | 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 |

Note to Reviewers: In the current Zoning Ordinance, R-4 appears to be treated the same as R-1, R-2, and R-3 as far as development standards go. This draft allows a a slightly smaller lot for R-2 and R-3 when public wastewater is present and noticeably smaller lot in R-4 with smaller setbacks.

| 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 |

Note to Reviewers: The Maximum front setback means that the front of the house can be no more than 35 feet from the street center line, assuming a local, non-county numbered street. This, along with the required sidewalk and porch allows for a smaller house on a smaller lot in trade for these more traditional amenities.

| 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 | 0 | 0 |
| 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) | 4,000 | 4,000 | 3,000 |
| Width (ft) | 30 | 25 | 25 |
| 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 |

| Two-Family Detached (w/o public wastewater) | Zoning District | |
|--|------------------------|-----------------|
| | A-1 | R-2, R-3 |
| Lot Size (min.) | | |
| Area (sq ft) | 1 ac. | 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 Detached (w/ public wastewater) | Zoning District | | |
|---|------------------------|-----------------|------------|
| | A-1 | R-2, R-3 | 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.) | ? | 40 | 40 |
| Building Coverage (max. %) | | | |
| Interior | ? | 25 | 30 |
| Corner | ? | 30 | 35 |
| Floor Area per Unit (min. sq. ft.) | | | |
| Single-Story | ? | 700 | 700 |
| Two-Story | ? | 700 | 700 |

Note to Reviewers: In the current Zoning Ordinance, R-4 appears to be the same as R-1, R-2, and R-3 as far as development standards go. This draft allows a smaller lot in R-4 with smaller setbacks.

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

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

4.4.5 Cluster Residential Subdivision Standards

Note to Reviewers: *If this is a viable option in the view of the Policy Committee and Plan Commission, then more work will likely be needed in this Article and in the A-1 Section in Article 6. Staff does not want invest too much time in specific language if it is a non-starter.*

- A. A maximum of five percent of the area of any required open space in a cluster residential subdivision may be occupied by buildings or such surfaces.
- B. 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.

4.4.6 Minimum Dwelling Standards

~~MINIMUM STANDARD AND REQUIREMENTS FOR ONE AND TWO FAMILY DWELLINGS.~~

Speci
ficati
ons
B, B

The following ~~will detail the~~ are minimum standards for ~~One single- and two-family dwellings, units in Elkhart County. This is done to~~ 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 ~~shall~~ must be completely enclosed with the permanent perimeter enclosure except for the required openings.
2. The support system for all load bearing foundations ~~shall~~ must be permanently affixed in conformance with the manufacturer's installation specifications and the ~~regulation of the County~~ building codes.

B. Structural Restriction

All residential ~~one single- and two-family dwellings~~ must have an average minimum width of 20 feet and must meet the minimum sq. ft. ~~as prescribed by ground floor area required in this Ordinance.~~

C. Exceptions

The standards in subsection A and B above do not apply to mobile homes as allowed by Special Use Permit in Article 5 of this Ordinance. Those dwelling structures permitted to apply for a Special Use Permit under Specification F.

Note to Reviewers: 3 to 1 rules moved to Sec. 4.3.5.

~~LOT DIMENSIONS.~~

Not less than the following:

(1) DISTRICT "R1C", "R2C", "R3C", "R4C", "B1C", "B2C" & "A 1"

GROUND FLOOR AREA 900 sq.ft.

(2) No two (2) story single family dwelling in any district shall have a ground floor area of less than six hundred (600) square feet.

4.4.7 Developmental Standards for Permitted Nonresidential Uses

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

| Nonresidential Use | Zoning District | | |
|---------------------------------------|------------------------|--------------------------|------------|
| | RR | R-1, R-2, R-3 | R-4 |
| Lot Size (min.) | | | |
| Area (sq ft) | 1 ac. | 15,000 | 10,000 |
| Width (ft) | 150 | 100 | 75 |
| Setbacks (min ft.) | | | |
| Front | 80 | 50 | 50 |
| Side (interior) | 30 | 10 | 5 |
| Side (corner) | 70 | 45 | 30 |
| Rear | 30 | 15 | 10 |
| Height (max ft.) | 40 | 30 | 30 |
| Building Coverage (max. %) | | | |
| Interior | 25 | 25 | 30 |
| Corner | 25 | 30 | 35 |
| Parking Setback (min. sq. ft.) | 50 | 50 | 35 |

Note to Reviewers: *The existing Zoning Ordinance appears to be silent on how to treat nonresidential uses that are permitted in residential zoning districts.*

Sec. 4.5. Nonresidential Developmental Standards

Nonresidential development in the nonresidential zoning districts 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 |

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

ARTICLE 5 USE STANDARDS

Art.3,
Sec.
10

Use

~~Specifications.~~

The following specifications are incorporated by reference into this ordinance. Two (2) copies of these specifications are on file in the Office of the County Auditor and are available for public inspection.

~~SPECIFICATIONS A AGRICULTURAL DISTRICTS AND USES~~

~~SPECIFICATIONS B RESIDENTIAL DISTRICTS AND USES~~

~~SPECIFICATIONS C COMMERCIAL DISTRICTS AND USES~~

~~SPECIFICATIONS D MANUFACTURING DISTRICTS & USES~~

~~SPECIFICATIONS E DEVELOPMENT PARK DISTRICTS AND USES~~

~~SPECIFICATIONS F SPECIAL USES~~

~~SPECIFICATIONS G VEHICLE PARKING AND LOADING~~

~~SPECIFICATIONS H SIGNS~~

~~SPECIFICATIONS I UNIT DEVELOPMENT PLAN~~

~~SPECIFICATIONS J MOBILE HOMES~~

~~SPECIFICATIONS K (deleted 12/05/2005 PC05-36)~~

~~SPECIFICATIONS L FLOOD PLAIN~~

~~SPECIFICATIONS O OVERLAY DISTRICTS~~

~~Specifications A to E, inclusive, indicate which districts permit certain uses. These specifications delineate the requirements for:~~

~~Width of Lot~~

~~Height of Building~~

~~Vehicle Parking Space~~

~~Front, Side, Rear and Other Yards~~

~~Lot Coverage~~

~~Size of Building~~

Vision Clearance

Accessory Buildings and Uses

Which are applicable to that use in each district where is it authorized.

Sec. 5.1. Use Table

5.1.1 General

Art.3,
Sec. 1

No building or land ~~shall~~ may be used, or building erected, reconstructed or ~~structurally 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

Change since
Committee
review

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 |
| <u>P/S or L/S</u> | May be allowed <u>by right or</u> by right subject to limitations or require a Special Use Permit, depending on the standards in Sec. 5.3 |
| [blank cell] | Prohibited in district indicated |

Note to Reviewers: An "L" use will always have an associated standard while an "S" use may or may not.

5.1.4 Use Table

Change since
Committee
review

The following table shows Use Categories, specific principal 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.

Note to Reviewers: In general, there are too many across-the-board Special Use Permits (e.g. Parks requiring an SUP in all districts). The table below will change some of those uses to be allowed by right in some districts or remove the use all together from certain districts. Since use variances are being retained in the draft, that becomes an available option for a property owner wanting to do something that isn't allowed by right or SUP.

Most of the modifications in the use table come from Policy Committee review. The A-1 zoning district is significantly less agricultural with these edits.

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

| Use Category | Specific Principal Use | A-1 | RR | 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 | <u>P</u> | P | P | P | P | P | | | | | | |
| | Cottage Traditional dwelling | | | | L | L | L | | | | | | 5.3.1 |
| | Zero Lot Line Dwelling | | | <u>L</u> | L | L | L | | | | | | 5.3.2 |
| | Single-Family Attached Dwelling | | | <u>L</u> | <u>L</u> | L | L | | | | | | 5.3.3 |
| | Two-Family Dwelling | <u>P</u> | | | P | P | P | | | | | | |
| | Manufactured home subdivision or park | | | | S | S | S | | | | | | 5.3.4 |
| | Mobile home subdivision or park | | | | S | S | S | | | | | | 5.3.4 |
| | <u>Mobile home or manufactured home, single-wide</u> | | | | <u>S</u> | <u>S</u> | <u>S</u> | | | | | | 5.3.4 |
| | Modular <u>or double-wide manufactured home</u> | <u>P</u> | P | P | P | P | P | | | | | | |
| | Multiple-family dwelling | | | | | <u>P L</u> | <u>P L</u> | <u>P L</u> | | | | | 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, <u>eight</u> residents or fewer | | P | P | P | P | P | | | | | | |
| | Group home, more than <u>eight</u> residents | | | S | S | S | S | | | | | | |
| | PUBLIC & CIVIC USES | | | | | | | | | | | | |
| Community Service [see 5.2.3A] | All Community Service | | S | 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: | <u>S</u> | S | S | S | S | S | S | S | S | S | | |
| | Public or private elementary, middle or high school | <u>S</u> | S | S | S | S | S | P | P | P | | | |
| Government Facilities [see 5.2.3D] | All Government Facilities except as listed below: | <u>S</u> | 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 | S | P | P | P | P | P | P | |
| Medical Facilities [see 5.2.3E] | All Medical Facilities except as listed below: | <u>L/S</u> | | | | | L/S | P | P | P | P | <u>S</u> | 5.3.8 |
| | Hospital | | | | | | | S | P | P | P | | |

Most of the modifications in the use table come from Policy Committee review. The A-1 zoning district is significantly less agricultural with these edits.

Sec. 5.1. Use Table

| Key: P = Permitted by right | | L = Permitted subject to limitations | | | S = Special Use Permit | | | | [blank] = Prohibited | | | | Standards |
|---|--|--------------------------------------|--------------|------------|------------------------|------------|------------|------------|------------------------|------------|------------|------------|-----------|
| Use Category | Specific Principal Use | A-1 | RR | R-1 | R-2 | R-3 | R-4 | B-1 | B-2 | B-3 | M-1 | M-2 | |
| Parks and Open Areas [see 5.2.3F] | All Parks and Open Areas except as listed below: | <u>S</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | <u>S P</u> | |
| 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 | <u>P</u> | S | S | S | S | L/S | P | P | P | P | P | 5.3.9 |
| Social Service Establishment [see 5.2.3I] | All Social Service Establishments | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | S | S | S | S | S | <u>S</u> | |
| Utilities [see 5.2.3J] | Minor Utilities except as listed below | P | P | P | P | P | P | P | P | P | P | P | |
| | Major Utilities except as listed below | S | 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: | <u>S</u> | | | | | S | P | P | P | P | | |
| | Adult use | | | | | | | | | | | S | |
| | <u>Casino</u> | <u>S</u> | | | | | | <u>S</u> | <u>S</u> | <u>S</u> | | | |
| | County club | <u>P</u> | P | P | P | P | P | P | P | P | | | |
| | Membership club or lodge | | | | | S | S | P | P | P | P | | |
| | Tattoo parlor | | | | | | | <u>L</u> | <u>L</u> | <u>S-L</u> | | | 5.3.10 |
| Offices [see 5.2.4B] | All Offices except as listed below: | | | | | | L | P | P | P | P | | 5.3.11 |
| | TV or radio studio | | | | | | <u>L</u> | <u>L</u> | <u>L</u> | P | P | | 5.3.12 |
| Outdoor Recreation [see 5.2.4C] | All Outdoor Recreation except as listed below: | S | | | | | | S | S | S | S | | |
| | <u>Animal racing or training</u> | <u>S</u> | | | | | | | | | | | |
| | Golf driving range | | | | | | | S | S | | | | |
| | Marina | S | S | S | S | S | S | S | S | S | S | S | |
| | Stadium, arena, running track or ball field | <u>S</u> | | S | S | S | S | S | P | P | <u>S</u> | <u>S</u> | |
| | Track, motorcycle, go kart or car | S | | | | | | <u>S</u> | <u>S</u> | <u>S</u> | <u>P</u> | <u>P</u> | 5.3.13 |

Most of the modifications in the use table come from Policy Committee review. The A-1 zoning district is significantly less agricultural with these edits.

