



## **Zoning Ordinance**

### **Module 4: Remaining Provisions**

**Technical and Policy Committee Draft**

August 2014

*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.*

*If you have a hard copy and would like to see a digital version, scan this QR Code with your mobile device to access the Elkhart County Planning Department's Zoning page, where you can find digital versions of this, and all other Zoning Ordinance Re-write related documents.*


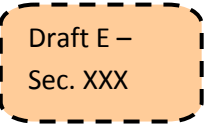
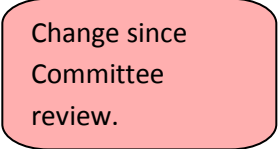



# Note to Draft Reviewers

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 <del>Deleted Text</del>	Text that has been added to or deleted from the existing regulations
<b>COMMENTARY / QUESTON / NOTE</b>	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.
	<p>Notes within the margin that show the location in the Zoning Ordinance of text that is existing, modified or deleted.</p> <p>The reference in the call-out applies to all subsequent text in the draft until the next call-out appears in the margin.</p>
	Shows where language from Draft E has been copied over to this draft. A citation is provided.
	Shows changes that have taken place in Articles 1 through 5 as part of drafting Module 3
	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

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**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.*

Art.1,  
Sec. 1

## 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 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.

#### **Character**

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

#### **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.

Draft E –  
Sec. 1.04

March 2014:  
Removed  
Circulation &  
Environmental  
Integrity from  
Purpose

Draft E –  
Sec. 1.04

**1.2.7 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 **unless the context clearly indicates otherwise.**

- A. Words in the present tense include the future and vice-versa; words in the singular number include the plural number and vice-versa.
- B. The word "building" includes the word "structure."
- C. The words "must" or "must not" and "may not" are mandatory and the word "may" is permissive.
- D. The word "district" means zoning district.
- E. The word "County" means Elkhart County, Indiana.
- F. The words "petitioner" and "applicant" are synonymous.
- G. If a feminine term is used, the masculine also applies and vice-versa.
- H. The word "and" must be construed to include all connected items in a series or set of conditions or provisions.
- I. The word "or" must be construed to include one or more of the items in a series or set of conditions or provisions, unless the context clearly indicates otherwise.

Draft E –  
Sec. 1.03

Draft E –  
Sec. 1.08



March 2014:  
Added context  
statement

Art.1,  
Sec. 2

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

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- 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.

Some  
from  
Draft E –  
Sec. 1.07

**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, 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

Draft E –  
Sec. 1.07

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.

Specifications  
I, Sec. 11

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

Draft E –  
Sec. 1.07

1.8.1 Article 10 contains the definitions used throughout this Ordinance. Definitions related to sign types are contained in Sec. 7.4.

1.8.2 Words, phrases and terms used in this Ordinance that are not defined in Article 10 must be construed to have their usual and customary meanings indicated by a current dictionary of general use except where the context clearly indicates a different meaning.

## Sec. 1.9. Transitional Provisions

*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.*

### 1.9.1 Planned Unit Development

Draft E –  
Sec. 1.10

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;
  - 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

Draft E –  
Sec. 1.10

**Article 1 General Provisions**

**Sec. 1.10. Compliance**

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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**

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.

Draft E –  
Sec. 1.05

**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;
- B.** Waive any right of the County under any Article, Specification, Section or provision of any prior Zoning Ordinance; or
- C.** Vacate or annul any rights obtained by any person, firm or corporation by lawful action of Elkhart County, or by virtue of, any prior Zoning Ordinance.

Change since  
Committee  
review

**Article 1 General Provisions**

Sec. 1.12. Severability

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**Sec. 1.12. Severability**

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

Draft E –  
Sec. 1.06

**Sec. 1.13. Repeal of Prior Ordinance**

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.

Change  
since  
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tee  
review

**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

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**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**

Art.6,  
Sec.1

**2.4.1 Designation**

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.

Change since  
Committee  
review

**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

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#### 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.

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

~~A No~~ person shall ~~may not~~ communicate with any Board of Zoning Appeals member prior to a hearing or decision with the intent to influence the actions of any 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

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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.

Art.5,  
Sec.1

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.

**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.

Art.5,  
Sec.1

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,  
Sec.3

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

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Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Sec. 7.5.2 of this Ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

Maintain a record of the surveyor's or engineer's certificate of the "as built" elevation of the lowest floor (including the basement) of all new and/or substantially improved buildings and the "as built" flood proofed elevation of all buildings subject to Sec. 7.5.3 of this 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
<b>Building Commissioner</b>									
Building Permit	D	R							Sec. 3.13
Sign Permit	D	R							Sec. 3.14
Certificate of Occupancy	D	R							Sec. 3.15
<b>Zoning Administrator Action</b>									
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
<b>Hearing Officer Action</b>									
Special Use Permit (Mobile Home)		R			<D>				Sec. 3.6
Developmental Variance		R			<D>				Sec. 3.7
<b>Board of Zoning Appeals Action</b>									
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
<b>Board of County Commissioners or Other Legislative Body Action</b>									
Zoning Ordinance Text Amendment;			R				<R>	<D>	Sec. 3.2
Zoning Map Amendment (Rezoning)			R				<R>	<D>	Sec. 3.3
General Planned Unit Development			R	C			<R>	<D>	Sec. 3.4
Detailed Planned Unit Development			R	C			<R>	<D>	Sec. 3.5

R = Review and Recommendation

D = Decision

C = Determination of technical correctness or incorrectness

< > = Public Hearing Required

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

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# ARTICLE 3 DEVELOPMENT REVIEW PROCEDURES

## Sec. 3.1. Common Review Procedures

**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
<b>Legislative</b>	
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 <a href="#">Ordinance and Site Plan</a>
<b>Quasi-Judicial</b>	
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 <a href="#">Development Plan-Plat</a>
<b>Administrative</b>	
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.

Specifications I, Sec. 3

## Article 3 Development Review Procedures

### Sec. 3.1. Common Review Procedures

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#### 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.

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#### 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.

Art.7,  
Sec.1

#### 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

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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**

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.

*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.

Art.7,  
Sec.1

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**Article 3 Development Review Procedures**

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



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farther into a required setback than the approved Developmental Variance allows.

- 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:

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, Site Plan or Plat, 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

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has an approved Planned Unit Development but that has no approved General Development Plan, Site Plan or Plat.

**3.1.12 Commitments**

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

Art.6,  
Sec.9

- 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:
- Establishing and maintaining sound, stable and desirable development within the jurisdiction of this Ordinance;
  - Correcting errors in the text; or
  - 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.

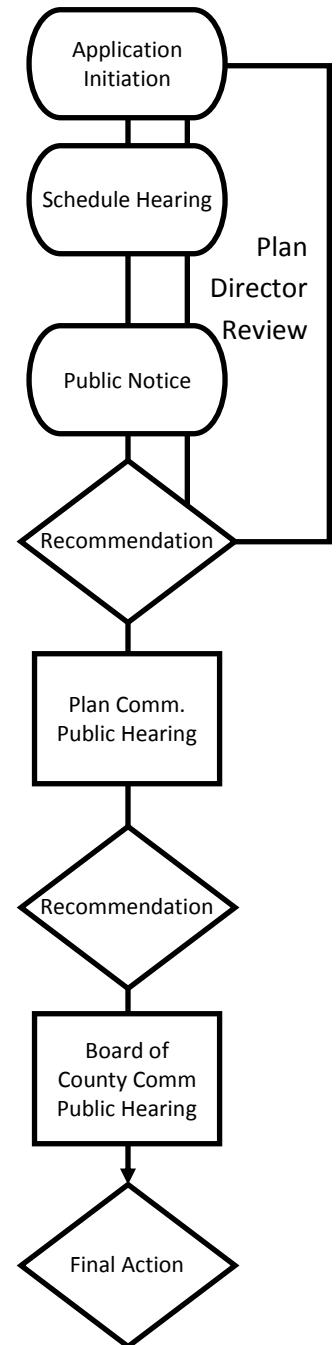
Art.7,  
Sec.1

### 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**
- 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 for Flood Hazard Control**

1. After it has approved a Zoning Ordinance Text Amendment related to flood hazard control that specifically and directly impacts an incorporated town within the jurisdiction of this Ordinance, the Board of County Commissioners must forward the Amendment to the appropriate 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:
- Rezoning an area; or
  - 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

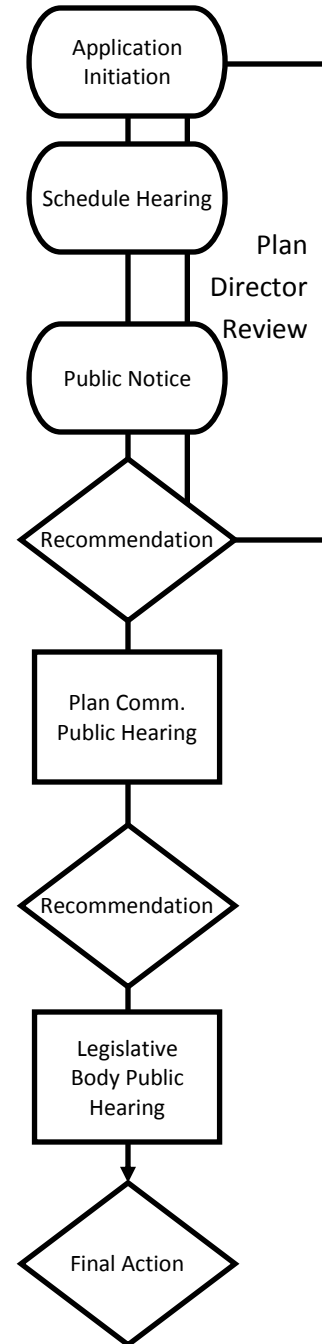
The appropriate legislative body may hold a public hearing and approve, approve with commitments or deny the Zoning Map Amendment.

### 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;



**Article 3 Development Review Procedures**

Sec. 3.3. Zoning Map Amendment (Rezoning)

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- B. The request is in character with current conditions, structures and uses on the subject property and in its surroundings.
- 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:

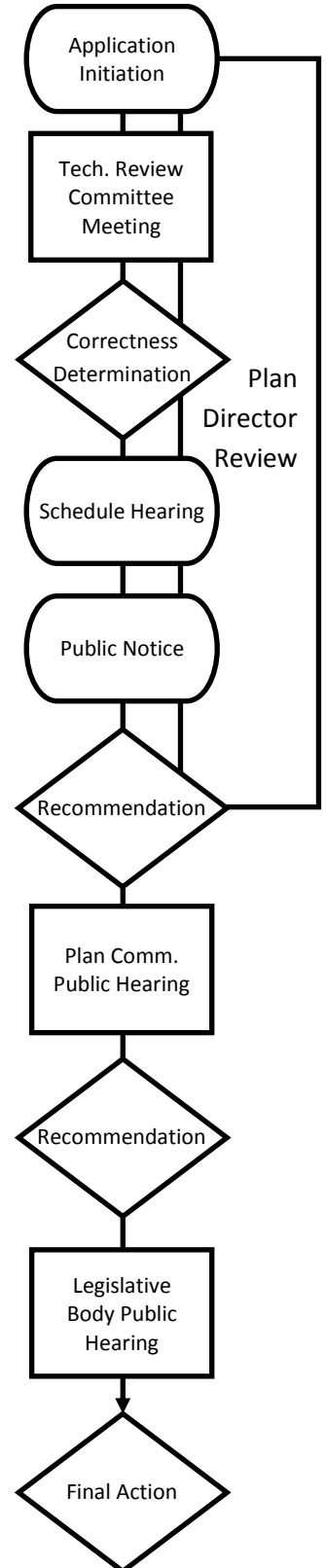
1. General Planned Unit Development; or
2. Detailed Planned Unit Development.

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 **Planned Unit Development** Site Plan or Detailed **Development Plan/Planned Unit Development Plat**, as required for a Detailed Planned Unit Development.

D. Except as allowed by the extension provisions in Sec. 3.4.3, within seven years of approval, all adopted General Planned Unit Developments 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.

E. ~~The adoption~~ approval of a General Planned Unit Development Ordinance by the Plan Commission and the Legislative body does not constitute an approval of a Detailed Planned Unit Development.

~~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.~~



Specifications I, Sec. 4

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

Art.1, Sec.2

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

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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 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

~~When 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~~



**Article 3 Development Review Procedures**

Sec. 3.4. General Planned Unit Development

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

General Planned Unit Developments

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.)~~

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

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

Distance to nearest public water or sewer utility.

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 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:

Specifications  
I, Sec. 6

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;

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

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Planned Unit Development ordinance number;

Soils as identified in the Soil Report;

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.

### **Article 3 Development Review Procedures**

#### **Sec. 3.4. General Planned Unit Development**

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~~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 (DPUD) review procedure provides the Plan Commission and the appropriate legislative body with the opportunity to review and take final action on a Planned Unit Development application, including its associated DPUD Site Plan and DPUD Plat.
- B. In addition, see Sec. 3.4.1.

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.

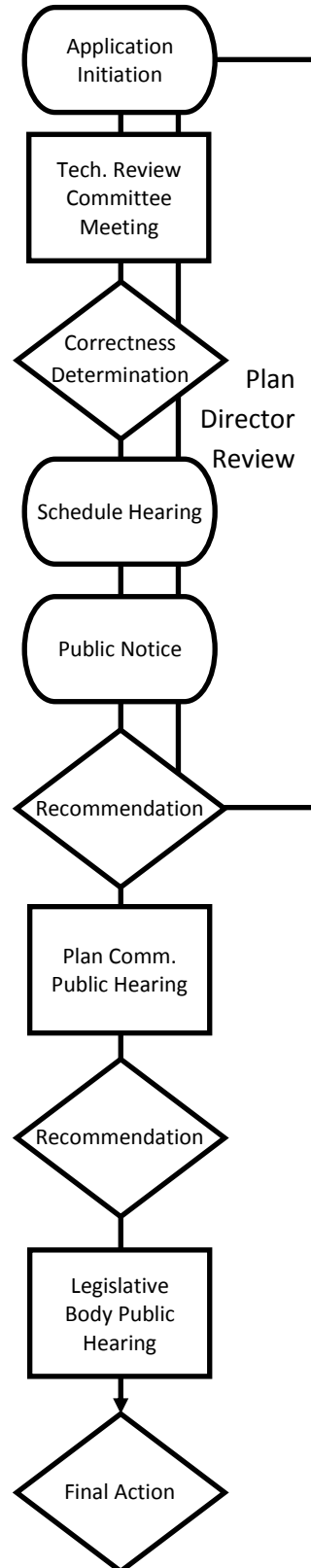
In addition to the GPUD and DPUD designation the underlying zoning district will be added as a suffix with a hyphen.

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

### 3.5.2 Review Process

#### A. DPUD Site Plan and Ordinance

1. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the DPUD Site Plan and DPUD Ordinance portion of a Planned Unit Development application, following the review process and review criteria established for a Zoning Map Amendment set forth in Sec. 3.3.
2. In addition to the Zoning Map Amendment review process set forth in Sec. 3.3, prior to review and recommendation by the Plan Commission, the Technical Review Committee must deem the DPUD



Specifications I, Sec. 2

**Article 3 Development Review Procedures**

Sec. 3.5. Detailed Planned Unit Development

---

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 DPUD Site Plan or DPUD Plat deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, modifications related to:
  - a. Access and circulation;
  - b. Signs;
  - c. Parking;
  - d. Building design, location, height, orientation, or coverage;
  - e. Outdoor lighting;
  - f. Landscaping;
  - g. Homeowners or property owners associations;
  - h. Open space;
  - i. Topography; and
  - j. Screening.
4. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require that the DPUD Ordinance mandate any of the design elements listed in paragraph 3 above for the project.

**B. DPUD Plat**

1. A DPUD Plat associated with a DPUD is the subdivision plat for the project. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the DPUD 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 DPUD Plat 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

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~~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.~~

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

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

Specifications I,  
Sec. 3

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.

Specifications I,  
Sec. 3

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.



### 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 DPUD 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 DPUD 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 DPUD Plat complies with the approved DPUD Site Plan and DPUD 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

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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:~~

~~Soil 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 septics 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 septics)~~

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

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

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

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

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~~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.~~

~~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

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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.

Specifications  
I, Sec. 5

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.

Development Plan Requirements—All Development Plans will be on a 18 inch by 24 inch mylar with ten copies. 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;

### Article 3 Development Review Procedures

#### Sec. 3.5. Detailed Planned Unit Development

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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;

Auditor 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;

Specifications  
I, Sec. 5

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

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~~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;~~

~~Boundary 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

Specifications  
I, Sec. 5

hours in two foot intervals;  
Certifications 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 Planned Unit Development Plat concurrent with the Detailed Planned Unit Development Site Plan and supporting materials. However, the appropriate legislative body must approve the DPUD Site Plan and DPUD Ordinance prior to approval of the DPUD Plat.

### **3.5.5 Planned Unit Development Ordinance**

Specifications  
I, Sec. 9

~~The All ordinance DPUD Ordinance 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 DPUD Plat Development Plan to be incorporated by reference for Detailed Planned Unit Developments or the General Development Plan for General Planned Unit Developments;~~
- E. ~~The DPUD 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 DPUD; Planned Unit Development;
- I. List of all conditions imposed on the DPUD; 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 Recorders 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 Planned Unit Development Plat**

~~The approved Detailed Planned Unit Development Ordinance shall DPUD Plat 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.~~ The Plan Director may extend the deadline to record the Plat with a written request from the land owner.

March 2014:  
Added  
written  
extension  
from land  
owner

**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 O will be are permitted pertaining to Specifications L Flood Hazard Control. All variances deviations from O 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.~~



### Article 3 Development Review Procedures

#### Sec. 3.5. Detailed Planned Unit Development

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~~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 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

Specifications  
O, Sec. 1

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**

Specifications  
I, Sec. 1

An approved DPUD 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 DPUD and mixed use DPUD projects for the purpose of providing the public with assurance that a project has been built according to the approved DPUD documents. The provisions of this Section do not apply to purely residential DPUD projects.

**B. Major and Minor Discrepancies**

1. For the purposes of this subsection, the term "development" means a nonresidential DPUD or mixed use DPUD that received final approval on or after March 3, 1997.
2. An As-Built Drawing, at the same scale and on the same paper size as the approved DPUD 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 DPUD 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 DPUD Site Plan ~~Support Drawing~~;

### **Article 3 Development Review Procedures**

#### Sec. 3.5. Detailed Planned Unit Development

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- iii. A drainage failure occurred in a previous phase of the same development and such failure affected the watershed of the development; or
- iv. An Illicit discharge, as defined in Ordinance 06-293, Storm Water Regulation Associated With Illicit Discharges, occurred in a previous phase of the same development.

#### **b. Minor Discrepancies**

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

#### **C. Review Process**

After receipt and review of the As-Built Drawing, the Plan Director may take any of the following actions.

1. The Director may determine that the drainage improvements and impervious surface on the property achieve alternative compliance with the approved DPUD documents and allow the Certificate of Occupancy to be issued. For the purposes of this paragraph, "alternative compliance" means that the improvements on the property do not match what is shown on the approved DPUD documents, but that the As-Built Drawing and supporting materials demonstrate that the improvements meet or exceed local drainage regulations. Supporting materials, including but not limited to drainage calculations, must be sealed and certified by a professional engineer or a registered Indiana land surveyor, as permitted by State statutes.
2. The Director may require that the site be modified to comply with the approved DPUD documents and allow the Certificate of Occupancy to be issued after compliance is achieved.
3. The Director may accept a petition to amend the DPUD Site Plan ~~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 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

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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

## 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.

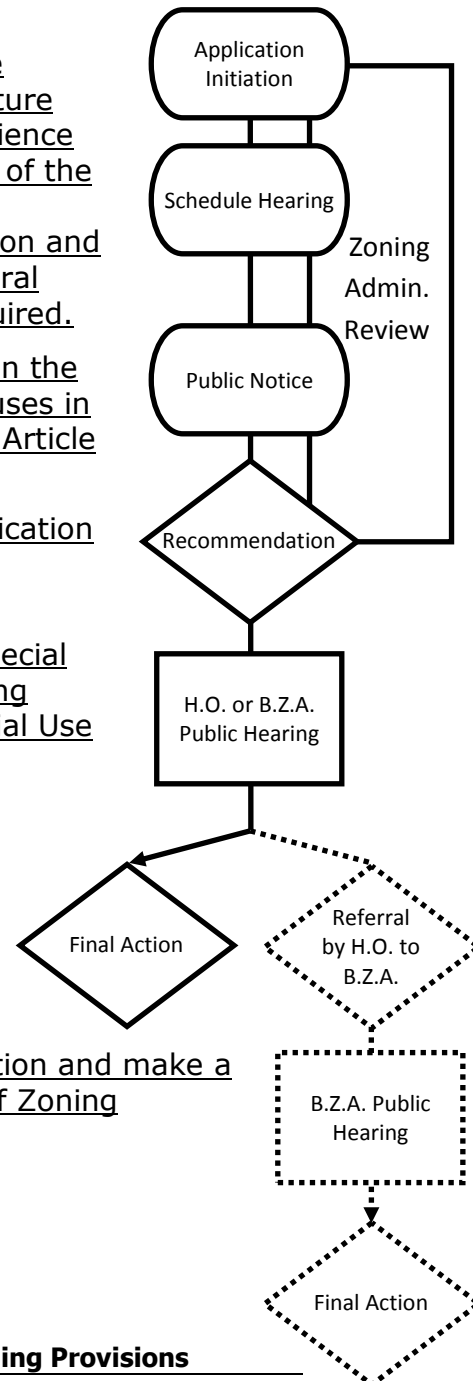
### 3.6.2 Review Process

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.



Specifications  
F, G

**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.

Art.6,  
Sec.12

Specifi  
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s F, B

Art.6,  
Sec.11

Art.6,  
Sec.7

## Article 3 Development Review Procedures

### Sec. 3.6. Special Use Permit

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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.

Specifications  
F, C

Specific  
ations  
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Draft E –  
Sec.  
7.08.F

Specifications  
F, D



### Article 3 Development Review Procedures

#### Sec. 3.6. Special Use Permit

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- 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.

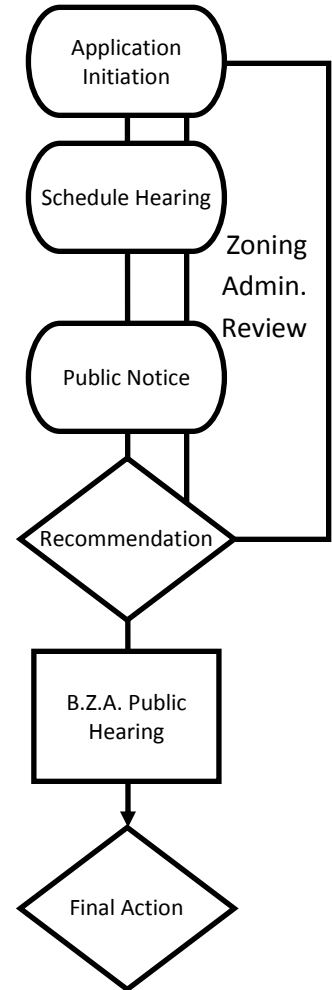
#### C. Board of Zoning Appeals Final Action

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.
- The need for the Use Variance arises from some condition peculiar to the property involved.



Art.6, Sec.7

**Article 3 Development Review Procedures**

Sec. 3.7. Use Variance

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- 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**

Draft E –  
Sec.  
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.

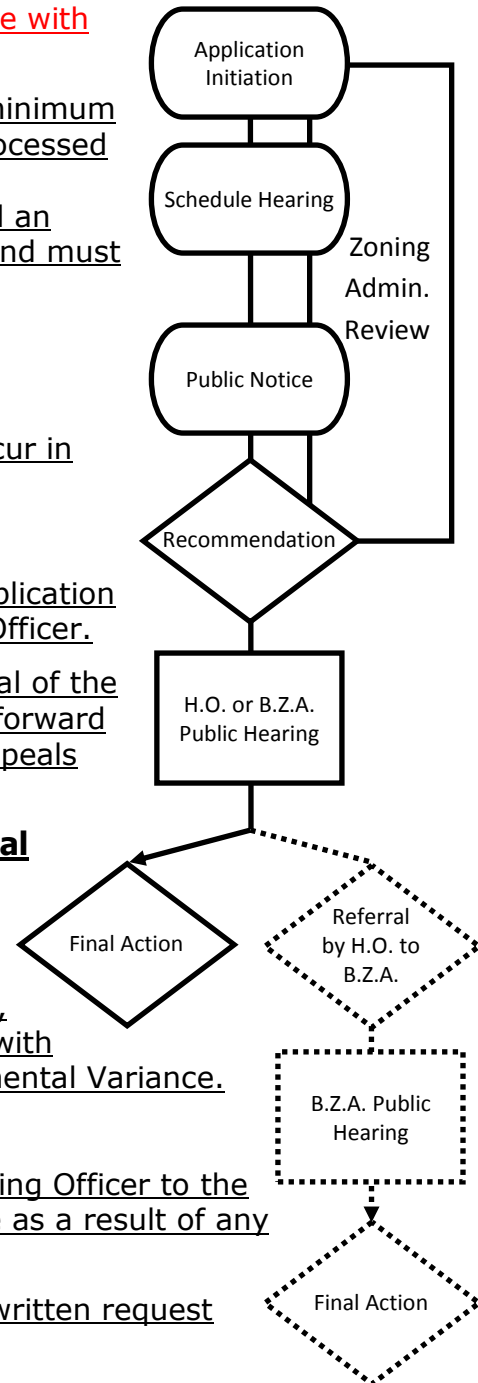
#### C. Hearing Officer or Board of Zoning Appeals Final Action

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;



Art.6,  
Sec.12

**Article 3 Development Review Procedures**

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 0 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.

Art.6,  
Sec.11

Specifications  
L, Sec. 7

~~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;~~

Art.6,  
Sec.7

~~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~~

~~The strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.~~

**Article 3 Development Review Procedures**

Sec. 3.8. Developmental Variance

**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

- A. The Board of Zoning Appeals may not issue a No Variance or exception for a residential use or structure within a floodway. ~~Sec. 7.5.2, may be granted.~~
- B. The Board of Zoning Appeals may issue a Variance to the terms and provisions of this specification from the provisions in 0 for a nonresidential use or structure subject to the following standards and conditions:
  1. Any Variance or exception issued for a nonresidential use or structure granted in a floodway, flood plain or flood fringe, subject to Sec. 7.5.2, will require a permit from Indiana Department of Natural Resources.
  2. A Variances or exceptions to the Building Protection Standards of Sec. 7.5.3 may be granted issued only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

- 3. 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~~

- 4. 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.

Specifications L, Sec. 7

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

Draft E – Sec. 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

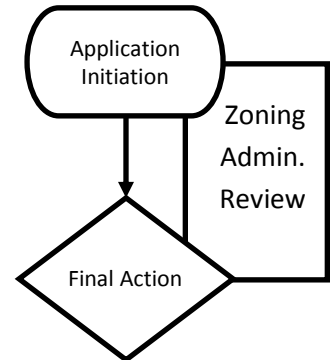
- A. Administrative Adjustments are minor specified deviations from otherwise applicable standards of this Ordinance as specified in this Section.
- B. Except as provided in Sec. 3.9.4 below, the Zoning Administrator has the authority to approve an Administrative Adjustment of up to 10 percent of any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



## Article 3 Development Review Procedures

### Sec. 3.9. Administrative Adjustment

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- 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.





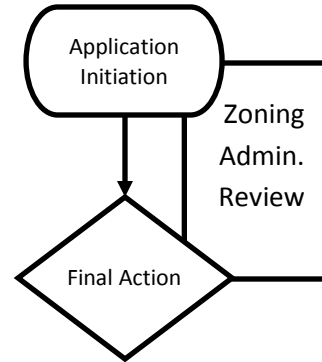
## Sec. 3.10. Written Interpretation

### 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 as requested by Policy Committee. Staff does not support this.

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;" 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:** 3 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.

Art.5,  
Sec.2

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.

**Article 3 Development Review Procedures**

Sec. 3.11. Improvement Location Permit

Draft E –  
Sec.  
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.

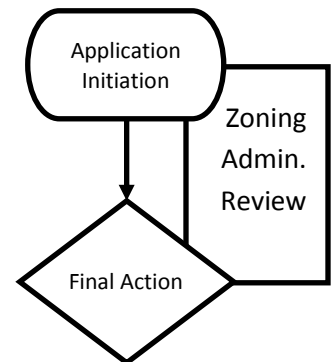
**3.11.3 Review Process**

~~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.



**Article 3 Development Review Procedures**

**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

Art.3,  
Sec.5

- 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. That Such easement shall must have a minimum width of 20 feet, unless an easement of lesser width was on record before January 18, 1960.

~~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.

- 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.

Specifications  
L, Sec. 2

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

### Article 3 Development Review Procedures

#### Sec. 3.11. Improvement Location Permit

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

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 0 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

Specifications  
L, Sec. 2

## Article 3 Development Review Procedures

### Sec. 3.11. Improvement Location Permit

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restrictive than the permit issued by the Indiana Department of Natural Resources.

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.

**Article 3 Development Review Procedures**

Sec. 3.11. Improvement Location Permit

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## 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.

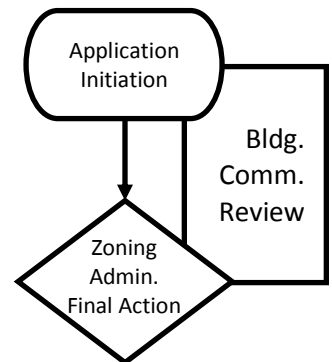
### 12.2 Review Process

#### 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

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**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

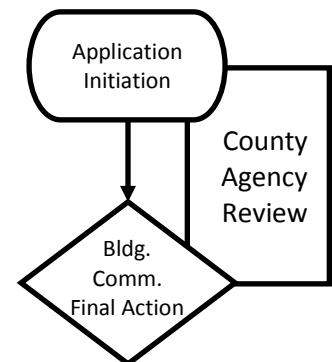
#### A. Prior County Agency Review

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

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#### **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.



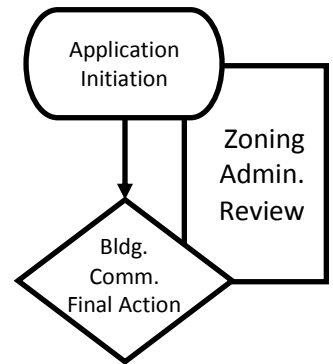
- A. The sign complies with the standards in Sec. 7.4 and any additional sign standards adopted by an appropriate legislative body.

**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**

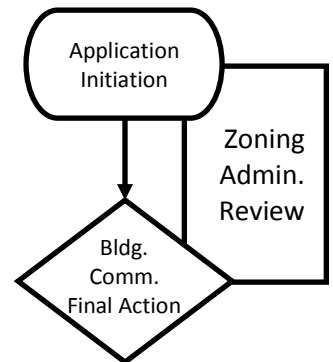
The Zoning Administrator must review the submitted application and make a recommendation to the Building Commissioner.

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.



### **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 DPUD or mixed use DPUDs may require an As-Built Drawing to be submitted to the Plan Director prior to the issuance of a Certificate of Occupancy in accordance with Sec. 3.5.9.

### **3.15.5 Establishment of a Use Without a Certificate of Occupancy**

*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~~ of a Hearing officer decision must be filed within five days from the date of the decision. All other Appeals 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.

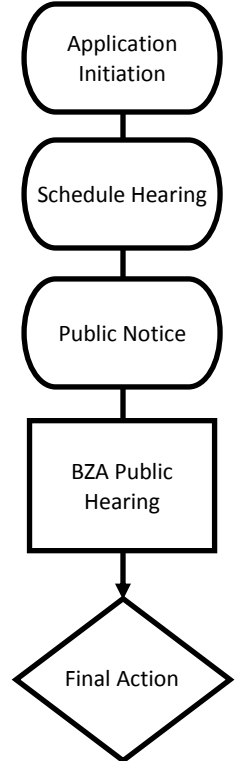
#### C. Zoning Board of Appeals Final Action

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.~~



**Article 3 Development Review Procedures**

Sec. 3.16. Appeal of Administrative or Hearing Officer Decision

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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
<b>Residential Districts</b>	
Single-Family Residential	R-1
Two-Family Residential	R-2
Multiple-Family Residential	R-3
Residential Mixed Use <del>Multiple-Family Residential and professional office</del>	R-4
<b>Nonresidential Districts "B" — Business Districts</b>	
Agricultural	A-1
Limited Neighborhood Business	B-1 <del>C</del>
General Business	B-2 <del>C</del>
Business and Wholesale <del>Heavy Business</del>	B-3 <del>C</del>
<b>"M" — Manufacturing Districts</b>	
Limited Manufacturing	M-1 <del>C</del>
General <del>Heavy</del> Manufacturing	M-2 <del>C</del>
Restricted Manufacturing District	M-3 <del>C</del>
<b>Special Purpose and Overlay Districts</b>	
Office <del>and Business</del> Park	<del>E-1</del> E-3
Business Park	E-2
Gateway Interchange Park	E-3
General Planned Unit Development <u>Overlay</u>	-GPUD
Detailed Planned Unit Development <u>Overlay</u>	-DPUD
Wellhead Protection <u>Overlay</u>	-WP
Conservation	A-2
Farmland Preservation	A-3
Confined Feeding Protection	A-4
Intense Livestock Operation	A-5

New name & new standards

March 2014:  
Removed proposed Town Overlay, CR 17 Overlay and Rural Res zoning district

Unused on map so removed

Merge Office & Business Park

Unused - Floodplain

**Note to Reviewers:** The "C" is stricken from each district designation. The "C" is

## Article 4 District Developmental Standards

### Sec. 4.1. General

*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.

Art.9,  
Sec. 1

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.*

Art.2,  
Sec. 2

Change since  
Committee  
review. Digital  
changed to  
paper.

- A. 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.
- B. 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.
- C. 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.
- D. 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.

#### 4.1.3 **Determination and Interpretation of District Boundaries**

Art.2,  
Sec. 3

- 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

**Article 4 District Developmental Standards**

Sec. 4.1. General

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.

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

Art.2,  
Sec. 4

Change since  
Committee  
review. Word  
smithing.

- 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. Except as provided in paragraph C below, if an appropriate legislative body vacates any public right of way, such as a street, alley, public way, railroad right-of-way or waterway, or other similar area is legally vacated, then the zoning districts adjoining each side of that public right-of-way street, alley, public way, railroad right-of-way, waterway, or similar areas, shall must be extended to the center of that vacation.
- C. If the boundary of a public right-of-way was established by ordinance and legal description, then the zoning district of the petitioner's property must be extended to the far edge of the vacated right-of-way.
- D. All area included in the vacation shall must then be subject to all appropriate regulations of the extended districts.

March 2014:  
Added C. to  
reflect state  
statutes

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

Art.2,  
Sec. 5

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.

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.*

March  
2014:  
Removed  
proposed  
Town  
Overlay, CR  
17 Overlay  
and Rural  
Res zoning  
district

### 4.2.1 **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.

### 4.2.2 **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.

### 4.2.3 **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.

### 4.2.4 **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.

### 4.2.5 **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.

#### 4.2.6 **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.*

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.

Similar  
to Draft  
E

#### 4.2.7 **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.*

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.

Similar  
to Draft  
E

#### 4.2.8 **B-3, Heavy Business**

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

#### 4.2.9 **M-1, Limited Manufacturing**

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

#### 4.2.10 **M-2, Heavy Manufacturing**

The purpose of the M-2, Heavy Manufacturing, zoning district is to accommodate moderately and highly intense manufacturing uses and to prevent encroachment by residential and lighter commercial uses that

would eventually lead to land use conflicts. Permitted uses may produce heavy truck traffic, noise, odor or smoke.

**4.2.11 ~~E-3~~ ~~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-3, 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 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.~~

~~E-3, Gateway Interchange Park District~~

Specifications E, Sec. 3

~~It is The purpose of the E-2, Gateway Interchange Park, zoning district is to accommodate integrated developments will be integrated with special attention given to aesthetic and architectural design that enhances the entryways to the Elkhart County.~~

**4.2.12 ~~-WH~~, Wellhead**

The purpose of the ~~-WH~~, Wellhead, overlay zoning district is to protect the public water supply by minimizing the potential for contamination. Uses that utilize or contain volatile, poisonous, toxic, or other material hazardous to the potability of water are restricted or prohibited. The overlay zoning district is appropriately applied to areas with a five-year recharge area for public water supply or well field.

Draft E – Sec. 3.06

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

Purpose:

Specifications I, Sec.1

## Article 4 District Developmental Standards

### Sec. 4.2. Zoning District Purpose Statements

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- 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~~

~~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.*

**4.2.14 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.

**4.2.15 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.

**4.2.16 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.

~~Corridor Planned Unit Development~~

~~Purpose:~~

~~The Purpose in to Provide for a larger area General Planned Unit Development to cover a corridor and consisting of larger tracts or tracts of land which may be zoned by different sections or owned 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:~~

Specifi  
cations  
I, Sec.7

Specific  
ations  
O,  
Sec.1

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

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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).

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 wetlands, 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

Art.3,  
Sec. 4

**Article 4 District Developmental Standards**

Sec. 4.3. Measurements and Special Cases

exceeds the minimum required lot area for the zoning district. In no case may the maximum density for the zoning district be exceeded due to such reduced lot size.

**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 setback.



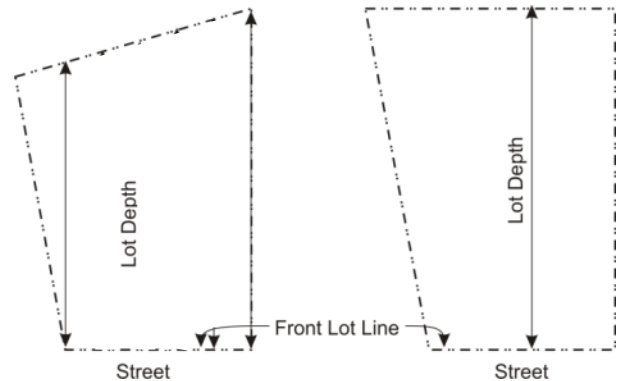
Art.1,  
Sec. 2

**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~~ 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.



Art.1,  
Sec. 2

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

along.

### 4.3.5 Seven 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.

DIMENSIONS:

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

**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.

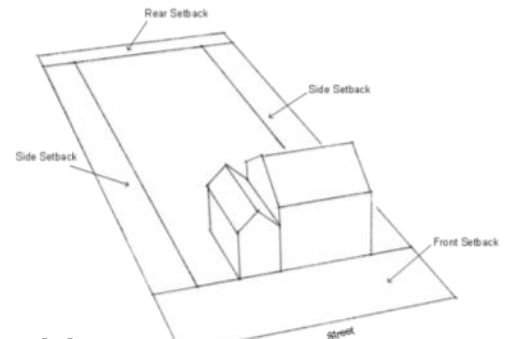
Art.1,  
Sec. 2

#### 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

Change since Committee review.



which the structure is located, as applicable.

2. **Front Setback Location**

Except in the E-3 zoning district, 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-3 zoning district, a front setback lies between the right-of-way line of the lot and the nearest part of the foundation of a structure.

**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.

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

- d. Bay windows and chimneys may project into required setbacks up to two feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located and provided they are set back a minimum of three feet from all property lines.
- e. Outdoor seating associated with a Restaurant Use Category may project a maximum of 12 feet into required setbacks, provided the space is at grade and is separated from the right-of-way by landscaping or a human-made barrier, subject to Building Permit review.

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

Spec. B, Sec. C

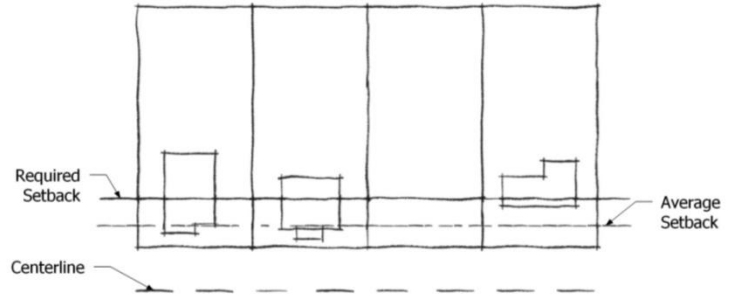
**2. Front Setback**

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

Spec. C, Sec. C

**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 primary residential structure that is nonconforming because of its location in the required front

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

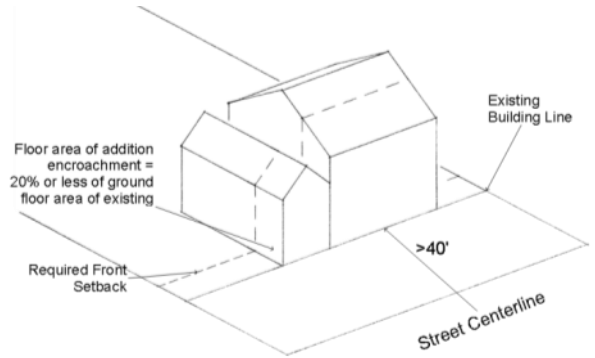
**Article 4 District Developmental Standards**

Sec. 4.3. Measurements and Special Cases

yard setback, ~~This permit can only be issued if subject to all of the following criteria has been met:~~

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 primary 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~~ primary residential structure, ~~and~~

Change since Committee review. Wordsmithing.

v. ~~That~~ The yard in question is not adjacent to a **designated** major road ~~classified street or~~ federal or state highway, ~~and~~

~~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 primary structure, accessory structure or fence based on the **adjacent** road.

March 2014:  
Added "Named Street"

Adjacent Road	Min. Front Setback (from ROW center line)
<b>Residential Use Categories</b>	
Federal or State Highway or Major Road	120 ft.

**Article 4 District Developmental Standards**

Sec. 4.3. Measurements and Special Cases

Adjacent Road	Min. Front Setback (from ROW center line)
Numbered County Road or Street	75 ft.
<b>Named Street</b>	<b>See Sec. 4.4</b>
<b>Nonresidential Use Categories</b>	
Federal or State Highway or Major Road	120 ft.
Numbered County Road or Street	60 ft.
<b>Named Street</b>	<b>See Sec. 4.4.8 or Sec. 4.5</b>
<b>Open Use Categories</b>	
Federal or State Highway or Major Road	120 ft.
Numbered County Road or Street	80 ft.
<b>Named Street</b>	<b>75 ft.</b>

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.

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

March 2014: Added state line

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 <del>County Road 6</del> <u>the IN/MI state line</u> 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>

**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:



**Article 4 District Developmental Standards**

Sec. 4.3. Measurements and Special Cases

- 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 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.~~

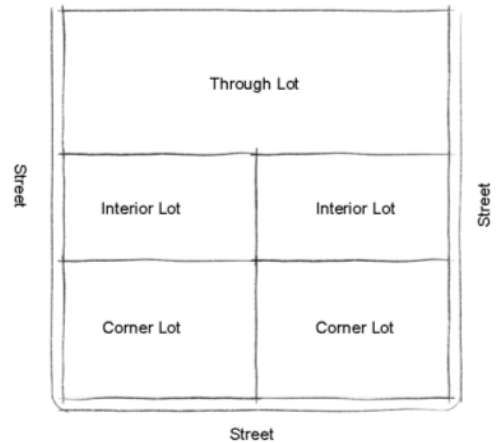
~~All State and Federal Highways.~~

**3. Side Yard Setback**

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

**4. Rear Setback**

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

Spec. B, Sec. C

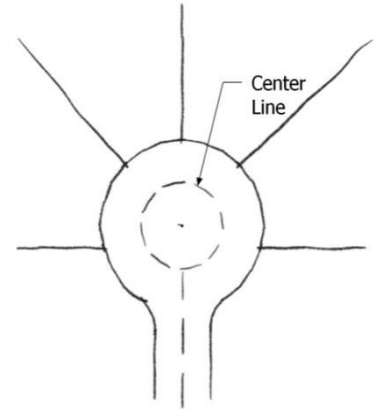
Change since Committee review. PC wanted removal of decreased setback for corner lots.

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

March 2014: Added roundabout lots

7. **Cul-de-Sac Lots**

- a. On lots with frontage on the turnaround of a cul-de-sac, the street centerline encircles the center point of the turnaround, halfway between the center point and the 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.



8. **Roundabout Lots**

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

4.3.8 **Maximum Building Lot Coverage**

Art.1, Sec. 2

A. **Measurement Methodology**

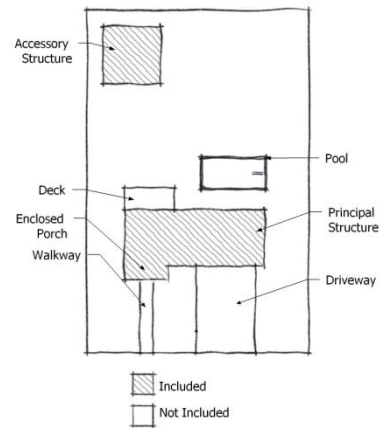
Building coverage is measured as the area of a zoning lot occupied by the principal building primary structure or buildings and accessory buildings structures.

**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**

1. **Residential**

Ground floor area is measured as the square-foot area of a residential building within its largest outside dimensions

**Article 4 District Developmental Standards**

Sec. 4.3. Measurements and Special Cases

Change since  
Committee review.

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 Gross Floor Area**

The term "floor area" as employed in this parking and loading section for office, merchandising or service types of use, means the Gross floor area of a building or structure is measured as the floor area used or intended to be used for service to the public as customers, patrons, clients, patients or tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise. "Floor area" for the purpose of this section shall Gross floor area does not include any area used for:

Specifications  
G, Sec. 2

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

**4.3.11 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 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.

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



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 primary structure 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.~~
4. If more than one-half of ~~it's~~ the height of a basement is above the established curb level or above the average level of the adjoining ground finished lot grade, where curb level has not been established, a basement shall be is deemed a story for purposes of height measurement.

Specifi  
cations  
B, B

Specifi  
cations  
C, C

Art.1, Sec. 2  
throughout

**4.3.12 Maximum Density**

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

**4.3.13 Minimum Common Open Space**

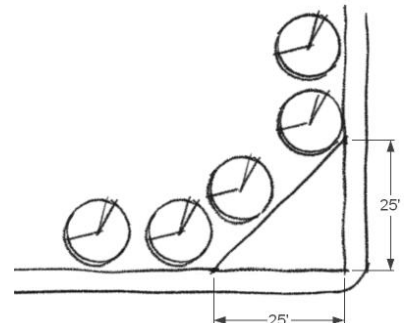
- A. Common open space in a cluster residential subdivision is measured as the area within the property lines of the open space.
- B. Required common open space in a cluster residential subdivision must be measured exclusive of any individual lots.

**4.3.14 Intersection Visibility Triangle**

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

Ten feet from the intersection of property lines:

- A. 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



Spec. A,  
Sec. B

Spec. B,  
Sec. C

**Article 4 District Developmental Standards**

Sec. 4.3. Measurements and Special Cases

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.

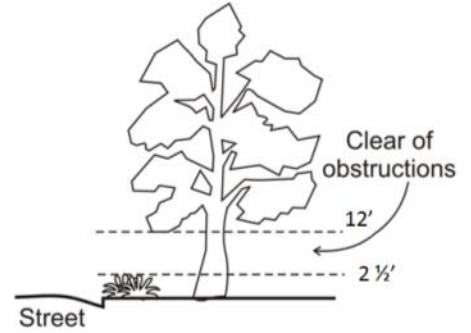
**B.** Landscaping in the public right-of-way shall not impede visual clearance along any public road.

~~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.~~

**4.3.15 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.

Spec. C,  
Sec. C

Art.3,  
Sec. 3

Art.3,  
Sec. 7

## 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.

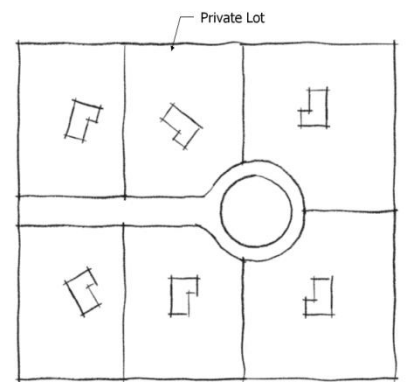
### 4.4.2 Subdivision Types

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

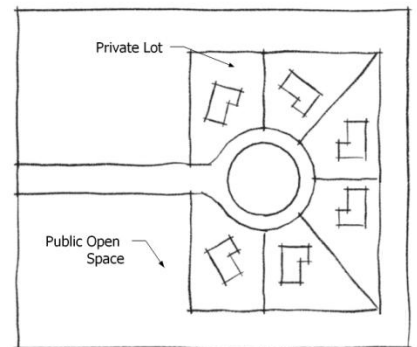
1. A conventional residential subdivision is a pattern of development that is allowed in any zoning district that allows residential uses and that provides the majority of property owners with substantial yards on their own property.
2. A conventional residential subdivision consists of attached or detached 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 **on properties with access to public wastewater.** Clustering allows smaller lot sizes with smaller private yards in exchange for common open space that must be preserved in perpetuity. A minimum of 35 percent of the site in a cluster residential subdivision must be devoted to common open space, exclusive of individual lots.
2. A cluster residential subdivision consists of detached **single-family** dwelling units developed in accordance with the cluster developmental standards of this Section.
3. A density bonus of **three units per acre, rather than approximately two units per acre under the conventional**



March 2014: Cluster gets 2.5 units per acre instead of ~2 units per acre in conventional A-1 (20,000 sq ft min lot area). The ambitions of this option have been scaled back from concepts in the previous drafts.

subdivision option, serves as an incentive to develop a cluster subdivision, which is often more sensitive to the ecological and historic amenities of the site.

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

**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 the developer.

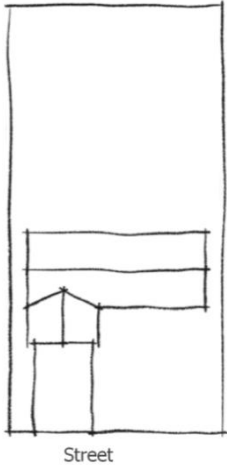
**4.4.3 Optional Housing Types**

**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.

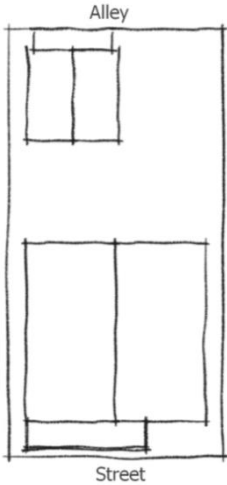
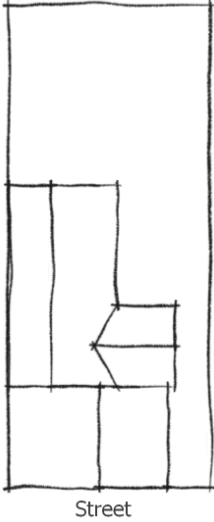
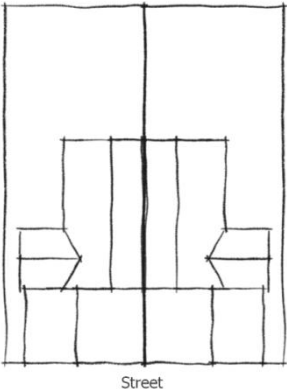
GENERAL PROVISIONS AND CONDITIONAL EXCEPTIONS APPLICABLE TO ALL RESIDENTIAL USES IN DISTRICTS WHERE PERMITTED

GENERAL PROVISIONS

Description	Conceptual Illustration (not to scale)
<p><b><u>Single-Family Detached Dwelling</u></b>            DWELLING, ONE FAMILY.            A building located on a single lot, designed exclusively for use and occupancy by one family and entirely separated from any other dwelling by <del>space</del> setbacks on all sides.</p>	 <p>The illustration shows a simple line drawing of a house with a gabled roof and a chimney, situated within a rectangular lot boundary. Below the lot, a horizontal line is labeled 'Street'.</p>

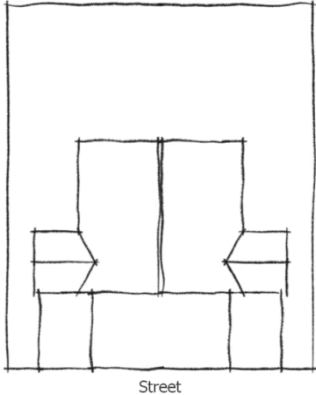
**Article 4 District Developmental Standards**  
 Sec. 4.4. Residential Developmental Standards

Change since Committee review.

Description	Conceptual Illustration (not to scale)
<p><b><u>Cottage Dwelling</u></b></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><b><u>Zero Lot Line Dwelling</u></b></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><b><u>Single-Family Attached Dwelling</u></b></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><b>DWELLING, ROW (PARTY-WALL).</b> 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><b><u>Two-Family Dwelling</u></b></p> <p><u>DWELLING, TWO-FAMILY.</u> 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><b>Multiple-Family Dwelling or Complex</b></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.

The following developmental standards apply to the primary structures of permitted housing types in each district **when fronting on a named street.**

March 2014: RR district removed. Current A-1 numbers added

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

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

<b>Single-Family Detached (w/ public wastewater)</b>	<b>Zoning District</b>				
	<b>A-1 conventional</b>	<b>A-1 cluster</b>	<b>R-1</b>	<b>R-2, R-3</b>	<b>R-4</b>
<b>Max. Density (units/net acre)</b>	N/A	3	N/A	N/A	N/A
<b>Min. Common Open Space (% of entire site)</b>	N/A	35	N/A	N/A	N/A
<b>Lot Size (min.)</b>					
Area (sq ft)	20,000	7,200	7,200	7,200	6,000
Width (ft)	100	60	60	50	50
<b>Setbacks (min ft.)</b>					
Front	50	50	50	50	45
Side	10	10	10	5	5
Rear	15	15	15	15	10
<b>Height (max ft.)</b>	30	30	30	30	30
<b>Building Coverage (max. %)</b>					
Interior	30	30	30	30	40
Corner	35	35	35	35	45
<b>Ground Floor Area (min. sq. ft.)</b>					
Single-Story	900	900	900	900	900
Two-Story	600	600	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 slightly smaller lot for R-2 and R-3 when public wastewater is present and noticeably smaller lot in R-4 with smaller setbacks. It also allows greater lot coverage on sewered lots compared to the existing Zoning Ordinance.

**Note to Reviewers:** An A-1 conventional subdivision on 10 acres, assuming 7 net developable acres, would yield 15 residential lots. An A-1 cluster subdivision, with common open space permanently set aside, on 7 net developable acres would yield 21 residential lots with 48% of the development consisting of common open space.

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

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

**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.*

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

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

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

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

<b>Two-Family Detached (w/ public wastewater)</b>	<b>Zoning District</b>		
	<b>A-1</b>	<b>R-2, R-3</b>	<b>R-4</b>
<b>Lot Size (min.)</b>			
Area (sq ft)	15,000	13,200	10,000
Width (ft)	80	75	75
<b>Setbacks (min ft.)</b>			
Front	50	50	50
Side	10	5	5
Rear	15	15	10
<b>Height (max ft.)</b>	30	30	30
<b>Building Coverage (max. %)</b>			
Interior	25	25	30
Corner	30	30	35
<b>Floor Area per Unit (min. sq. ft.)</b>			
Single-Story	700	700	700
Two-Story	700	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. A-1 duplex lot size and setbacks is the same as R-1 single-family without public wastewater.

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

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

**4.4.5 Cluster Residential Subdivision Standards**

**Note to Reviewers:** The provisions below are modified from a model clustering ordinance produced by the Southwestern Wisconsin Regional Planning Commission, <http://www.sewrpc.org/SEWRPC.htm>

**A. Common Open Space Design Standards**

**Note to Reviewers:** These simplified cluster standards apply only to single-family detached units, in A-1, with public wastewater. A land owner can do R-1 sized

March 2014: Standards for clustering option added

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lots, along with the extra lot yield that allows, without getting an R-1 rezoning, provided that usable common open space is set aside as required.

1. A cluster residential subdivision may only be developed with single-family detached dwelling in an A-1 zoning district on properties with access to public wastewater.

**Note to Reviewers:** 1. above restates that cluster is allowed only in A-1, with single-family detached residences, with access to sewer.

2. The developmental standards for a cluster residential subdivision in the A-1 zoning district are the same as those of a single-family detached dwelling with public wastewater in the R-1 zoning district.

**Note to Reviewers:** 2. above says the landowner can get R-1 density in A-1 without rezoning.

3. All open space areas must be part of a larger continuous and integrated open space system within the overall site being developed.

**Note to Reviewers:** 3.requires continuous open space.

4. All dwelling units must be grouped into clusters with each cluster surrounded by common open space.

**Note to Reviewers:** 4. above reinforces the need to have continuous open space as a result of the design of the subdivision.

5. A maximum of 10 percent of the area of any required common open space in a cluster residential subdivision may be occupied by buildings or other impervious surface.

**Note to Reviewers:** 5. above limits the amount of manmade structures within what is supposed to be natural open space. The exemption for recognized historic structures is there so that a person could conceivably do a development around a historic site with no penalty.

6. Open space in a cluster residential subdivision may be used for hike and bike trails, agriculture, conservation, preservation of native habitat and other natural resources, storm water management, or historic or scenic purposes without counting toward the 10 percent maximum impervious coverage limitation in paragraph 5 above.

**Note to Reviewers:** 6. above exempts recreational and historic structures from the 10% requirement.

7. No area of common open space may be less than 30 feet in its smallest dimension or less than 10,000 square feet in area. Common open space not meeting this standard is not counted toward the total required 25 percent common open space requirement for a cluster residential subdivision.

**Note to Reviewers:** 7. above ensures that "scraps" aren't used to fulfill the open space requirement.

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2014:  
Standards  
for  
clustering  
option  
added

8. Natural features must generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes. Permitted modifications may include:
  - a. Woodland, meadow or wetland management;
  - b. Streambank protection; or
  - c. Buffer area landscaping.

*Note to Reviewers: 8. above allows some maintenance of natural areas*

9. A minimum of 80 percent of the area of existing woodlands on the pre-developed site must be contained within common open space. Up to 20 percent of the area of existing woodlands may be located within proposed lots or removed for residential development. This limitation may be exceeded under the following conditions:
  - a. The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands.
  - b. Any encroachment on woodlands beyond 20 percent must be the minimum needed to achieve the maximum permitted density.

*Note to Reviewers: 9. above requires wooded areas to be preserved to a great extent.*

**B. Common Open Space Maintenance Standards**

In order to ensure that common open space and associated amenities remain in perpetuity, without the possibility of future development, the following methods of dedication of a conservation easement are established to cover the entirety of the required open space in the cluster residential subdivision.

**1. Homeowners Association**

Common open space and associated amenities may be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth below.

- a. The petitioner must provide to the County a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents must be approved as to form by the County Attorney.
- b. The organization must be established by the owner or petitioner and must be operating, with financial subsidy by

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2014:  
Standards  
for  
clustering  
option  
added

the applicant, if necessary, prior to the sale of any dwelling units in the development.

- c. Membership in the organization is mandatory for all purchasers of dwelling units and their successors and assigns.
- d. The organization is responsible for maintenance and insurance of common open space and associated amenities.
- e. Written notice of any proposed transfer of common open space and associated amenities by the homeowners association or the assumption of maintenance of such space and amenities must be given to all members of the organization and to the County a minimum of 30 days prior to such event.

2. **Dedication to a Conservation Organization**

With the approval of the Board of County Commissioners, through the process of Secondary Approval of a Major Plat, an owner may dedicate conservation easements on any portion of the common open space to a conservation organization, provided that:

- a. The organization is acceptable to Board of County Commissioners.
- b. The conveyance contains appropriate provisions for property reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
- c. A maintenance agreement acceptable to the Board of County Commissioners is established between the owner and the organization.

3. **Other**

Other methods to ensure perpetual preservation of the common open space may be approved by the Board of County Commissioners through the Primary and Secondary Approval process for a Major Subdivision.

**4.4.6 Minimum Dwelling Standards**

MINIMUM STANDARD AND REQUIREMENTS FOR ONE AND TWO FAMILY DWELLINGS.

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.

March 2014: Standards for clustering option added

Specifications B, B



**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.

Speci  
ficati  
ons  
B, B

**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.

From  
Definition  
of mobile  
home

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

**D. Mobile Structures or Vehicles**

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

~~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 Residential Development on Ponding Soils**

**A. Ponding Soils Map**

**Note to Reviewers** *The Ponding Soils Map could be designated as a legal document like the Zoning Map (and therefore require public hearings for amendments) or it could be more policy-based, with the ability to be administratively amended. I have gone the route of a policy-based map, but both*

March  
2014:  
Residential  
standards  
for ponding

*options merit discussion.*

1. The Zoning Administrator must maintain a Ponding Soils Map. The Ponding Soils Map is not incorporated into this Ordinance.
2. The Ponding Soils Map shows soils that are likely to enable flooding of residential structures.
3. The Ponding Soils Map is deemed administratively amended for a particular property or portion of a property when a soil scientist, geotechnical engineer or hydrologic engineer provides information to the Zoning Administrator demonstrating that the Map is in error.

**B. Residential Development**

1. Prior to approval of an Improvement Location Permit for a residential structure on soils designated as "Ponding" on the Ponding Soils Map, the applicant must either:
  - a. Provide information from a soil scientist, geotechnical engineer or hydrologic engineer satisfactorily demonstrating that the Map is in error for the portion of property upon which the residential structure is proposed to be built; or
  - b. Receive approval of a Use Variance in accordance with Sec. 3.7 of this Ordinance.
2. The submitted information must demonstrate that the portion of property upon which the residential structure is proposed to be built contains non-ponding soils as established on the Ponding Soils Map.

March 2014: Residential standards for ponding soils added

**4.4.8 Developmental Standards for Permitted Nonresidential Uses**

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

March 2014: RR removed

Nonresidential Use	Zoning District	
	A-1, R-1, R-2, R-3	R-4
<b>Lot Size (min.)</b>		
Area (sq ft)	15,000	10,000
Width (ft)	100	75
<b>Setbacks (min ft.)</b>		
Front	50	50
Side (interior)	10	5
Side (corner)	45	30
Rear	15	10
<b>Height (max ft.)</b>	30	30
<b>Building Coverage (max. %)</b>		
Interior	25	30
Corner	30	35

**Article 4 District Developmental Standards**

Sec. 4.4. Residential Developmental Standards

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Parking Setback (min. ft. from centerline of ROW / front property line)	35 / 10	55 / 15
---	---------	---------

*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.