Sec. 5.1. Use Table

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

Most of the modifications in the use table come from Policy Committee review. The A-1 zoning district is significantly less agricultural with these edits.

Sec. 5.1. Use Table

| Key: P = Permitted by right | | L = Permitted subject to limitations | | | S = Special Use Permit | | | | [blank] = Prohibited | | | | Standards |
|--|---|--|----|-----|------------------------|-----|-----|-----|------------------------|----------|--------------|-----------------------|-----------|
| Use Category | Specific Principal Use | A-1 | RR | R-1 | R-2 | R-3 | R-4 | B-1 | B-2 | B-3 | M-1 | M-2 | |
| | Fuel Sales, <u>Retail</u> | | | | | | | L | P | P | P | | 5.3.21 |
| | INDUSTRIAL USES | | | | | | | | | | | | |
| Heavy Industrial [see 5.2.5A] | Intense Heavy Industrial except as listed below: | | | | | | | | | | | S | |
| | Confined animal feeding operation | See Sec. 6.9, A-4, Confined Feeding Protection District | | | | | | | | | | | |
| | Intensive animal feeding operation | See Sec. 6.10, A-5, Intensive Livestock Operation 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 |
| 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 | | | | | | | | | 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 [see 5.2.5D] | All Waste-Related Service uses except as listed below | | | | | | | S | S | S | S | S | |
| | Recycling facility | | | | | | | | | | P | P <u>S</u> | 5.3.27 |
| | Tire recycling or recapping | | | | | | | | | | P | P | |
| Wholesale Trade [see 5.2.5E] | All Waste-Related Service uses <u>except as listed below:</u> | | | | | | | | | S | P | P | |
| | <u>Fuel sales, bulk</u> | <u>S</u> | | | | | | | | <u>S</u> | <u>P</u> | <u>P</u> | |

Most of the modifications in the use table come from Policy Committee review. The A-1 zoning district is significantly less agricultural with these edits.

Sec. 5.1. Use Table

| Key: P = Permitted by right | | L = Permitted subject to limitations | | | S = Special Use Permit | | | | [blank] = Prohibited | | | | Standards |
|-------------------------------------|--|--------------------------------------|----|-----|------------------------|-----|-----|-----|------------------------|-----|-----|-----|------------------------------------|
| Use Category | Specific Principal Use | A-1 | RR | R-1 | R-2 | R-3 | R-4 | B-1 | B-2 | B-3 | M-1 | M-2 | |
| | OPEN USES | | | | | | | | | | | | |
| Agriculture [see 5.2.6A] | All Agriculture Uses except as listed below | | S | S | S | S | S | S | S | S | S | S | |
| | Agri-business | P | | | | | | | | | | | |
| | Floriculture, horticulture, pasturage, row and field crops, viticulture or orchard | | P | P | P | P | P | P | P | P | P | P | |
| | Greenhouse, commercial | | S | S | S | S | S | P | P | P | S | S | |
| | Roadside stand | <u>S</u> | S | S | S | S | S | | | | | | |
| | Scenic or sightseeing tour | P | | | | | | P | P | P | | | |
| | Stable | | S | S | S | S | S | S | S | S | S | S | |
| Resource Extraction [see 5.2.6B] | All Resource Extraction uses | <u>P/S</u> | | | | | | | S | S | P | P | STATUES – 8 DUS IN ¼ SQ MILE |

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Sec. 5.1. Use Table

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~~AGRICULTURAL DISTRICTS AND USES.~~

~~PERMITTED USES IN AGRICULTURAL DISTRICTS.~~

~~"A-1C" Agricultural District~~

Specifications
A, Sec.
A

~~Agricultural Uses where the tract of land contains more than three acres.~~

~~Residential Dwellings as specified in Specifications B – Residential Uses.~~

~~Special Uses as specified in Specifications F.~~

~~Off-Street parking facilities as required in Specifications G.~~

~~Signs as regulated in Specifications H.~~

~~Mobile Homes as provided in Specifications J.~~

~~Kennel as provided in Sec. Error! Reference source not found..~~

~~GENERAL PROVISIONS.~~

~~The raising of farm crops, vegetables, flowers, and nursery plants is permitted in all Districts.~~

~~SPECIFICATIONS B – RESIDENTIAL DISTRICTS AND USES.~~

~~PERMITTED USES IN RESIDENTIAL DISTRICT.~~

~~"R1C" Single Residential District~~

~~Single Family Dwellings and accessory buildings as provided in this Specification.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~"R2C" Two-Family Residential District~~

~~Any residential use permitted in the "R1C" Single Family Residential District.~~

~~Two-Family Dwellings and accessory buildings as provided in this Specification.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

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~~Mobile homes as provided in Sec. Error! Reference source not found..~~

~~"R3C" Multiple Family Residential District~~

~~Any residential use permitted in the "R2C" Two Family Residential District.~~

~~Group Houses and Garden Apartments as provided in this Specification.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~Mobile homes as provided in Sec. Error! Reference source not found..~~

~~"R4C" Multiple Family Residential And Professional Office District~~

~~Any residential use permitted in the "R3C" Multiple Family Residential District.~~

~~Apartments as provided in this Specification.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~Professional offices of physicians, dentists, attorneys, architects, real estate brokers and other similar professional occupations.~~

~~Mobile homes as provided in Sec. Error! Reference source not found..~~

~~SPECIFICATIONS C COMMERCIAL DISTRICTS AND USES.~~

~~PERMITTED USES IN COMMERCIAL DISTRICTS.~~

~~"B1C" Limited Business District~~

~~Any residential use permitted in the "R4C" Multiple Family Residential District.~~

~~Commercial Uses and accessory buildings as specified under Limited Business Uses.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~Mobile, compact or expandable homes as provided in Sec. Error! Reference source not found..~~

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cations
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Article 5 Use Standards

Sec. 5.1. Use Table

~~"B2C" General Business District~~

~~Any residential use permitted in the "R4C" Multiple Family Residential District.~~

~~Commercial Uses and accessory buildings as specified under General Business Uses.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~Mobile, compact or expandable homes as provided in Sec. Error! Reference source not found..~~

~~"B3C" Business and Wholesale District~~

~~Commercial Uses and accessory buildings as specified under Business and Wholesale Uses.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~Mobile, compact or expandable homes as provided in Sec. Error! Reference source not found..~~

~~SPECIFICATIONS D – MANUFACTURING DISTRICTS AND USES.~~

~~PERMITTED USES IN MANUFACTURING DISTRICTS.~~

~~"M1C" Limited Manufacturing District~~

~~Any use other than residential permitted in the "B3C" Business and Wholesale District.~~

~~Manufacturing and Industrial Uses and accessory buildings as provided under Limited Manufacturing Uses in these Specifications.~~

~~Special Uses as provided in 0.~~

~~Off-Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~"M2C" General Manufacturing District~~

~~Any use permitted in the "M1C" Limited Manufacturing District.~~

~~Manufacturing and Industrial Uses and accessory buildings as specified under General Manufacturing Uses herein.~~

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cations
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~~Special Uses as provided in 0.~~

~~Off Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

~~"M3C" – Restricted Manufacturing District~~

~~Manufacturing and Industrial Uses and accessory buildings as provided under Limited Manufacturing Uses and General Manufacturing Uses in these Specifications.~~

~~Special Uses as provided in 0.~~

~~Off Street parking facilities as required in Sec. 7.2.~~

~~Signs as regulated in Sec. 7.3.~~

Specifi
cations
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D

Sec. 5.2. Use Categories

5.2.1 General

***Note to Reviewers:** Use Categories allow for: more consistent treatment of similar uses, the creation of an exhaustive and mutually exclusive list of parking requirements and other use based general development standards, a convenient “short hand” to use throughout the Ordinance (see ILP provisions regarding change of use), and provide direction to the Zoning Administrator when interpreting uses.*

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 Information

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.

Note to Reviewers: Suppose someone came to the Planning office wanting to establish a use not addressed in this Ordinance. The Zoning Administrator would use the criteria above and interpret the proposed use as fitting within a certain Use Category or being similar to a listed use or as not fitting. The use table in Sec. 5.1 would then say where that use is permitted, either based on the Use Category generally or on the specific use that is similar.

D. Developments with Multiple Principal Uses

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

1. When all principal uses of a development fall within one Use Category, the entire development is assigned to that Use Category.

2. When the principal uses of a development fall within different Use Categories, each principal 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 principal uses.*

E. Characteristics

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

F. Principal Uses

The "Principal Uses" portion of each Use Category table lists principal 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 principal use. However, specific accessory uses with parenthetical cross-references in the following tables are permitted subject to additional standards in Sec. 5.5.

Note to Reviewers: *Rather than concentrating on what districts certain accessory uses are allowed, the permitted accessory uses are tied to normally their associated principal uses.*

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

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.

| Principal Uses | Accessory Uses | Uses not Included |
|---|------------------------------------|---|
| Single-family dwellings: detached, traditional, zero lot line, and attached | Accessory dwelling unit (5.5.3) | Group home for the physically disabled, mentally retarded, or emotionally disturbed that are not considered single-family residences (see Group Living) |
| Two-family dwelling | Adult or child care home | Hospice or nursing or convalescent home (see |
| Manufactured home subdivision or park | Bed and Breakfast Homestay (5.5.4) | |
| Modular home | Boat house (5.5.5) | |
| Mobile home subdivision or park | Dock or pier (noncommercial) | |
| | Garage or shed | |
| | Firearms range, outdoor | |

Article 5 Use Standards
Sec. 5.2. Use Categories

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.

| Principal Uses | Accessory Uses | Uses not Included |
|---|---|---|
| Multiple-family dwelling Upper-story residential | noncommercial Garden Greenhouse or nursery (noncommercial) Guest house Home occupation (5.5.6) Home workshop / business (5.5.7) 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 (5.5.8) Place of Worship associated with a single-family dwelling (5.5.9) Pool house Private community center Radio antenna, amateur School bus parking, outdoor (5.5.10) Swimming pool Other miscellaneous household amenities | 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.

| Principal 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 convalescent home Orphanage | Associated office 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

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. | | |
|--|--|--|
| Principal Uses | Accessory Uses | Uses not Included |
| Assembly hall Community center Exhibition hall Library Museum Philanthropic institution Senior or youth center Other uses meeting the characteristics of the Community Service Use Category | Associated office Associated retail sales related to the primary use Food preparation and dining facility Garden Limited retail sales area Minor utilities Recreation facility | Athletic, swim, tennis or health club (see Retail Sales and Service) Church, mosque, synagogue or temple (Place of Worship) Counseling office (Office) Drug, alcohol or psychiatric treatment center (see Social Service Institutions) Park (Parks and Open Areas) Private community center (See Household Living: Accessory Uses) Transient shelter (see Social Service Institutions) |

B. Day Care

| Characteristics: Uses providing care, protection, and supervision for at least 17 children or adults on a regular basis away from their primary residence. Care is typically provided to a given individual for fewer than 18 hours each day, although the facility may be open 24 hours each day. | | |
|---|---|---|
| Principal 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 Food preparation and dining facility Garden Minor utilities Recreation facility | Adult or child care home (see Household Living: Accessory Uses) On-site day care in connection with a business or other principal 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. | | |
|--|---|--|
| Principal Uses | Accessory Uses | Uses not Included |
| College, university or seminary Nursing or medical school not associated with a hospital Public or private elementary, middle or high school Other uses meeting the | Accessory dwelling unit (5.5.3) Assembly hall Associated office Auditorium or theater Before- and after-school day care Concession | Music, art or photographic studio or classroom (see Retail Sales and Service) Driving, vocational, trade and other commercial school (see Retail Sales and Service) |