<b>Nonresidential Use</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>M-1</b>	<b>M-2</b>
<b>Setbacks (min ft.)</b>					
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
<b>Height (max ft.)</b>	40	60	60	60	60
<b>Building Coverage (max. %)</b>	50	75	75	75	75
<b>Parking Setback (min. ft. from centerline of ROW / front property line)</b>	55 / 15	55 / 15	55 / 15	55 / 15	55 / 15

\*"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

Art.3,  
Sec. 1

### 5.1.1 General

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
P/S or L/S	May be allowed <b>by right or</b> 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 primary uses and the zoning districts in which those uses** are permitted by right, permitted subject to limitations, require a Special Use Permit approved in accordance with Sec. 3.6 **or are prohibited.**

**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.

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

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

**Article 5 Use Standards**

Sec. 5.1. Use Table

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

Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	Standards
Parks and Open Areas [see 5.2.3F]	All Parks and Open Areas	<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>	
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	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>	S	S	S	S	S	<u>S</u>	
Utilities [see 5.2.3J]	Minor Utilities	P	P	P	P	P	P	P	P	P	P	
	Major Utilities	S	S	S	S	S	S	S	S	S	S	
	Wireless communication facility	See Sec. 5.4										
<b>COMMERCIAL USES</b>												
Indoor Recreation [see 5.2.4A]	All Indoor Recreation except as listed below:	<u>S</u>				S	P	P	P	P		
	Adult business										S	
	<u>Bar, microbrewery or tavern</u>							P	P	P	P	
	<u>Casino</u>	<u>S</u>					<u>S</u>	<u>S</u>	<u>S</u>			
	County club	<u>L</u>	P	P	P	P	P	P	P			5.3.29
	Membership club or lodge	<u>S</u>			S	S	P	P	P	P		
	Tattoo parlor						<u>L</u>	<u>L</u>	<u>S-L</u>			5.3.10
<u>Winery</u>	<u>S</u>						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
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>										
	<u>Farmers Market, outdoor</u>	<u>S</u>					<u>P</u>	<u>P</u>	<u>P</u>			
	Golf driving range	<u>S</u>					S	S				
	Marina	S	S	S	S	S	S	S	S	S	S	
	<u>Stable, public or commercial</u>	<u>S</u>										
Stadium, arena, running track or ball	<u>S</u>	S	S	S	S	S	P	P	<u>S</u>	<u>S</u>		



**Article 5 Use Standards**

Sec. 5.1. Use Table

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

Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	Standards
	field											
Outdoor Recreation [see 5.2.4C]	Track, vehicle race	S					<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	5.3.13
Overnight Accommodations [see 5.2.4D]	All Overnight Accommodations except as listed below:						P	P	P	P		
	Bed and breakfast inn	<u>S</u>	S	S	S	S	L	L	L			5.3.14
	Resort	<u>S</u>	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>					<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	5.3.17
	Garden supplies	<u>S</u>					P	P	P	P		
	Pet shop or groomer, outdoor pens or runs	<u>L</u>					P	P	P	P		5.3.29
	All Retail Sales and Service (Service-Oriented) except as listed below:					L	P	P	P			5.3.16
	Barber or beauty shop	<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 or runs	<u>L</u>					L	P	P	P		5.3.19

**Article 5 Use Standards**

Sec. 5.1. Use Table

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

Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	Standards	
	All Retail Sales and Service (Repair-Oriented)	<u>S</u>				L	P	P	P	P		5.3.16	
Self-Service Storage [see 5.2.4H]	All Self-Service Storage							S	P	P	P		
Vehicle Sales & Service [see 5.2.4I]	All Vehicle Sales and Service (Major Repair)								P	P	P		
	All Vehicle Sales and Service (Minor Servicing)							L	P	P	P	5.3.20	
	All Vehicle Sales and Service (General) except as listed below:								P	P			
	Fuel Sales, <u>Retail</u>						L	P	P	P		5.3.21	
<b>INDUSTRIAL USES</b>													
Heavy Industrial [see 5.2.5A]	Intense Heavy Industrial except as listed below:										S		
	Confined animal feeding operation	See Sec. 6.6, A-4, Confined Feeding Protection District											
	Intensive animal feeding operation	See Sec. 6.7, 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
	<u>Fertilizer manufacturing and storage</u>	<u>S</u>									<u>L</u>	<u>5.3.23</u>	
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	<u>S</u>							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									<u>P</u>	<u>P</u>	<u>S</u>	5.3.27
	Tire recycling or recapping									<u>P</u>	<u>S</u>	<u>P</u>	<u>S</u>

**Article 5 Use Standards**

Sec. 5.1. Use Table

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

Use Category	Specific Primary Use	A-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2	Standards
Wholesale Trade [see 5.2.5E]	All Waste-Related Service uses <u>except as listed below:</u>								S	<u>P</u> <u>S</u>	<u>P</u> <u>S</u>	
	<u>Fuel sales, bulk</u>	<u>S</u>							<u>S</u>	<u>P</u>	<u>P</u>	
<b>OPEN USES</b>												
Agriculture [see 5.2.6A]	All Agriculture Uses except as listed below:	<u>L</u>	S	S	S	S	S	S	S	S	S	5.3.28
	Agri-business	<u>P</u>										
	Floriculture, horticulture, pasturage, row and field crops, viticulture or orchard	<u>P</u>	P	P	P	P	P	P	P	P	P	
	Greenhouse, commercial	<u>S</u>	S	S	S	S	P	P	P	S	S	
	<u>Livestock sale or auction</u>	<u>S</u>								<u>P</u>	<u>P</u>	
	Roadside stand	<u>S</u>	S	S	S	S						
	Scenic or sightseeing tour	P					P	P	P			
Stable, <u>private and noncommercial</u>	<u>P</u>	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	5.3.30

**Article 5 Use Standards**

Sec. 5.1. Use Table

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~~AGRICULTURAL DISTRICTS AND USES.~~

~~PERMITTED USES IN AGRICULTURAL DISTRICTS.~~

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

~~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 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~"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 0.~~

~~Signs as regulated in Sec. 7.4.~~

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cations  
A, Sec.  
A

Specific  
ations  
A, Sec.  
B

**Article 5 Use Standards**  
Sec. 5.1. Use Table

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~~Mobile homes as provided in Sec.:~~

~~"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 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~Mobile homes as provided in Sec.:~~

~~"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 0.~~

~~Signs as regulated in Sec. 7.4.~~

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

~~Mobile homes as provided in Sec.:~~

~~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 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~Mobile, compact or expandable homes as provided in Sec.:~~

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**Article 5 Use Standards**  
Sec. 5.1. Use Table

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~~"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 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~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 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~Mobile, compact or expandable homes as provided in Sec..~~

~~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 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~"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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A, Sec.  
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cations  
A, Sec.  
D

~~Special Uses as provided in 0.~~

~~Off Street parking facilities as required in 0.~~

~~Signs as regulated in Sec. 7.4.~~

~~"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 0.~~

~~Signs as regulated in Sec. 7.4.~~

Specifications  
A, Sec.  
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 Interpretation**

1. The Zoning Administrator must use the following criteria to determine the appropriate Use Category or similar use for a proposed use not specifically addressed in this Ordinance:



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- 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 Primary Uses**

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

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

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

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

**E. Characteristics**

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

**F. Primary Uses**

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

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

**G. Accessory Uses**

Accessory uses are generally allowed by right in conjunction with a primary use. However, specific accessory uses with parenthetical cross-references in the 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 primary 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.

<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
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	
Manufactured home subdivision or park	Bed and Breakfast Homestay (5.5.4)	
Modular home	Boat house (5.5.5)	
Mobile home subdivision or park	Bus parking, outdoor (5.5.12)	
	Children's playhouse	
	Dock or pier (noncommercial)	Hospice or nursing or rest home (see Group Living)

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**Characteristics:** Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis in structures with self-contained dwelling units, including kitchens.

Primary Uses	Accessory Uses	Uses not Included
Multiple-family dwelling Upper-story residential	Domestic storage Garage, private or shed Garage sale (5.5.6) Feral cat colony (5.5.7) Firearms range, outdoor noncommercial Garden Greenhouse or nursery (noncommercial) Guest house Home occupation (5.5.8) Home workshop / business (5.5.9) Leasing office for manufactured home park or apartment complex Minor utilities Mobile Home (5.3.4) <u>Model home with sales office in model home</u> Personal residential storage (5.5.10) Place of Worship associated with a single-family dwelling (5.5.11) Pool house Private community center <u>Radio antenna, amateur</u> Swimming pool Other miscellaneous household amenities	Hotel, motel or bed and breakfast (see Overnight Accommodations)

**B. Group Living**

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

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

Primary Uses	Accessory Uses	Uses not Included
<u>Assisted living facility</u> Boarding house Fraternity, sorority or dormitory Group home for the physically disabled, mentally retarded, or emotionally disturbed that are not considered single-family residences Hospice or nursing or rest home Orphanage	Associated office 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

<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Assembly, <u>meeting, event or exhibition</u> hall Community center Library Museum Philanthropic institution Senior or youth center  Other uses meeting the characteristics of the Community Service Use Category	Associated office and storage Associated retail sales related to the primary use Food preparation and dining facility Garden Limited retail sales area Minor utilities Recreation facility Rummage sale (5.5.13)	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

<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Adult care center Child care center Nursery school or pre-school  Other uses meeting the characteristics of the Day Care Use Category	Associated office and storage Food preparation and dining facility Garden Minor utilities Recreation facility Rummage sale (5.5.13)	Adult or child care home (see Household Living: Accessory Uses) On-site day care in connection with a business or other primary use where children are cared for while parents or guardians are occupied on the premises (see appropriate Use Category under Accessory Uses)

#### C. Educational Facilities

<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
College, university or seminary Nursing or medical school not associated with a hospital Public or private elementary, middle or high school	Accessory dwelling unit (5.5.3) Assembly hall Associated office and storage 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)

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<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Other uses meeting the characteristics of the Educational Facilities Use Category	Dormitory Food preparation and dining facility Garden Laboratory Library Medical clinic Minor utilities Recreation facility Rummage sale (5.5.13)	Nursery or pre-school (see Day Care) Riding academy (see Outdoor Recreation)

**D. Government Facilities**

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

**E. Medical Facilities**

<b>Characteristics:</b> Uses providing medical or surgical care to patients. Some uses may offer overnight care.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
<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 and storage 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	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)

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<b>Characteristics:</b> Uses providing medical or surgical care to patients. Some uses may offer overnight care.		
Primary Uses	Accessory Uses	Uses not Included
	Minor utilities Place of worship Pharmacy Recreation facility Rummage sale (5.5.13)	

**F. Parks and Open Areas**

<b>Characteristics:</b> Uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas, or community gardens, and having few structures.		
Primary Uses	Accessory Uses	Uses not Included
Botanical garden, nature preserve or trail <u>Campground without overnight accommodations</u> 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 and storage Associated retail sales related to the primary use Boat launch Concession Dining area Dock or pier (noncommercial) Garden Minor utilities Recreation facility Rummage sale (5.5.13) Single <u>attached</u> residential unit for caretaker	<u>Campground with overnight accommodations (see Overnight Accommodations)</u> Crematorium (see Light Industrial Service) Golf course, driving range or mini-golf course (see Outdoor Recreation) <u>Recreational vehicle park (see Overnight Accommodations)</u> Water park (see Outdoor Recreation)

**G. Passenger Terminals**

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

**H. Places of Worship**

<b>Characteristics:</b> Places of assembly that provide meeting areas for religious practice.		
Primary Uses	Accessory Uses	Uses not Included

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<b>Characteristics:</b> Places of assembly that provide meeting areas for religious practice.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Church, mosque, synagogue or temple  Other uses meeting the characteristics of the Places of Worship Use Category	Assembly hall Associated office and storage Associated retail sales related to the primary use Class rooms Day care Food preparation and dining facility Garden Recreation facility <u>Residences for clergy</u> Minor utilities Library Rummage sale (5.5.13)	Revival (see Temporary Uses) Social Service Establishment uses (see Social Service Establishments)

**I. Social Service Establishments**

<b>Characteristics:</b> Uses that primarily provide treatment of those with psychiatric, alcohol, or drug problems, and transient housing related to social service programs.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
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 and storage Class rooms Day care for children of employees or clients Dormitory Food preparation and dining facility Garden Library Meeting space Minor utilities Recreation facility Rummage sale (5.5.13) 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**

<b>Characteristics:</b> Public or private infrastructure serving a limited area with no on-site personnel (Minor Utility) or <u>servicing</u> the general community, <u>not regulated by a public or municipal entity</u> and possibly having on-site personnel (Major Utility).		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
<b>Minor Utilities:</b> 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	Associated office and storage Fleet maintenance Minor utilities Storage structures	Landfill (see Waste-Related Service) Utility office (see Office) TV or radio studio (see Office)



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

Primary Uses	Accessory Uses	Uses not Included
Telephone exchange Water or wastewater lift station  <b>Major Utilities:</b> 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  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.

Primary Uses	Accessory Uses	Uses not Included
Adult business (see Article 10) Bar, <u>microbrewery</u> 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 <u>Skating rink</u> Tattoo parlor <u>Tennis or racquetball facility</u>  Other uses meeting the characteristics of the Indoor Recreation Use Category	Associated office and storage Associated retail sales related to the primary use Concession Food preparation and dining facility Minor utilities Swimming pool, indoor	Outdoor Recreation uses (see Outdoor Recreation)

**B. Offices**

**Characteristics:** Activities conducted in an office setting and generally focusing on business, professional or financial services. Accessory uses generally have no external access or signs.

Primary Uses	Accessory Uses	Uses not Included
Offices or agencies for services such as advertising, bill collection, charitable organization, consulting, counseling, data processing, investment or brokerage, real estate or insurance, sales, temporary employment or travel Bank or savings and loan Professional service such as lawyer, accountant, designer, bookkeeper, engineer or architect Travel agent TV or radio studio Utility office  Other uses meeting the characteristics of the Office Use Category	Associated storage Day care for children of employees Medical clinic for employees Minor utilities Food preparation and dining facility for employees Recreation facility for employees <u>Private telecommunication or transmission tower</u> <del>(TV or radio studio only)</del>	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 laboratory (see Medical Facilities) Research, testing or development laboratory (see Light Industrial) 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.

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

**D. Overnight Accommodations**

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

**E. Parking, Commercial**

<b>Characteristics:</b> Facilities that provide parking not accessory to a primary use, for which a fee may or may not be charged.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Park-and-ride facility Parking lot or structure, commercial	Associated office and storage Minor utilities	Bus passenger terminal, taxi dispatch center, train passenger terminal (see

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<b>Characteristics:</b> Facilities that provide parking not accessory to a primary use, for which a fee may or may not be charged.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
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		Passenger Terminals) <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</u>

**F. Restaurants**

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

**G. Retail Sales and Service**

<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
<b>Sales-Oriented:</b> Store selling, leasing or renting consumer, home, and business goods including, but not limited to, alcoholic beverages, animal feed, antiques, appliances, art, art supplies, baked goods (retail), bicycles, books, building supplies, cameras, candy, carpet and floor coverings, crafts, clothing, collectibles, computers, convenience goods, electronic equipment, electronic and mixed media, fabric, <u>fireworks</u> , flowers, furniture, garden supplies, gifts	Associated office and storage Concession <u>Day care for children of employees</u> Food preparation and dining area Minor utilities Single <u>attached</u> residential unit for caretaker	Car wash (see Vehicle Sales and Service) Fuel sales (see Vehicle Sales and Service) Restaurant use (see Restaurants) Sale or service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (see Vehicle Sales and Service) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, or store fixtures (see Wholesale

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**Characteristics:** Companies or Individuals involved in the sale, lease, or rental of new or used products, or providing personal services or repair services to the general public.

Primary Uses	Accessory Uses	Uses not Included
<p>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><b>Service-Oriented:</b>            Animal grooming            Barber or beauty shop            Driving, vocational, trade and other commercial school            Dry cleaning and pressing establishment            Funeral home or mortuary            Laundromat            Kennel            Massage, nail or tanning establishment            Music, art or photographic studio or classroom (see Retail Sales and Service)            Optician or optometrist  <u>Pet groomer</u>            Photocopy, blueprint, package shipping and quick-sign service            Photography studio            Psychic or medium            Shoe repair            Tailor            Taxidermist            Upholsterer            Urgent care or emergency medical center            Veterinary clinic or hospital</p> <p><b>Repair-Oriented:</b></p>		<p>Trade)</p>

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<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
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**

<b>Characteristics:</b> Facilities providing separate storage areas for personal or business use designed to allow private access by the tenant for storing or removing personal property.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Boat or recreational vehicle storage Mini-warehouse or multistory enclosed storage facility  Other uses meeting the characteristics of the Self-Service Storage Use Category	Associated office and storage Minor utilities Moving vehicle rental Single <b>attached</b> 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**

<b>Characteristics:</b> 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.		
<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
<b>General:</b> Car wash Fuel sales Manufactured home, mobile home, portable building or trailer sales or rental Truck stop Vehicle sales, rental, or leasing facilities (including passenger vehicles, motorcycles, trucks, boats and recreational vehicles)  <b>Vehicle Repair, Major:</b>	Associated office and storage Car wash Concession Food preparation and dining area Fueling facility Minor utilities Sale of auto parts Towing Vehicle storage	Retail or wholesale sales of agriculturally-related supplies and equipment (see Agriculture) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, or store fixtures (see Wholesale Trade) Vehicle parts sale as a primary

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<p><b>Characteristics:</b> Direct sales of and service to passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats, and recreational vehicles. Uses classified as Minor Vehicle Service provide service while the customer waits, same day pick-up of the vehicle or allow customers to leave a vehicle on-site for less than 24 consecutive hours.</p>		
Primary Uses	Accessory Uses	Uses not Included
<p>Alignment shop, auto body shop, auto upholstery shop, towing service</p> <p>Other repair of cars, trucks, motorcycles, RVs and boats not included in Minor Vehicle Repair below</p> <p><b>Vehicle Repair, Minor:</b>            Quick lubrication facilities, battery sales and installation, auto detailing, minor scratch and dent repair, bed liner installation, tire sales and mounting</p> <p>Other uses meeting the characteristics of the Vehicle Sales and Service Use Category</p>		<p>use (see Retail Sales and Service)</p> <p>Tire recycling or recapping (see Waste-Related)</p>

**5.2.5 Industrial Use Categories**

**A. Heavy Industrial**

<p><b>Characteristics:</b> Uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals, the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare.</p>		
Primary Uses	Accessory Uses	Uses not Included
<p><b>Intense Heavy Industrial:</b>            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</p> <p>Arsenal            Coke oven  <u>Fertilizer storage</u>            Incinerator for reduction of garbage, dead animals, offal,</p>	<p>Associated office and storage</p> <p>Associated retail sales related to the primary use</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>Microbrewery (see Restaurants)</p> <p>Recycling facility (see Waste-Related Service)</p>

**Article 5 Use Standards**  
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**Characteristics:** Uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals, the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare.

Primary Uses	Accessory Uses	Uses not Included
<p>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><b>Less Intense Heavy Industrial:</b></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.

<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Manufacture or assembly of appliances, artificial limbs, awnings, beds, blinds, boats, books, brooms, buses, carpet, clothing or textiles or canvas, cosmetics, equipment, electrical items, felt, hardware, ice, jewelry, medical, optical or dental instruments or supplies, mirrors, medical instruments, musical instruments, perfume, pharmaceuticals, shoes, shutters or shades, signs, toys Bakery, wholesale Bottling or canning Building and development contractors specializing in building, excavating, heating, plumbing, landscaping or electrical and others who perform services off-site, but store equipment and materials on-site Bulk mailing service Catering establishment, large scale Clothing or textile manufacturing Creamery Crematorium Engraver Food processing Janitorial and building maintenance service, exterminator, maintenance yard or facility Laundry, dry-cleaning, and carpet cleaning plants Metal plating Metal shop Printing, publishing, and lithography Repair of scientific or professional instruments, electric motors Research, testing, and development laboratory	Associated office and storage Associated retail sales related to the primary use Associated showroom Day care for children of employees Fleet maintenance Food preparation and dining facility Fueling facility Medical clinic for employees Meeting space Minor utilities Recreation facility Single <u>attached</u> residential unit for caretaker	Catering establishment, small scale (see Restaurant) Mining or excavating (see Resource Extraction) Outdoor storage yard (see Warehousing and Freight Movement) Recycling facility (see Waste-Related Service) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures (see Wholesale Trade)

**Article 5 Use Standards**  
**Sec. 5.2. Use Categories**

**Characteristics:** Uses engaged in the manufacturing, assembly or processing of industrial, business or consumer goods, usually from basic finished inputs such metal, stone, glass, plastic or rubber. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

Primary Uses	Accessory Uses	Uses not Included
Smoking or processing of meat products Stone cutting Welding, tool repair or machine shop Woodworking, including cabinet makers and furniture manufacturing  Other uses meeting the characteristics of the Light Industrial Use Category		

**C. Warehousing and Freight Movement**

**Characteristics:** Uses involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer with little on-site sales activity to customers.

Primary Uses	Accessory Uses	Uses not Included
Bulk storage, including cold storage plants, household moving and general freight storage, nonflammable liquids, separate warehouse used by retail store Bus shop, garage or storage Express hauling Food packing and distribution Motor freight or truck terminal Outdoor storage yard <u>Parcel delivery station</u> <u>Semi-trailer parking</u> Transfer and storage business <u>(such as for recreational vehicles)</u> where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred Trucking company  Other uses meeting the characteristics of the Warehousing and Freight Movement Use Category	Associated office and storage Day care for children of employees Fleet maintenance Food preparation and dining facility Fueling facility Medical clinic for employees Meeting space Minor utilities Outdoor storage yard Recreation facility Single <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.

<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
Animal waste processing <a href="#">Animal waste energy converter</a> Wrecking yard Composting facility Landfill Manufacture and production of goods from composting organic material Recycling facility Tire recycling or recapping Wrecking yard  Other uses meeting the characteristics of the Waste-Related Service Use Category	Associated office and storage Fleet maintenance Fueling facility Minor utilities Repackaging and shipment of byproducts	Stockpiling of sand, gravel, or other aggregate materials (see Resource Extraction) Water treatment plant (see Utilities)

**E. Wholesale Trade**

**Characteristics:** Uses involved in the sale, lease, or rent of products to Industrial, Institutional or commercial businesses only. The uses emphasize on-site sales or order-taking and often include display areas. Business may or may not be open to the general public. Products may be picked up on-site or delivered to the customer.

<b>Primary Uses</b>	<b>Accessory Uses</b>	<b>Uses not Included</b>
<a href="#">Fuel sales, bulk</a> Mail-order business Sale or rental of machinery, equipment, heavy equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures Wholesale or auction of food, clothing, auto parts, or hardware  Other uses meeting the characteristics of the Wholesale Trade Use Category	Associated office and storage Associated showroom Day care for children of employees Fleet maintenance Food preparation and dining facility Medical clinic for employees Meeting space Minor fabrication Minor utilities Product repair Recreation facility Repackaging of goods Single <a href="#">attached</a> 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.

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

### B. Resource Extraction

**Characteristics:** Characterized by activities that extract minerals and other solids and liquids from land on which the use is established.

Primary Uses	Accessory Uses	Uses not Included
Mine or quarry Extraction of sand, gravel, minerals, <u>natural gas or oil</u>  Other uses meeting the characteristics of the Resource Extraction Use Category	Associated office and storage Minor utilities Outdoor storage yard Resource processing Stockpiling of resources extracted from the site	Building and development contractors specializing in building, excavating, heating, plumbing, landscaping or electrical and others who perform services off-site, but store equipment and materials on-site (see Light Industrial Service)

Specifications  
A, Sec.  
B

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

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.

Specifications  
C, Sec.  
A, 1

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

---

~~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.~~

~~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.~~

Specifications C, Sec. A, 1

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~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.~~

~~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.~~

Specific  
ations  
C, Sec.  
A, 1

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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

~~Sporting goods store.~~

~~Stationery stores.~~

~~Telegraph office.~~

~~Tobacco shop.~~

~~Toy store.~~

~~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.~~

Specific  
ations  
C, Sec.  
A, 1

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.~~

Specific  
ations  
C, Sec.  
A, 2

**Elkhart County Zoning Ordinance – DRAFT – Module 4: Remaining Provisions**

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~~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.~~

~~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.~~

Specific  
ations  
C, Sec.  
A, 2

~~Business and Wholesale Uses~~

~~Definition~~

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

~~Location Permitted~~

~~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.~~

Specifi  
cation  
s C,  
Sec. A,  
3

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~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.~~

~~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.~~

~~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.~~

Specifications  
C, Sec. A, 3

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~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

~~, drive-in, fast food.~~

~~ies.~~

~~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.~~

Specific  
ations  
C, Sec.  
A, 4

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~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.~~

~~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.~~

Specifications C,  
Sec. A, 4

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~Drugs and pharmaceutical products manufacturing.~~

~~Electric motors and generators manufacturing.~~

~~Engraving.~~

~~Felt manufacture.~~

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

~~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.~~

Specific  
ations  
C, Sec.  
A, 4

**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~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.~~

~~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.~~

Specific  
ations  
C, Sec.  
A, 5

- ~~Boiler works.~~
- ~~Box and crate manufacture.~~
- ~~Brass foundry.~~
- ~~Brick, tile and terra cotta manufacture.~~
- ~~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.~~

Specific  
ations  
C, Sec.  
A, 5



**Article 5 Use Standards**  
Sec. 5.2. Use Categories

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~~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.~~

~~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 Cottage

**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 that shows existing and proposed improvements at the time of application for an Improvement Location Permit. The site plan must be prepared by a registered Indiana land surveyor.**

March 2014:  
Changed E. so  
that it is more  
specific

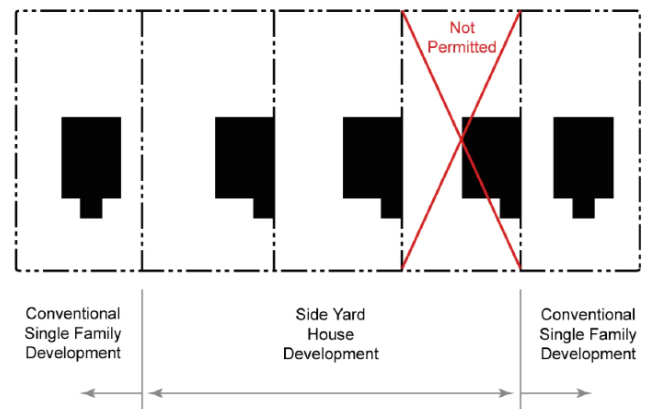
### 5.3.2 Zero Lot Line Dwelling

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**



Change since  
Committee  
review. PC  
wanted to be  
more specific  
about what  
was needed  
next to a ZLL.

indicated on the secondary plat for the subdivision.

**B. Maintenance Easement**

An easement to allow for maintenance or repair of the zero lot line dwelling is required on the lot adjacent to the zero 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 that shows existing and proposed improvements at the time of application for an Improvement Location Permit. The site plan must be prepared by a registered Indiana land surveyor.

March 2014:  
Changed F. so  
that it is more  
specific

**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 that shows existing and proposed improvements at the time of application for an Improvement Location Permit. The site plan must be prepared by a registered Indiana land surveyor.**

March 2014:  
Changed C. so  
that it is more  
specific

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

March 2014:  
Fixed 5.3.4 re:  
double wides

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

Specifi  
cation  
s 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 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 must have a minimum area of five acres and shall must provide mobile home spaces. Each such space shall must be clearly defined or delineated. Each space shall 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 ~~fencing or appropriate planting of trees or shrubbery~~ a buffer a minimum of 10 feet in width, consisting of evergreen trees a minimum of six feet in height at planting and installed a minimum of 20 feet apart on center. The buffer must also consist of an opaque fence or berm a minimum of six feet in height.

**5. Distance from Existing Housing**

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~~

Change since Committee review.

March 2014: This originally read "a street buffer as established in Article 7." Street buffers will not be established county-wide in this draft, so I've specified the buffering materials.

~~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.~~

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 in compliance with the Subdivision Control Ordinance requirements 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 perimeter property line of the subdivision. If that park the subdivision abuts a public street or highway, then the standard setbacks lines for that roadway as established by the ordinance for the district in Article 4 for conventional housing in which that park is located shall prevails. In the buffer zone setback so established, each park subdivision developer shall must provide screening by fencing or appropriate planting of trees or shrubbery a buffer a minimum of 10 feet in width, consisting of

Specifications J

Change since Committee review.

March 2014: This originally read "a street buffer as established in Article 7." Street buffers will not be established county-wide in this draft, so I've specified the buffering materials.

evergreen trees a minimum of six feet in height at planting and installed a minimum of 20 feet apart on center. The buffer must also consist of an opaque fence or berm a minimum of six feet in height.

5. **Distance from Existing Housing**

Any single-wide manufactured or mobile home shall must be located at least 300 feet from any existing habitable residential dwelling not owned by part of the single-wide manufactured or 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.~~

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.~~

Change since Committee review.

5.3.5 **Multiple-Family Dwelling**

A multiple-family dwelling is permitted in accordance with the use tables in this Article and Article 6 subject to the following standards.

- A. Prior to issuance of an Improvement Location Permit, the land owner must submit a concept plan for development of the property that shows site elements such as all proposed building locations, driveways, parking, access, and drainage.
- B. In the R-3 and R-4 zoning districts, a Class II boundary buffer in accordance with Sec. 7.3 is required where the multiple-family dwelling is adjacent to an A-1, R-1 or R-2 zoning district.

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.

Change since Committee review.

March 2014: boundary buffers generally do not apply to residential uses, but they do to apartments

- 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 and a Class I boundary buffer in accordance with Sec. 7.3 is required where the facility is adjacent to an R-1, R-2 or R-3 zoning district.
- 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.*

March 2014: boundary buffers generally do not apply in A-1, but they do to this use which is permitted in A-1

March 2014: See margin note above



- D. In the A-1 zoning district, a Class I boundary buffer in accordance with Sec. 7.3 is required where the facility is adjacent to an R-1, R-2 or R-3 zoning district.

### 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-district~~, of 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.

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### 5.3.11 **Office Use**

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

- A. The gross floor area of all primary and accessory structures must be less than 2,000 square feet.
- B. The primary structure must have a roof pitch between a 3/12 and 4/12.
- C. A maximum of two off-street parking spaces are allowed between the primary structure and the public right-of-way. The remainder of off-street parking spaces, whether required or overflow, must be provided between the primary structure and the rear property line.

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

- A. Private telecommunication or transmission towers are not permitted.
- B. [Insert satellite dish size limits]

### 5.3.13 **Track, Vehicle Race**

A vehicle race track is permitted in accordance with the use tables in this Article and Article 6 provided the track is ~~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**

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

- A. Except for a fireworks sales establishment with an approved Temporary Use Permit, 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

March 2014:  
Added to  
beginning of A.  
Also boundary  
buffers generally  
do not apply in A-  
1, but they do to  
this use which is  
permitted in A-1

distance is measured from the nearest property line to nearest property line in all directions.

- C. In the A-1 zoning district, a Class I boundary buffer in accordance with Sec. 7.3 is required where the fireworks establishment is adjacent to an R-1, R-2 or R-3 zoning district.