Article 5 Use Standards
Sec. 5.2. Use Categories

| 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. | | |
|--|--|---|
| Principal Uses | Accessory Uses | Uses not Included |
| characteristics of the Educational Facilities Use Category | Dormitory Food preparation and dining facility Garden Laboratory Library Medical clinic Minor utilities Recreation facility | Nursery 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. | | |
|---|--|--|
| Principal Uses | Accessory Uses | Uses not Included |
| 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 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. | | |
|--|---|--|
| Principal Uses | Accessory Uses | Uses not Included |
| <u>Acupuncture clinic</u> 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 characteristics of the Medical Facilities Use Category | Associated helicopter landing facility Associated office Associated retail sales related to the primary use Class rooms Day care for children of employees or patients Dormitory Fleet maintenance Food preparation and dining facility Garden Minor utilities Place of worship | 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. | | |
|--|---------------------------------|--------------------------|
| Principal Uses | Accessory Uses | Uses not Included |
| | Pharmacy Recreation facility | |

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. | | |
|--|--|--|
| Principal Uses | Accessory Uses | Uses not Included |
| Botanical garden, nature preserve or trail Cemetery, columbarium, mausoleum or memorial park <u>Dog park, public</u> Park or playground <u>Recreational trail</u> Other uses meeting the characteristics of the Parks and Open Areas Use Category | Associated office Associated retail sales related to the primary use Boat launch Concession Dining area Dock or pier (noncommercial) Garden Minor utilities Recreation facility Single <u>attached</u> residential unit for caretaker | Crematorium (see Light Industrial Service) Golf course, driving range or mini-golf course (see Outdoor Recreation) 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. | | |
|--|--|--|
| Principal 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 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. | | |
|---|--|---|
| Principal 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 Associated retail sales related to the primary use Class rooms Day care Food preparation and dining facility Garden Recreation facility Minor utilities Library | Revival (see Temporary Uses) Social Service Establishment uses (see Social Service Establishments) |

| | | |
|---|-----------------------|--------------------------|
| Characteristics: Places of assembly that provide meeting areas for religious practice. | | |
| Principal Uses | Accessory Uses | Uses not Included |

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. | | |
| Principal Uses | Accessory Uses | Uses not Included |
| Halfway house Drug, alcohol or psychiatric treatment center, in-patient Soup kitchen <u>Domestic abuse or</u> transient shelter Other uses meeting the characteristics of the Social Service Establishments Use Category | Associated office Class rooms Day care for children of employees or clients Dormitory Food preparation and dining facility Garden Library Meeting space Minor utilities Recreation facility Other miscellaneous household amenities | Detention center, jail or prison (see Government Facilities) Drug, alcohol or psychiatric treatment center, out-patient (see Medical Facilities) |

J. Utilities

| | | |
|--|---|--|
| Characteristics: Public or private infrastructure serving a limited area with no on-site personnel (Minor Utility) or <u>serving</u> the general community, <u>not regulated by a public or municipal entity</u> and possibly having on-site personnel (Major Utility). | | |
| Principal Uses | Accessory Uses | Uses not Included |
| Minor Utilities: Cell antenna <u>Public or municipally-owned utilities</u> Solar panel array (<u>roof-mounted or ground-mounted 850 square feet or less</u>) Stormwater retention or detention facility Telephone exchange Water or wastewater lift station Major Utilities: Cell tower Electrical substation Electric or gas generation plant, <u>Solar panel array (wall- or ground-mounted and greater than 850 square feet)</u> Television or radio transmission tower Water treatment plant Water tower or tank | Associated office Fleet maintenance Minor utilities Storage structures | Landfill (see Waste-Related Service) Utility office (see Office) TV or radio studio (see Office) |

Article 5 Use Standards
Sec. 5.2. Use Categories

Characteristics: Public or private infrastructure serving a limited area with no on-site personnel (Minor Utility) or serving the general community, not regulated by a public or municipal entity and possibly having on-site personnel (Major Utility).

| Principal Uses | Accessory Uses | Uses not Included |
|--|----------------|-------------------|
| Other uses meeting the characteristics of the Utilities Use Category | | |

5.2.4 **Commercial Use Categories**

A. Indoor Recreation

Characteristics: Generally commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting.

| Principal Uses | Accessory Uses | Uses not Included |
|---|---|--|
| Adult use Bar, microbrewery or tavern Bowling alley <u>Casino</u> 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 Tattoo parlor Other uses meeting the characteristics of the Indoor Recreation Use Category | Associated office 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.

| Principal 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 | Day care for children of employees Medical clinic for employees Minor utilities Food preparation and dining facility for employees Recreation facility for employees <u>Private telecommunication or transmission tower (TV or radio studio only)</u> | 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 Service) Government office (see Governmental Facilities) Mail order house (see Wholesale Trade) Medical or dental office or |

Article 5 Use Standards
Sec. 5.2. Use Categories

| 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. | | |
|--|----------------|--|
| Principal Uses | Accessory Uses | Uses not Included |
| Travel agent TV or radio studio Utility office Other uses meeting the characteristics of the Office Use Category | | laboratory (see Medical Facilities) Research, testing or development laboratory Urgent care or emergency medical center (see Retail 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. | | |
|--|---|---|
| Principal Uses | Accessory Uses | Uses not Included |
| Outdoor activity such as archery range, batting cage, <u>corn maze</u> , firearms range, swimming pool, tennis court, water park or riding academy Amusement park <u>Animal racing or training</u> Drive-in theater or amphitheater Fairgrounds <u>or rodeo grounds</u> Flea market, outdoor Golf course, driving range or mini-golf course Marina Motorcycle, go kart or other motor vehicle track Paintball facility Recreational vehicle park or campground <u>Ski slalom course</u> Stadium, arena, running track or ball field Other uses meeting the characteristics of the Outdoor Recreation Use Category | Associated office Associated retail sales related to the primary use Boat launch Class rooms Concession Dock or pier Food preparation and dining area Minor utilities Single <u>attached</u> 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. | | |
|--|--|---|
| Principal Uses | Accessory Uses | Uses not Included |
| Bed and breakfast inn Hotel or motel Resort Other uses meeting the characteristics of the Overnight Accommodations Use Category | Meeting space Minor utilities Recreational facility Restaurant Swimming pool | Recreational vehicle park or campground (see Outdoor Recreation) Convention center (see Indoor Recreation) Halfway house or transient shelter (see Social Service Facility) |

Article 5 Use Standards
Sec. 5.2. Use Categories

Characteristics: Bedroom and bathroom units arranged for short term stays of less than 30 days for rent or lease.

Principal Uses

Accessory Uses

Uses not Included

E. Parking, Commercial

Characteristics: Facilities that provide parking not accessory to a principal use, for which a fee may or may not be charged.

Principal Uses

Accessory Uses

Uses not Included

Park-and-ride facility
 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

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.

Principal Uses

Accessory Uses

Uses not Included

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
 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.

Principal 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,

Associated office
 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,

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.

| Principal Uses | Accessory Uses | Uses not Included |
|---|----------------|--|
| <p>crafts, clothing, collectibles, computers, convenience goods, electronic equipment, electronic and mixed media, fabric, <u>fireworks</u>, 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 Laundromat Kennel Massage, nail or tanning establishment Music, art or photographic studio or classroom (see Retail Sales and Service) Optician or optometrist Photocopy, blueprint, package shipping and quick-sign service Photography studio Psychic or medium Shoe repair Tailor Taxidermist Upholsterer</p> | | <p>building materials, special 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. | | |
|--|----------------|-------------------|
| Principal 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. | | |
|--|--|---|
| Principal 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 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. | | |
|---|---|---|
| Principal Uses | Accessory Uses | Uses not Included |
| General: Car wash Fuel sales Manufactured home, mobile home, portable building or trailer sales or rental Truck stop Vehicle sales, rental, or leasing facilities (including passenger vehicles, motorcycles, trucks, | Associated office Car wash Concession Food preparation and dining area Fueling facility Minor utilities Sale of auto parts Towing Vehicle storage | Retail or wholesale sales of agriculturally-related supplies and equipment (see Agriculture) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, |

Article 5 Use Standards
Sec. 5.2. Use Categories

| 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. | | |
|---|----------------|--|
| Principal Uses | Accessory Uses | Uses not Included |
| boats and recreational vehicles) Major Repair: Alignment shop, auto body shop, auto upholstery shop, towing service Other repair of cars, trucks, motorcycles, RVs and boats not included in Minor Vehicle Service below Minor Servicing: Quick lubrication facilities, battery sales and installation, auto detailing, minor scratch and dent repair, bed liner installation, tire sales and mounting Other uses meeting the characteristics of the Vehicle Sales and Service Use Category | | restaurant equipment, or store fixtures (see Wholesale Trade) Vehicle parts sale as a principal use (see Retail Sales and Service) Tire recycling or recapping (see Waste-Related) |

5.2.5 Industrial Use Categories

A. Heavy Industrial

| Characteristics: Uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals, the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare. | | |
|--|--|--|
| Principal Uses | Accessory Uses | Uses not Included |
| Intense Heavy Industrial: Manufacture, assembly or processing of acid, acetylene gas, ammonia, asphalt, bones, celluloid, cement, creosote, disinfectant, dyes or inks, fat, fertilizer, fireworks, glue, grease, gunpowder, gypsum, insecticide, lard, lime, paint, petroleum, plaster of Paris, poison, rubber, salt, shellac, tallow, tar, turpentine, varnish, vinegar, or yeast Arsenal Coke oven | Associated office Associated retail sales related to the primary use Day care for children of employees Fleet maintenance Food preparation and dining facility Fueling facility Medical clinic for employees Meeting space Minor utilities Recreation facility Single <u>attached</u> residential unit for caretaker | Microbrewery (see Restaurants) Recycling facility (see Waste-Related Service) |

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.

| Principal Uses | Accessory Uses | Uses not Included |
|--|----------------|-------------------|
| <p>Incinerator for reduction of garbage, dead animals, offal, refuse or automobile bodies (non-governmental)</p> <p>Smelter</p> <p>Slaughtering, packaging or processing of animals</p> <p>Wrecking, junk or salvage yard</p> <p>Uses declared a nuisance in court</p> <p>Less Intense Heavy Industrial:</p> <p>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</p> <p>Bulk storage of explosive or hazardous materials</p> <p>Concentrated animal feeding operation</p> <p>Concrete batching and asphalt processing and manufacture</p> <p>Feed milling</p> <p>Grain elevator</p> <p>Railroad yard or repair shop</p> <p>Sawmill</p> <p>Wool scouring and pulling</p> <p>Uses declared a nuisance in court</p> <p>Other uses meeting the characteristics of the Heavy Industrial Use Category</p> | | |

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.

| Principal Uses | Accessory Uses | Uses not Included |
|---|--|--|
| <p>Manufacture or assembly of appliances, 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, musical instruments, perfume, pharmaceuticals, shoes, shutters or shades, signs, toys</p> <p>Bakery, wholesale</p> <p>Bottling or canning</p> <p>Bulk mailing service</p> <p>Catering establishment, large scale</p> <p>Clothing or textile manufacturing</p> <p>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</p> <p>Creamery</p> <p>Crematorium</p> <p>Engraver</p> <p>Food processing</p> <p>Janitorial and building maintenance service, exterminator, maintenance yard or facility</p> <p>Laundry, dry-cleaning, and carpet cleaning plants</p> <p>Metal plating</p> <p>Metal shop</p> <p>Printing, publishing, and lithography</p> <p>Repair of scientific or professional instruments, electric motors</p> <p>Research, testing, and development laboratory</p> <p>Smoking or processing of meat products</p> | <p>Associated office</p> <p>Associated retail sales related to the primary use</p> <p>Associated showroom</p> <p>Day care for children of employees</p> <p>Fleet maintenance</p> <p>Food preparation and dining facility</p> <p>Fueling facility</p> <p>Medical clinic for employees</p> <p>Meeting space</p> <p>Minor utilities</p> <p>Recreation facility</p> <p>Single <u>attached</u> residential unit for caretaker</p> | <p>Catering establishment, small scale (see Restaurant)</p> <p>Mining or excavating (see Resource Extraction)</p> <p>Outdoor storage yard (see Warehousing and Freight Movement)</p> <p>Recycling facility (see Waste-Related Service)</p> <p>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)</p> |

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.

| Principal Uses | Accessory Uses | Uses not Included |
|---|----------------|-------------------|
| 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.