### 5.3.18 Kennel

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

- A. In the A-1 zoning district, 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~~ primary residence not occupied by the kennel operator; ~~and;~~
  2. ~~Setback at least a minimum of~~ 50 feet from any other property line; and
  3. ~~Buffered with Fenced with a visual buffer to neighboring properties~~ a Class I boundary buffer in accordance with Sec. 7.3 where the facility is adjacent to an R-1, R-2 or R-3 zoning district.

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on A,  
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March 2014: boundary buffers generally do not apply in A-1, but they do to this use which is permitted in A-1

**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 subject to the following standards

- A. In the B-1 zoning district, any outdoor pen is setback from a residential dwelling a minimum of 100 feet.
- B. In the A-1 zoning district, A Class I boundary buffer in accordance with Sec. 7.3 is required where the facility is adjacent to an R-1, R-2 or R-3 zoning district.

March 2014: See margin note directly above

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

**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

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.~~

March 2014:  
Removed requirement for 8 masonry wall, instead relying on buffering standards in Sec. 7.2.

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**5.3.23 Bulk Storage of Explosives, Fertilizer or Other Hazardous Materials**

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Bulk storage of flammable liquids, fats or oil explosives, fertilizer or other hazardous materials is permitted in accordance with the use tables in this Article and Article 6 provided that if the materials are stored in tanks, each tank 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**

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

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- 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**

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.

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**5.3.26 Welding, Tool Repair or Machine Shop**

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

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**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.

March 2014:  
Modified to require federal state and local permits "if available."  
Required before ILP if not available at time of SUP submittal

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

### **5.3.28 Agricultural Uses**

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

### **5.3.29 Non-Agricultural Use**

March 2014:  
Added to address non-ag uses allowed in A-1

***Note to Reviewers:** A boundary buffer is normally not required in A-1, but a Class I buffer will be required for the following non-ag uses that are permitted in A-1 without a Special Use Permit: Place of worship, county club, pet shop with outdoor pens or runs, Veterinary clinic / hospital with outdoor pens.*

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

### **5.3.30 Resource Extraction Uses**

March 2014:  
Modified to reflect state statutes

A Resource Extraction use is permitted in accordance with the use tables in this Article and Article 6 by right or by Special Use Permit in accordance with Indiana Code Section XXXXXX.

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:

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~~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.~~

**Article 5 Use Standards**  
Sec. 5.3. Specific Use Standards

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~~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. —~~

~~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.~~



**Article 5 Use Standards**  
Sec. 5.3. Specific Use Standards

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~~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 provided for them in an approved subdivision), commercial broadcast, relay or receiving towers and telephone exchanges in all use districts.~~

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~~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 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.~~

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**Article 5 Use Standards**  
Sec. 5.3. Specific Use Standards

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~~Warehousing and storing, including construction storage yards, in "A" and "B" Districts.~~

 **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

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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.

## Article 5 Use Standards

### Sec. 5.4. Wireless Communication Facilities

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#### 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 must 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;

## Article 5 Use Standards

### Sec. 5.4. Wireless Communication Facilities

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

#### **5.4.4 Wireless Communication Facilities Permitted by Right**

##### **A. Stealth Wireless Communication Antennas**

New antennas being placed on existing structures (including but not limited to flag poles, buildings, water towers, light poles, electric towers, church steeples, or silos) do not require a Special Use Permit, but do require an electrical or building permit.

##### **B. Co-Location**

New antennas being placed on existing wireless communication towers with a valid Special Use Permit do not require a Special Use Permit, but do require an electrical or building permit.

##### **C. Minor Towers**

1. Towers 50 feet or less in overall height do not require a Special Use Permit when proposed outside of a platted residential subdivision and outside of a residential zoning district. Such towers do require an Improvement Location Permit and a Building Permit.
2. As a part of the Improvement Location Permit and Building Permit application, the petitioner must submit the following:
  - a. A statement that the tower will not interfere with other communications (such as radio or television);
  - b. An engineering report on collapsibility of the tower; and
  - c. A letter stating the facility operator will disassemble the tower and bring the property back to grade when the tower is no longer in use.

## Sec. 5.5. Accessory Uses and Structures

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

### 5.5.1 General Standards

Change since Committee review. "non-ag" and "detached" added

- A. The accessory use or structure must be subordinate to and serve a primary use or primary structure.
- B. Except as provided in this Section, a **non-agricultural** accessory structure must be subordinate in height to the primary structure.
- C. Accessory uses located in residential zoning districts must not be used for commercial purposes other than authorized home occupations or home workshop / businesses.
- D. No **detached** accessory structure may be constructed until the construction of the rafters, or general equivalent, of the primary structure has commenced. No accessory structure may be used unless the primary structure also is being used.

Specifications B, B

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 primary use building or principal use structure served. ~~and~~
- F. An accessory use or structure must be located on the same zoning lot, and in the same zoning district and under the same ownership as that of the principal primary use building or principal use structure served. ~~and~~
- G. An accessory use is not specifically enumerated as requiring a Special Use Permit in the particular zoning district in which the principal building or principal use served lie; and primary structure exists is permitted by right or permitted subject to the limitations of this Section.

An "accessory use" includes, but is not limited to:

~~A children's playhouse, garden house, and private greenhouse.~~

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

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A garage, shed, or building for domestic storage.

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.

Carpools.

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 primary 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.

Change since  
Committee  
review. 5  
changed to 6

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[insert graphic]





### 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.

**Note to Reviewers:** *Accessory dwelling units (dowty 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.*

- A. An accessory dwelling unit is permitted by right or by Special Use Permit, as appropriate, in association with a single-family dwelling or Educational Facilities use on property one acre or more in lot area in the A-1 zoning district.
- B. Where associated with an Educational Facility use in the A-1 zoning district, the accessory dwelling unit must be shown on the Special Use Permit site plan.
- C. Where associated with a single-family dwelling in the A-1 zoning district, the accessory dwelling unit is allowed by right.
- D. An accessory dwelling unit must have a minimum gross **above-ground** floor area of 600 square feet and a maximum gross floor area of 1,000 square feet. **An accessory dwelling with attached personal storage space may have up to 1,200 square feet gross floor area.**
- E. The maximum height of an accessory dwelling unit is a single story of livable space.

**Note to Reviewers:** *A garage apartment is two stories, but would still be a single story of livable space.*

- F. When associated with a single-family dwelling, the owner of the property must reside in either the primary dwelling or the accessory dwelling unit.
- G. For the purposes of this Section, a mobile or manufactured home may not be used as an accessory dwelling unit. A Special Use Permit in accordance with Sec. 3.6 is required.
- H. An accessory dwelling unit must be served by the same curb cut that serves the primary dwelling or Educational Facility.
- I. A minimum of one off-street parking space must be provided in addition to the off-street parking required for the primary dwelling or Educational Facility.
- J. An accessory dwelling must either be located within the primary structure (and meet the primary structure setback and yard requirements) or meet the standards in Sec. 5.5.2 above.

Change since Committee review. Ability to do accessory dwelling unit in residential district removed & 1,200 sq ft total allowed if storage is incorporated

**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;

Change since  
Committee review.  
A-1 added.

Art.1,  
Sec. 2

**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.*

**5.5.6 Garage or Yard Sale**

*Note to Reviewers: These standards were found in the Definitions section of the current Ordinance.*

A garage or yard sale is permitted as a residential accessory use subject to the following standards.

- A. No such sale shall may be conducted for longer than three consecutive days nor for more than six days of any calendar year by any of the same persons or on the same property.
- B. No articles or items for sale shall may be displayed within 10 feet of a public right-of-way nor within five feet of a side yard lot line.
- C. At the close of each sale day, all articles not sold shall must be removed from the front and side yards.

Art.1,  
Sec. 2

- D. Garage ~~or~~ yard sales shall ~~be~~ are limited to the hours from sunrise to sunset.
- E. All signs erected for a garage or yard sale shall ~~shall~~ must be removed at the conclusion of the sale.

### 5.5.7 **Feral Cat Colony**

**Note to Reviewers:** *The current zoning ordinance is silent on feral cat colonies, and so a Use Variance is required in any zoning district. This provisions allows them by right, subject to limitations in A-1.*

A feral cat colony is allowed by right in association with a single-family dwelling in the A-1 zoning district subject to the following standards.

- A. The minimum lot area for a property with a feral cat colony is three acres.
- B. Any structure or feeding area associated with the colony, must be:
  - 1. Setback a minimum of 200 feet from the nearest primary residence not occupied by the colony caretaker; and
  - 2. Setback a minimum of 50 feet from any other property line.
- C. The colony must comply with the Elkhart County Animal Ordinance.

### 5.5.8 **Home Occupation**

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

- A. ~~Any~~ home occupation shall ~~shall~~ must be carried on wholly within the ~~principal primary building structure~~ or within a building structure 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 ~~shall~~ may be no article sold or offered for sale on the premises.
- D. There shall ~~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.*

Change since Committee review. Standards for residential accessory shooting ranges removed.

Art.1,  
Sec. 2

- 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~~ primary structure.
- 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.

### 5.5.9 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~~ primary structure or within a ~~building~~ structure 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.
- 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. 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.

Art.1,  
Sec. 2

Change since Committee review. 200% allowance.

Spec. G,  
Sec. 6

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

~~Any home workshop or business meeting these standards shall require a special use in any use district.~~



### 5.5.10 Personal Residential Storage

#### ACCESSORY BUILDING, USES PERMITTED:

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~~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.~~

- A. Structures for storage of personal items, such as a private garage or storage shed, are allowed in association with a Household Living use subject to the following standards.
1. Items stored must not be associated with a nonresidential use or activity.
  2. Except as provided in paragraph C below, the total square footage of all accessory structures must not exceed 110 percent of the gross floor area of the primary dwelling.
- B. In the Agricultural zoning district, the storage of agricultural equipment in accessory structures is exempt from the square footage limitation.

**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 and R-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.

### 5.5.11 Place of Worship

March 2014:  
Changed 3  
acres to 1.

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 one acre.

**Note to Reviewers:** *This is in the draft so that Amish house churches (or places of worship for any other religion) are made clearly allowable.*

### 5.5.12 Parking, Outdoor Bus

March 2014:  
Changed from  
"school bus"  
to "bus" upon  
direction from  
Policy  
Committee

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

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

Change since Committee review. 3 acres to 1 acre. Specify for students, allow house to screen. Require behind front of house. No backing into street.

Specifications F, A

The parking or storing of school buses in any A, R, or B districts. (Amended 11/7/94 PC 94-31)

### 5.5.13 Rummage Sale

**Note to Reviewers:** *These standards were found in the Definitions section of the current Ordinance.*

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

(1) — A public rummage sale is a permitted use in any Use District within a structure, such as a church, club or school, which has been legally established in accordance with the Elkhart County Zoning Ordinance for the purpose of public assembly.

- A. No sale shall may be conducted for longer than 10 consecutive days nor more than 20 days of any calendar year by the same organization or on the same property.
- B. All signs erected for a Rummage Sale shall must be removed at the conclusion of the sale.



### 5.5.14 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 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.

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

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## 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 Committee 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 primary 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 primary 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.

Conditional Industrial Unit Development

**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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3

**Article 5 Use Standards**  
Sec. 5.6. Temporary Uses

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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.~~

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3

~~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.~~

# ARTICLE 6 SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS

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**Note to Reviewers:** *Special purpose and overlay zoning districts can be thought of as self contained mini-ordinances within the overall Zoning Ordinance. They can have their own review procedures, permitted uses and development standards.*

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

## Sec. 6.1. ~~E-3~~ ~~E-1~~, Office and Business Park District

**Note to Reviewers:** *This is a combination of existing E-1 , E-2 and E-3 districts, which were quite similar.*

General Standards

**Question for Reviewers:** *in order to facilitate the use of this district in the County, rather than requiring a DPUD in order to build there, this draft proposes requiring site plan approval by the Plan Commission (rather than DPUD approval by the Board of County Commissioners. The approval could be as a staff item if all standards are met. Then an ILP/BP could be issued administratively. Or if the Policy Committee is comfortable, we could completely remove it from the Plan Commission and not even require Site Plan approval as a staff item.*

Specific  
ations  
E, 1&2

The plan shall consist of a minimum of 10 acres.

**Note to Reviewers:** *The above standard is carried down to the development standards table.*

A General Planned Unit Development (GPUD) or a Detailed Planned Unit Development (DPUD) shall be submitted.

Aesthetic standards for buildings will be considered within the Planned Unit Development.

**Note to Reviewers:** *Basic exterior building material standards further below replace the above statement.*

General Standards

The plan shall consist of a minimum of ten acres.

The plan must show that the proposed development presents a unified and organized arrangement of structures, parking areas, lighting and related facilities.

The plan shall also show a logical relationship of development to the topography of the area and to the lots comprising the business park.

The activity within the district shall create no noise perceptible on the district boundary lines and no smoke, heat or glare.

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.1. E-3 E-1, Office and Business Park District

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~~A General Planned Unit Development (GPUD) or a Detailed Planned Unit Development (DPUD) shall be submitted.~~

~~Permitted uses shall have no outside storage or display of product.~~

~~Aesthetic standards for buildings will be considered within the Planned Unit Development.~~

#### 6.1.1 **Review Process**

##### A. **Rezoning**

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

##### B. **Site Plan**

*Note to Reviewers: These provisions will change if review and decision of E-3 site plans becomes totally administrative, rather than in the hands of the Plan Commission.*

1. Prior to approval of an Improvement Location Permit for a structure in an E-3 zoning district project, the land owner must submit a Site Plan prepared by a registered Indiana land surveyor. The Site Plan must have sufficient detail to demonstrate compliance with the provisions of this Section and other applicable provisions of this Ordinance.
2. The Plan Director must review the Site Plan and make a recommendation to the Plan Commission.
3. The Plan Commission must hold a public meeting and approve or deny the Site Plan.
4. If the Site Plan complies with the provisions of this Section and other applicable provisions of this Ordinance, then the Plan Commission must approve the Site Plan.

##### C. **Review Criteria**

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

1. The Site Plan complies with the provisions of this Section and other applicable provisions of this Ordinance.
2. The Site Plan must shows that the proposed development presents a unified and organized arrangement of structures, parking areas, lighting, landscaping and related facilities.
3. The Site Plan shall also shows a logical relationship of development to the topography of the area and to the lots comprising the office or business park.

Specific  
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E, 1&2

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

**D. Improvement Location Permit Compliance**

All subsequent Improvement Location Permits for the project must comply with the approved Site Plan.

**6.1.2 Dimensional Standards**

Specific  
ations  
E, 1 & 2

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

**6.1.3 Use Standards Permitted Uses**

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.

Specific  
ations  
E, 1 & 2

**Note to Reviewers:** *The stricken statement above is in keeping with the Use Categories concept in Sec. 5.2*

The following Office Park uses as stated or implied are permitted by right, permitted subject to limitations or permitted by Special Use Permit. Any specific use or Use Category not listed in the table is prohibited in the E-3 zoning district. -in the E-1 and E-3 Districts-

Use	Permitted by Right or Subject to Limitations	Special Use	Standard
<b>Residential Uses</b>			
Household or Group Living Uses, except as listed below [see 5.2.2]	✓		See Sec. 5.3
Hospice or nursing or rest home		✓	
Home workshop/business		✓	
<b>Public &amp; Civic Uses</b>			
College, university or seminary		✓	

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

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

~~Professional and Business Offices.~~

~~Research, Development, and Technical Training Offices~~

Specific  
ations  
E, 1&2

- A. A child care center is permitted in the E-3 zoning district subject to the following standards.
  1. A child care center must be when enclosed within the larger office building, except for outdoor play areas.
  2. A child care center must and only to serve the needs of that the office park development of which it is a part.
- B. A Commercial Use is permitted in the E-3 zoning district Any of the following uses, provided their combined area of the sites (including



**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

building, parking, drainage, and landscaping) does not exceed six percent by acreage the total of the ~~Planned Unit development project~~.

- C. A hotel or motel is permitted in the E-3 zoning district provided that the whose sum total square footage gross floor area of the hotel or motel does not exceed more than 20 percent of the total constructed square footage gross floor area of office space within the development.
- D. A fast food restaurant is permitted in the E-3 zoning district subject to the following standards.
  - 1. ~~without~~ Drive-up or drive-through windows are prohibited.
  - 2. ~~when~~ A fast food restaurant must be enclosed entirely within a larger office building and comprising no more than 10 percent of the constructed square footage of the building.
- E. A standard restaurant is permitted in the E-3 zoning district subject to the following standards. when
  - 1. A standards restaurant must be enclosed entirely within a larger office building. and
  - 2. A standard restaurant must comprising comprise no more than 10 percent of the constructed square footage gross floor area of the building.

Specific  
ations  
E, 1&2

~~Charitable Organization Offices~~

~~Permitted Uses~~

~~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.~~

~~OFFICE PARK DEVELOPMENT STANDARDS~~

**6.1.4 Off-Street Parking**

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

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

Specific  
ations  
E, 1&2

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

- B. Minimum parking ratios must comply with the parking requirements table in Sec. 7.2.4.

**Question for Reviewers:** *What about loading standards? A best practice is to not mandate loading spaces but to set standards for such spaces if the developer wants to provide them.*

- C. A parking buffer consisting of a berm, solid evergreen hedge or retaining wall a minimum of two and one-half feet and a maximum of four feet in height must be provided along the perimeter of all parking areas visible from the public right-of-way or residential uses.

**6.1.5 Access and Circulation Traffic Control**

~~Driveways permitted to named County Roads only.~~

Specific  
ations  
E, 1&2

**Question for Tech Committee:** *The above sentence is shown as stricken. Highway Department has been and wants to continue to issue permits on numbered County Roads as well.*

- A. The Plan Commission may require a cross access easement parallel to the public right of way and laid out in such a manner to enable future connection to adjacent properties.
- B. No permanent structure, obstructions, or parking that would interfere with the cross access are permitted within the easement. Improvements such as medians and islands are allowed within the easement provided that cross access and circulation between properties is not impaired.

**Note to Reviewers:** *B & C above promote circulation between properties and minimize driveways onto public streets.*

**6.1.6 Outdoor Storage**

**Note to reviewers:** *in an effort to make this district more practical, the requirement that outdoor storage is prohibited is changed to say storage must be screened.*

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

Specific  
ations  
E, 1&2

**6.1.7 Signs Signage**

**A. General**

- 1. Monument signs and façade signs are the only sign types permitted in the E-3 zoning district. All other sign types, whether described in Sec. 7.4 or not, are prohibited.

**Note to Reviewers:** *Monument and façade signs continue to be the permitted sign types in E-3, based on the existing standards.*

- 2. Monument signs must comply with the following standards.

Monument Sign Standards	Requirement
Min. Front Setback (ft. from prop. line)	

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

Monument Sign Standards	Requirement
Front	30
Side	30
Max. Overall Height (ft.)	8
Max. Overall Width (ft.)	10
Max. Message Height (ft)	4
Max. Message Width (ft)	10
Max. Area	1 sq. ft. per 2 linear ft. of frontage not to exceed 200 sq. ft.

3. Façade signs must comply with the following standards.

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

Specific  
ations  
E, 1&2

**B. Monument Sign Standards**

A monument sign shall must be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the display message area. ~~The maximum overall height shall not exceed eight feet and the maximum overall width shall not exceed 10 feet. The display area shall not exceed 4 feet in height and 10 feet in width.~~

~~No portable signs.~~

**6.1.8 Landscaping and Screening Requirements**

**A. Intent**

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

**B. Landscape Plan**

1. The This Site Plan must include a Landscape Plan shall that must be drawn to scale and include the following information:

- a. Property owner's name, address, ~~and~~ telephone number and email address;
- b. Land surveyor's name, address, telephone number and email address;
- c. Landscape designer's or contractor's name, address, ~~and~~ telephone number, and email address if such has been hired;
- d. Existing and proposed structures;

Specifications  
E, 1

## Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3 E-1, Office and Business Park District

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

### C. Areas to be Landscaped

1. All areas within the development portion of a lot not occupied by buildings, parking and other paved areas, and permanent water features ~~shall must~~ be landscaped and maintained. Within a front or corner side yard, landscaping ~~shall must~~ consist of any combination of canopy trees and ornamental trees, shrubs, and ground cover with:
  - a. At least one canopy tree or ornamental tree per 4,000 square feet of yard area for the first 25,000 square feet; and
  - b. One additional canopy tree or ornamental tree per 6,000 feet of yard area above 25,000 square feet
2. A maximum of 25 percent of the required trees in paragraph 1 above may be substituted with shrubs meeting the size requirements of this Section. For the purposes of this Section, 10 shrubs may be substituted for each required tree.

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

3. Parking areas ~~shall must~~ be screened from all public ~~roads~~ rights-of-way and from residential uses as required in subsection 6.1.4C.
4. Roadway rights-of-way ~~shall must~~ be landscaped with grass and trees. No walls, fences, signs or hedges ~~shall be~~ are permitted in

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

Specifications  
E, 1

a right-of-way without the approval of the Board of County Commissioners.

- 5. Retention ponds located in front yards or other areas visible to the public, either from within the site or from the street, ~~shall~~ must be free-form (curvilinear) in shape and incorporated into the overall landscape design for the site. Retention ponds that use right angles and straight lines architectural-shaped consistent with the site and building design may be used with the approval of the ~~Planning staff~~ Plan Commission as part of Site Plan review and final action.
- 6. All dumpsters ~~shall~~ must be screened with an opaque wall or fence that is architecturally compatible with the primary facility structure on the property and that is of adequate height to screen the dumpster and its contents. Gates ~~shall~~ must be provided if dumpsters are visible from the public right-of-way, an adjacent property, or areas of the site open to the public.

**D. Landscape Materials**

Required landscape materials selected shall must be appropriate to local growing and climatic conditions be of a species permitted in the Plant List in Sec. 7.3. Wherever possible, The Plan Commission may require that existing trees should be conserved and integrated into the landscaping plan. Landscape materials may be used in any combination unless otherwise specified and must include the following:

**1. Plant Material**

**a. Trees or Existing Wooded Areas**

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

<b>Tree Type</b>	<b>Minimum Size</b>
<b>Deciduous Canopy Tree</b>	2 ½ inches DBH
<b>Ornamental Tree</b>	2 inches DBH
<b>Evergreen Tree</b>	6 feet overall height

DBH = Diameter at Breast Height

**b. Shrubs or Hedges**

Shrubs shall must have a minimum height of 24 inches at installation. unless otherwise specified.

**c. Ground Cover and Vines**

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

Vines

## Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3 E-1, Office and Business Park District

### 2. Other Landscape Materials

The following additional landscape materials may be utilized:

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

Specifications  
E, 1

**Note to Reviewers:** *Landscaping Installation and Maintenance moved to Sec. 7.3.*

#### 6.1.9 Building Exterior

**Note to Reviewers:** *These standards replace the phrase “Aesthetic standards for buildings will be considered within the Planned Unit Development.” These are simple building exterior standards that require 80% of a façade visible from the street to be composed of at least one masonry-type material. Building articulation (such as columns, arcades, or awnings) allow for a reduction in the 80% rule.*

##### A. Primary Façade Materials

**Note to Reviewers:** *A primary façade will be defined in Article 10 as a façade visible from a public ROW or from a residentially zoned or used property. A secondary façade will be defined as a façade that is not a primary. These standards do not apply to secondary facades.*

1. Except as modified in this Section, a minimum of 80 percent of the surface area of a primary façade must consist of one or more of the following materials:
  - a. Natural stone;
  - b. Fired brick;
  - c. Split-faced block;
  - d. Tile;
  - e. Granite;
  - f. Marble;
  - g. Stucco; or
  - h. Exterior Insulation and Finish Systems (EIFS).
2. The remainder of a primary façade may consist of accent materials such as architectural metal panel, corrugated metal, wood, or glass.

## Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. E-3 E-1, Office and Business Park District

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### B. **Measurement**

The percentage of surface area of each primary façade is measured per side of the building. Doors, windows, overhead doors and roofs are exempt from the percentage calculation.

### C. **Secondary Façade**

The primary façade materials standards in paragraph A above do not apply to a secondary façade.

### D. **Building Articulation**

The building material requirement of 80 percent coverage in subsection A above may be reduced to 60 percent if a minimum of three of the following features are provided on or adjacent to a primary façade:

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

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

E-2, Business Park Uses

**Note to Reviewers:** *These provisions for E2 have been integrated into E-3 above. The only difference between the two districts was that industrial uses were allowed in E2.*

**BUSINESS PARK DEVELOPMENT STANDARDS**

The following Business Park Uses as stated or implied are permitted in the "E2" and "E3" Districts.

~~Office buildings for professional, administrative, clerical or sales purposes.~~

~~Warehousing, assembly, and distribution facilities which have a majority of the floor area used for these type of uses and also have building space dedicated to office or sales activities.~~

~~Facilities with mixed uses including offices, warehousing, sales, repair, assembly and distribution or any combination thereof that requires no outside storage or display of product or equipment, no outside sale of merchandise, and no outside assembly.~~

~~Financial institutions.~~

~~Motels and Hotels, including dining and meeting rooms whose sum total square footage does not exceed more than 20 percent of the total constructed square footage of office space within the development.~~

~~Restaurants, standard comprising no more than 10 percent of the constructed square footage of the development.~~

~~Restaurants, fast food without drive up windows when enclosed entirely within a larger office building and comprising no more than 10 percent of the constructed square footage of the building.~~

~~Radio and Television broadcasting stations.~~

~~Parking~~

Standard	Requirement
<b>Minimum Front Yard Setback</b>	
— Along Major Arterials	80 ft./Prop. Line
— Along Secondary Arterials	60 ft./Prop. Line
— Along Named C.R.'s	50 ft./Prop. Line
<b>Minimum Side Yard Setback</b>	
— Adjacent to "R" or "A" Zones	50 ft./Prop. Line
— Adjacent to "B" "M" or "E" Zones	5 ft.
<b>Minimum Rear Yard Setback</b>	
— Adjacent to "R" or "A" Zones	25 ft./Prop. Line
— Adjacent to "B" "M" or "E" Zones	5 ft.

~~Traffic Control~~

Specifications E, 2

Specifications E, 2



**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.1. E-3 E-1, Office and Business Park District

~~Driveways permitted to named County Roads only.~~

Signage

Standard	Requirement
<b>Monument Signs</b>	
Front Yard Setback _____	30 ft./Prop. Line
Side Yard Setback _____	30 ft./Prop. Line
Height _____	8 ft./Curb Level
Size _____	1 sq. ft. signage per each 2 linear ft. of frontage with the Maximum Signage being 200 sq. ft.
<b>Facade Signs</b>	
Height _____	Not to extend above roof line
Size _____	Not to exceed 5% of Building Facade

Monument Sign

~~A monument sign shall be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the display area. The maximum overall height shall not exceed 8 feet and the maximum overall width shall not exceed 10 feet. The display area shall not exceed 4 feet in height and 10 feet in width.~~

~~No portable signs.~~

Landscape and Screening Requirements

Intent

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

Landscape Plan

~~This plan shall be drawn to scale and include the following information:~~

~~Property owner's name, address, and telephone number.~~

~~Landscape designer's and/or contractor's name, address, and telephone number, if such has been hired.~~

~~Existing and proposed structures.~~

~~Parking areas and driveway.~~

~~Walkways.~~

~~Location of existing trees or wooded areas (showing trees over eight caliper inches diameter at breast height (d.b.h.); tree groupings may be shown as a mass with a general range of tree sizes). Plan shall indicate those existing trees or wooded areas that will be preserved.~~

Specifications E, 2

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.1. E-3 E-1, Office and Business Park District

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~~General type (evergreen, deciduous, shade or ornamental tree, shrub, hedge, groundcover, etc.), location, size at planting or placement, and number of all plant material to be installed.~~

~~Type and location of all other landscape materials, both natural and man-made.~~

~~Planning staff may request other information as may be deemed necessary for review and approval of the landscape plan as part of the Planned Unit Development.~~

#### ~~Areas to be Landscaped~~

~~All areas within the development portion of a lot not occupied by buildings, parking and other paved areas, and permanent water features shall be landscaped and maintained. Within a front or corner side yard, landscaping shall consist of any combination of canopy and/or ornamental trees, shrubs, and ground cover with:~~

~~at least 1 canopy or ornamental tree per 4,000 square feet of yard area for the first 25,000 square feet; and~~

~~1 additional canopy or ornamental tree per 6,000 feet of yard area above 25,000 square feet~~

~~Parking areas shall be screened from all public roads and residential uses.~~

~~Roadway right-of-ways shall be landscaped with grass and trees. No walls, fences, signs or hedges shall be permitted in a right-of-way without the approval of the County Commissioners. Landscaping shall not impede visual clearance along any public road.~~

~~Retention ponds located in front yards or other areas visible to the public, either from within the site or from the street, shall be free form (curvilinear) in shape and incorporated into the overall landscape design for the site. Architectural shaped consistent with the site and building design may be used with the approval of the Planning staff.~~

~~All dumpsters shall be screened with an opaque wall or fence that is architecturally compatible with the primary facility on the property. Gates shall be provided if dumpsters are visible from the public right-of-way, an adjacent property, or areas of the site open to the public.~~

#### ~~Landscape Materials~~

~~Landscape materials selected shall be appropriate to local growing and climatic conditions. Wherever possible, existing trees should be conserved and integrated into the landscaping plan. Landscape materials may be used in any combination unless otherwise specified and include the following:~~

#### ~~Plant Material~~

#### ~~Trees or Existing Wooded Areas~~

~~Minimum sizes are:~~

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## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.1. E-3 E-1, Office and Business Park District

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Deciduous canopy trees: \_\_\_\_\_ 2½ inches d.b.h.

Ornamental trees: \_\_\_\_\_ 2 inches d.b.h.

Evergreen trees: \_\_\_\_\_ 6 ft. in height

Shrubs or Hedges

Shrubs shall have a minimum height of 24 inches unless otherwise specified.

Ground cover, including grass

Vines

Other Landscape Materials

Boulders, rocks, or mulch (including stone, pebbles, sand, or bark) limited to walks, paths, seating area, planting beds and around individual plants. When used in planting beds or around individual trees shall not exceed twenty percent of the total square footage of the landscaped area.

Berms.

Lakes, ponds, streams, or fountains.

Ornamental fences or masonry walls, architecturally compatible with surrounding development.

Patios, decks, trellises, and other similar landscape features.

Landscaping Installation and Maintenance

All landscaped areas shall be maintained to the standard to which they were designed and installed. Areas shall be maintained free of trash and weeds and shall not deteriorate into an unsafe condition.

Whenever landscape screening is required adjacent to parking areas or driveway, such landscaping shall be protected by bumper blocks, posts, or curbing to avoid damage to landscaping by vehicles.

All approved landscaping plans shall be installed during the first planting season after the start of any construction in the development, unless otherwise required by the Planning and Zoning Office.

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**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.2. E-3 Gateway Interchange Park District

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**Sec. 6.2. E-3 Gateway Interchange Park District**

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~~structures~~

~~Standard Requirement~~

~~Min. Project Area (acres) 40~~

~~Min. Lot Width (ft.) 150~~

~~Min. Front Setback (ft. from prop. Line)~~

~~Federal or State Highway or Major Road~~

~~Along Major Arterials 80~~

~~Numbered County Road or Street~~

~~Along Secondary Arterials 60~~

~~Named Street~~

~~Along Named County Roads 50~~

~~Min. Side Setback (ft. from prop. line)~~

~~Adjacent to R or A Zoning Districts 50~~

~~Adjacent to B, M or E Zoning Dists. 25~~

~~Min. Rear Setback (ft. from prop. line)~~

~~Adjacent to R or A Zoning Districts 50~~

~~Adjacent to B, M or E Zoning Dists. 25~~

~~Max. Building Height (ft.) 60~~

~~Sewage Disposal Municipal Facilities~~

~~child care center,~~

~~when enclosed within the larger office building, except for outdoor play areas.~~

~~and only to serve the needs of that office park.~~

~~Any of the following uses, provided their combined sites (including building, parking, drainage, and landscaping) does not exceed six percent by acreage the total of the Planned Unit development project.~~

~~fast food restaurant~~

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.2. E-3 Gateway Interchange Park District

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~~without Drive-up windows are;~~

~~when enclosed entirely within a larger office building and comprising no more than 10 percent of the constructed square footage of the building.~~

#### Permitted Uses

The following uses as stated or implied are permitted in the E-3 only.

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.

~~Uses permitted by Office Park District – E1~~

~~Uses permitted by Business Park District – E2~~

~~Any Residential Uses as provided in Specifications B – Residential District and Uses.~~

~~Art and school supply store.~~

~~Art galleries and studios.~~

~~Automobile service stations.~~

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

~~Banks and financial institutions.~~

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

~~Bed and Breakfast Inn.~~

~~Bicycle sales and repair.~~

~~Blueprinting and Photostatting establishments.~~

~~Book stores.~~

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

~~Candy and ice cream shops.~~

~~Catering establishments.~~

~~Clubs and fraternal organizations.~~

~~Coin and philatelic stores.~~

~~Computer sales and service.~~

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## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.2. E-3 Gateway Interchange Park District

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~~Currency exchanges.~~

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

~~Department stores.~~

~~Drug stores.~~

~~Dry cleaning and pressing establishment.~~

~~Employment agency.~~

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

~~Food and fruit stores.~~

~~Frozen food stores.~~

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

~~Gift shops.~~

~~Hardware stores.~~

~~Hobby stores.~~

~~Hotel/Motel (Limitations required in E1 and E2 Districts do not apply in the E3 District)~~

~~Household appliance store.~~

~~Interior decorating shops~~

~~Jewelry store and watch repair.~~

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

~~Leather goods and luggage store.~~

~~Loan offices.~~

~~Locksmith.~~

~~Meat markets.~~

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

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

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## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.2. E-3 Gateway Interchange Park District

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~~Optician, optometrist.~~

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

~~Photograph developing and processing.~~

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

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

~~Post office branch.~~

~~Postal substations.~~

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

~~Public utility buildings, such as collection offices and administration offices~~ Restaurants, standard  
(Limitations required in E1 and E2 Districts do not apply in the E3 District).

~~Savings and Loan Association.~~

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

~~Sewing machine sales and service.~~

~~Shoe store.~~

~~Sporting goods store.~~

~~Stationery stores.~~

~~Theater, indoor.~~

~~Tobacco office.~~

~~Toy store.~~

~~Travel bureau and transportation ticket office.~~

~~Variety store.~~

~~Wearing apparel store.~~

~~General Standards~~

~~A General Planned Unit Development (GPUD) or a Detailed Planned Unit Development (DPUD) shall be submitted.~~

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**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.2. E-3 Gateway Interchange Park District

All amendments to be considered must include 40 acres within the E-3 district.

Permitted uses shall have no outside storage or display of product.

Aesthetic standards for buildings will be considered within the Planned Unit Development.

**GATEWAY INTERCHANGE DEVELOPMENT STANDARDS**

Structures

<b>Standard</b>	<b>Requirement</b>
<b>Minimum Lot Size</b> _____	45,000 sq. ft.
<b>Minimum Lot Width</b> _____	150 ft.
<b>Minimum Front Yard Setback</b>	
— Along Major Arterials _____	80 ft./Prop. Line
— Along Secondary Arterials _____	60 ft./Prop. Line
— Along Named C.R.'s _____	50 ft./Prop. Line
<b>Minimum Side Yard Set Back</b>	
— Adjacent to "R" or "A" Zones _____	50 ft./Prop. Line
— Adjacent to "B" "M" or "E" Zones _____	25 ft./Prop. Line
<b>Minimum Rear Yard Setback</b>	
— Adjacent to "R" or "A" Zones _____	50 ft./Prop. Line
— Adjacent to "B" "M" or "E" Zones _____	25 ft./Prop. Line
<b>Maximum Building Height</b> _____	60 ft. - 5 Stories
<b>Sewage Disposal</b> _____	Municipal Facilities

Parking

<b>Standard</b>	<b>Requirement</b>
<b>Minimum Front Yard Setback</b>	
— Along Major Arterials _____	80 ft./Prop. Line
— Along Secondary Arterials _____	60 ft./Prop. Line
— Along Named C.R.'s _____	50 ft./Prop. Line
<b>Minimum Side Yard Setback</b>	
— Adjacent to "R" or "A" Zones _____	50 ft./Prop. Line
— Adjacent to "B" "M" or "E" Zones _____	5 ft.
<b>Minimum Rear Yard Setback</b>	
— Adjacent to "R" or "A" Zones _____	25 ft./Prop. Line
— Adjacent to "B" "M" or "E" Zones _____	5 ft.

Traffic Control

Driveways permitted to named County Roads only.

Signage

<b>Standard</b>	<b>Requirement</b>
<b>Monument Signs</b>	
Front Yard Setback _____	30 ft./Prop. Line

Specifications E, 3



**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.2. E-3 Gateway Interchange Park District

Side Yard Setback	30 ft./Prop. Line
Height	8 ft./Curb Level
Size	1 sq. ft. signage per each 2 linear ft. of frontage with the Maximum Signage being 200 sq. ft.
<b>Facade Signs</b>	
Height	Not to extend above roof line
Size	Not to exceed 5% of Building Facade

**Monument Sign**

A monument sign shall be solid from ground to top and may be illuminated or unilluminated on a base that extends horizontally a minimum of the length of the display area. The maximum overall height shall not exceed 8 feet and the maximum overall width shall not exceed 10 feet. The display area shall not exceed 4 feet in height and 10 feet in width.

No portable signs.

**Landscape and Screening Requirements**

**Intent**

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

**Landscape Plan**

This plan shall be drawn to scale and include the following information:

Property owner's name, address, and telephone number.

Landscape designer's and/or contractor's name, address, and telephone number, if such has been hired.

Existing and proposed structures.

Parking areas and driveway.

Walkways.

Location of existing trees or wooded areas (showing trees over eight caliper inches diameter at breast height (d.b.h.); tree groupings may be shown as a mass with a general range of tree sizes). Plan shall indicate those existing trees or wooded areas that will be preserved.

General type (evergreen, deciduous, shade or ornamental tree, shrub, hedge, groundcover, etc.); location, size at planting or placement, and number of all plant material to be installed.

Type and location of all other landscape materials, both natural and man-made.

Specifications E, 3

**Article 6 Special Purpose and Overlay Zoning Districts**

**Sec. 6.2. E-3 Gateway Interchange Park District**

Planning staff may request other information as may be deemed necessary for review and approval of the landscape plan as part of the Planned Unit Development.

**Areas to be Landscaped**

All areas within the development portion of a lot not occupied by buildings, parking and other paved areas, and permanent water features shall be landscaped and maintained. Within a front or corner side yard, landscaping shall consist of any combination of canopy and/or ornamental trees, shrubs, and ground cover with:

at least 1 canopy or ornamental tree per 4,000 square feet of yard area for the first 25,000 square feet; and

1 additional canopy or ornamental tree per 6,000 feet of yard area above 25,000 square feet

Parking areas shall be screened from all public roads and residential uses.

Roadway right of ways shall be landscaped with grass and trees. No walls, fences, signs or hedges shall be permitted in a right of way without the approval of the County Commissioners. Landscaping shall not impede visual clearance along any public road.

Retention ponds located in front yards or other areas visible to the public, either from within the site or from the street, shall be free-form (curvilinear) in shape and incorporated into the overall landscape design for the site. Architectural shaped consistent with the site and building design may be used with the approval of the Planning staff.

All dumpsters shall be screened with an opaque wall or fence that is architecturally compatible with the primary facility on the property. Gates shall be provided if dumpsters are visible from the public right-of-way, an adjacent property, or areas of the site open to the public.

**Landscape Materials**

Landscape materials selected shall be appropriate to local growing and climatic conditions. Wherever possible, existing trees should be conserved and integrated into the landscaping plan. Landscape materials may be used in any combination unless otherwise specified and include the following:

**Plant Material**

**Trees or Existing Wooded Areas**

Minimum sizes are:

Deciduous canopy trees: \_\_\_\_\_ 2½ inches d.b.h.

Ornamental trees: \_\_\_\_\_ 2 inches d.b.h.

Evergreen trees: \_\_\_\_\_ 6 ft. in height

Specifications E, 3

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.2. E-3 Gateway Interchange Park District

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~~Shrubs or Hedges~~

~~Shrubs shall have a minimum height of 24 inches unless otherwise specified.~~

~~Ground cover, including grass~~

~~Vines~~

~~Other Landscape Materials~~

~~Boulders, rocks, or mulch (including stone, pebbles, sand, or bark) limited to walks, paths, seating area, planting beds and around individual plants. When used in planting beds or around individual trees shall not exceed twenty percent of the total square footage of the landscaped area.~~

~~Berms.~~

~~Lakes, ponds, streams, or fountains.~~

~~Ornamental fences or masonry walls, architecturally compatible with surrounding development.~~

~~Patios, decks, trellises, and other similar landscape features.~~

~~Landscaping Installation and Maintenance~~

~~All landscaped areas shall be maintained to the standard to which they were designed and installed. Areas shall be maintained free of trash and weeds and shall not deteriorate into an unsafe condition.~~

~~Whenever landscape screening is required adjacent to parking areas or driveway, such landscaping shall be protected by bumper blocks, posts, or curbing to avoid damage to landscaping by vehicles.~~

~~All approved landscaping plans shall be installed during the first planting season after the start of any construction in the development, unless otherwise required by the Planning and Zoning Office.~~

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## **Sec. 6.3. -GPUD and -DPUD, General and Detailed Planned Unit Development Overlays**

### **6.3.1 General**

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

### **6.3.2 Dimensional and Use Standards**

- A. The dimensional standards may vary from the requirements in Article 4, Article 5 or Article 6.
- B. The proposed uses for the planned unit development may vary from the permitted uses and special uses for the underlying base zoning district identified in the use tables in Article 5 or Article 6.

### **6.3.3 Access and Circulation**

*Question for Policy Committee: Should we develop specific standards for Access and Circulation for DPUDs that stand apart from the Highway Department's Street Standards?*

The design and phasing of the on-site access and circulation systems of the planned unit development may vary from the requirements of the Highway Department Street Standards. However, it must be safe, adequate and integrated with the off-site transportation system of the County and abutting municipalities, where applicable.

### **6.3.4 Off-Street Parking and Loading, Buffering and Screening, and Signs**

The design of the off-street parking and loading, buffering and screening, and Signs of the planned unit development may vary from the requirements in Article 7.

### **6.3.5 Water and Wastewater**

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

### **6.3.6 Drainage**

*Question for Policy Committee: Should we develop specific standards for Drainage for DPUDs that stand apart from the Highway Department's Street Standards?*

The design and phasing of the drainage system of the planned unit development must comply with the Highway Department Street Standards.

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.4. -WP, Wellhead Protection Overlay

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**Sec. 6.4. -WP, Wellhead Protection Overlay**

*Note to Reviewers: The Policy Committee generally agreed that this is an idea from Draft E worth keeping.*

**6.4.1 Applicability**

Draft E –  
Sec. 3.07

The standards of this Section apply to land within the -WP, Wellhead Protection, overlay zoning district. Under no circumstances may a Planned Unit Development, Rezoning, Special Use Permit or Variance approval modify the standards of this Section.

**6.4.2 District Boundary**

Draft E –  
Sec. 3.08

The boundaries of the -WP overlay are the five-year recharge area around a public water supply or well field. The district does not automatically apply to new well heads or its recharge area. The water utility or agency that operates the wellhead must petition for the rezoning.

*Question to Reviewers: Thoughts on the last two sentences above?*

**6.4.3 Use Standards**

Draft E –  
Sec. 3.06

All permitted, limited and Special Use Permit uses in the base zoning district are permitted in the -WP overlay except as prohibited below:

- A. Animal feed lot at 50 percent or greater of the allowable animal density;
- B. Bulk storage of chemicals or fertilizer;
- C. Bulk storage of hazardous materials.
- D. Confined animal feeding operation;
- E. Construction material landfill;
- F. Fuel manufacturing;

*Comment to Reviewers: Draft E had “bio-fuels production” listed. I’ve listed “fuel manufacturing” instead to cover all types of fuels.*

- G. Golf course;
- H. Incinerator;
- I. Industry that uses heavy metals or toxic chemicals;
- J. Intensive animal feeding operation
- K. Resource Extraction Uses (see 5.2.6B);
- L. Sewage lagoon;
- M. Slaughtering, packaging, rendering or processing of animals;
- N. Spreading of animal waste on land;
- O. Spreading of sewage treatment plant sludge on land;
- P. Waste -Related Service Uses (see 5.2.5D);and

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.4. -WP, Wellhead Protection Overlay

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Q. Wastewater treatment plant.

**6.4.4 Development Standards**

A. **Exemptions**

The following uses are exempt from the requirements of this overlay zoning district:

1. Single-family and two-family dwelling units connected to a municipal sewer system; and
2. Confined feeding operations and fertilizer storage or distribution uses that have been designed, certified, and stamped by a professional engineer assuring that the design and operation poses no risk to the public water supply.

B. **Best Management Practices for Fertilizer and Chemical Application on Agricultural Land**

Agricultural uses within the -WP overlay must implement best management practices which include the following.

1. **Avoid Excess Potential Contaminant Usage**

The establishment must use the minimal amount of the potential contaminant that is necessary to achieve the desired result, must employ waste reduction and management strategies, and must mandate responsible purchasing to reduce the threat of hazardous materials.

2. **Proper Use and Handling**

The establishment must train employees to follow instructions on labels to ensure proper use, handling, and application of potential contaminants.

3. **Proper Storage and Disposal**

The establishment must create and implement a chemical management plan that includes a list of chemicals and potential contaminants used, the method of disposal, and procedures for assuring that chemicals and potential contaminants are not discharged into waterways or into wellfield.

C. **Sewer and Water Standards**

1. **Abandoned Wells**

All known abandoned wells must be identified and sealed at the surface or plugged with impervious materials in accordance with Rule 10 in **IAC 312 and IAC 13.**

2. **Sanitary Sewer**

Connection to a municipal sanitary sewer system is required unless the cost to connect to the municipal sanitary sewer

Draft E –  
Sec. 3.09

Draft E –  
Sec. 3.09

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.4. -WP, Wellhead Protection Overlay

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exceeds three times the cost of an on-site waste treatment system.

**D. Storage Tank Standards**

**1. Above Ground Storage Tanks**

- a. All tanks must have corrosion protection for the tank and piping. Corrosion protection measures must include elevating the tanks, resting the tanks on continuous concrete slabs, installing double-walled tanks, cathodically protecting the tanks, internally lining the tanks or a combination of the aforementioned options. All piping to the tank must be double-walled or located above ground or cathodically protected.
- b. Above ground storage of liquid or petroleum products are limited to 2,000 cumulative gallons in all on-site storage tanks.
- c. Storage of more than 300 gallons of liquid chemical or petroleum products for more than 24 hours must meet the following secondary containment requirements:
  - i. Secondary containment must be capable of containing 110 percent of the volume of the tank.
  - ii. Secondary containment must be designed to prevent and control the escape of the contaminant into ground water for a minimum of 72 hours or designed and built with an outer shell and a space between the tank wall and the outer shell that allows and includes monitoring between the tank wall and outer shell.
  - iii. The secondary containment structure must be properly maintained and must be free of vegetation, cracks, open seams, open drains, siphons or other openings that jeopardize the integrity of the structure.
  - iv. The secondary containment structure must be designed to prevent the infiltration of precipitation.

**2. Underground Storage Tanks**

- a. New underground storage tanks are not permitted.
- b. Existing underground storage tanks may only be replaced or upgraded with above ground storage tanks.

Draft E –  
Sec. 3.09

**6.4.5 Additional Reviews**

If a development review application established in this Zoning Ordinance or a subdivision of land is requested for a site that lies fully or partially within the -WP overlay, the proposed development is subject to additional review by the water utility that maintains the wellhead.

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.4. -WP, Wellhead Protection Overlay

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**6.4.6 Wellhead Monitoring**

**A. Inspection**

*Question for Reviewers: Who is the appropriate inspector? Can we even address that in this Ordinance since the Fire Marshall for a Township or the employee of a water utility does not work for the County?*

Land uses involving the storage or use of potential contaminants are subject to periodic inspection by the Fire Marshall or the water utility who maintains the wellhead. The scope of inspections is limited to issues related to the storage and use of potential contaminants.

**B. Testing**

*Question for Reviewers: I don't understand the last two sentences of this paragraph. Why have both?*

The water utility that maintains the wellhead may request periodic testing for spillage or soil contamination. Testing may not exceed one test site for each 1,000 gallons of chemicals, fertilizer, or petroleum product per year for sites that have never had a violation, or significant leak or spill. Testing may not exceed one test site for each 500 gallons of chemicals, fertilizer, or petroleum product per six months for sites that have never had a violation, or significant leak or spill.

**C. Reporting**

The water utility that maintains the wellhead must be notified within 24 hours from the time a leak or spill is discovered that exceeds one gallon onto the soil.



## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.4. -WP, Wellhead Protection Overlay

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~~A-2C, Conservation District~~

**Note to Reviewers:** *A-2 is proposed to be removed*

~~Permitted Uses~~

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

~~Public Parks, playgrounds and recreational areas and private recreational developments.~~

~~No residential structure or permanent commercial and industrial.~~

~~GENERAL PROVISIONS.~~

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

~~Conditional Uses~~

~~Uses other than those listed above may be permitted after approval by the State Flood Control and Water Resources Commission, and after approval by the Board of County Commissioners, in accordance with Specifications F. Special Uses.~~

~~"Uses" as used in this specification, include the filling in with waste materials, the construction and use of commercial, industrial and residential structures, and the industrial use of open ground structures shall be established and used.~~

## Sec. 6.5. A-3, Farmland Preservation District

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

### 6.5.1 Applicability

General Requirements

For consideration of A-3 designation:

Request for consideration to Plan Commission by landowner.

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

### 6.5.2 Use Standards

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

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

Permitted Uses

~~Agricultural uses, including but not limited to crop farming, livestock and poultry farming, grazing lands, and the operation of any machinery, vehicles, and other uses customarily incidental to agricultural actually being pursued on the premises.~~

#### A. Single-Family Detached Dwelling

Limitations:

A single-family detached dwelling is allowed in the A-3 zoning district provided that the dwelling is ~~Construction of residential housing not~~

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.5. A-3, Farmland Preservation District

~~permitted except by Special Use granted only for the owners of the subject property, family members employed in the agricultural operation on the premises, or tenants involved in the agricultural operations on the premises.~~

**B. Agricultural Uses**

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

1. ~~The maximum building coverage for buildings associated with an Agricultural Uses actually being pursued on site — provided no more than is five percent of the A-3 real estate is covered by structures.~~
2. An agricultural use may expand ~~No prohibition from expanding agricultural enterprise~~ as long as environmental regulations are met and sound agricultural practices are sound used. ~~The term "sound agricultural practices" refers to those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities.~~

Specifications  
A, Sec. A

General Provisions:

Kenel

**6.5.3 Agricultural Protection Standards**

*Note to Reviewers: These provisions may be more appropriate in Sec. 4.4 because they actually impact and apply to residential properties, not A-3 properties.*

- A. ~~That~~ Any future residential subdivision of property within 300 feet of of the boundaries of an A-3 zoned property must address as part of the requested Primary Approval Plat the following:
  1. Off-site surface drainage impacts;
  2. Subsurface tiling systems impacts;
  3. Irrigation accommodations; and
  4. Security of A-3 zoned property from residential uses.
- B. ~~The subdivision~~ plat notes on the Secondary Plat and restrictive covenants on the property deeds in the subdivision must holding harmless agricultural production in the A-3 zone when operating under normal practices.

Specifications  
A, Sec. A

Agricultural-Use-Notice

*Question for Reviewers: Are the signs in C below supposed to be allowed by right in the ROW or not?*

- C. To help reduce conflicts between farmers and non-farm neighbors in the A-3 zoning district, the property owner may post signs along country roads within an A-3C zone. ~~The signs would on his or her~~

## **Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.5. A-3, Farmland Preservation District

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property that identify the area as a Farmland Preservation Zone and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities. Such signs require a sign permit in accordance with Sec. 3.14. Size, design and location of these signs are to be approved by the staff of the Elkhart County Plan Commission.

## **Sec. 6.6. A-4, Confined Feeding Protection District**

### **6.6.1 Applicability**

- A. In order to be eligible for a rezoning to the A-4 zoning district, a property must either have a minimum site area of 40 acres or must be contiguous to an existing A-4 zoning district.
- B. That The A proposed confined feeding operation must have IDEM's approval of the Indiana Department of Environmental Management (IDEM) within IDEM's rules for confined feeding operations, regardless of number of animal units.

General Requirements

For consideration of A-4 designation:

Request for consideration to Plan Commission by landowner.

### **6.6.2 Use Standards**

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

<b>Use</b>	<b>Permitted by Right or Subject to Limitations</b>	<b>Special Use</b>	<b>Standard</b>
<b>Residential Uses</b>			
Single-family detached dwelling		✓	6.5.2A
<b>Commercial Uses</b>			
Kennel	✓		5.3.18
<b>Industrial Uses</b>			
Confined Feeding Operation		✓	B
<b>Open Uses</b>			
Agricultural Uses except as listed below [see 5.2.6A]:	✓		
Roadside stand		✓	
Resource Extraction Uses [see 5.2.6B]	✓	✓	5.3.30

#### **Permitted Uses**

Agricultural uses, including but not limited to crop farming, livestock and poultry farming, grazing lands, and the operation of any machinery, vehicles, and other uses customarily incidental to agricultural uses actually being pursued on the premises.

Buildings associated with agricultural uses actually being pursued on site.

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.6. A-4, Confined Feeding Protection District

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#### A. Single-Family Detached Dwelling

A single-family detached dwelling is allowed in the A-4 zoning district provided that the dwelling is Construction of residential housing not permitted except by Special Use granted only for the owners of the subject property, family members employed in the agricultural operation on the premises, or tenants involved in the agricultural operations on the premises.

and storage of operable farm vehicles, farm machinery and other motor vehicles actually used on the premises in connection with any use permitted in this district.

Specifications  
A, Sec. A

General Provisions:

Kennel

#### B. Confined Feeding Operations

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

1. ~~That~~ A Confined feeding operations, including manure management techniques, are to be placed on the site in accordance must comply with IDEM's rules for confined feeding operations.
2. ~~That in order for the County Commissioners to grant an~~ Along with the submittal of a rezoning application for the A-4 zoning designation district, the applicant must submit a statement signed by all real estate owners adjacent to the proposed A-4 zoning at the time the application is filed with the Plan Commission must sign a statement of acknowledgement of subject property acknowledging the use of this the property for confined feeding operations. and that In addition, the statement must acknowledge that as long as these operations are conducted in compliance with this the provisions of the A-4 zoning district, any applicable IDEM regulations and normal agricultural practices, they the adjacent real estate owners will hold harmless the owner of the A-4 real estates subject property from claims due to dust, noise, odors, etc. emanating from the operation.
3. ~~That~~ Any future splits of property adjacent to the A-4 District, whether by subdivision or metes and bounds, must include the wording of the above mentioned release of the deed as a perpetual deed restriction in order for the County to consider such splits to be deemed as potential buildable tracts.
4. ~~That~~ A confined feeding operation must maintain less than 1,500 animal units as determined from the following chart table.

*Note to Reviewers: These thresholds seem extremely high. For example, A-4 is not needed until a property has 2,000 feeder cattle, 3,750 hogs, or 150,000 ducks or*

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.6. A-4, Confined Feeding Protection District

chickens.

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

Limitations:

**6.6.3 Agricultural Use Notice**

**Question for Reviewers:** Are the signs in C below supposed to be allowed by right in the ROW or not?

To help reduce conflicts between farmers and non-farm neighbors in the A-4 zoning district, the property owner may post signs along country roads within an A-4 zone. The signs would on his or her property that identify the area as a Confined Feeding Protection District and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities. Such signs require a sign permit in accordance with Sec. 3.14. Size, design and location of these signs are to be approved by the staff of the Elkhart County Plan Commission.

## Sec. 6.7. A-5, Intensive Livestock Operation District

*Question for Reviewers: What's really the difference between this and a CFO above?*

### 6.7.1 Use Standards

The following uses are permitted by right, permitted subject to limitations or permitted by Special Use Permit. Any specific use or Use Category not listed in the table is prohibited in the A-5 zoning district.

Use	Permitted by Right or Subject to Limitations	Special Use	Standard
<b>Residential Uses</b>			
Single-family detached dwelling		✓	A
<b>Industrial Uses</b>			
Intensive Livestock Operation		✓	B
<b>Open Uses</b>			
Agricultural Uses [see 5.2.6A]	✓		
Resource Extraction Uses [see 5.2.6B]	✓	✓	5.3.30

**Permitted Uses**

Agricultural uses, including but not limited to crop farming, livestock and poultry farming, grazing lands, and the operation of any machinery, vehicles, and other uses customarily incidental to agricultural uses actually being pursued on the premises.

#### A. **Single-Family Detached Dwelling**

A single-family detached dwelling is allowed in the A-5 zoning district provided that the dwelling is Construction of residential housing not permitted except by Special Use granted only for the owners of the subject property, family members employed in the agricultural operation on the premises, or tenants involved in the agricultural operations on the premises.

#### B. **Intensive Livestock Operation**

An Intensive Livestock Operation is allowed in the A-5 zoning district subject to the following standards.

**General Requirements**

That for an Intensive Livestock Operation (as defined in Req 2) to operate in Elkhart County, it must be located within real estate zoned "A-5".

An Intensive Livestock Operation is:

Any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, goats, poultry/fowl, turkeys/ducks, or other livestock in concentrations of 1,500 or more animal units, including any buildings, structures, excavations, or enclosed areas directly involved therein,

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A, Sec. A



**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.7. A-5, Intensive Livestock Operation District

including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations or areas directly connected to or associated with such operations.

1. An Intensive Livestock Operation must maintain less than 1,500 animal units as determined from the following table.

**Note to Reviewers:** *These thresholds seem extremely high. For example, A-5 is not needed until a property has 2,000 feeder cattle, 3,750 hogs, or 150,000 ducks or chickens.*

**Question for Reviewers:** *Shouldn't 1,500 above be different from the A-4 threshold?*

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

2. ~~That An Intensive Livestock Operations, including manure containment management techniques, are to be placed on the site in accordance~~ must comply with IDEM's rules for confined feeding operations.

**Question for Reviewers:** *Should the highlighted words above be different?*

3. ~~That proposed uses and accessory uses will~~ Activities must not be injurious to the public welfare in the surrounding neighborhood. Specifically impacts of odor, gases, manure, noise, truck traffic, and air pollution must be considered and mitigated to the extent required by the Plan Commission and Board of County Commissioners.
4. Activities must comply ~~That compliance with all state laws, especially including the Indiana Department of Environmental Management's Animal Waste Regulations with the Indiana Confined Feeding Control Law, is mandatory.~~

Limitations:

**Article 6 Special Purpose and Overlay Zoning Districts**

Sec. 6.7. A-5, Intensive Livestock Operation District

**6.7.2 Agricultural Use Notice**

*Question for Reviewers: Are the signs in C below supposed to be allowed by right in the ROW or not?*

To help reduce conflicts between farmers and non-farm neighbors in the A-5 zoning district, the property owner may post signs on his or her property along country roads within an A-5 zone. The signs would that identify the area as an Intensive Livestock Operation District and that give notice that dust, noise, odors, and other inconveniences may occur due to normal farming activities. Such signs require a sign permit in accordance with Sec. 3.14. Size, design and location of these signs are to be approved by the staff of the Elkhart County Plan Commission.

~~PLANNED DEVELOPMENT CORRIDOR DISTRICT~~

~~DEVELOPMENT STANDARDS~~

~~Development Standards Limitations.~~

The final Corridor District Plan, as approved by the County Commissioners, may be required to include any or all of the development standards listed in this section. Absence of any imposed standards indicates compliance with the standards of the underlying zone as required.

Specific  
ations  
O, Sec.  
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~~Site access~~

Site access shall be limited in order to reduce traffic conflict points and maintain the carrying capacity of the corridor arterial and intersecting streets. All site access to the corridor arterial must be limited to access by way of a dedicated public street.

In order to comply with the intent of this Ordinance, the property owner/developer may also be required to include as part of an approved site plan the following access control elements:

~~Cross Access Agreements~~

Site plan shall clearly indicate existing or proposed linkages interconnecting the parking aisles of adjoining properties. In addition the property owner shall sign and record a Cross Access Agreement, approved by the County, providing cross-property access in coordination with adjoining development. Such an agreement may include provisions for temporary site access.

~~Frontage Roads~~

Where depth of properties permit, the County may require an easement and the construction of a parallel private frontage road to connect individual developments.

Other access control features as deemed necessary to maintain the integrity of the adjoining roadway.