| Principal 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 <u>Semi-trailer parking</u> Transfer and storage business (such as for recreational vehicles) where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred Trucking company Other uses meeting the characteristics of the Warehousing and Freight Movement Use Category | Associated office 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 <u>attached</u> 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) |

D. Waste-Related Service

Characteristics: Uses characterized by uses that receive 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.

| Principal Uses | Accessory Uses | Uses not Included |
|--|--|---|
| Animal waste processing Composting facility | Associated office Fleet maintenance | Stockpiling of sand, gravel, or other aggregate materials |

Article 5 Use Standards
Sec. 5.2. Use Categories

| Characteristics: Uses characterized by uses that receive 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. | | |
|---|---|--|
| Principal Uses | Accessory Uses | Uses not Included |
| Landfill Manufacture and production of goods from composting organic material Recycling facility Tire recycling or recapping Other uses meeting the characteristics of the Waste-Related Service Use Category | Fueling facility Minor utilities Repackaging and shipment of byproducts | (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. | | |
|--|---|--|
| Principal Uses | Accessory Uses | Uses not Included |
| <u>Fuel sales, bulk</u> Mail-order business Sale or rental of machinery, equipment, heavy equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures Wholesale or auction of food, clothing, auto parts, or hardware Other uses meeting the characteristics of the Wholesale Trade Use Category | Associated office Associated showroom Day care for children of employees Fleet maintenance Food preparation and dining facility Medical clinic for employees Meeting space Minor fabrication Minor utilities Product repair Recreation facility Repackaging of goods Single <u>attached</u> residential unit for caretaker Warehouse | Warehouse and Freight Movement Use (see Warehouse and Freight Movement) Wholesale club (see Retail Sales and Service) |

5.2.6 Open Uses

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. | | |
|---|---|---|
| Principal Uses | Accessory Uses | Uses not Included |
| Agribusiness Agricultural implement sales and service Chick hatchery Dairy Domestic animal raising including | Associated office Accessory dwelling unit (5.5.3) Barn, silo or stable Greenhouse, commercial or noncommercial Dock or pier (noncommercial) | Animal products, packing and processing (see Heavy Industrial) Animal waste processing (see Waste-Related Service) Concentrated or intensive animal |

Article 5 Use Standards
Sec. 5.2. Use Categories

| 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. | | |
|---|---|---|
| Principal Uses | Accessory Uses | Uses not Included |
| 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, commercial Livestock sale or auction Roadside stand Scenic or sightseeing tour Stable Other uses meeting the characteristics of the Agriculture Use Category | Home occupation (5.5.6) Home workshop / business (5.5.7) Minor utilities Roadside stand Single-family dwelling Slaughtering, processing and packaging of animals raised on-site U-pick facility | 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. | | |
|---|---|--|
| Principal Uses | Accessory Uses | Uses not Included |
| Mine or quarry Extraction of sand, gravel, minerals, <u>natural gas or oil</u> Other uses meeting the characteristics of the Resource Extraction Use Category | Associated office 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 Service) |

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cations
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Agricultural Use Specifications

Definition

An agricultural use includes the raising and keeping of all "large" livestock such as horses, cows, ponies, goats, sheep, or swine or the raising and keeping of "small" livestock such as chickens, ducks, geese, or rabbits. The raising of crops, flowers, and vegetables shall not be deemed an agricultural use.

Location Permitted

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~~In A-1C Agricultural Districts and A-2C Conservation Districts on a tract of land containing more than three acres; by Special Use on a tract of land containing three acres or less in "A-1C and A-2C Districts and; by Special Use in all other Districts regardless of tract size.~~

~~Limited Business Uses~~

~~Definition~~

~~Commercial uses primarily of a retail or service nature.~~

~~Interpretation~~

~~The following named uses shall be deemed to include those uses or buildings in general keeping with and appropriate to the uses specified in this list.~~

~~Location Permitted~~

~~The following business uses as stated or implied are permitted in the "B1C", "B2C", "B3C", "M1C" and "M2C" Districts.~~

~~Art and school supply store.~~

~~Auto accessory store, if there is no driveway entrance across the sidewalk into the principal building.~~

~~Bakery Shop, including the baking and processing of food products, if prepared for retail use on the premises only.~~

~~Banks and financial institutions.~~

~~Barber shop, beauty parlor, chiropody, massage or similar personal service shop.~~

~~Book stores.~~

~~Bowling alleys, billiard and pool rooms, dance halls, gymnasiums, meeting halls, lodge halls, fraternal organizations and clubs, if they are located in a basement or above the first floor and above a business use permitted in this section, or those uses may be located on the ground floor if a permitted business establishment occupies street frontage except for an entranceway to the rear use.~~

~~Candy and ice cream shops.~~

~~Camera and photographic supply shops for retail sales.~~

~~Coin and philatelic stores.~~

~~Custom dressmaking, millinery, tailoring or shoe repair when conducted for retail sales on the premises only.~~

~~Currency exchanges.~~

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cations
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~~Department stores.~~

~~Drug stores.~~

~~Dry cleaning and pressing establishment if using not more than two clothes cleaning units neither of which has a rated capacity of more than 40 pounds and which use cleaning fluids approved by the State Fire Marshal Department.~~

~~Dry goods store.~~

~~Electrical appliance store and repair, but not including appliance assembly or manufacturing.~~

~~Florist shop and conservatory for retail trade on the premises only.~~

~~Food and fruit stores.~~

~~Frozen food stores.~~

~~Furniture store, and upholstery if conducted as part of the retail operations and secondary to the main use.~~

~~Furrier, if conducted for retail trade on the premises only.~~

~~Garden supplies and seed stores.~~

~~Gift shops.~~

~~Greenhouse, commercial.~~

~~Hardware stores.~~

~~Haberdashery.~~

~~Hobby stores.~~

~~Hotels, including dining and meeting rooms, if business uses occupy the street frontage except for an entranceway to the hotel lobby.~~

~~Household appliance store.~~

~~Interior decorating shops, including upholstery and making of draperies, slip covers, and other similar articles, if conducted as part of the retail operations and secondary to the main use.~~

~~Jewelry store and watch repair.~~

~~Launderette, laundromat, or other similar type of self-service laundry.~~

~~Leather goods and luggage store.~~

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~~Liquor store, package goods only.~~

~~Loan offices.~~

~~Meat markets.~~

~~Mortuaries or funeral homes.~~

~~Musical instrument sales and repair if retail trade only.~~

~~News stand.~~

~~Notions store.~~

~~Offices, business and professional, including medical clinics.~~

~~Optician, optometrist.~~

~~Pet Shop with indoor pens and/or runs.~~

~~Paint and wallpaper store.~~

~~Photography studio, including the developing of film and pictures when conducted as part of the retail business on the premises.~~

~~Plumbing showroom if without shop or repair facilities.~~

~~Postal substations, finance stations and contract stations.~~

~~Public utility buildings, such as collection of offices and administration offices.~~

~~Restaurants, standard.~~

~~Savings and Loan Association.~~

~~Sewing machine sales and service.~~

~~Shoe store.~~

~~Sign Construction, as defined and regulated in Specifications H.~~

~~Sporting goods store.~~

~~Stationery stores.~~

~~Telegraph office.~~

~~Tobacco shop.~~

~~Toy store.~~

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ations
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~~Travel bureau and transportation ticket office.~~

~~Typewriter and adding machine sales and service.~~

~~Variety store.~~

~~Veterinarian Clinic with indoor pens and/or runs.~~

~~Wearing apparel shop.~~

~~Any other similar type retail store not specifically listed here, and which is economically compatible with the established uses on adjoining properties.~~

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ations
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~~Any use permitted in the "B2C" District may also be permitted in this district if it is located in the basement or above the first floor.~~

General Business Uses

Definition

~~Commercial uses including wholesale and storage uses if conducted within enclosed, substantially constructed buildings.~~

Location Permitted

~~The following classifications of business uses as stated or implied are permitted in the "B2C", "B3C", "M1C" and "M2C".~~

~~Any use permitted in the "B1C" District.~~

~~Art galleries and studios.~~

~~Antique shops.~~

~~Automobile service stations.~~

~~Bicycle sales and repair.~~

~~Bed and Breakfast Inn.~~

~~Billiard and pool rooms.~~

~~Billboards, outdoor advertising.~~

Note to Reviewers: Billboards will be treated in Article 7.

~~Clubs and fraternal organizations.~~

~~Costume rental shop.~~

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~~Employment agency.~~

~~Hand laundries employing not more than four persons.~~

~~Locksmith.~~

~~Mirror and glazing shop.~~

~~Motels.~~

~~Orthopedic and medical appliance store, but not including the assembly or manufacture of those articles.~~

~~Pawn shop.~~

~~Picture framing, if conducted for retail trade on the premises.~~

~~Plumbing showroom and shop.~~

~~Post office branch.~~

~~Public auction rooms.~~

~~Physical culture and health services.~~

~~Restaurants, Standard, including those serving alcoholic beverages~~

~~Schools; music, dance, business, commercial or trade.~~

~~Second-hand stores and rummage shops.~~

~~Taverns.~~

~~Taxidermist.~~

~~Theater, indoor.~~

~~Any other similar type retail stores not specifically permitted here and which are economically compatible with the established uses on adjoining properties.~~

~~Business and Wholesale Uses~~

~~Definition~~

~~Commercial uses, including wholesale and storage and light industrial uses if conducted within enclosed, substantially constructed buildings.~~

~~Location Permitted~~

Specific
ations
C, Sec.
A, 2

Article 5 Use Standards
Sec. 5.2. Use Categories

The following classifications of business, wholesale and industrial uses as stated or implied are permitted in "B3C", "M1C" and "M2C" Districts:

~~Any Commercial Use permitted in the "B2C" District.~~

~~Agricultural implement sales and services.~~

~~Air conditioning and heating sales and service.~~

~~Automobile and truck minor motor repair and service shop, but not including body repair and rebuilding or painting.~~

~~Automobile and truck sales and service shop.~~

~~Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaning.~~

~~Battery and tire service stations.~~

~~Beverage, non-alcoholic, bottling and distributing.~~

~~Blueprinting and photo-stating establishments.~~

~~Bicycle and motorcycle sales and repair.~~

~~Boat showroom.~~

~~Bookbinding.~~

~~Catering establishments.~~

~~Contractors' offices and shops, if no fabricating is done on the premises and if all storage of material is within a building.~~

~~Creameries and dairies.~~

~~Exterminating shops.~~

~~Feed and seed store, wholesale.~~

~~Garage, public, for storage of private passenger automobiles and commercial vehicles.~~

~~Glass-cutting and glazing establishments.~~

~~Household appliance repair shop.~~

~~Laboratories, medical, dental, research, experimental and testing, if no production or manufacturing of products occurs.~~

~~Parcel delivery station.~~

Specifi
cation
s C,
Sec. A,
3

~~Parking area, public.—~~

~~Parking structure or lot.~~

~~Plumbing, heating and roofing supply shops.~~

~~Printing, publishing and issuing of newspapers, periodicals, books, stationary and other reading matter.~~

~~Photograph developing and processing.~~

~~Advertising displays.~~

~~Awnings, venetian blinds and window shades.~~

Specifications C, Sec. A, 3 ~~eries, wholesale.~~

~~es and brooms.~~

~~Cosmetics, drugs and perfumes.~~

~~Food processing, packaging distribution.~~

~~Electrical equipment appliances.~~

~~Ice cream.~~

~~Jewelry~~

~~Medical and dental supplies.~~

~~Optical goods and equipment.~~

~~Pattern making.~~

~~Scientific and precision instruments.~~

~~Products from finished materials such as plastic, bone, cloth, cork, feathers, felt, fibre, paper, fur, glass, hair, horn, leather, precious or semi-precious stones, rubber, shell or yard.~~

~~Radio and Television broadcasting stations.~~

~~Recreation establishments, including bowling alley, dance hall, gymnasium, skating rink, indoor archery range, golf practicing range, miniature golf course or other similar places of amusement or entertainment when operated for pecuniary profit.~~

Specifications C, Sec. A, 3 ~~s, drive-in, fast food.~~

~~sies.~~

~~Sheet metal shop, if the floor area occupied does not exceed 6,000 square feet.~~

~~Silver plating and repair shop.~~

~~Smoking and processing of meat products.~~

~~Trailer sales or rental of house trailers or mobile homes on an open lot or within a building.~~

~~Used car or new passenger automobile sales, or used car lot on an open lot or within a building.~~

~~Uses customarily incidental to any of the above uses and accessory buildings if located on the same premises.~~

~~Wholesale business if conducted wholly within enclosed buildings.~~

~~Manufacturing Use Specifications~~

~~Limited Manufacturing Uses~~

~~Definition~~

~~A limited Manufacturing Use requires both buildings and open area for manufacturing, fabricating, processing, heavy repairing, dismantling, storage or disposal of raw materials, manufactured products or waste; is not injurious to the health or safety of humans or animals, or injurious to vegetation and is not noxious or offensive due to the emission of smoke, dust, gas fumes, odors, or vibrations beyond the premises where the industry is conducted.~~

~~Interpretation~~

~~The following named uses shall be deemed to include those uses or buildings in general keeping with and appropriate to the uses listed in this Specification.~~

~~Location Permitted~~

~~In the "M1C", "M2C" and "M3C" District. Permitted uses are:~~

~~Any use permitted in a "B3C" District.~~

~~Acid manufacture, other than those acids specified as conditional uses in the "M2C" District.~~

~~Artificial limb manufacture.~~

~~Automobile and truck repair (major), painting, upholstering, reconditioning, and body and fender repairing.~~

~~Apparel and other products manufactured from textiles.~~

~~Batteries, manufacture and rebuilding.~~

~~Bedspring and mattress manufacture.~~

Specific
ations
C, Sec.
A, 4

~~Belting manufacturing.~~

~~Bicycle manufacture.~~

~~Brooms and brushes manufacturing.~~

~~Boat building and repair.~~

~~Building equipment; yards for building materials; lumber, coal, sand and gravel yards; yards for contracting equipment, maintenance or operating equipment of public agencies, or public utilities, or materials or equipment of a similar nature.~~

~~Bus line shops and garages.~~

~~Canning and preserving.~~

~~Canvas and canvas products manufacturing.~~

~~Carpet and rug cleaning.~~

~~Carpet manufacturing.~~

~~Cartage, express hauling or storage yards.~~

~~Ceramic products, pottery, and glazed tile manufacturing.~~

~~Chick hatcheries.~~

~~Cleaning and Dyeing Establishments, if using more than two cleaning units and if using cleaning fluids approved by the State Fire Marshal Department.~~

~~Cigarettes and cigars.~~

~~Coated fabrics, except rubberized, manufacturing.~~

~~Cork and cork products manufacturing.~~

~~Creameries and dairies.~~

~~Drapery and bedding manufacture.~~

~~Drugs and pharmaceutical products manufacturing.~~

~~Electric motors and generators manufacturing.~~

~~Engraving.~~

~~Felt manufacture.~~

~~Fur goods, not including tanning or dyeing manufacturing.~~

Specifications C,
Sec. A, 4

~~Glass products, from previously manufactured glass.~~

~~Ice cream and ice manufacture.~~

~~Kennel. (Amended 5/21/2012 PC12-04)~~

~~Laundries with more than 1,000 pounds daily capacity.~~

~~Livestock sale or auction.~~

~~Machine shops and metal products manufacture, if not equipped with punch presses exceeding fifty ton pressure, drop forges, riveting and grinding machines or any other equipment which may create noise, vibration, smoke, odors, heat, glare or fire hazards, disturbing to the occupants of adjoining properties.~~

~~Metal polishing and plating.~~

~~Motor freight terminal, private.~~

~~Musical instruments manufacturing.~~

~~Pianos and organs manufacturing.~~

~~Perfumes and cosmetics manufacturing.~~

~~Pet Shop with outdoor pens and/or runs.~~

~~Plastic products, but not including the processing of the raw materials or manufacturing.~~

~~Public or private warehousing or storage of non flammable goods.~~

~~Rubber products, small, such as washers, globes, footwear and bathing caps, but not rubber and synthetic rubber processing manufacturing.~~

~~Shoes and boots manufacturing.~~

~~Storage and sale of trailers, farm equipment and similar equipment on the unimproved part of any lot.~~

~~Sporting and athletic equipment manufacturing.~~

~~Stone, marble and granite grinding and cutting.~~

~~Textiles spinning, weaving, dyeing and printing.~~

~~Tools and hardware, such as hand tools, bolts, nuts, screws, cutlery, house hardware, locks and plumbing appliances, manufacturing.~~

~~Tool and die shops.~~

~~Trailer factory.~~

Specific
ations
C, Sec.
A, 4

~~Truck, tractor, trailer or bus storage or parking yard, lot or garage.~~

~~Truck terminal, including exchange and hauling of freight.~~

~~Toys and children's vehicles, manufacturing.~~

~~Veterinarian Clinic with outdoor pens and/or runs. _____~~

~~Wire brush manufacture.~~

~~Any other manufacturing establishment which can be operated in compliance with the requirements of this section, without creating objectionable noise, odor, dust, smoke, gas fumes or vapor, and which is compatible with the use and occupation of adjoining properties.~~

General Manufacturing Uses

Definition

~~A General Manufacturing Use requires buildings and open area for manufacturing, fabricating, processing, heavy repair, dismantling, storage or disposal of raw materials, manufactured products or wastes; is not injurious to health or safety of humans or animals, or injurious to vegetation; and which has not been declared a nuisance by any court.~~

Location Permitted

~~In the "M2C" and "M3C" Districts. Uses permitted in "M2C" and "M3C" Districts:~~

~~Any use permitted in the "M1C" District.~~

~~Aircraft, assembly and testing of fuselage and motors.~~

~~Asbestos and asbestos products, manufacturing.~~

~~Automobiles, trucks and truck trailers, manufacturing.~~

~~Alcoholic beverages, manufacturing.~~

~~Blacksmith shop.~~

~~Blast furnaces, steel works or rolling mills.~~

~~Boiler works.~~

~~Box and crate manufacture.~~

~~Brass foundry.~~

~~Brick, tile and terra cotta manufacture.~~

Specific
ations
C, Sec.
A, 5

~~Building materials, such as prefabricated houses, composition wallboards, partitions and panels.~~

~~Cement products.~~

~~Chalk manufacturing.~~

~~Charcoal manufacturing.~~

~~Chemicals, non-inflammable and non-explosive, the manufacture or use of.~~

~~Coffin manufacture.~~

~~Copperage works.~~

~~Corrugated metal products.~~

~~Cotton ginning and cotton wadding.~~

~~Cottonseed oil manufacturing.~~

~~Dyes, aniline, ink pigments and others, manufacturing.~~

~~Feed milling and processing.~~

~~Gelatin, vegetable and animal.~~

~~Glass blowing and manufacture.~~

~~Grain elevators.~~

~~Graphite and graphite products, manufacturing.~~

~~Hemp products, manufacturing.~~

~~Ink from primary raw materials, including colors and pigment.~~

~~Linoleum manufacture.~~

~~Lumber, preserving treatment, processing, sawmills and planing mills.~~

~~Metal stamping and extrusion of metal products.~~

~~Metal foundries and casting.~~

~~Machinery, heavy manufacturing and repairing, including electrical, construction, mining and agriculture manufacturing.~~

~~Meat and fish products, packing and processing of, but not including slaughtering glue and size manufacturing.~~

Specific
ations
C, Sec.
A, 5

Article 5 Use Standards
Sec. 5.2. Use Categories

~~Motor testing or internal combustion motors manufacturing.~~

~~Porcelain products, such as bathroom and kitchen equipment, manufacturing.~~

~~Railroad equipment, such as railroad car and locomotive manufacture.~~

~~Railroad yards and repair shops.~~

~~Rubber products, including tires and tubes manufacture and tire recapping.~~

~~Wax products, manufacture from paraffin.~~

~~Wool scouring and pulling.~~

Specificat
ions C,
Sec. A, 5

Sec. 5.3. Specific Use Standards

COMMENTARY: These standards only apply to uses in the use table marked with an “L” or an “S”. “L” stands for permitted by right subject to limitations and “S” means a Special Use Permit is required. These standards **DO NOT APPLY** to uses marked with a “P” in the use table.

5.3.1 Traditional Dwelling

Note to Reviewers: The purpose behind this set of 3 residential standards is to enable the mixing of housing types within a subdivision or for infill without the need for a PUD or Variance.

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 survey prepared by a registered Indiana land surveyor at the time of application for an Improvement Location Permit.

Change since
Committee
review.

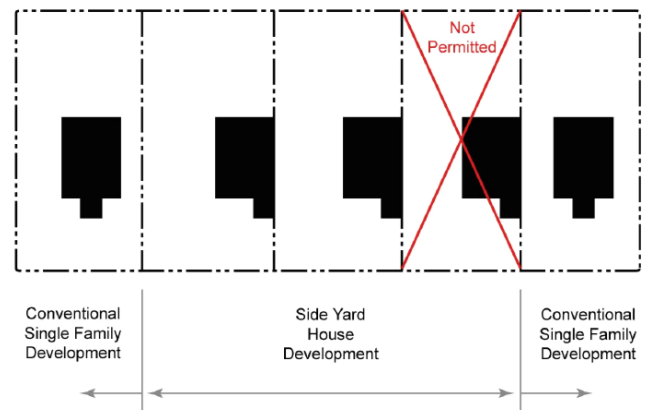
5.3.2 Zero Lot Line Dwelling

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 single side setback must be provided comprising the equivalent of two side setbacks of a conventional single-family detached dwelling. This zero side setback is not allowed on the side yard adjacent to residential lots that are not part of the zero lot line development.
The side yard adjacent to a residential lot that is not part of the zero lot line development must have a minimum setback required of a single-family detached dwelling. Each lot line with no side setback must be indicated on the secondary plat for the subdivision.

Change since
Committee
review. PC
wanted to be
more specific
about what
was needed
next to a ZLL.



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 lot 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 survey prepared by a registered Indiana land surveyor at the time of application for an Improvement Location Permit.

Change since
Committee
review.

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 survey prepared by a registered Indiana land surveyor at the time of application for an Improvement Location Permit.

Change since
Committee
review.

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

***Comment to Tech Committee:** The existing Zoning Ordinance is pretty silent on manufactured homes. I am used to considering a mobile home as a structure manufactured before June 15, 1976, that is not constructed in accordance with the National Manufactured Home Construction and Safety Standards Act of*

Article 5 Use Standards
Sec. 5.3. Specific Use Standards

1974. And a Manufactured home as constructed on June 15, 1976 or after, that is in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974.

Change since
Committee
review.

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

General

Purpose

~~The purpose of this section is to allow for the placement of Mobile Homes and dwellings that do not comply with the minimum dwelling standards for one and two family homes in SPECIFICATIONS—B.~~

Specifi
cation
s J

~~Location Permitted~~

~~In any approved Mobile Home Park.~~

~~In any approved Mobile Home Subdivision.~~

~~In A1C, R2C, R3C, R4C, B1C, and B2C a mobile home or Sectional Manufactured Home, not in compliance with the Minimum Dwelling Standards is permitted by special use only and must meet the requirements of the single family residence development stands. (Special Use Applications will not be accepted in R-1C, B-3C, M-1C and M-2C)~~

Specifi
cation
s J

~~The following standards shall be imposed:~~

~~All applicable development standards for a single family residence from Specification B shall be applied.~~

~~Distance from Existing Residential Dwellings~~

Change since
Committee
review.

A. Single-Wide Manufactured or Mobile Home Structure

A **single-wide manufactured** or mobile home **structure** 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 principal dwelling.