~~Temporary Site Access~~

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.7. A-5, Intensive Livestock Operation District

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~~Within an approved CORRIDOR DISTRICT a temporary site access may be approved for proposed development on property not adjoining existing development. This access shall be closed by the property owner at the time adjoining development occurs and the property is interconnected to the adjoining development by cross-property access or a frontage road to a dedicated public way.~~

#### Bonding Requirements for Site Access Improvements

~~The County may require the posting of a reasonable bond to guarantee the performance of a property owner's obligations under an approved Corridor District Plan and to insure conformity with the requirements of this and other County Ordinances, all as related to site access improvements.~~

Specific  
ations  
O, Sec.  
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#### Screening

~~All residential uses of four units or less, within or adjacent to an established CORRIDOR DISTRICT, shall be adequately screened from adjoining office, commercial or industrial development.~~

#### Screening Requirements

~~Office, commercial or industrial developments shall be screened by a six-foot high solid fence or wall, or minimum six-foot high evergreen plantings, or a combination of the two approved by the Planning staff, an earthen berm or other acceptable topography may account for up to 50% of the screening height.~~

~~The following fence and wall materials shall be prohibited:~~

~~Chain-link with slats and metal fencing; Concrete block wall (unpainted or painted), unless an integral part of the overall architectural style of the development.~~

~~Planting Screen — Additional Requirements: — Individual plants must be spaced to insure a solid horizontal screen within one year after planting. Screening along the planting screen must be solid from one foot above grade.~~

~~Major arterial frontage of office, commercial or industrial developments.~~

~~Parking areas located between the building(s) and the street shall be screened by four-foot solid fence, wall, evergreen plantings or any combination approved by the Planning staff. An earthen berm or other acceptable topography may account for up to 50% of the total screen height.~~

~~Screen shall not be located within the required landscape setback.~~

~~The following fence and wall materials shall be prohibited:~~

~~Chain-link with slats and metal fencing;~~

~~Concrete block wall (unpainted or painted), unless an integral part of the overall architectural style of the development.~~

## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.7. A-5, Intensive Livestock Operation District

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~~Planting Screen—Additional Requirements: Individual plants must be spaced to insure a solid horizontal screen within one year after planting. Screening along the planting screen must be solid from one foot above grade.~~

~~To minimize adverse impacts on adjoining properties all refuse areas, loading berths, outside storage areas, building air conditioners and centralized utility meter areas shall be screened with a minimum 4-foot solid fence, wall or evergreen plantings. When such uses are located adjacent to the principal structure, the screening should relate to the architecture of the principal building.~~

#### Maintenance

~~All screens, whether fence, wall or plantings, shall be maintained in a good state of repair including, but not limited to, repair of broken or damaged elements, painting, cleaning and the replacement of dead or inadequate plant material (plantings that do not provide the level of screening required in this ordinance).~~

~~Failure to properly maintain the screening materials shall constitute a violation of this Ordinance and shall subject the property owner to any and all penalties under County and all applicable Ordinances, and as amended.~~

#### Building Setbacks

##### Front Yard

~~All principal buildings and accessory structures shall have a minimum 100 foot setback from the established right of way line. Parking areas are permitted in the front yard, but no closer than 75 feet from the right-of-way line.~~

##### Side Yards

~~The following side yard setbacks shall be maintained:~~

~~Principal Buildings\* \_\_\_\_\_ 25 feet~~

~~Parking Areas\* \_\_\_\_\_ 5 feet~~

~~Driveways\* \_\_\_\_\_ 5 feet~~

~~Accessory Structures \_\_\_\_\_ 5 feet~~

~~\*For adjoining properties with recorded cross-access is required.~~

~~Exception: On a corner lot, the side yard abutting a street shall be governed by the front yard requirements listed above.~~

##### Rear Yard \_\_\_\_\_

~~The following rear yard setbacks shall be maintained:~~

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ations  
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## Article 6 Special Purpose and Overlay Zoning Districts

### Sec. 6.7. A-5, Intensive Livestock Operation District

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Principal Buildings \_\_\_\_\_ 25 feet

Parking Areas \_\_\_\_\_ 5 feet

Driveways \_\_\_\_\_ 5 feet

Accessory Structures \_\_\_\_\_ 5 feet

Signage-

Uses on individual zoning lots sharing common site access shall not be permitted the use of individual freestanding signs, but be limited to the following:

Two lane road:

One (1) freestanding sign per 200 feet of road frontage

Maximum 175 square feet in area.

Four lane road:

One (1) freestanding sign per 250 feet of road frontage

Maximum 250 square feet in area.

#### ADDITIONAL RESTRICTIONS AND/OR CONDITIONS

As part of the CORRIDOR DISTRICT approval process, the Plan Commission or County Commissioners may, prior to adoption of a final plan, modify any of the following:

The permitted uses of the underlying zoning districts located within the CORRIDOR DISTRICT;

The existing developmental standards of the underlying zoning districts; and

The developmental standards or other provisions of the CORRIDOR DISTRICT Ordinance.

#### VARIANCES FROM APPROVED CORRIDOR STANDARDS

The County Plan Commission may approve minor variances from the established standards of an approved CORRIDOR DISTRICT (excluding the standards of the underlying zoning district(s)), if such variances do not adversely impact adjacent development within the CORRIDOR and will provide for a more effective design and utilization of the property. These changes shall be noted on the approved site plan and permit filed with the Department.

If in the opinion of the Plan Commission a variance request is major, the request shall be submitted to the Plan Commission, which shall conduct a public hearing prior to making a recommendation to the County Commissioners for final action. The property owner shall pay the required variance application fee as specified in the County Zoning Ordinance, and as amended.

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ations  
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## **Article 6 Special Purpose and Overlay Zoning Districts**

### **Sec. 6.7. A-5, Intensive Livestock Operation District**

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#### **APPEALS**

~~A property owner may appeal to the Board of Zoning Appeals a decision of the Planning staff as it regards to the requirements of the approved CORRIDOR DISTRICT plan. The procedure shall be as specified in the Board of Zoning Appeals Rules of Procedure.~~

#### **CONFLICT WITH OTHER ORDINANCES**

~~In the event that any section of this Ordinance is in conflict with other ordinances of Elkhart County, the standards of the PLANNED DEVELOPMENT CORRIDOR DISTRICT shall govern.~~

~~In all other respects, said ordinance 36-7-4-600 as originally enacted shall remain in full force and effect.~~

~~This Ordinance, as amended, shall be in full force and effect from and after its passage and approval, according to law.~~

# ARTICLE 7 GENERAL DEVELOPMENT STANDARDS

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## Sec. 7.1. Applicability

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

Type of Development	Off-Street Parking, Loading & Stacking	Buffering & Screening	Signs	Flood Hazard Control
New nonresidential development or change in use from residential to nonresidential	✓	✓	✓	✓
Increase in multiple-family units by 5 or more	✓	✓	✓	✓
Increase in GFA or impervious surface by 50% or 5,000 square feet, whichever is less	✓	✓	✓	✓
Increase in GFA or impervious surface by 20% or 2,000 sq ft, whichever is less	✓			✓
Construction of new sign or modification of existing sign			✓	

✓ = Section applies

GFA = Gross Floor Area

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

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

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

### Vehicle Parking and Loading

#### 7.2.1 Purpose

Specifications  
G, Sec. 1

The purpose of this ~~portion of the Zoning Ordinance Section~~ is to alleviate or prevent congestion of the public streets, and promote the safety and welfare of the public, by establishing minimum requirements for the off-street parking, ~~and loading and unloading and stacking~~ of vehicles in accordance with the use ~~to which~~ of the associated property is put.

#### 7.2.2 General

Art. 3,  
Sec. 9

~~Vehicle Parking Space: Loading and Unloading Berths.~~ Every building erected use established on or after February 1, 1960 shall must provide off-street vehicle parking space for motor vehicles and may provide loading and unloading berths in compliance with the provisions of this Section. ~~for the use to which that building is to be devoted.~~ In addition, specific uses require off-street stacking spaces.

#### 7.2.3 Off-Street Parking General Provisions—~~Parking and Loading~~

Specifications  
G, Sec. 2

##### A. Procedure

An application for an Improvement Location Permit for a new or enlarged building, structure, or use, shall must include a plot parking plan, drawn to scale, and fully dimensioned, showing any parking or loading facilities to be provided in compliance with the requirements of this ordinance Section.

##### B. Extent of Control

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

~~All buildings and structures erected and all land uses initiated after February 1, 1960 shall provide accessory off-street parking or loading facilities as required by this ordinance for its use, except that a building or structure for which an Improvement Location Permit has been issued prior February 1, 1960 shall not be required to furnish parking or loading facilities if construction is begun on it within six months after the effective date of the Improvement Location Permit and diligently prosecuted to completion.~~

**Note to Reviewers:** *The stricken provision above has to do with buildings built around the time parking requirements were adopted in 1960. Edits to 1. and 2. below just attempt to shorten the language and make it more understandable.*

1. When a building or structure erected or enlarged before February 1, 1960 undergoes a decrease in the number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified in this ordinance ~~Section~~ for required parking or loading facilities, and, ~~if the decrease would result in a requirement for a fewer total parking or loading spaces~~



~~through application of the provisions of this ordinance to it, off-street parking and loading facilities may be reduced accordingly. However, if existing parking or loading facilities remaining would must at least equal or exceed the parking or loading requirements of this Section. resulting from application of the provisions of this ordinance to the entire building or structure as modified.~~

Specifications  
G, Sec. 2

2. ~~If a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity, or other a unit of measurement specified in this ordinance Section for required off-street parking or loading facilities, and if that increase would result in a requirement for additional total parking or loading spaces through application of the provisions of this ordinance to it, off-street parking and loading facilities maybe must be increased accordingly, if that existing parking or loading facilities shall be increased so that the facilities would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this ordinance to the entire building or structure as modified.~~

### C. Existing Parking and Loading Spaces

**Question for Reviewers:** *Does anyone understand the purpose of that second stricken sentence? It seems to say the same thing as the first sentence.*

~~Accessory Off-street parking and loading spaces in existence on February 1, 1960 shall may not be reduced in number unless they already equal or exceed the requirements of this Section for equivalent new construction. Those spaces shall not be reduced below the number required in this ordinance for equivalent new construction.~~

### D. Damage or Destruction

Any building, structure or use which was in existence and a conforming use on February 1, 1960 and which is subsequently damaged or destroyed by fire, collapse, explosion or other cause, may be reconstructed, reestablished or repaired with or without off-street parking or loading facilities equivalent to any maintained at the time of that damage or destruction. However, it ~~shall not be~~ is not necessary to restore or maintain parking or loading facilities in excess of those required by this ordinance for equivalent new construction.

Schedule of Requirements

Tables for Required Parking and Loading

## 7.2.4 Schedule of Minimum Off-Street Parking Requirements

**Comment to Reviewers:** *It is generally not a best practice to base parking requirements on number of employees, since that number can fluctuate. The trend is to have lower minimum parking ratios so that properties can be put to better use*

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

*(e.g. actual buildings) rather than parking areas that are fully utilized only a few times a year. Lower minimum requirements allow the user / free market to determine the amount of parking needed. So I have generally retained the employee-based requirement for public and civic uses, but removed it for commercial uses.*

- A. Requirements governing for the minimum number and location of required off-street parking and off-street loading facilities spaces in relation to the use of the property are established in this ordinance the table below. The parking and loading requirements for any use not specified in this ordinance the table below shall be are the same as for a similar use, as determined by Section 6 of this Specification the Zoning Administrator based on the criteria in Sec. 5.2.1.

Use Category	Specific Use	Minimum Off-Street Parking Spaces
SF = square feet    GFA = gross floor area		
<b>Residential Use Categories</b>		
Household Living [see 5.2.2A]	Multiple-family dwelling or complex	1.5 spaces per 1 bedroom unit, 2 spaces per 2 or more bedroom units
	Manufactured or mobile home park	2 per lot home space plus 1 per 2 employees-5 home spaces for guest parking
	Upper-story residential	1 per dwelling unit
	All other uses Single and two-family dwellings Multiple family dwellings	2 spaces per dwelling unit
Group Living [see 5.2.2B]	Fraternities, sororities and dormitories	1 space per each 2 beds
	All other uses Assisted Living Facility	1 per 2 dwellings units and 1 per employee on largest shift
<b>Public and Civic Use Categories Schools, Churches, Health Care Facilities, and Other Institutions</b>		
Community Service [see 5.2.3A]	Assembly, meeting, event or exhibition hall assembly hall, exhibition hall Convention halls	1 per 50 SF GFA used for assembly , meetings, events or exhibition plus 1 per 5,000 square feet of outdoor space used for the same purposes
	All other uses Library Museum	1 per 200 SF GFA plus 1 per employee on largest shift
Day Care [see 5.2.3B]	All uses Nursery, Day Nursery, School	1 per employee on largest shift plus 1 per 4 children
Educational Facilities [see 5.2.3C]	Elementary or middle school, public or private Educational Institution: Kindergarten, Elementary and Middle	1 per 2 employees on largest shift plus 2 per classroom
	All other uses Educational Institution: College; University; business, trade or commercial; and high school	10 per classroom

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

Use Category	Specific Use	Minimum Off-Street Parking Spaces
		SF = square feet      GFA = gross floor area
<u>Government Facilities</u> [see 5.2.3D]	Penal or correctional institution	1 per employee on largest shift plus 1 space per 5 cells
	Post office	1 per official vehicle plus 1 space per employee on largest shift plus 1 per 200 SF GFA
	All other uses <u>Police Station, fire station</u>	1 per employee on largest shift
<u>Medical Facilities</u> [see 5.2.3E]	Hospital-Sanitariums, convalescent facility, nursing homes, or homes for the aged	1 per 3 beds plus 1 per employee on largest shift    1 per each 2 beds plus 1 per employee on the largest shift
	All other uses <u>Medical or dental office or laboratory</u>	1 per each 250 SF GFA plus 1 per employee on largest shift
	Laboratory, Medical or Optical research	1 per 300 sq. ft. of floor area
<u>Parks and Open Areas</u> [see 5.2.3F]	All other uses	1 per 10,000 SF outdoor area
	Cemetery	1 per employee on the largest shift
<u>Passenger Terminals</u> [see 5.2.3G]	Airport	1 per employee on largest shift plus 1 per 1,000 SF hangar space or outdoor aircraft storage space
	All other uses <u>Motor bus or railroad passenger station</u>	1 per 4 seats of waiting area 1 per employee plus 1 per 250 SF of terminal area
<u>Places of Worship</u> [see 5.2.3H] <u>Church, Temple, Religious Facility</u>	All uses	1 per 4 seats in main place of assembly
<u>Social Service Establishments</u> [see 5.2.3I]	All uses	1 per 250 300 SF office area plus 1 per employee on largest shift
<u>Utilities</u> [see 5.2.3J]	All uses	1 per vehicle required to serve the utility
	Public Utility Substation	1 plus 1 per each 3 employees
	Tower, communication	1 plus 1 space per each 3 employees
	Sanitary landfill or refuse dump; sewage, trash garbage disposal or recycling plant	1 per employee on largest shift plus 1 space per 4 acres
	Water treatment or storage facility	1 per employee on the largest shift
<b>Commercial Use Categories</b>		
<u>Indoor Recreation</u> [see 5.2.4A]	Bowling alley	5 per lane
	Dance hall or skating rink	1 per 50 SF of floor area used for assembly
	Tennis or racquetball facility	2 per court and 1 per employee on the largest shift
	Theater, movie or other	1 per 2 seats
	All other uses <u>Membership Club or Lodge, Lodge – Private, Auditorium</u>	1 per 200 SF GFA , plus 1 per 2 seats in main place of assembly or recreation 1

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

Use Category	Specific Use	Minimum Off-Street Parking Spaces
	SF = square feet    GFA = gross floor area	
	Lodges (without sleeping rooms)	per 50 SF floor area used for assembly
	Dancing, Aerobics or Gymnastics	1 per 200 sq. ft. of gross studio floor area
<u>Offices [see 5.2.4B]</u>	All uses-Banks	1 per 300 SF GFA 1-per 300-square feet of floor area
<u>Outdoor Recreation [see 5.2.4C]</u>	Circus, carnival, fair or corn maze	50 per acre
	Golf course, driving range, or mini golf course Country club	3 per hole plus 1 per 4 seats in accessory restaurant, bar or banquet facility 6 per hole 1 per 200 square feet of indoor space; plus 1 per 5,000 square feet of outdoor space
	Stable, public or commercial	1 per stall
	All other uses with fixed seats Track, Vehicle Race Stadium, arena, running track or ball field	1 per 4 seats or per 6 feet of benches 1 per 50 square feet of floor area used for assembly
	All other uses without fixed seats	1 per 250 SF GFA
<u>Overnight Accommodations [see 5.2.4D]</u>	Campground with overnight accommodations or recreational vehicle park-Campground, Private	1 per pad 1 per lot and 1 per 2 employees on site 1 per Recreational vehicle space and 1 per employee
	All other uses	1 per guest room
	Hotels Motels Bed & Breakfast Homestay Bed & Breakfast Inn	1 per guest room plus 1 space per employee on the largest shift
<u>Parking, Commercial [see 5.2.4E]</u>	All uses	None
<u>Restaurants [see 5.2.4F]</u>	All uses	1 per 3 2.5 seats and 1 per employee on the largest shift
	Restaurant— Drive In and Fast Food Restaurant— Standard (including sale of alcoholic beverages), Tavern	1 per 2.5 seats and 1 per employee on the largest shift
<u>Retail Sales and Service [see 5.2.4G]</u>	Appliance or furniture store	1 per 400 SF retail floor area
	Electronic and mixed media store Video rental store	1 per 350 SF retail floor area and 1 space per employee
	Funeral home or mortuary	1 per 4 seats in main place of assembly 1 per 50 sq. ft. of public area plus 1 per funeral vehicle
	Kennel	1 per 2 employees plus 1 per 800 SF waiting room area plus 1 per 5 boarding animals, based on the maximum number of boarders that can be handled by the kennel at any one time
	Veterinary clinic or hospital Animal Clinic/Hospital	1 per 300 SF GFA 2 employees on largest shift plus 2 per doctor plus 1 per examining room
	All other uses Retail Store and	1 per 300 SF retail floor area

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Use Category	Specific Use	Minimum Off-Street Parking Spaces
	SF = square feet    GFA = gross floor area	
	Service shop (individual or in groups) under one roof	
	Convenience retail	6 per 1,000 square feet
Self-Service Storage [see 5.2.4H]	All uses	1 per 300 SF office space
	Self-service storage facility	1 per 2000 sq. ft. of floor area
Vehicle Sales and Service [see 5.2.4I]	Car wash	2 per bay 1 per employee on the largest shift
	Fuel sales Motor vehicle service station and/or repair	1 per pump plus 1 per 250 SF retail sales area per employee and 2 per service bay
	Vehicle, manufactured home, mobile home, portable building or trailer sales, rental, or leasing Motor Vehicle sales (including automobiles, trucks, recreational vehicles, boats and motorcycles) Mobile Home Sales	1 per 5400 SF showroom floor area plus 1 per 2,000 SF outdoor sales area
	Rental agency (Motor vehicles, machinery, real estate)	1 per 300 sq. ft. of floor area and 1 per 1,000 sq. ft. of outdoor display area
	All other uses	5 per bay or 1 per 250 SF GFA, whichever is greater
<b>Industrial Use Categories</b>		
Heavy Industrial [see 5.2.5A]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area 1 per employee on the largest shift
	Manufacturing and Industrial Establishments Assembly of materials and products	1 per employee on largest shift
Light Industrial [see 5.2.5B]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area
	Research and Testing laboratories	1 per employee on largest shift
	Sawmill	1 per 2 employees
Warehousing and Freight Movement [see 5.2.5C]	All uses	1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area
	Truck terminal	1 per 1000 sq. ft. of floor area
	Warehousing and Storage facility	1 per employee on largest shift
Waste-Related Service [see 5.2.5D]	All uses	1 per 300 SF office space plus 1 per 4 acres outdoor storage area
	Automobile Wrecking Yard	1 per employee on largest shift plus 1 space per 4 acres
	Junk Yard	1 per employee on largest shift plus 1 space per 4 acres

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Use Category	Specific Use	Minimum Off-Street Parking Spaces
	SF = square feet      GFA = gross floor area	
Wholesale Trade [see 5.2.5E]	<u>All uses</u>	<u>1 per 300 SF office space plus 1 per 1,000 SF outdoor storage area plus 1 per 2,500 SF indoor storage area</u>
	Wholesale sales	1 space for each 400 sq. ft. of floor area plus 1 space per employee
	Wholesale sales	1 per employee on largest shift
<b>Open Use Categories</b>		
Agricultural [see 5.2.6A]	Agribusiness or agricultural implement sales and service	1 per 400 SF retail floor area plus 1 per 2,000 SF outdoor sales area
	Greenhouse, commercial	1 per 1,000 SF GFA
	<u>Livestock sale or auction</u>	<u>1 per 4 seats</u>
	Roadside Stand	1 per 300 SF GFA plus 1 per acre
	Scenic or sightseeing tour	1 per 300 SF GFA
	Plant nursery	1 per 300 sq. ft. of sales area and 1 per acre
	<u>All other uses</u>	<u>None</u>
Resource Extraction [see 5.2.6B]	All uses Extraction of gravel, sand or other raw materials facility	1 per employee on the largest shift

**Note to Reviewers:** B below says “even if you meet the minimum number of required spaces, you may still have to provide more if you didn’t provide enough to accommodate your customers and employees”

- B. The Zoning Administrator may require a land owner to provide additional off-street parking, even if the number of off-street parking spaces provided meets the minimum requirement for the established use, if customers or employees are consistently required to park on the street or other properties due to a lack of available off-street parking.

**7.2.5 Computation of Required Parking Spaces Mixed-Uses**

The minimum number of required parking spaces is obtained by calculating the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking spaces for one use shall not be deemed to may not provide the required parking spaces for any other use in the same building or on the same lot, except as allowed in by an Alternative Parking Plan in Sec. 7.2.8.

Additional Regulations – Parking

**7.2.6 Use of Parking Facilities**

Parking areas, lots, spaces, and structures accessory to a residential use and developed in any "R" district in accordance with the requirements of this Section shall must be used solely for the parking of private passenger

Specifications  
G, Sec. 3

vehicles owned by occupants of the dwellings to which those areas are accessory or by guests of those occupants. Required parking areas, lots, spaces, and structures accessory to residential structures shall not be used for the parking of commercial vehicles with a manufacturer's rated hauling capacity over one and one-half tons or for the parking of any vehicles belonging to the employees, owners, tenants, visitors or customers of business or manufacturing establishments is prohibited accessory to a residential use.

### 7.2.7 Design and Maintenance of Parking Areas

#### A. Dimensions Parking Space — Description

*Note to Reviewers: These are basic specifications. If needed we could include provisions for 30 degree spaces with one-way aisles, 30 degree spaces with two way aisles, 45 degrees, 90 degrees, etc.*

From definition of "vehicle parking space"

1. A required parking space must be a minimum of 9 feet in width and 20 feet in depth plus 70 square feet of maneuver area **must be available** for each vehicle parking space
2. One-way aisles between off-street parking spaces set at 45-degree angles must have a minimum width of 12 feet. Two-way aisles between off-street parking spaces set at 90-degree angles must have a minimum width of 20 feet.

~~A required off-street parking space shall have an area of not less than 180 square feet and shall not be less than nine feet wide by 20 feet long, exclusive of access drivers or aisles, ramps, columns or office and work areas, accessible from streets or alleys or from private driveways or aisles leading to streets or alleys and used for the parking of private passenger and commercial vehicles with a manufacturer's rated hauling capacity under one and one-half tons where permitted under this ordinance. Aisles between vehicular parking spaces shall not be less than 12 feet in width if serving vehicles parking at a 45-degree angle in one direction nor less than 20 feet in width if serving vehicles parked perpendicular to the aisles and accommodating two way traffic.~~

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#### Measurement of Space

If the calculation of the number of required off-street parking spaces results in a requirement for a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one parking space.

#### B. Required Setbacks

1. A parking space shall must be setback a minimum of 10 feet from the front property line or 35 feet from the centerline of the right of way, whichever is greater, in the A-1, R-1, and R-2 zoning districts.

2. A parking space shall must be setback a minimum of 15 feet from the front property line or 55 feet from the centerline of the right of way, whichever is greater, in the R-3, R-4, B-1, B-2, B-3, M-1 or M-2 zoning districts.

**C. Surfacing**

1. Except as permitted in paragraph 2 below, off-street Open parking areas, lots, spaces and driveways shall must be surfaced with dust free materials and shall must be maintained in good condition.
2. The surfacing requirement in paragraph 1 above does not apply to excepting those parking areas, lots, spaces or driveways accessory to single-family dwellings and agricultural related uses Agricultural Use categories permitted in the A-1, A-3, A-4 and A-5 zoning districts.

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G, Sec. 3

**D. Lighting**

Any device illuminating an off-street parking area, lot, space or structure shall must reflect that light away from all adjoining residential properties.

**7.2.8 Alternative Parking Plans**

**Note to Reviewers:** *This section provides two methods for supplying parking in amounts that do not meet the requirements above.*

The required number of off-street parking spaces in Sec. 7.2.4 may be modified where applicant-submitted parking data, sealed and certified by a professional engineer in the State of Indiana, illustrates that required parking ratios cannot or do not accurately apply to a specific development. To that end, a land owner may use either shared off-street parking or off-site parking areas, but not both.

**A. Shared Parking**

**Note to Reviewers:** *The intent of the following provisions is to allow for more efficient use of land by allowing neighboring uses with dissimilar peak hours to share parking spaces so that less land may be taken up by parking.*

Shared off-street parking among two or more uses may be permitted subject to the following requirements.

1. The shared parking spaces must be on the same lot.
2. Total off-street parking provided must be sufficient to meet the requirements of the greatest combined peak parking demands.
3. An analysis must be submitted to the Zoning Administrator based on the Urban Land Institute's publication, *Shared Parking*. The analysis must address, at minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak



parking and traffic loads for all uses that will be sharing parking spaces.

**B. Off-Site Parking Areas**

**Note to Reviewers:** *The intent of the following provisions is to allow sites that are too small to provide required parking, to use properties nearby for parking.*

Required off-street parking spaces may be permitted by the Zoning Administrator on a separate site from the site on which the primary use is located subject to the following requirements.

1. Off-site parking spaces must be located within 660 feet from the primary entrance of the use served along the shortest available pedestrian route, measured from the nearest point of the parking area to the nearest point of the structure served by such parking lot.
2. Off-site parking may not be used to satisfy the required parking ratios for residential uses.
3. Required parking spaces reserved for persons with disabilities may not be located off-site.
4. The off-site parking must be located wholly within a zoning district that allows the primary use.
5. All dimensional and developmental standards in this Ordinance that apply to an on-site parking area also apply to an off-site parking area.

**C. Agreement**

The owners of the properties involved in the alternative parking plan must submit a written commitment guaranteeing that the parking spaces will be provided and maintained as stipulated in the approved site plan, so long as parking is required for the properties in question or until the required parking is provided by other means. Such commitment must be recorded by the property owners in the County Recorder's Office and a copy filed with the Planning Department.

**7.2.9 Off-Street Loading and Unloading Facilities**

**Note to Reviewers:** *The change in paragraph B. below has the effect of saying, "if you need loading spaces you have to provide it as following. But you don't HAVE to provide loading."*

**A. Loading and Unloading Activities**

The loading or unloading of materials or merchandise must take place on the same property upon which the materials will be used, sold or stored.

Specifications  
G, Sec. 7

**B. Schedule of Minimum Loading Requirements**

1. In all districts where property Uses that include the loading and unloading of materials or merchandise from vehicles may provide off-street loading and unloading facilities shall be provided. If such facilities are provided, then they must be in accordance with the following requirements.

Use Category	Gross Floor Area (square feet) SF = square feet    GFA = gross floor area	Minimum Off-Street Loading Berths
<b>Public and Civic Use Categories</b>		
Medical Facilities [see 5.2.3E]	40,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
<b>Commercial Use Categories</b>		
Indoor Recreation [see 5.2.4A]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
Offices [see 5.2.4B]	40,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
Overnight Accommodations [see 5.2.4D]	0 – 40,000	1
	Over 40,000	1 plus 1 additional space per additional 150,00 SF GFA
Restaurants [see 5.2.4F]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
Retail Sales and Service [see 5.2.4G]	10,000 – 100,000	1
	Over 100,000	1 plus 1 additional space per additional 100,000 SF GFA
Vehicle Sales and Service [see 5.2.4I]	8,000 – 25,000	1
	Over 25,000	1 plus 1 additional space per additional 25,000 SF GFA
<b>Industrial Use Categories</b>		
All Industrial use categories [see 5.2.5A through 5.2.5E]	8,000 – 40,000	1
	Over 40,000	1 plus 1 additional space per additional 60,000 SF GFA

**Note to Reviewers:** B below says “ even if you meet the minimum number of required loading spaces, you may still have to provide more if you didn’t provide enough to accommodate your loading and unloading activities”

2. The Zoning Administrator may require a land owner to provide additional off-street loading, even if the number of off-street loading spaces provided meets the minimum requirement for the established use, if loading activities are consistently required to load or unload from the street due to a lack of available off-street loading spaces.

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For hotels or apartment hotel buildings containing exhibition halls, convention halls, auditoriums, office facilities or retail shops—one off-street loading and unloading space for the first 40,000 square feet of gross floor area plus one additional off-street loading space for each 150,000 square feet of gross floor area or fraction thereof of gross floor area of more than 40,000 square feet.

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G, Sec. 7

For hospitals or sanitariums containing 40,000 to 100,000 square feet of gross floor area, one off-street loading and unloading space, plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof of gross floor area more than 100,000 square feet.

For buildings containing bowling alleys, taverns, restaurants, or any retail shops and having 10,000 to 100,000 square feet of gross floor area, one off-street loading space, plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof of gross floor area more than 100,000 square feet.

For banks, business or professional offices or public administration buildings containing 40,000 to 100,000 square feet of gross floor space, one off-street loading and unloading space, plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof of gross floor area more than 100,000 square feet.

For buildings containing furniture and appliance stores, motor vehicles sales, wholesale stores, household equipment or machinery sales and having 8,000 to 25,000 square feet of gross floor area, one off-street loading and unloading space, plus one additional space for each additional 25,000 square feet of gross floor area or fraction thereof of gross floor area more than 25,000 square feet.

For buildings containing manufacturing uses, research and testing laboratories, laundry and dry cleaning establishments, printing, binding, publishing and issuing of newspapers, periodicals, books and other reading matter, warehouse and storage facilities, engraving shops, assembly of materials and products, processing and distribution of materials and products, and other similar uses, having more than 8,000 square feet of gross floor area, exclusive of basement area, and less than 40,000 square feet of gross floor area, one additional space for each additional 60,000 square feet of gross floor area more than 40,000 square feet.

Additional Regulations—Loading

**C. Design of Loading Facilities**

**1. Dimensions Loading Berth—Description**

A required off-street loading berth must be a minimum of 10 feet in width, 45 feet in length and 15 feet in height, exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned in this section.

A required loading space shall not be less than 10 feet in width, 45 feet in length, and 14 feet in height,

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G, Sec. 4

**2. Surfacing**

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

~~All loading berths, open or enclosed, shall be surfaced with dust free materials and shall be maintained in good condition.~~

**3. Location**

~~An No permitted or required off-street loading berth shall~~ must be setback a minimum of closer than 50 feet to any property in an "R" a residential zoning district unless completely enclosed by building walls, or a uniformly painted solid fence or wall, or any combination of them not less than six feet in height. ~~An No permitted or required off-street loading berth shall~~ must be located within setback a minimum of 25 feet of the nearest point of intersection of any two streets. Loading berths open to the sky may be located in any required yards.

Specifications  
G, Sec. 4

**Measurement of Berth**

If the calculation of the number of required off-street loading berths results in a requirement for a fractional berth, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be counted as one loading berth.

**7.2.10 Vehicle Stacking Areas**

**A. Minimum Number of Spaces**

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

Activity	Minimum Spaces	Measured From
Automated teller machine	3	Machine
Bank teller lane	4	Teller window or tube device
Car lubrication stall	2	Entrance to stall
Car wash stall	3	Entrance to wash bay
Gasoline pump island	2	Pump island
Parking area, controlled entry	3	Key code box
Restaurant, drive-through	6	Order box
	4	Pick-up window to order box

[illustration of sample measurement]

**B. Design of Stacking Areas**

Required stacking spaces are subject to the following design standards:

1. **Dimensions**

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

2. **Location**

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

3. **Controlled Entries**

Controlled entries must be designed so that vehicles may turn around without entering the gated area or backing out into the public right-of-way.

## Sec. 7.3. Buffering and Screening

*Note to Reviewers: This portion of the existing Zoning Ordinance has been significantly added to in order to cut down on the reliance on PUDs. Note that there are still no site landscaping requirements. These buffering requirements apply to the edges of properties where land use conflicts and nuisances could arise.*

### 7.3.1 Purpose

- A. The purpose of this Section is to require buffering and screening that will:
1. Mitigate the negative effects of noise and glare from buildings, uses, vehicle lights and outdoor lighting on the public right-of-way and neighboring property;
  2. Conserve and stabilize neighboring property values; and
  3. Otherwise facilitate the maintenance and creation of an attractive and prosperous community.