Speci
ficati
ons J,
B

~~All mobile homes or Sectional manufactured homes, not in compliance with the minimum dwelling standards shall be located at least 300 feet from any existing habitable residential dwelling not owned by the applicant, unless it is granted for the aged or infirm family members or in extreme hardship cases.~~

B. Single-Wide Manufactured or Mobile Home Park

~~Location Permitted~~

Mobile home parks may be located in any B1C, B2C or B3C District if laid out, planned, platted and constructed in accordance with the following specifications. A park may also be located in an A1C, R3C or R4C District by special use granted by the Board of Zoning Appeals.

1. Drainage Requirements

The park shall ~~shall~~ 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 Each~~ park shall ~~shall~~ must have a minimum site area of five acres and shall ~~shall~~ must provide ~~mobile home spaces-pads~~. Each such ~~space~~ shall ~~pad~~ must be clearly defined or delineated. Each ~~space~~ shall ~~pad~~ 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 in width.

3. State Board of Health Requirements

If not otherwise specified or if these ~~specifications standards~~ do not meet or equal standards set by the State Board of Health, the State Board of Health standards shall prevail.

4. Distance from ~~Court~~ Park Boundaries

No ~~single-wide manufactured or~~ mobile home shall ~~may~~ be located closer than 30 feet to any ~~mobile home~~ park property line. If the park abuts a public road street or highway, then the standard setback line for that roadway as established ~~by the ordinance for the district in Article 4~~ for conventional housing in which that park is located shall prevail. In the ~~buffer zone~~ setback so established, each park developer shall ~~must~~ provide screening by fending or appropriate planting of trees or shrubbery a street buffer as established in Article 7.

5. Distance from Existing Housing

Any ~~single-wide manufactured or~~ mobile home shall ~~must~~ be located at least 300 feet from any existing habitable residential dwelling not owned by the mobile home park owner. ~~if that park is located in an A1C, B1C, B2C or B3C, R3C or R4C District. These distance requirements may be waived by a variance applied for and granted by the Board of Zoning Appeals.~~

6. Distance from Residential District or ~~Plat~~ Subdivision

~~Any~~ single-wide manufactured or mobile home park shall ~~must~~ be established at least 600 feet from the boundary of a R-1 or R-2 zoning district or any platted residential subdivision. ~~These distance requirements may be waived by a variance applied for and granted by the Board of Zoning Appeals.~~

Change since
Committee
review.

C. Single-Wide Manufactured or Mobile Home Subdivision

Location Permitted

Mobile home subdivisions may be located in any B1C, B2C or B3C District, if laid out, planned, platted and constructed in accordance with the following specifications. A mobile home subdivision may also be located in an A1C, R2C, R3C or R4C District by special use applied for and granted by the Board of Zoning Appeals.

1. Minimum Site-Acreage Area

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

2. Subdivision Control Ordinance

Single-wide manufactured or mobile home subdivisions shall must be planned and platted to the same specifications required for any residential subdivision in the particular districts where the subdivision is proposed. ~~will be located~~.

3. State Board of Health Requirements

If not otherwise specified or if specifications these standards do not meet or equal standards set by the State Board of Health, the State Board of Health standards ~~for mobile home parks shall~~ prevail.

4. Distance from Subdivision Boundaries

No single-wide manufactured or mobile home shall ~~may~~ be located closer than 30 feet to any ~~mobile home subdivision~~ property line within its subdivision. If ~~that a~~ park abuts a public street or highway, then the standard setback ~~s lines~~ for that road ~~way~~ as established by the ordinance for the district in Article 4 for conventional housing in which that park is located shall prevail~~s~~. In the ~~buffer zone~~ setback so established, each park developer shall must provide screening by ~~fencing or appropriate planting of trees or shrubbery~~ a street buffer as established in Article 7.

5. Distance from Existing Housing

~~Any~~ single-wide manufactured or mobile home shall must be located at least 300 feet from any existing habitable residential dwelling not owned by the single-wide manufactured home, mobile home or subdivision owner. ~~when that park is located in an A1C, B1C, B2C, B3C, R2C, R3C or R4C District. These distance requirements may be waived by a variance applied for and granted by the Board of Zoning Appeals.~~

Specifications J

Change since
Committee
review.

Change since
Committee
review.

6. Distance from Residential District or Plat Subdivision

Any single-wide manufactured or mobile home subdivision ~~shall~~ must be located at least 600 feet from the boundary of an R-1 or R-2 zoning district or any platted residential subdivision. ~~These distance requirements may be waived by a variance applied for and granted by the Board of Zoning Appeals.~~

5.3.5 Multiple-Family Dwelling

Change since
Committee
review.

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 submits 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.

***Note to Reviewers:** This allows a dwelling unit on the second floor of a typical downtown or new urbanist development. It is allowed in R-4 (where mixing of uses is allowed), B-1, B-2 and B-3.*

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.

***Note to Reviewers:** This standard only applies in R-4 and could apply in RR, R-1, R-2, R-3 and M-1 by SUP. Osolo Branch of the Elkhart Public Library is 3,881 square feet. In existing Zoning Ordinance, these uses require an SUP across the board. "C" in this use standards and in the two below allows an SUP for these public uses rather than a Variance (which is harder to get) if they facility cannot meet the max floor area or setback standards.*

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.

Article 5 Use Standards
Sec. 5.3. Specific Use Standards

- 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.

Note to Reviewers: *This standard only applies in A-1 and R-4. Wakarusa Clinic is 9,600 square feet and ~45 feet from a house. In existing Zoning Ordinance, these are not allowed in R-4.*

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.

Note to Reviewers: *This standard only applies in R-4 and could apply in A-1, R-1, R-2 and R-3 by SUP. The Jehovah's Witness Church on CR 11 and CR 22 is 6,000 square feet and 70 feet from a house. In existing Zoning Ordinance, these are allowed by Special Use Permit in all zoning districts. In this draft, they are Limited use in R-4, SUPs in R-1, -2, -3 and by right in B and M.*

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 which shall be is more than ~~1,000~~ 300 feet from any R zoning district, or the following Use Categories:

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

~~public park or~~

~~any Residential Use.~~

Change since Committee review. PC said 300' was more appropriate & parks & residences didn't need protecting.

Speci
ficati
on F,
A

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 principal building 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.

***Note to Reviewers:** This applies in the R-4 zoning district. The intent is to mimic a residential structure for this commercial use. The current zoning ordinance allows office in R-4 but says they have to be home occupations.*

5.3.12 TV or Radio Studio

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. Private telecommunication or transmission towers are not permitted.
- B. [Insert satellite dish size limits]

5.3.13 Track, Motorcycle, Go Kart or Car

A motorcycle go kart or car track is permitted in accordance with the use tables in this Article and Article 6 provided the track is . Private Off Road Track, Motor Cross Track, Go Kart Track, Car Racetrack in A-1 zones only, which shall be more than 1000 feet from any Residential zoning district or any residential use not on the same parcel with the Special Use.

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 ~~has~~ seven and a maximum of ~~to~~ 14 guest rooms.
- B. The ~~bed and breakfast inn may~~ provides sleeping accommodations for no more than 30 consecutive days to a particular guest.
- C. The ~~bed and breakfast inn~~ is limited to one double face sign not to exceed four square feet, ~~per side in the A-1, R-3, R-4 and B-1 zones;~~

***Note to Reviewers:** B&B Homestays are treated in Sec. 5.4, Accessory Uses and Structures.*

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.

***Note to Reviewers:** This applies in the R-4 zoning district only. The intent is to minimize the drive thru's impacts on single- and two-family dwellings. The current zoning ordinance does not allow drive-in or drive-thru restaurants in R-4 but does allow them in M-1 and M-2. This draft does not allow them in M-2.*

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.

Note to Reviewers: *This applies in the R-4 zoning district only. The intent is to minimize the retail's impacts on single- and two-family dwellings. The current zoning ordinance does not allow retail in R-4 but does allow them in M-1 and M-2. This draft allows some in M-1 and does not allow them in M-2.*

5.3.17 **Fireworks Sales**

Change since
Committee
review.

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

- A. Fireworks sales must be located in a primary structure equipped with a functioning sprinkler system.
- B. 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

Speci
ficati
on A,
B

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

- A. In the A-1 and RR zoning districts, the minimum lot area for a kennel is ~~on a minimum of~~ three acres.
- B. ~~provided the use, including~~ Any runs, pens, facilities, fencing and structures, shall must be:
 - 1. ~~Setback at least a minimum of~~ 200 feet from the nearest principal residence not occupied by the kennel operator; ~~and,~~
 - 2. ~~Setback at least a minimum of~~ 50 feet from any other property line; and
 - 3. ~~Screened with Fenced with a visual buffer to neighboring properties a~~ XXX bufferyard in accordance with Article 7.

Note to Reviewers: *Bufferyards between potentially conflicting zoning districts are proposed to be established in Module 4.*

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 any outdoor pen is setback from a residential dwelling a minimum of 100 feet.

Note to Reviewers: This applies to B-1. Veterinarians with outdoor runs are allowed by SUP in the existing Ordinance. In this draft, they would be allowed by right in B-1 subject to this separation standard.

5.3.20 Vehicle Sales and Service (Minor Servicing)

A vehicle sales and service (minor 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 with one canopy or evergreen tree and one ornamental tree per 1,000 square feet of required landscaped area.

Note to Reviewers: General, overall landscaping provisions (not counting buffering between uses and along streets) are not likely to appear in Article 7 so this basic landscaping provision is applied to uses in districts where they are not currently allowed. For example, this standard applies to brake, oil change and tire businesses in B-2. The use is currently not allowed in B-2 in the existing zoning ordinance. This draft says this type of use can go into B-2 if it provides some basic landscaping.

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 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. An eight foot masonry wall must be required at the property line of residentially-zoned property, in addition to the required bufferyard between uses established in Article 7.
- D. Fuel pumps, vacuum, air, and water stations as well as other similar equipment are prohibited between the principal structure and the property line of a residentially-zoned property.
- E. Any freestanding light fixtures between the principal structure and the property line of a residentially-zoned property must be a maximum of 15 feet in height.
- F. No car wash is allowed with the fuel sales use if the property abuts a residentially-zoned property.

Note to Reviewers: General, overall landscaping provisions (not counting buffering between uses and along streets) are not likely to appear in Article 7 so this basic landscaping provision is applied to uses in districts where they are not currently allowed. This standard applies to gas stations in B-1. The use is currently not allowed in B-1 in the existing zoning ordinance. This draft says this type of use can go into B-1 if it provides some basic landscaping, has a limited

number of pumps and that the pumps and other service equipment are not adjacent to possible surrounding residential districts. If the property isn't abutting a residential district, then the only standards that apply are #1 and #2.

5.3.22 Wrecking, Junk or Salvage Yard

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A wrecking, junk or salvage yard is permitted in accordance with the use tables in this Article and Article 6 provided that ~~junk yards and automobile wrecking~~, if the use is confined within enclosed buildings or in yards completely enclosed and surrounded by solid walls or solid fences ~~at least a minimum of eight feet in height.~~, and if fences are kept in sound repair and satisfactory in appearance.

5.3.23 Bulk Storage of Explosives or Other Hazardous Materials

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Bulk storage of flammable liquids, ~~fats or oil~~ explosives 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 may have of no more than 50,000 gallons capacity. ~~In addition, and only after the location and protective measures have been 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.~~

Note to Reviewers: *What about things not stored in tanks?*

5.3.24 Light Industrial Uses

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

- A. ~~Processing or assembly~~ if The space occupied in a building ~~does~~ must not exceed 6,000 square feet of gross floor area. ~~total floor and basement space, not including stairwells, or elevator shafts;~~
- B. ~~and if that processing or assembly is~~ The Light Industrial Service use ~~must be conducted without noise, vibration, odor, dust or any other condition which noise, vibration, smoke, odors, heat, glare or fire hazards that might be disturbing to occupants of adjacent buildings. If manufacturing operations of the same or similar products require space exceeding 6,000 square feet, they shall then be located in the "M1C" Manufacturing District.~~

5.3.25 Building and Development Contractor Establishment

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

5.3.26 Welding, Tool Repair or Machine Shop

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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 adjoining 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 XX 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;
 - 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 propose grading, lighting utilities, improvements, materials processing and storage.

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5.3.28 Greenhouse, Commercial

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

Special Uses

Note to Reviewers: *These uses have been worked into the main use table and will be worked into the special purpose and overlay use tables, as appropriate, in Module 3.*

The following uses, or structural alterations to them, which are classified as Special Uses, may be permitted by the Board of Zoning Appeals, in accordance with the procedure specified in **Error! eference source not found.**

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Article 5 Use Standards
Sec. 5.3. Specific Use Standards

~~Agri-Business in A-1C Districts.~~

~~Agricultural Storage of agriculturally related items in a semi truck trailer and/or box truck body in Agricultural District on tracts of land containing 20 acres or more~~

~~Agricultural Use in Agricultural Districts on tracts of land containing less than three acres, and agricultural uses in all other districts regardless of the size of the tract of land involved~~

~~Airport, landing field, or landing strip, in any use district.~~

~~Any public or private passenger transportation terminal facility, in any use district.~~

~~Areas for Municipal, County or privately owned dumps or sanitary landfills for the dumping or disposal of trash or garbage in any use district.~~

~~Athletic park, athletic field, stadium, arenas and other similar places for public or private events, in the A-1, R-1, R-2, R-3, R-4, B-1 and B-2 districts.~~

~~Barber Shops and Beauty Shops in an "A" or "R" District.~~

~~Bed and Breakfast Homestay in the A-1, R-1, R-2, R-3, R-4, B-1 and B-2 districts.~~

~~Bed and Breakfast Inn in the A-1, R-3, R-4 and B-1 Districts.~~

~~Business and professional offices which employ no more than two employees other than the immediate family of the proprietor in any "A" District.~~

~~Cemeteries, crematories or mausoleums, in the A-1, R-1, R-2, R-3, R-4, B-1, B-2, B-3, M-1, and M-2 districts.~~

~~Child Care Center in R-4, B-1, B-2, B-3, M-1 and M-2 districts.~~

~~Child Care Home in A-1, R-1, R-2, R-3, R-4 B-1 and B-2 districts.~~

~~Church or Temple in any use district.~~

~~College or University in any use district.~~

~~Country clubs or golf course in the A-1, R-1, R-2, R-3, R-4, B-1, B-2, B-3, M-1, and M-2 districts.~~

~~Extraction and sale of gravel, sand or other raw materials in any use District.~~

~~Greenhouses, commercial in the A-1 district.~~

~~Home Workshop/Business in any use district.~~

~~Hospitals or sanitariums, public or private, in A-1, R-1, R-2, R-3, R-4, B-1, B-2, B-3, E-1, E-2 and E-3.~~

~~Institutions for the care of adults, children, youth, and/or juvenile in any Use District.~~

Article 5 Use Standards
Sec. 5.3. Specific Use Standards

~~Kennel in B 1, B 2 and B 3 Districts.~~

~~Livestock auction facility and daily livestock market sales facility in the A 1 and A 3 Districts.~~

~~Marina in A 1, R 1, R 2, R 3, R 4, B 1, B 2, B 3, M 1 and M 2 Districts.~~

~~Mortuaries or funeral homes in R 4 District.~~

~~Municipal or County owned parking lots, in any use district.~~

~~Municipal, County or privately owned recreation building or community center, in any use district.~~

~~Municipal, County, or Governmental building in any use district.~~

~~Nursing Home or Home for the Aged in any use district.~~

~~Outdoor firearms and outdoor archery range in the A 1, B 1, B 2, B 3, M 1 and M 2 districts.~~

~~Outdoor golf driving range in A 1, B 1 and B 2 districts.~~

~~Outdoor Market in the A 1, A 3, B 1, B 2, B 3, M 1 and M 2 Districts.~~

~~Outdoor paintball course in the A 1, B 1, B 2, B 3, M 1 and M 2 districts.~~

~~Outdoor theaters in any use district except "R1C" and "R2C" Districts.~~

~~Parking areas, public (off site) in an A 1, R 1, R 2, R 3, R 4, B 1 and/or B 2 Districts.~~

~~Penal or correctional institutions, in any use district.~~

~~Pet Shop with outdoor pens and/or runs in A 1, A 3, B 1, B 2 and B 3 Districts.~~

~~Police station or fire station, in any use district.~~

~~Private Clubs, Fraternal Organizations, Lodges or Adult Organizations in "A", "R3C", "R4C" or "B" Districts.~~

~~Public buildings including art gallery, post office, library, museum, or similar structures in any use district.~~

~~Public or private park or playground, in any use district.~~

~~Public or privately owned and operated fairgrounds, permanent carnivals, kiddie parks, or other similar amusement centers, in any "A1C", "B" or "M" District.~~

~~Public Utility filtration plants, water reservoirs, pumping stations, heating plants, power plants, gas holders, gas regulation center, steam generating stations, electric transformer stations and substations, local transmission and distribution facilities (except when located in any public way or easement~~

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Article 5 Use Standards
Sec. 5.3. Specific Use Standards

~~provided for them in an approved subdivision), commercial broadcast, relay or receiving towers and telephone exchanges in all use districts.~~

~~Railroad right-of-way, in any use district. ———~~

~~Reserved. (Amended 5/21/2012 PC12-04)~~

~~Resort hotel on a lake or river in any use district except an "M" District.~~

~~Rest homes and nursing homes in any "R1C" and "R2C" District.~~

~~Roadside stands for the sale by the owner/producer of fruits, vegetables and plant nursery products raised on the premises in A-1, A-3, A-4, R-1, R-2, R-3, and R-4 districts.~~

~~Saw mills in "A" or "M" Districts.~~

~~Schools, elementary, high and college, public or private, in any "A", "B" or "R" District, but not trade or commercial schools operated for profit.~~

~~Stable, livery, in any "B" or "M" District.~~

~~Subordinate dwelling in a R1C District.~~

~~Tattoo Parlor in a B-3 District (Amended 1/5/98 PC98-01)~~

~~The parking or storing of school buses in any A, R, or B districts. (Amended 11/7/94 PC 94-31)~~

~~Tire recapping in "B2C" and "B3C" Districts.~~

~~Trailer, Mobile Subdivisions, as provided for in Specification J. (Amended 11/21/94 PC 94-35)~~

~~Trailers, Mobile Home Parks as provided for in Specifications J. (Amended 11/21/94 PC 94-35)~~

~~Trailers, Mobile Homes and Sectional Manufactured Housing (not complying with the minimum standards and requirements for one and two family dwellings), as provided in Specification J. (Amended 11/21/94 PC 94-35)~~

~~Veterinarian Clinic with outdoor pens and/or runs in A-1, A-3, B-1, B-2 and B-3 Districts.~~

~~Warehousing and storing, including construction storage yards, in "A" and "B" Districts.~~

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Sec. 5.4. Wireless Communication Facilities

Note to Reviewers: *This Section is almost identical to the County's existing Wireless Communication Facilities written policy, which was never adopted into the Zoning Ordinance.*

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 public hearing as stipulated in XXXX 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 a discussion 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

Article 5 Use Standards

Sec. 5.4. Wireless Communication Facilities

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.
- 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 and determine the 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/egress shall only be from approved access points.

F. Screening

1. 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 state or federal highway or a Park and Open Space use.

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 principal 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

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review. "non-ag"
and "detached"
added

- A. The accessory use or structure must be subordinate to and serve a principal use or principal structure.
- B. Except as provided in this Section, a **non-agricultural** accessory structure must be subordinate in height to the principal 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 principal structure has commenced. No accessory structure may be used unless the principal structure also is being used.

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Shall not be permitted prior to the erection of the principal building.

Note to Reviewers: *The first part of D. above is currently in practice but not codified.*

~~ACCESSORY BUILDING OR USE: An "accessory building or use" is one which:~~

~~Is incidental and subordinate to, and serves the principal building or principal use; and~~

~~Is customarily and commonly associated with the principal building or principal use served; and~~

~~Is subordinate in area, extent, and purpose to the principal building or principal use served; and~~

Art.
1,
Sec. 2

- E. An accessory use or structure must contribute to the comfort, convenience, or necessity of occupants of the principal use building or principal use structure served.; and
- F. An accessory use or structure must be ~~Is~~ located on the same zoning lot, and in the same zoning district and under the same ownership as that of the principal use building or principal use structure served.; and

~~Is not specifically enumerated as a special use in the particular zoning district in which the principal building or principal use served lie; and~~

~~An "accessory use" includes, but is not limited to:~~

~~A children's playhouse, garden house, and private greenhouse.~~

~~A garage, shed, or building for domestic storage.~~

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

~~Incinerators incidental to residential use.~~

~~Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless that storage is prohibited by the district regulations.~~

~~Storage of goods used in or produced by manufacturing activities, on the same lot or parcel of ground with those activities, unless that storage is prohibited by the district regulations.~~

~~Off street motor vehicle parking areas, and loading and unloading facilities.~~

~~Signs, other than advertising signs as permitted and regulated in each district incorporated in this Code Section.~~

~~Carports.~~

~~Swimming Pools if private, being incidental to use by owner and guests.~~

~~Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.~~

Art.
1,
Sec. 2

5.5.2 Setbacks

~~ACCESSORY BUILDINGS.~~

- A. No detached accessory structure may be located closer than **six** feet to any other structure.
- B. Detached accessory buildings **structures have a minimum side setback of five feet.** ~~shall not be located within five feet of a side lot line in any district. Detached accessory buildings~~ structures have ~~shall not be located within 10 feet of the rear lot line in any district~~ **a minimum rear setback of 10 feet.**
- C. Accessory structures must comply with the front setback standards for the principal structure established in Article 4.
- D. Except as provided below, the normal maximum height for an accessory structure is permitted ~~shall be 18 feet or one and one-half (1-1/2) stories above the average level of the ground adjacent to the exterior walls of the building. The~~ maximum height of an accessory buildings structure may be increased to 25 feet or two (2) stories if the minimum required five-foot distance from side lot lines in setback is increased one foot for each two feet that the structure is above 18 feet. above the normal maximum height permitted.

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5.5.3 Accessory Dwelling Unit

~~Servants' quarters if part of an accessory garage and solely for occupancy by a servant or household employee of the occupants of the principal dwelling and the family of that servant or employee.~~

Article 5 Use Standards

Sec. 5.5. Accessory Uses and Structures

Note to Reviewers: *Accessory dwelling units (dewty houses, granny flats, mother-in-law units, etc.) currently require a Use Variance, which is difficult to prove a hardship for. This provision would allow them by right, subject to limitations. They were originally proposed to be allowed outside of just A-1, in the R zoning districts, in order to allow aging relatives to live nearby, and to provide income to the property owner to offset a mortgage or maintenance of the property. But the Policy Committee did not support this.*

Change since
Committee review.
Ability to do
accessory dwelling
unit in residential
district removed &
1,200 sq ft total
allowed if storage is
incorporated

1. Accessory dwelling units are permitted by right or by Special Use Permit, as appropriate, in association with a single-family dwelling or Educational Facilities use on property one acre or more in lot area in the A-1 zoning district.
2. 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 or the Board of Zoning Appeals must approve an amendment to the existing Special Use Permit site plan for an Educational Facility.
3. Where associated with a single-family dwelling in the A-1 zoning district, the accessory dwelling unit is allowed by right.
4. 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.** In no case may the accessory dwelling have more floor area than the principal dwelling.
5. The maximum height of an accessory dwelling unit is a single story of livable space.

Note to Reviewers: *A garage apartment is two stories, but would still be a single story of livable space.*

6. When associated with a single-family dwelling, the owner of the property must reside in either the principal dwelling or the accessory dwelling unit.
7. 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.
8. An accessory dwelling unit must be served by the same curb cut that serves the principal dwelling or Educational Facility.
9. A minimum of one off-street parking space must be provided in addition to the off-street parking required for the principal dwelling or Educational Facility.
10. An accessory dwelling must either be located within the principal structure (and meet the principal structure setback and yard requirements) or meet the standards in Sec. 5.5.2 above.