### 7.3.2 General

*Note to Tech Committee: This draft currently contains a parking area buffer and a zoning district buffer. It is also common to have a street buffer along any front property line; however, this may be seen as too regulatory since at least the two proposed buffers are geared more toward protection of adjacent properties, rather than more toward aesthetics, like a street buffer could be considered.*

- A. A buffer is a specified land area, located parallel to and within the outer perimeter of a property and extending to the property line, together with the plantings required within the buffer. A buffer may also contain a barrier such as a wall or fence where additional screening is necessary to achieve the required level of buffering.
- B. A screening device is a set of living evergreen plantings or man-made fences or walls of required height and material. Screening devices hide certain outdoor appurtenances from the public right-of-way and neighboring private property.
- C. Water, sanitary sewer, electrical, telephone, natural gas, cable, storm drainage or other service lines are permitted within buffers. Monument signs, as established in Sec. 7.4, allowed within parking buffers.
- D. The parking of vehicles is prohibited in a required buffer.
- E. The outdoor storage, display and sales of merchandise is prohibited in a required buffer.

### 7.3.3 Parking Area Buffer

- A. The purpose of a parking area buffer is to reduce the effect of noise and glare of vehicles on the public right-of-way and on residential properties.

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### Sec. 7.3. Buffering and Screening

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- B. A parking area buffer is required for nonresidential uses in the residential, B-1, B-2, B-3, M-1 or M-2 zoning districts where such nonresidential uses abut a public right-of-way or a residentially used or zoned property.
- C. The parking area buffer must consist of a landscaped area along the entire applicable perimeter of the parking area, except for permitted driveways, and must be a minimum of 10 feet in width.
- D. The parking area buffer must contain a continuous four-foot high evergreen hedgerow, berm, masonry wall or a combination of any of these elements.
- E. A parking area buffer is not required under the following circumstances:
  - 1. A parking area is at a lower or higher finished grade than the adjacent public right-of-way, and the intended purpose of a parking area buffer is accomplished by such difference in elevation;
  - 2. The nearest edge of a parking area is 50 feet or greater from the public right-of-way or a residentially used or zoned property; or
  - 3. Any portion of a parking area is located between the rear of a building and a rear property line and is not adjacent to a residentially zoned or used property.

[Insert illustration of parking buffer]

Specificati  
ons G, Sec.  
3

#### Screening and Landscaping

All open off-street parking areas in the R-3, R-4, B-1, B-2, B-3, M-1 and M-2 Districts shall be effectively screened by a wall, a solid fence, or a densely planted compact hedge along any side which adjoins or is directly across an alley from a property in a R-1 or R-2 District or an institutional property. The wall, fence, or hedge, shall be at least four feet in height, and shall be maintained in good condition.

#### 7.3.4 **Boundary Buffer**

**Note to Reviewers:** A boundary buffer requires buffering between either drastically differing zoning districts or between differing use categories. It is more common to apply the buffer by district, rather than use category. However, the Policy Committee has chosen to retain a mostly cumulative or pyramid zoning district structure. So a relatively low impact use, that is cumulatively allowed in M-1, could be required to have an overly intense buffer from its neighbor in a less intense zoning district.

##### A. **Applicability**

Except as required in the Specific Use Standards in Sec. 5.3, the boundary buffer requirement does not apply to the A-1, E-1 or E-2 zoning districts, nor does it apply to residential uses in any zoning district.

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**B. Boundary Buffer Table**

The following table is established in order to ensure compatibility between potentially incompatible zoning districts. The table determines the required buffer class (I, II, or III) between a subject property and its adjacent zoning districts.


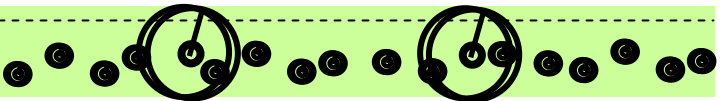
		Adjacent District								
		R-1, -2, -3 (res use)	R-4 (res use)	B-1	B-2	B-3	E-1	E-2	M-1	M-2
Subject District	R-1, -2, -3, -4 (nonres use)	I	--	--	--	--	--	--	--	--
	B-1	I	--	--	--	--	--	--	--	--
	B-2	II	I	I	--	--	I	I	--	--
	B-3	II	II	I	I	--	I	I	--	--
	M-1	III	III	II	I	I	II	I	--	--
	M-2	III	III	III	II	I	III	II	--	--

**C. Buffer Planting Specifications**

**1. General Provisions**

**Note to Reviewers:** This Ordinance is remaining silent on a plant list. This type of list is often part of a Zoning Ordinance and shows what species count for fulfilling landscaping requirements. The goal is to not allow the use of exotic and/or invasive species. I can certainly add a plant list if it is wanted.

- a. The following table establishes the specific width and material for a Class I, II, and III buffer. Each buffer Class has three Types (A, B, and C) from which a designer may choose. Wider buffers require fewer materials, while narrower buffers require more materials.
- b. Specified buffer plantings are required per 100 linear feet of buffer area. An applicant may choose from each buffer Type and may use a variety Classes and Types per 100 feet along the same property line.
- c. Where plant material is accompanied by a fence or wall, the plant material must be located on the subject property side of the fence or wall.

Class I	Materials per 100 Linear Feet	Conceptual Illustration
Type A	Width: 25 ft. Trees: 4 Shrubs: 24 Barrier: None	
Type B	Width: 15 ft. Trees: 2 Shrubs: 16 Barrier: Non-opaque fence	



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Class I	Materials per 100 Linear Feet	Conceptual Illustration
Type C	Width: 10 ft. Trees: 3 Shrubs: 0 Barrier: Opaque fence	

Class II	Materials per 100 Linear Feet	Conceptual Illustration
Type A	Width: 25 ft. Trees: 2 Shrubs: 16 Barrier: Non-opaque fence	
Type B	Width: 15 ft. Trees: 3 Shrubs: 0 Barrier: Opaque fence	
Type C	Width: 10 ft. Trees: 4 Shrubs: 0 Barrier: Wall	

Class III	Materials per 100 Linear Feet	Conceptual Illustration
Type A	Width: 25 Trees: 3 Shrubs: 0 Barrier: Opaque fence	
Type B	Width: 15 Trees: 4 Shrubs: 0 Barrier: Opaque fence	
Type C	Width: 10 Trees: 4 Shrubs: 0 Barrier: Wall	

**7.3.5 Buffer Specifications**

**A. Width**

*Note to Reviewers: A 15' wide buffer can get as narrow as 7 ½' at some points, as long as the average width is 15' along the entire buffer.*

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

## Article 7 General Development Standards

### Sec. 7.3. Buffering and Screening

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#### B. **Trees**

**Question for Reviewers:** For 1. below, differentiate in size requirements between deciduous and evergreen?

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

**Note for Reviewers:** For 2. below, larger trees could be given extra credit, we just have to figure out how large of a tree gets how much extra credit.

2. Existing trees on site may be preserved within a buffer for credit.
3. Buffers planted below overhead utility lines must contain tree species that do not exceed 20 feet in height at maturity.

#### C. **Shrubs**

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

#### D. **Barriers**

1. Required fences and walls must be a minimum of six feet and a maximum of nine feet in height.
2. Wooden posts in opaque fences must be set in a masonry support column every 40 feet.
3. Chain link fencing must be polyvinyl chloride color coated in either black, dark green or dark brown.
4. Breaks in a fence may be provided for pedestrian connections to adjacent developments.
5. Finished sides of fences must be located toward the adjacent property.

#### E. **Berm Replacement**

**Question for Reviewers:** Are the following numbers applicable to this area?

Required shrubs and fences in a buffer may be replaced with a berm or series of berms. Berms must have a minimum average height of three feet with side slopes of not less than four feet horizontal for each one foot vertical with at least a two foot flat area on the top. Required walls may not be replaced with a berm.

### 7.3.6 **Alternative Compliance With Buffer Requirements**

**Note to Reviewers:** This provision exempts out buffering in certain situations.

- A. The buffer requirements may be modified with approval by the Zoning Administrator upon a finding that:
  1. A modification would be consistent with the purpose of this Ordinance and of this Section;

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

**7.3.7 Buffering and Landscaping Installation and Maintenance**

*Note to Reviewers: This is originally from E-1 standards but can apply to all buffering and landscaping.*

- A. All buffers and landscaped areas shall must be maintained to the standard to which they were designed and installed. Areas shall must be maintained free of trash and weeds and shall must not deteriorate into an unsafe condition.
- B. Wherever whenever a buffer or landscaping screening is required adjacent to parking areas or driveway, such landscaping shall must be protected by bumper blocks, posts or curbing to avoid damage to the buffer or landscaping by vehicles.
- C. Required buffers or landscaping All approved landscaping plans shall must be installed during the first planting season after the start of any construction in the development, unless otherwise required by the Planning and Zoning Office Zoning Administrator.

Specifications  
E, 1

**7.3.8 Screening**

*Note to Reviewers: It is common to require screening of mechanical equipment (ground- and roof-mounted) but I am not addressing that in this draft.*

- A. **Refuse and Recycling Service Areas**
  1. Trash collection, trash compaction, recycling collection and other similar service areas must be located on the side or rear of the building and be effectively screened from view from residential properties or public rights-of-way, not including an alley.

## **Article 7 General Development Standards**

### **Sec. 7.3. Buffering and Screening**

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2. Screening enclosures must consist of an opaque fence or wall compatible with the dominant material of the primary structure. Enclosures must be a minimum of six feet in height.
3. All refuse and recycling service areas must be located a minimum of 25 feet away from any abutting residentially used or zoned property. This distance may be reduced to 10 feet if the service area is screened by a masonry wall.

#### **B. Loading Areas**

Loading facilities are subject to the following screening requirements.

1. Loading areas must be completely from residentially zoned or used properties or public rights-of-way, not including an alley.
2. Screening must consist of walls or plant material totaling eight feet in height at installation. Wall materials must be compatible with the dominant material of the primary structure.
3. Loading areas not in the B-3, M-1 or M-2 zoning district must be located to the side or rear of buildings, unless the loading area is wholly within a enclosed building.
4. Loading areas in all zoning districts must be a minimum of 25 feet away from any abutting residentially used or zoned property.

## Sec. 7.4. Signs

### 7.4.1 Purpose

- A. The purpose of these sign regulations is to protect and promote the public health, safety and general welfare by controlling the type, timing, number, location and physical dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in Elkhart County.
- B. More specifically, the purpose of this Article is to:
  - 1. Enable businesses and non-profit organizations to make their presence known to the general public;
  - 2. Enable free expression of individuals and groups;
  - 3. Encourage the effective use of signs as a means to facilitate way-finding and the spread of essential public information in Elkhart County;
  - 4. Balance the right to erect and use signs with the desire to maintain a pleasing visual environment and to conserve property values; and
  - 5. Provide clear and objective sign standards.

### 7.4.2 Sign Type Definitions

*Note to Reviewers: Generally, all definitions should be in Article 10, but these definitions for sign types are essential to understanding the entire Article, so I've included them here within the Section.*

**BILLBOARD.** Any structure or portion which has signs or advertisements used as an outdoor display upon it. A billboard does not include any bulletin boards used to announce religious services or to display official court or legal notices, or signs advertising the sale or lease of the premises on which the sign is located.

Art.1, Sec. 2

**SIGN, ADVERTISING OFF-PREMISE.** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where that sign is located, or to which it is affixed.

**SIGN, BUSINESS ON-PREMISE.** An accessory sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where that sign is located, or to which it is affixed.

**SIGN, FLASHING.** Any illuminated sign on which an artificial light is not maintained stationary or constant in intensity or color at all times when in

**Article 7 General Development Standards**

Sec. 7.4. Signs

use. For the purpose of this Code section, any revolving, or illuminated sign shall be deemed a "flashing sign".

**SIGN, PORTABLE.** ~~A Portable Sign~~ are signs constructed on frames with wheels or ~~lightweight frames~~ intended for convenient movement with changeable letter boards and copy.

**7.4.3 General Sign Provisions**

**A. Applicability**

**1. Generally**

This Section applies to all signs erected, placed, painted, installed or otherwise made visible on private property in the jurisdiction of this Ordinance, except as otherwise provided.

**2. Exemptions**

**Note to Reviewers:** *Signs that do not have to comply with this Section.*

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

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

Specifications  
H, Sec. 1

From "sign"  
definition

~~Directional Signs – Governmental~~

~~if established by any government or political subdivision for orientation and traffic safety.~~

**B. Unlawful Signs**

- 1. A sign may not be erected or maintained in violation of the requirements of this Section or of the Sign Permit requirements in Sec. 3.14. An unlawful sign is not a nonconforming sign and must be removed or brought into compliance.

## Article 7 General Development Standards

### Sec. 7.4. Signs

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2. If the Zoning Administrator finds that a sign is erected or maintained in violation of this Section or Sec. 3.14, the Zoning Administrator must give written notice of the violation to the permittee or the owner of the property where the violation exists.
3. If the permittee or owner fails, after notice, to timely abate a violation, the Zoning Administrator may undertake enforcement by filing a complaint in a court of competent jurisdiction.
4. The Zoning Administrator may immediately and without notice or compensation remove any sign that presents an immediate peril to persons or property.

#### C. **Non-Commercial Messages Permitted in Substitution**

*Note to Reviewers: The Supreme Court has declared that sign regulations are required to be "blind" to content unless the content is obscene or otherwise unlawful. They should instead focus on type, timing, number, location and physical dimensions. This subsection just clarifies that the content of a sign can be commercial or noncommercial.*

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

#### 7.4.4 **Prohibited Signs**

*Question for Reviewers: Include these? Such as cardboard signs, abandoned signs, snipe signs, unlisted signs?*

#### 7.4.5 **Sign Measuring Standards**

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

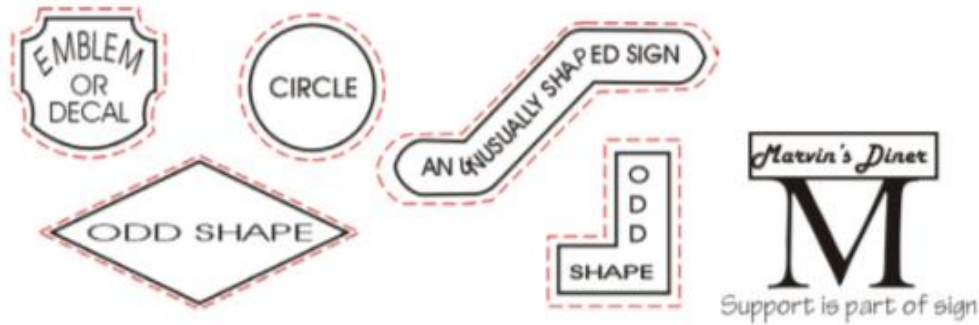
##### A. **Sign Area**

SIGN, GROSS SURFACE AREA OF

1. The area of a sign includes the entire area of a sign within a single continuous perimeter enclosing the extreme limits of that the sign and not passing through or between any adjacent elements of the sign. That perimeter shall does not include any structural or framing elements lying outside the limits of that the sign and not forming an integral part of the display unless such structural or framing elements consists of a corporate logo, made part of the message, face or border of the sign.

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**COMMENTARY:** The “golden arches” at McDonald’s, if used as support for a sign, are clearly integral to the sign message and would be included in the measurement of the area of the sign face.

2. Where a sign consists of individual letters, words or symbols attached to a surface, the sign area is deemed to be the area of the smallest rectangle that completely encompasses all such letters, words or symbols and any accompanying background of a color different than the color of the wall.



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

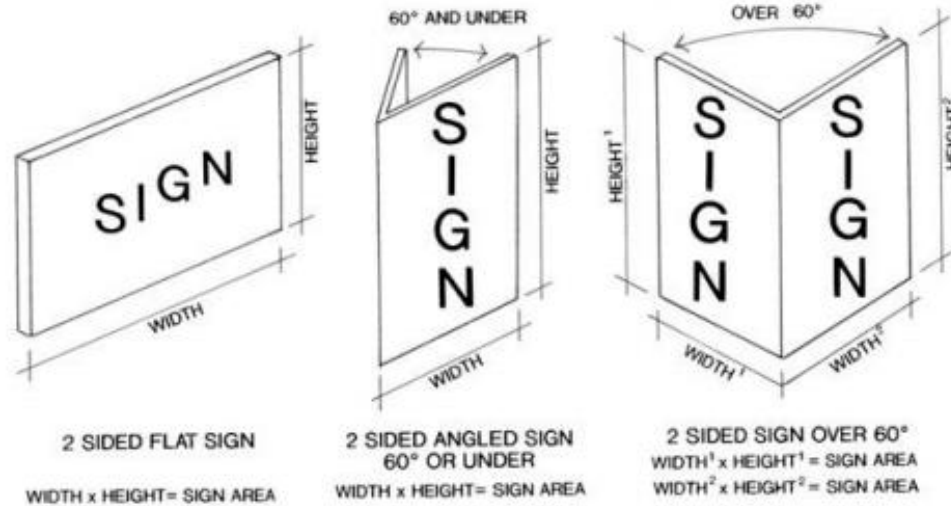
3. The area for a sign with more than one face is measured by adding together the area of all sign faces, except where the angle at which the two sign faces are placed does not exceed 60 degrees or where the sign faces are parallel and not more than 36 inches apart.

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



**Article 7 General Development Standards**

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**B. Sign Height**

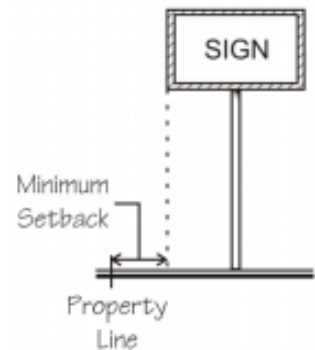
The height of a sign is measured as the distance from the base of the sign at finished grade to the top of the highest attached component of the sign. Finished grade is the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

**C. Sign Setback**

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

**7.4.6 Standards According to Sign Type**

The standards applicable to each permitted sign type are set forth in the table below. Signs listed in the table must be on-premise signs unless off-premise placement is specifically allowed.



**Article 7 General Development Standards**

Sec. 7.4. Signs

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**Article 7 General Development Standards**

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Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
<b>Wall Signs</b>						
Nameplate or Identification	Residential uses	1 ½ SF per unit	No	None	One permitted per dwelling unit on interior lot.  One permitted per street frontage on a corner or double-frontage lot.	[insert]
	Nonresidential or multiple-family	12 SF	No	None	One permitted per building on interior lot.  One permitted per street frontage on a corner or double-frontage lot.	[insert]
Wall Sign	B-1, -2, -3 M-1, -2	See A below	Yes	None	A wall sign must not cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.	[insert]
<b>Freestanding Signs</b>						
Freestanding sign	B-1, -2, -3 M-1, -2	See A below	Yes	None	Maximum height is 40 feet.	[insert]
	A-1, -3, -4, -5	See B below	Yes	None	Such signs are prohibited along Federal Aide Primary Highways (?)  The location of the sign may be permitted at the right-of-way line except on a major road. On a major road, sign placement must be a minimum of 55 feet from the centerline, <u>or at the right-of-way line, whichever is greater.</u>	[insert]

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Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
<del>“For Sale” “To Rent”</del> <u>H-Frame</u> Sign	Residential uses	<del>12</del> <u>6</u> SF	No	None	<p>One permitted per interior lot.</p> <p>One permitted per street frontage on a corner or double-frontage lot.</p> <p>Minimum setback of 8 feet from any property line.</p>	[insert]
	Nonresidential uses	<del>12</del> <u>32</u> SF	No	None	<p>One permitted per interior lot.</p> <p>One permitted per street frontage on a corner or double-frontage lot.</p> <p>Minimum setback of 8 feet from any property line.</p> <p>One additional sign is permitted during construction and up to 30 days after issuance of a Certificate of Occupancy.</p>	[insert]

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Sign Type	Uses or District Permitted	Maximum Area	Permit Required?	Time Limit	Standards	Image
Message board, electronic	B-1, -2, -3 M-1, -2 E-3	See A below	Yes	NA	<p>The intensity of illumination must not change until night when it must be reduced to a maximum of 500 NIT.</p> <p>NIT is calculated based on the light meter specification of the manufacturer.</p> <p>There must be a 300 feet minimum separation between electronic message boards and an existing residence.</p> <p>Flashing is prohibited.</p> <p>Such sign is allowed by Special Use Permit in the Agricultural and Residential zoning districts.</p>	
Portable Sign	B- and M-	32 SF	Yes	<p>Max. 60 days per calendar year</p> <p>Max. 30 consecutive days</p> <p>Min. 15 days between removal and replacement</p>	<p>1 sign permitted per zoning lot.</p> <p>Minimum setback of 5 feet from the public right-of-way and 75 feet from a residentially zoned property.</p> <p>Blinking lights are prohibited.</p>	[insert]

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

**Article 7 General Development Standards**

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**A. Maximum Sign Area in the B- and M- Zoning Districts**

The ~~gross area in square feet~~ maximum area of all signs on a zoning lot is not more than six times the lineal feet of frontage of that zoning lot. ~~and If more than one-half of the gross sign area is illuminated, the gross sign area shall~~ must not exceed three times the lineal feet of frontage of that lot.

**B. Maximum Sign Area in the A- Zoning Districts**

On a zoning lot of more than three acres with 200 feet or more of frontage, one sign not to exceed 20 square feet in area is permitted.

The location of the sign may be permitted at the right of way line except on major street. On major streets sign placement shall be as required by the major street classification as detailed in Section 7 of this Specification.

**Permitted Signs – Residential**

Specifications  
H, Sec. 1

~~Districts where residential uses are permitted and the primary use is residential, the following uses of signs shall be permitted in accordance with these regulations:~~

**Nameplates and Identification Signs**

~~For one- and two-family dwellings. Not more than one nameplate which shall not exceed one and one-half square feet in area for each dwelling unit, indicating the name and address of the occupant or a permitted occupation. On a corner lot, two such nameplates for each dwelling unit, one facing each street, shall be permitted.~~

~~For multiple family dwellings, for apartment hotels, and for buildings other than dwellings, a single identification sign not exceeding twelve square feet in area and indicating only the name and address of the building and the name of its management may be displayed. On a corner lot, two such signs, one facing each street, shall be permitted.~~

**"For Sale," "To Rent" Signs**

~~No more than one such sign per lot shall be permitted except that on a corner lot two signs, one facing each street, shall be permitted. No sign shall exceed 12 square feet in area nor be closer than eight feet to any other zoning lot.~~

**Subdivision Entrance Signs**

~~All platted subdivision are permitted signs designating the subdivision entrance or beginning of that subdivision.~~

Specifications  
H, Sec. 1

~~signs shall be permitted for each dedicated rights of way that intersects with or extends previously platted rights of way.~~

## Article 7 General Development Standards

### Sec. 7.4. Signs

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The signs permitted shall be attached directly to the ground by a solid base and foundation consisting of durable materials. The height, measured from the adjacent ground to the highest point of the structure, shall not exceed eight feet. The length, measured from any portion of the base or sign face shall not exceed twelve feet.

The signs or any associated lighting structures shall not be permitted within any county public right of way.

The sign must be maintained on private property within a platted sign easement with a homeowners association or similar entities granted rights of maintenance and access.

The location of the signs will be permitted as not to cause problems of sighting from any existing driveways or rights of way. If the sign is a hazard or is a nuisance to the traffic patterns on the adjacent properties or rights of way the sign shall be modified or removed at the expense of the owner of the sign easement.

May be illuminated with the illumination directed onto the sign. If fugitive illumination becomes a hazard or nuisance to the general public the illumination shall be modified or removed.

The location of the sign may be permitted at the right of way line except on major street. On major streets sign placement shall be as required by the major street classification as detailed in Section 7 of this Specification.

#### Professional Office Signs

##### **Question for Reviewers** *What is this?*

A Professional Office is permitted one monument type sign and one facade sign. The monument sign shall not exceed 64 square feet in area with a total height from curb level not to exceed six feet. The facade sign ( attached directly to the building ) shall not exceed twenty square feet. The signs may be illuminated with the illumination directed onto the sign. If fugitive illumination becomes a hazard or nuisance to the general public the illumination shall be modified or removed. Additionally the location of the sign may be permitted at the right of way line except on major street. On major streets sign placement shall be as required by the major street classification as detailed in Section 7 of this Specification.

#### Permitted Signs – Business Districts

In a Business District, business and advertising signs are permitted if:

The gross area in square feet of all signs on a zoning lot is not more than six times the lineal feet of Specifications of that zoning lot and if more than one half of the gross area is illuminated, the gross area shall H, Sec. 2 be three times the lineal feet of frontage of that lot;

"reserved"



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~~Height—No sign shall project higher than forty feet above curb level.~~

~~The location of the sign may be permitted at the right of way line except on major street. On major streets sign placement shall be as required by the major street classification as detailed XXXX.~~

~~Permitted Signs—Manufacturing Districts~~

~~Permitted Signs—"M1C" and M2C District~~

Specifications  
H, Sec. 3

~~"M1C" and "M2C" District, the regulations governing signs in the Business Districts set forth in Section 2 shall apply. (Amended 4/4, 1994 PC 94-03)~~

~~Permitted Signs Agricultural Districts~~

Specifications  
H, Sec. 4

~~Agricultural Districts, the following signs are permitted, except along any highway that has been designated as a Federal Aid Primary Highway.~~

~~All signs permitted in Residential Districts as specified in this Section 1.~~

~~On a zoning lot more than three acres with 200 feet of frontage one Sign not to exceed 20 square feet in area. The location of the sign may be permitted at the right of way line except on major street. On major streets sign placement shall be as required by the major street classification as detailed in Section 7 of this Specification.~~

Specifications  
H, Sec. 9

**Section 9—Electronic Message Boards:**

~~That Electronic Message Boards are permitted uses in Business Districts (B-zones), Manufacturing Districts (M-zones), and Development Park Districts (E-zones) under the terms and conditions of specifications H—Signs.~~

~~b. Electronic Message Boards may also be considered in "A" Agricultural and "R" Residential zones within a part of a Special Use Permit if specifically requested and approved by the Board of Zoning Appeals.~~

~~Developmental Standards (Land Use). The developmental standards for Electronic Message Boards (i.e. setbacks, height, and size) are the same as those listed by the applicable section of in Specifications H "illuminated signs."~~

**7.4.7 Off-Premise Signs Regulations Near Public Parks and Residential Districts**

Specifications  
H, Sec. 5

**A.** No advertising off-premise sign shall may be located within 500 feet of any public park of five or more acres if the face of that sign is visible from that park.

Specifications  
H, Sec. 6

**B.** No advertising off-premise shall may be located within 75 feet of any property located in a Residential District.

"reserved"

## Article 7 General Development Standards

### Sec. 7.4. Signs

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#### Sign Regulations Along Specially Classified Streets

Specifications  
H, Sec. 7

Streets designated as "Major Streets" in Article 3, Section 11 (5), will have the following regulation:

All permitted signs as designated under Specification H when located along a "Major Street" will require a 55-foot setback from the centerline of that major street unless otherwise indicated by this Ordinance.

#### Temporary Signs

Specifications  
H, Sec. 8

Following signs are signs that are intended to be used for a limited duration and shall be permitted as follows: All signs require the issuance of an Improvement Location Permit prior to placement or installation.

#### Portable Sign

Portable Signs are signs constructed on frames with wheels or lightweight frames intended for convenient movement with changeable letter boards and copy which shall be permitted in "B" and "M" districts as detailed in this Subsection. Temporary Sign/ Portable Sign shall not be permitted in any "A" or "R" districts.

The Portable Signs shall be permitted only as follows:

One portable Sign shall be permitted per zoning lot.

Located no closer than five feet from any public right of way.

Shall not be a nuisance or a hazard and shall not obstruct the flow or sight patterns of vehicular traffic on any established rights of way.

Placement on site shall not be within 75 feet of any "R" district.

The temporary sign/ portable sign will be permitted two display surfaces with the surface not exceeding 32 square feet.

The signs can be externally or internally illuminated but shall prohibit blinking lights.

The placement shall be for no more than 60 days per calendar year with consecutive days of placement not to exceed 30 days; And that no new placements will be permitted within 15 days of confirmation that the previous temporary sign has been removed.

That placement will be only after the issuance of an Improvement location permit and building permit.

#### Construction Signs

**Note to Reviewers:** Construction signs aren't content neutral (you have to read

## Article 7 General Development Standards

### Sec. 7.4. Signs

*them to know that they are construction signs) so the generic H-frame sign allowance takes its place. This may need more work.*

A sign not exceeding 32 square feet maximum height of eight feet with a minimum set back 10 feet from any public right of way. The sign shall not be placed on site until a improvement location permit has been issued for the construction of the primary use or addition. All construction signs must be removed in 30 days of final inspection by the building division or expiration of the building permit.

Article 3, Sec.  
3

Signs designating exit and entry, to the parking area, not exceeding two square feet in area, may be placed no closer than three feet to the property line (to include all parts of the sign).

#### 7.4.8 Signs for Special Uses

Specifications  
H, Sec. 1

- A. A use with an approved Special Use Permit is allowed signs in the size, number and placement ~~On a zoning lot where an approved Special Use has been granted by the Board of Zoning Appeals the sign(s) shall be as designated by the adopted site plan.~~
- B. If no signs have been designated on the adopted site plan a sign ~~will~~ is permitted that ~~shall~~ does not exceed 20 square feet and is not in conflict with other provisions of this Ordinance Section.
- C. The sign shall must be placed ~~no closer than~~ setback a minimum of 50 feet to ~~from any other zoning lot property line~~ and shall must not create a safety hazard for vehicles entering and leave the site.
- D. ~~Additionally~~ The location of the sign may be permitted at the right-of-way line except on a major street. On a major streets, sign placement shall must be as required by the major street classification as detailed in a minimum of 55 feet from the centerline.

## Sec. 7.5. Flood Hazard Control

*Note to Reviewers: Apparently the state is very picky about wording for this section. They want it to be the same as the wording in their model ordinance. So I explain and justify each change below, no matter how small.*

### 7.5.1 STATEMENT OF Purpose

*Note to Reviewers: "Purpose" is consistent with the style of the rest of the Ordinance.*

The purpose of this ordinance Section is to:

*Note to Reviewers: the Purpose applies to this specific Section, not the entirety of the Ordinance.*

Specifications  
L, Sec. 1

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

*Note to Reviewers: Removed "unincorporated area" because this Ordinance and this section applies to the 4 towns as well, which are incorporated.*

### 7.5.2 Preventing Increased Damages

Specifications  
L, Sec. 4

- A. No development in the Special Flood Hazard Area ~~shall~~ may create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.
- B. Within the floodway identified on the Flood Boundary and Floodway or the Flood Insurance Rate Map, the following standards ~~shall~~ apply:
  1. No development ~~shall be~~ is allowed which, acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and

*Note to Reviewers: "Is" is used in place of "shall be" throughout the rest of the Ordinance.*

2. For all projects involving channel modifications or fill (including levees) the County ~~shall~~ must submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

*Note to Reviewers: "Must" is used in place of "shall" throughout the rest of the*

## Article 7 General Development Standards

### Sec. 7.5. Flood Hazard Control

#### Ordinance.

- C. Within all Special Flood Hazard Areas identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided), the following standard ~~shall apply~~ applies: the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, ~~will~~ must not increase the regulatory flood elevation more than one-tenth of one foot and ~~will~~ must not increase flood damages or potential flood damages.