Article 5 Use Standards

Sec. 5.5. Accessory Uses and Structures

Art.1,
Sec. 2

~~A non-paying guest house or rooms for guests within an "accessory building," if those facilities are used for the occasional housing of guests of occupants of the principal building and not for permanent occupancy by others as housekeeping units.~~

Art.3,
Sec. 7

~~except that in A two-story garage with living quarters upon the second floor, those quarters may be occupied by a servant of the family occupying the main structure and the family of that servant. A guest house may also be constructed without a kitchen or rooms for guests within an accessory building if those facilities are used for the occasional housing of guests of the occupants of the main structure and not for permanent occupancy by others as a housekeeping unit. The zoning lot shall have the required open area for private sanitary disposal where no public sewer exists.~~

Note to Reviewers: *Guest House and servants quarters do are not needed if accessory dwelling units are in the draft.*

5.5.4 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 districts subject to the following standards.

- A. A bed and breakfast homestay may have a maximum of ~~has no more than~~ six guest rooms.
- B. A bed and breakfast homestay may provides sleeping accommodations for no more than 15 consecutive days to a particular guest.
- C. A bed and breakfast homestay is limited to one double-faced sign not to exceed four square feet in area. ~~per side;~~

5.5.5 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.

Note to Reviewers: *Standards for Firearms Range, Outdoor Noncommercial was removed at the request of the Policy Committee.*

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. Any home occupation shall must be carried on wholly within the principal building or within a building accessory to it.
- B. A maximum of one person outside of the occupants of the residence may be employed in the home occupation. ~~, and only by occupants of the residence.~~

Note to Reviewers: *This is proposed so that a business that currently needs to be considered a home workshop/business due to having an outside employee (and therefore need an SUP that is very likely to be approved) can have the employee without needing an SUP.*

- C. There ~~shall~~ may be no article sold or offered for sale on the premises.
- D. There ~~shall~~ may be no service sold or offered for sale on the premises that would generate vehicle or customer/~~client~~ traffic to the premises beyond traffic normally associated with the residential use.

Note to Reviewers: *The existing language may be too strict in this area. Typically, ordinances prohibit the sale of merchandise in a home occupation but allow limited service-oriented occupations. Under the existing rules something as innocuous as a piano teacher would not technically be allowed to have a home occupation, but would instead need a SUP for a home workshop / business. The added language above attempts to soften the standard.*

- E. There ~~shall be no~~ Signs advertising the home occupation are prohibited.

Note to Reviewers: *It is common to allow a small wall sign (1 or 2 square-feet) for the home occupation. But the no-sign rule remains in this draft.*

Art.1,
Sec. 2

- F. There ~~shall~~ 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 principal building.
- G. A The home occupation ~~shall~~ must not produce any noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.

5.5.7 Home Workshop / Business

Art.1,
Sec. 2

A home workshop / business is allowed by Special Use Permit in association with any single-family dwelling in any zoning district subject to the following standards.

- A. A The home workshop / business ~~shall~~ must be carried on wholly within the principal building or within a building accessory to it.
- B. A The home workshop / business ~~shall~~ may be operated only by occupants of the residence and by ~~no more than 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. The ~~premises shall be~~ A home workshop or business is limited to a single one non-illuminated wall or freestanding sign which may be double faced, but shall not to exceed four square feet per side. If freestanding, the sign must be ~~shall~~ 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 and shall not exceed four feet in height.
- D. There ~~shall be no~~ Display or storage of commercial vehicles, materials or products is prohibited except within a totally enclosed building.

Change since Committee review. Allowance for 3 employees for larger home workshops removed. SUP instead of Use Variance for more than 2. Commercial vehicles prohibited, as has been the policy with the BZA.

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- E. ~~A~~ The home workshop or business shall must not produce noise, vibration, smoke, dust, odors, heat or glare which can be detected beyond the premises.
- F. On properties in the A-1 zoning district that are more than three acres 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.

Change since
Committee
review. 200%
allowance.

~~Any home workshop or business meeting these standards shall require a special use in any use district.~~



5.5.8 Personal Residential Storage

~~ACCESSORY BUILDING, USES PERMITTED:~~

~~Private garage (attached or detached), storage, exclusive of industrial or commercial use are permitted provided the total square footage of all accessory buildings is less than the total square footage of the living area of the primary structure.~~

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- A. Structures for storage of personal items, such as a garage and storage sheds, 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 principal dwelling.
- B. In the Agricultural zoning district, the storage of agricultural equipment in accessory structures is exempt from the square footage limitation.

Note to Reviewers: *The current standards require that the accessory storage square footage not exceed the square footage of the house. Storage spaces exceeding this standard are routinely approved by the BZA by Variance. This draft allows accessory storage of personal items to exceed the square footage of the house by 110%.*

- C. On properties in the A-1 zoning district that are more than three acres 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.

Change since
Committee
review. 200%
allowance.

5.5.9 Place of Worship

A place of worship as an accessory use to a single-family dwelling is allowed by right in the A-1 zoning districts provided that the property has a minimum lot area of three acres.

Note to Reviewers: *This is in the draft so that Amish house churches are made clearly allowable.*

5.5.10 School Bus Parking, Outdoor

Note to Reviewers: School bus parking as an accessory use currently requires a SUP in the A-1, R and B zoning districts. This allows it by right, subject to limitations, in the A-1, R and B districts.

Outdoor parking of a school bus with current registration used for the transportation of students in grades kindergarten through 12, as an accessory use to a single-family dwelling is allowed by right in the A-1, R- and B- zoning districts subject to the following standards.

- A. The property must have a minimum lot area of one acre.
- B. An outdoor bus parking area must be screened from view from the public right-of-way and neighboring residential properties by one or more of the following:
 1. An opaque fence or masonry wall a minimum of six feet in height;
 2. Evergreen plantings a minimum of eight feet in height at the time of installation; or
 3. The dwelling itself.
- C. The bus parking area must be behind the plane of the front wall of the dwelling.
- D. In the A-1 and R- zoning districts, an indoor bus parking structure must be designed and constructed to compliment the principal 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.

~~The parking or storing of school buses in any A, R, or B districts. (Amended 11/7/94 PC 94-31)~~



5.5.11 Solar Panel Array

Note to Reviewers: The existing ordinance does not address solar panels and they are proposed at the counter about once a month, on average. Policy has been that roof-mounted arrays are allowed by right and ground mounted arrays are allowed by Special Use Permit.

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 street

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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 via the building's façade parapet or similar mechanism.
3. A 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 greater than 850 square feet in area or on properties less than three acres in lot area require a Special Use Permit.
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 100 feet from any property or right-of-way line.

Change since Committee review. Ground-mounted allowed by right on larger properties if setbacks are provided.

Sec. 5.6. Temporary Uses

Temporary uses have characteristics which require certain controls in order to insure compatibility with other uses in the zoning district within which they are proposed and to guarantee that a use originally proposed to be temporary does not become a permanent use without the associated improvements required for a permanent use.

5.6.1 Temporary Use Permit Required

The temporary uses in this Section are allowed in the frequency stated upon approval of a Temporary Use Permit in accordance with Sec. 3.12.

5.6.2 General Standards

- A. All structures associated with a temporary use must be promptly removed upon the cessation of the use. Upon cessation of the use, the site must be returned to its previous condition, including the removal of all trash, debris, signs or other evidence of the temporary use.
- B. Off-street parking for a temporary use must not eliminate required parking for any of the other existing uses on the site.
- C. Adequate on-site rest room facilities and refuse containers must be provided, where appropriate. All litter generated by the event or use must be removed at no expense to the County or the Towns under the jurisdiction of this Ordinance.
- D. A temporary use must not produce excessive noise, vibration, smoke, dust, odors, heat or glare what can be detected beyond the premises.
- E. No property may have more than four of the events listed below in one calendar year.
- F. Unless otherwise permitted in the Specific Temporary Use Standards below, a Temporary Use Permit expires 90 days after approval.

Change since
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review. Removed
provision about
traffic safety at
request of PC.

5.6.3 Specific Temporary Use Standards

The following temporary uses are allowed in the frequency stated below.

A. **Commercial Circuses, Carnivals or Fairs**

Commercial circuses, carnivals or fairs, are permitted for a maximum of two consecutive weeks in any calendar year.

B. **Concrete Batch Plant**

- 1. A temporary concrete batch plant must be located a minimum of 1,000 feet from any principal residential structure.
- 2. A batch plant must be removed from the property within 14 days of completion of the project.

3. 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.



C. **Emergency Dwelling**

A mobile or manufactured home may be used as a temporary dwelling on a site where the principal residential structure has been damaged and is uninhabitable subject to the following standards.

1. The family to live in the temporary mobile or manufactured home must be the family displaced from the damaged permanent residence.
2. Prior to issuance of a Temporary Use Permit, the property owner must submit to the Zoning Administrator a cost estimate and schedule for repairs and a site plan showing placement of the temporary dwelling and all other structures on the property.
3. The permit for the temporary dwelling is valid for 180 days. The Zoning Administrator may renew the Temporary Use Permit for a second 180-day period if the property owner has made progress toward rebuilding a permanent dwelling on the property. If the temporary dwelling will be used for longer than 180 days, then the property owner must apply for a Special Use Permit for the temporary dwelling.

Note to Reviewers: *This is current policy being codified into the Ordinance.*

D. **Temporary Religious or Revival Activities**

Temporary religious or revival activities in tents in association with a place of worship are permitted for a maximum of two consecutive weeks, twice every calendar year.

E. **Tent Sales**

Tent sales by a business permanently occupying the property on which the sale is conducted are permitted for a maximum of seven days, once every six months. The business must have a valid Certificate of Occupancy prior to approval of a Temporary Use Permit.

F. **Grand Opening Sales**

Grand opening sales, including outside food and beverage vending and entertainment, are permitted for three consecutive days, once per Certificate of Occupancy.

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Note to Reviewers: *These uses will be worked into the main use table and may possibly become SUPs.*

The following uses may be permitted in a M-2 District if located more than 300 feet from any part of an "R" District or residential use subject to the approval of the Board of County Commissioners by specific amendment of this ordinance after paying reasonable regard to IC 36-7-4-603, and after receiving a recommendation from the Plan Commission following a public hearing.

An Adult Use

~~Animal and poultry slaughterhouse for wholesale purposes and stockyards.~~

~~Acetylene gas manufacture.~~

~~Acid manufacture.~~

~~Ammonia bleaching powder or chlorine manufacture.~~

~~Arsenal.~~

~~Asphalt manufacture or refining.~~

~~Celluloid manufacture or treatment.~~

~~Cement, gypsum, lime or plaster of Paris manufacture.~~

~~Coke ovens.~~

~~Creosote treatment or manufacture.~~

~~Disinfectant, insecticide or poison manufacture.~~

~~Distillation of bones, coal or wood.~~

~~Dyestuff manufacture.~~

~~Fat rendering.~~

~~Fertilizer manufacture.~~

~~Fireworks or explosive manufacture or storage.~~

~~Gas (illuminating or heating) manufacture.~~

~~Glue, sizing or gelatin manufacture.~~

~~Gunpowder manufacture and storage.~~

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~~Incinerator for reduction of garbage, dead animals, offal or refuse and automobile bodies, except for governmental purposes.~~

~~Paint, oil (including linseed), shellac, turpentine, lacquers or varnish manufacture.~~

~~Petroleum refining.~~

~~Rock crushing.~~

~~Rubber or gutta-percha manufacture or treatment.~~

~~Salt works.~~

~~Sausage or bologna manufacture.~~

~~Smelters.~~

~~Stone mill or quarry.~~

~~Sulfuric, nitric, hydrochloric or picric acid manufacture.~~

~~Tallow, grease or lard manufacture or refining.~~

~~Tar distillation or manufacture.~~

~~Tar roofing or water-proofing manufacture.~~

~~Vinegar manufacture.~~

~~Yeast plant.~~

~~In general, those uses which have been declared a nuisance in any court or which in the opinion of the Zoning Administrator are or may be unreasonably dangerous, obnoxious or offensive due to the emission of odor, vapor, smoke, gas, noise or radioactive substance.~~

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