**Note to Reviewers:** "Area" needed to become plural. "Shall" is not used throughout the rest of the Ordinance. "Must" is used in place of "will" throughout the rest of the Ordinance.

Public Health Standards in all Special Flood Hazard Area

- D. ~~No development~~ The following materials in the Special Flood Hazard Area ~~shall include~~ must be stored in a storage tank or floodproofed building below the Flood Protection Grade and constructed according to the requirements of Sec. 7.5.3 below:

1. ~~locating or storing~~ Chemicals;
2. Explosives;
3. Buoyant materials;
4. Flammable liquids,
5. Pollutants; or
6. Other hazardous or toxic materials.

Specifications  
L, Sec. 4

~~below the Flood Protection Grade, unless such materials are stored in a storage tank or floodproofed building constructed according to the requirements of subsection 5 of this ordinance.~~

**Note to Reviewers:** In order to make the materials into a more readable list, instead of leaving them as in-line text, I had to take the stricken part just above and work it into the paragraph above the list.

- E. New and replacement sanitary sewer lines and on-site waste disposal systems as must be permitted by the Indiana State Board of Health and the Elkhart County Environmental Health Department. ~~Local Department of Health.~~

**Note to Reviewers:** E above was not a complete sentence so I modified it to become one. I specified "Local Department of Health" as the actual department that does the permitting in Elkhart County.

### 7.5.3 Protecting Structures

- A. In addition to the damage prevention requirements of Sec. 7.5.2, all buildings to be located in the Special Flood Hazard Area ~~shall~~ must be protected from flood damage below the Flood Protection Grade.

**Note to Reviewers:** "Shall" is not used throughout the rest of the Ordinance.

Specifications  
L, Sec. 5

## Article 7 General Development Standards

### Sec. 7.5. Flood Hazard Control

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B. This building protection requirement applies to the following situations:

1. Construction or placement of any new structure having a gross floor area greater than 400 square feet;

**Note to Reviewers:** “Gross” floor area is consistent with terminology in the remainder of the Ordinance.

2. Structural alterations made to:

- a. An existing (previously unaltered ) building, the cost of which equals or exceeds 50 percent of the pre-altered building (excluding the value of the land); or

**Note to Reviewers:** “Or” was needed in this list.

- b. Any previously altered building;

3. Reconstruction or repairs made to a damaged structure that are valued at or more than 50 percent of the market value of the structure (excluding the value of the land) before damage occurred;
4. Installing a mobile home on a new site or a new mobile home on an existing site. This ordinance does not apply to returning the existing mobile home to the same site it lawfully occupied before it was removed to avoid flood damage; and
5. Installing a recreational vehicle on a site for more than 180 days.

C. This structure protection requirement may be met by one of the following methods. The Zoning Administrator ~~shall~~ must maintain a record of compliance with these building protection standards as required in Sec. 7.5.2 of this ordinance.

**Note to Reviewers:** “Shall” is not used throughout the rest of the Ordinance.

1. A residential or nonresidential structure may be constructed on fill in accordance with the following:
  - a. The fill ~~shall~~ must be placed in layers no greater than one foot deep before compacting to 95 percent of the maximum density and must be certified by an engineer with approved methods.
  - b. The fill ~~should~~ must extend ~~at least a minimum of~~ ten feet beyond the foundation of the building before sloping below the Flood Protection Grade.
  - c. The fill ~~shall~~ must be protected against erosion and scour during flooding by vegetative cover, rip-rap, or bulkheading. If vegetative cover is used, the slopes ~~shall~~ must be no steeper than three horizontal feet to one vertical foot.

Specifications  
L, Sec. 5

## Article 7 General Development Standards

### Sec. 7.5. Flood Hazard Control

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- d. The fill shall must not adversely affect the flow of surface drainage from or onto neighboring properties.
- e. The lowest floor shall must be at or above the Flood Protection Grade.

**Note to Reviewers:** “Shall” is not used throughout the rest of the Ordinance.

- 2. A residential or nonresidential structure may be elevated in accordance with the following:
  - a. The structure or improvements shall must be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
    - i. Walls of any enclosure below the elevated floor shall must be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding.
    - ii. The bottom of all such openings shall must be no higher than one foot above grade.
    - iii. Any enclosure below the elevated floor is used for nonresidential purposes and building access.
  - b. The foundation and supporting members shall must be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris.
  - c. All areas below the Flood Protection Grade shall must be constructed of materials resistant to flood damage. The lowest floor (including basement) and all electrical, heating, ventilating, plumbing and air conditioning equipment and utility meters shall be located at or above the Flood Protection Grade. Water and sewer pipes, electrical and telephone lines, submersible pumps and other waterproofed service facilities may be located below the Flood Protection Grade.
  - d. Mobile homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:
    - i. The mobile home shall must be elevated on a permanent foundation such that the lowest floor shall be at or above the Flood Protection Grade and securely anchored to an adequately anchored foundation system to resist

Specifications  
L, Sec. 5

## Article 7 General Development Standards

### Sec. 7.5. Flood Hazard Control

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flotation, collapse, and lateral movement. This requirement applies to all mobile homes to be placed on a site:

- (A) Outside a mobile home park or subdivision;
  - (B) In a new mobile home park or subdivision;
  - (C) In an expansion to an existing mobile home park or subdivision; or
  - (D) In an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as a result of a flood.
- ii. In an existing mobile home park or subdivision that has not been substantially damaged by a flood, the mobile home ~~shall~~ must be elevated so that the lowest floor of the mobile home chassis is supported by reinforced piers or other foundation elements that ~~are no less than~~ 36 inches in height above grade and must be securely anchored to a foundation system that will resist flotation, collapse and lateral movement.

**Note to Reviewers:** "Shall" is not used throughout the rest of the Ordinance.

- e. A recreational vehicles placed on a site ~~shall~~ must either meet the requirements for mobile homes as established above or must:
- i. Be on the site for less than 180 consecutive days; or
  - ii. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions).

~~Shall meet the requirements for mobile homes in subsection d of this section.~~

- f. A nonresidential building may be flood proofed to the Flood Protection Grade (in lieu of elevating) if done in accordance with the following.
- i. A Registered Professional Engineer ~~shall~~ must certify that the building has been designed so that below the Flood Protection Grade, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design ~~shall~~ must take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.



**Article 7 General Development Standards**

Sec. 7.5. Flood Hazard Control

Specifications  
L, Sec. 5

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

**7.5.4 Regulatory Flood Elevation**

Specifications  
L, Sec. 6

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

**Note to Reviewers:** “Section” instead of “Ordinance”.

- 1. The regulatory flood elevation for the Special Flood Hazard Area ~~shall be as delineated as is~~ is the 100 year flood profiles in the Flood Insurance Study prepared by the Federal Emergency Management Agency.

**a. Bristol**

- i. Flood Boundary Floodway Mapping date April 3, 1985.
- ii. Flood Insurance Study date April 3, 1985.

**b. Middlebury**

- i. Flood Boundary Floodway Mapping date August 15, 1983.
- ii. Flood Insurance Study date February 15, 1983.

**c. Unincorporated Elkhart County**

**Note to Reviewers:** Clarification.

- i. Flood Boundary Floodway Mapping date June 5, 1985.
- ii. Flood Insurance Study date June 5, 1985.
- 2. The regulatory flood elevation for each Special Flood Hazard Area ~~shall be~~ is that elevation delineated on the Flood Insurance Rate Maps.

**Note to Reviewers:** “Shall” is not used throughout the rest of the Ordinance.

**a. Bristol**

- i. Flood Boundary Floodway Mapping date April 3, 1985.
- ii. Flood Insurance Study date April 3, 1985.

**b. Middlebury**

- i. Flood Boundary Floodway Mapping date August 15, 1983.
- ii. Flood Insurance Study date February 15, 1983.

**Article 7 General Development Standards**

Sec. 7.5. Flood Hazard Control

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**c. Unincorporated Elkhart County**

- i. Flood Boundary Floodway Mapping date June 5, 1985.
- ii. Flood Insurance Study date June 5, 1985.

- 3. The regulatory Flood Elevation for each of the remaining Special Flood Hazard Area delineated as an "A Zone" on the Flood Insurance Rate Map ~~shall be~~ exists according to the best data available as provided by the Department of Natural Resources.

**Note to Reviewers:** *"Shall" is not used throughout the rest of the Ordinance.*

**a. Bristol**

- i. Flood Boundary Floodway Mapping date April 3, 1985.
- ii. Flood Insurance Study date April 3, 1985.

**b. Middlebury**

- i. Flood Boundary Floodway Mapping date August 15, 1983.
- ii. Flood Insurance Study date February 15, 1983.

**c. Unincorporated Elkhart County**

**Note to Reviewers:** *Clarification.*

- i. Flood Boundary Floodway Mapping date June 5, 1985.
- ii. Flood Insurance Study date June 5, 1985.

# ARTICLE 8 NONCONFORMITIES

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## NON-CONFORMING USE SPECIFICATIONS.

**Note to Reviewers:** *The new Zoning Ordinance should treat nonconforming uses and nonconforming structures differently. It may be desirable for a nonconforming structure to be allowed to expand under certain parameters, but it may be undesirable to allow a nonconforming use to intensify.*

### Sec. 8.1. General

- 8.1.1** Nonconformities are those land uses, signs, structures or parcels or lots of record that were legally established or erected prior to [insert effective date] and that do not comply with the requirements of this Ordinance. Nonconformities are not made illegal by the adoption of this Ordinance; however, nonconformities may not be modified except in accordance with this Article.
- 8.1.2** The casual, intermittent, temporary or illegal use of land, structures or signs is not sufficient to establish the existence of a nonconforming use, structure or sign.

### Sec. 8.2. Nonconforming Parcel or Lot of Record

**Note to Reviewers:** *These provisions allow development of platted lots or established parcels that do not meet today's standards, but met the standards in place at the time they were platted or established.*

- 8.2.1** A parcel or lot that does not meet one or more dimensional standards of this Ordinance, but was legally established and recorded prior to [insert effective date] is deemed a legal nonconforming parcel or lot of record.
- 8.2.2** A legal nonconforming parcel or lot of record is permitted to be developed as long as the proposed structures, uses and site improvements meet the requirements of this Ordinance. All standards set forth in this Ordinance, other than that of the respective nonconformity, still apply.
- 8.2.3** If a legal nonconforming parcel or lot of record is used in combination with an adjacent parcel or lot as a single unit for development purposes, and the two lots in combination would constitute a single conforming parcel or lot, then the nonconforming parcel or lot of record must lose its nonconforming status. Thereafter, future division of the combined parcel lot must conform to the requirements of this Ordinance and the Subdivision Control Ordinance.

### Sec. 8.3. Nonconforming Use

- 8.3.1** The use of land or a structure (or a structure and land in combination) that was legally established prior to [insert effective date], that has been continuously operated since, and that is no longer permitted by this Ordinance in the zoning district in which it is located, is deemed a legal nonconforming use.

**Article 8 Nonconformities**  
Sec. 8.4. Nonconforming Structure

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**8.3.2** A legal nonconforming use of land or a structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. The legal nonconforming use must not be enlarged, increased or extended to occupy a greater area of land than was occupied prior on [insert effective date];
- B. The legal nonconforming use must not be moved in whole or in part to any portion of the property other than that occupied by the legal nonconforming use on [insert effective date];
- C. No additional structure not conforming to the requirements of this Ordinance may be erected in connection with the legal nonconforming use;
- D. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located may be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the building or structure to a use permitted in the zoning district in which it is located;
- E. The nonconforming use may be extended throughout any parts of a building or structure which were manifestly arranged or designed for such use prior to [insert effective date], but no such use may be extended to occupy any land outside of such building or structure;
- F. Any land or structure upon or in which the nonconforming use is replaced by a permitted use, must conform to the regulations specified by this Ordinance for the zoning district in which it is located, and a nonconforming use may not be resumed;
- G. If the legal nonconforming use is discontinued or abandoned for 12 or more consecutive months, the land or structure must not be used except in conformity with the regulations specified by this Ordinance for the zoning district in which it is located; and
- H. Where nonconforming use status applies to a structure and land in combination, removal or destruction of two-thirds or more of the gross floor area of the structure eliminates the legal nonconforming use status of the structure and land in combination.

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

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

### **Sec. 8.4. Nonconforming Structure**

**8.4.1** A structure, including a sign, that does not meet one or more development standards of this Ordinance, but was legally established prior to [insert effective date] is deemed a legal nonconforming structure.

- 8.4.2** A legal nonconforming structure may remain so long as it remains otherwise lawful, subject to the following provisions:
- A. The legal nonconforming structure may not be enlarged or altered in a way which increases its nonconformity;
  - B. The legal nonconforming structure may be restored to its original dimensions if damaged or partially destroyed by fire or other disaster provided that the damage or destruction does not exceed two-thirds of the gross floor area of the structure and provided all reconstruction complies with all current state and local building codes and all other applicable County regulations;
  - C. If the legal nonconforming structure is moved for any reason over any distance, it must then conform to the regulations of this Ordinance applicable to the zoning district in which it is located after it is moved;
  - D. Converting a structural component of the legal nonconforming structure to a more permanent material in order to prolong legal nonconformity is not permitted;
  - E. If the legal nonconforming building or structure, through lack of maintenance, is declared by the Building Commissioner to be condemned due to its physical or unsafe condition, it loses its legal nonconforming status; and
  - F. If the legal nonconforming structure is fully removed or razed, it loses its legal nonconforming status; further, if a legal nonconforming structure is partially removed or razed resulting in a loss of two-thirds or more of its gross floor area, the remaining building or structure loses its legal nonconforming status.

### **Sec. 8.5. Nonconforming Sign**

The provisions for legal nonconforming structures established in Sec. 8.4 apply to signs, except that a legal nonconforming sign may undergo a change in the information on the face of the sign provided that the change does not increase the area of the sign face.

### **Sec. 8.6. Repair, Maintenance and Alteration**

- 8.6.1** Ordinary day to day maintenance and repair work may be done on any legal nonconforming structure or structure containing a legal nonconforming use, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming structure or structure containing a nonconforming use. However, nothing in this Ordinance may be deemed to prevent the strengthening or restoring to a safe condition of any structure declared to be unsafe by the Building Commissioner.

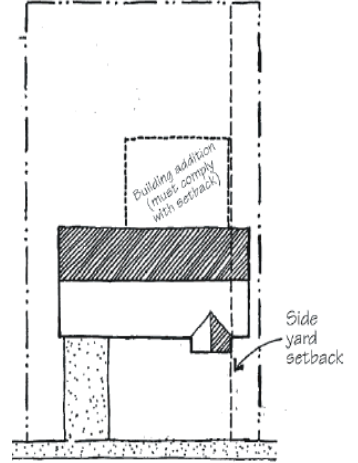
**Article 8 Nonconformities**  
Sec. 8.7. Planned Unit Developments

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**8.6.2** If a legal nonconforming structure, or a structure containing a legal nonconforming use, becomes unsafe or unlawful by reason of physical condition and is razed, such building or structure may not thereafter be rebuilt or used except in conformity with the regulations of this Ordinance applicable to the zoning district in which it is located.

**8.6.3** No structural alteration shall be made in a legal nonconforming structure, or structure containing a nonconforming use, except in the following situations:

- A. When the alteration is required by law;
- B. When the alteration does not increase the extent of the nonconformity; or
- C. When a building or structure containing residential nonconforming uses is altered in any way to improve habitability provided that no structural alteration is made which would increase the number of dwelling units or the bulk of the building or structure.



[illustration – modify to that the building addition does not increase the extent of the nonconformity]

## Sec. 8.7. Planned Unit Developments

adopted prior to December 31, 1996

Art.4,  
Sec. 7

- A. All existing Planned Unit Developments adopted ~~under the previous Planned Unit Development Specifications (Specification I)~~ prior to December 31, 1996, will continue in effect as adopted. All Planned Unit Developments that have lapsed or require consideration of an amendment will be required to comply with ~~Specification I~~ this applicable provisions of this Ordinance.
- B. If for any reason the intent of the previously adopted Planned Unit Development ~~or the development plan~~ was not clear, the Plan Commission will accept and consider all appeals.

### Nonconforming Uses

Art.4,  
Sec. 1

Any lawfully established use of a building or land, established on or before February 1, 1960 which does not conform to the use regulations for the district in which it is located shall be deemed to be a legal nonconforming use and may be continued, ~~except as otherwise provided herein in this Ordinance.~~

~~Any legal nonconforming building or structure may be continued in use if there is no physical change other than necessary maintenance and repair, except as otherwise permitted in this Ordinance.~~

~~Any building for which a permit has been lawfully granted on or before February 1, 1960 may be completed in accordance with the approved plan, if construction is begun within six months after the~~

**Article 8 Nonconformities**  
Sec. 8.7. Planned Unit Developments

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date of the permit and diligently prosecuted to completion. Any such building shall be deemed a lawfully established building.

Discontinuance of Use

Art.4,  
Sec. 2

If any part of a building, structure or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this ordinance, those premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed and constructed for the prior non-conforming use.

If a nonconforming use of a building or structure, or part of it, has been discontinued for a period of 18 consecutive months, or for a continuous period of 30 months if the building was originally designed and constructed for a non-residential use or if there is evidence of a clear intent on the part of the owner to abandon a non-conforming use, that use shall not, after being discontinued or abandoned, be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.

If no enclosed building is part of the nonconforming use, the discontinuance of a nonconforming use for a continuous period of one year shall constitute abandonment.

Change of Use

Art.4,  
Sec. 3

A nonconforming use of a building or structure, or part of it may be changed to a use of the same or of a more restricted character, but may not be changed to any less restricted use.

Termination and Removal of Nonconforming Uses

Art.4,  
Sec. 4

The following non-conforming uses of structures or land may continue or remain until February 1, 1962 or until two years from the effective date any amendment to this ordinance which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the two year period.

Any non-conforming use of land where materials such as wood, stone, masonry, metal are stored and where no enclosed building is located. This does not include automobile wrecking yards and junk yards. Public or private off-street parking lots lawfully established prior to February 1, 1960 shall not be affected by this provision.

No junk or automobile wrecking yard shall be operated or maintained on a non-conforming site after February 1, 1962 or from two years after the effective date of any amendment to this ordinance, which causes the use to be non-conforming, except that in an M1C Limited Manufacturing District, and in an M2C General Manufacturing District, the Board of Zoning Appeals may permit, for a specified time, the continued use of an area containing an automobile wrecking yard or junk yard if a masonry wall, a compact evergreen screen, or a fence which substantially obstructs the view of the yard and which is not less than eight feet in height, is constructed around that area.

**Article 8 Nonconformities**  
Sec. 8.7. Planned Unit Developments

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Art.4,  
Sec. 5

Repairs, Alterations and Additions

Any person may engage in normal maintenance of a building or other structure containing a non-conforming use, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

No structural alterations shall be made in a building or other structure containing a non-conforming use, except in the following situations:

When the alteration is required by law;

When the alteration will actually result in eliminating the non-conforming use; or

When a building containing residential non-conforming uses may be altered in any way to improve habitability if no structural alteration is made which would increase the number of dwelling units or the bulk of the building.

Damage and Destruction

Art.4,  
Sec. 6

A building or other structure containing a non-conforming use is damaged or destroyed by any means to the extent of 60 percent or more of its replacement value at that time, the building or other structure may be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district in which it is located. If the damage or destruction is less than 60 percent of its replacement value, based upon prevailing costs, the extent of the damage shall be established by estimates made by the Zoning Administrator. An appeal from the decision of the Zoning Administrator may be taken by the owner or agent of the property involved in the manner set forth in Article 6. The building may then be restored to its original condition and the occupancy or use of that building which existed at the time of that partial destruction may be continued. In either event, restoration or repair of the building or other structure shall be begun within one year and diligently prosecuted to completion.

Nonconforming Industrial Uses

Nonconforming industrial uses may be enlarged or expanded on the property occupied on February 1, 1960, or on adjacent property in "B2C", "B3C" and "M1C" Districts, but not exceeding 50 percent of its floor area as of February 1, 1960, and 100 feet distant from the property lines of the property occupied on February 1, 1960 in accordance with the procedure specified in paragraph B of this section.

Specifications  
F, E

Nonconforming Structures

Art.4,  
Sec.  
4, C

Residential additions within the front yard setback.

At the Zoning Administrator's discretion an Improvement Location Permit can be issued for additions to the principal primary residential structure that is nonconforming because of its location in the required front yards. This permit can only be issued if the following criteria has have been met:



**Article 8 Nonconformities**  
Sec. 8.7. Planned Unit Developments

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~~That the existing yards were created prior to or in conformance with this Ordinance and amendments;~~  
~~and~~

~~That the existing building line is more than 40 ft. from the centerline of any road and is not presently within any public rights-of-way; and~~

~~That the proposed addition will be at or behind the Building Line established by the principal primary residential structure; and~~

~~That the square feet of the additions (only that area which sets between the established Building Line and the required Building Set Back Line) is 20% or less of the Ground Floor Area of the principal residential structure; and~~

~~That the yards in question are not adjacent to a major classified street, federal or state highway; and~~

~~That a site plan (as prescribed by the Plan Commission) is submitted.~~

**Article 8 Nonconformities**  
Sec. 8.7. Planned Unit Developments

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# ARTICLE 9 ENFORCEMENT, VIOLATIONS AND PENALTIES

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## Sec. 9.1. Enforcement

by Whom.

Art.5,  
Sec.1

### 9.1.1 Zoning Administrator

The Zoning Administrator shall enforces this Ordinance and shall and may exercise his or her discretion and judgment in order to protect and preserve the public health, safety and general welfare of the citizens of the County.

Remedies and Violations

### 9.1.2 Enforcement Options

Remedies.

~~The County Plan Commission, the Board of Zoning Appeals, the Zoning Administrator, or any designated enforcement official, may institute a suit for injunction in the County Circuit Court or County Superior Court to restrain an individual or a governmental unit or any legal entity from violating the provisions of this ordinance. The County Plan Commission or the Board of Zoning Appeals may also institute a suit for mandatory injunction directing an individual, any legal entity or a governmental unit to remove a structure erected in violation of any provisions of this ordinance or its requirements. Any such structure is hereby declared to be a public nuisance and as such, may be abated as prescribed by State law.~~

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

- A. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to invoke any legal, equitable or special remedy. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.
- B. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to enforce compliance with any condition, covenant, or commitment. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.
- C. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to request a prohibitory or permanent injunction to restrain any person from violating the provisions this Ordinance. Any such action may be

## Article 9 Enforcement, Violations and Penalties

### Sec. 9.2. Violations

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- joined with an action to recover civil fines provided for in this Ordinance.
- D. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to request a mandatory injunction directing a person to remove a building or structure or other violation. Any such action may be joined with an action to recover civil fines provided for in this Ordinance.
- E. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to invoke civil fines against any person for a violation of this Ordinance. The assessment of a civil fine shall in no way limit the operation of any other enforcement remedies provided for elsewhere in this Ordinance.
- F. Bring an action in a court of competent jurisdiction as an independent enforcement action or concurrent to another enforcement action to invoke any remedy or action allowed by Indiana Code, common law, or other applicable State regulations to enforce this Ordinance or any action taken under this Ordinance.

## Sec. 9.2. Violations

### 9.2.1 Actionable Violations

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

A. **Non-Permitted Buildings or Structures**

Construct, convert, place, move, maintain, enlarge, use, or modify a building or structure in a manner that is not expressly permitted by this Ordinance;

B. **Permitted Buildings or Structures**

Construct, convert, place, move, maintain, enlarge, use, or modify a building or structure in a manner permitted by this Ordinance without first being issued all permits and/or other approvals required by this Ordinance;

C. **Exempt Permitted Buildings or Structures**

For buildings or structures that are exempt from needing a permit; construct, convert, place, move, maintain, enlarge, use, or modify a building or structure in a manner that is not expressly permitted by this Ordinance;

D. **Prohibited Uses**

Utilize any land, building or structure for a use that is not expressly permitted or allowed by this Ordinance;

## Article 9 Enforcement, Violations and Penalties

### Sec. 9.3. Penalties

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#### E. **Permitted Uses**

Utilize any land, building or structure for a use expressly permitted by this Ordinance without first being issued all permits and/or other approvals required by this Ordinance;

#### F. **Non-Compliance with Approvals**

Fail to fully comply with procedural requirements, payment of fees, conditions, covenants, or commitments associated with any permit and/or other approval under this Ordinance; or

#### G. **Other Violations**

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

### 9.2.2 Responsibility for Violations

The owner or tenant of any land, lot, building, structure, or use, or part thereof, and any architect, builder, contractor, agent, or other person who commits, assists in, participates in, or maintains an actionable violation of this Ordinance may each be found guilty of a separate offense and suffer the penalties as provided for herein.

### 9.2.3 New Permits at Location Where a Violation Exists

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

## Sec. 9.3. Penalties

**9.3.1** Any person found in violation of this Ordinance shall, upon conviction thereof, be fined no more than \$2,500.00 for the first violation and not more than \$7,500.00 for second or subsequent violations.

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

#### Violations

~~A violation shall be a failure to comply with any of the provisions of this ordinance. A violation shall pertain to but be not limited to the use of any land, the use of any buildings or structures, or the erection, construction, placement, moving, maintenance, enlargement, conversion of any building or structure which is operated or maintained contrary to any provisions of this ordinance.~~

**Article 9 Enforcement, Violations and Penalties**  
Sec. 9.3. Penalties

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# ARTICLE 10 DEFINITIONS

## Sec. 10.1. Abbreviations

Abbreviation	Term
BZA	Board of Zoning Appeals
DPUD	Detailed Planned Unit Development
GPUD	General Planned Unit Development
PUD	Planned Unit Development
SUP	Special Use Permit

## Sec. 10.2. Definitions

For the purpose of this Code section Ordinance, the terms and words below shall be interpreted and are defined as follows.

WORDS AND PHRASES

**ACCESSORY STRUCTURE BUILDING OR USE.** A structure that is:

- (a) ~~Devoted to an accessory use; An "accessory building or use" is one which:~~
- (a) ~~Is Incidental to, and subordinate to, and serves the principal building or principal use primary structure; and~~
- (b) ~~Is Customarily and commonly associated with the principal building or principal use served; and~~
- (c) ~~Is Subordinate in area, extent, and purpose to the principal building or principal use served primary structure. and~~

**Note:** (d) through (g) below have been either moved to Sec. 5.5 or incorporated into the use category tables in Sec. 5.2.

- (d) ~~Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served structure; and~~
- (e) ~~Is Located on the same zoning lot, and in the same zoning district and is under the same ownership as the principal building or principal use served structure; and~~
- (f) ~~Is Not specifically enumerated as a special use in the particular zoning district in which the principal building exists or principal use served lie.~~

- (g) ~~An "accessory use" includes, but is not limited to:~~

**Elkhart County Zoning Ordinance – DRAFT – Module 4: Remaining Provisions**

Art.1,  
Sec.2

Art.1, Sec. 2  
throughout

## Article 10 Definitions

### Sec. 10.2. Definitions

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- ~~(1) A children's playhouse, garden house, and private greenhouse.~~
- ~~(2) A garage, shed, or building for domestic storage.~~
- ~~(3) Incinerators incidental to residential use.~~
- ~~(4) 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.~~
- ~~(5) 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.~~
- ~~(6) 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.~~
- ~~(7) 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.~~
- ~~(8) Off-street motor vehicle parking areas, and loading and unloading facilities.~~
- ~~(9) Signs, other than advertising signs as permitted and regulated in each district incorporated in this Code Section.~~
- ~~(10) Carports.~~
- ~~(11) Boat House if not more than ten feet high as measured from normal water level.~~
- ~~(12) Swimming Pools if private, being incidental to use by owner and guests.~~
- ~~(13) Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.~~

**~~ACCESSORY STRUCTURE BUILDING OR USE.~~** ~~An "accessory building or use" is one which A use that may or may not be located within an accessory structure and that is:~~



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- (a) ~~Is incidental to, and subordinate to, and serves the principal building or principal primary use of the property; and~~
- (b) ~~Is customarily and commonly associated with the principal building or principal primary use of the property. served; and~~

**Note:** (c) through (g) below have been either moved to Sec. 5.5 or incorporated into the use category tables in Sec. 5.2.

- ~~(c) Is subordinate in area, extent, and purpose to the principal building or principal use served; and~~
- ~~(d) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and~~
- ~~(e) Is located on the same zoning lot and the same zoning district and under the same ownership as the principal building or principal use served; and~~
- ~~(f) Is not specifically enumerated as a special use in the particular zoning district in which the principal building or principal use served lie; and~~

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throughout

- (e) An "accessory use" includes, but is not limited to:
  - ~~(1) A children's playhouse, garden house, and private greenhouse.~~
  - ~~(2) A garage, shed, or building for domestic storage.~~
  - ~~(3) Incinerators incidental to residential use.~~
  - ~~(4) 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.~~
  - ~~(5) 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.~~
  - ~~(6) 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.~~
  - ~~(7) Servants' quarters if part of an accessory garage and solely for occupancy by a servant or household employee of the occupants~~

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~~of the principal dwelling and the family of that servant or employee.~~

- ~~(8) Off-street motor vehicle parking areas, and loading and unloading facilities.~~
- ~~(9) Signs, other than advertising signs as permitted and regulated in each district incorporated in this Code Section.~~
- ~~(10) Carports.~~
- ~~(11) Boat House if not more than ten feet high as measured from normal water level.~~
- ~~(12) Swimming Pools if private, being incidental to use by owner and guests.~~
- ~~(13) Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.~~

~~**ACREAGE.** Any tract or parcel of land which has not been subdivided and platted.~~

*Note to Reviewers: The term above is not used in the Ordinance in the way it is defined. The way it is used is self-explanatory.*

**ADULT ARCADE.** Any place in which the public is permitted or invited where devices are maintained to show images to ten or fewer persons per machine at any one time in which images are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities".

**ADULT BOOKSTORE, ADULT NOVELTY OR ADULT VIDEO STORE.** A commercial establishment having at least five percent of its gross floor area (as defined established in Sec. 4.3.10) in stock in trade, or at least 5 percent of its sales and/or rentals from one or more of the following:

- (a) Books, magazines, periodicals or printed matter, photographs, motion pictures, video cassettes, or video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities".
- (b) Instruments, devices or paraphernalia that depicts, is used in, or relates to "Adult Sexual Activities".

**ADULT BUSINESS.** Are any of the following defined uses:

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

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

**ADULT ENTERTAINMENT FACILITIES.** Any commercial establishment, business or service which has at least five percent of its gross floor area (as defined established in Sec. 4.3.10) or at least five percent of its sales consisting of material, devices, or paraphernalia which depicts or describes, or is related to "Adult Sexual Activities." An adult entertainment facility also includes a commercial establishment, business or service which offers services or performances whether printed, filmed, recorded or live depicting "Adult Sexual Activities" The term adult entertainment facilities shall include but not be limited to such activities as included in the definition of the adult business.

**ADULT MOTION PICTURE THEATER.** Any place in which more than ten persons are permitted or invited for the showing of images distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Adult Sexual Activities".

**ADULT MOTEL.** A motel, hotel, or similar establishment is a business or commercial establishment that, as one of its primary business purposes, offers rooms for sexual encounters between male and female persons and/or

persons of the same sex where one or more of the persons are involved in "Adult Sexual Activities."

**ADULT SEXUAL ACTIVITIES.** Means and includes the following:

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

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

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

**AGRI-BUSINESS.** A business that is primarily engaged in the supply of services and products to the farming industry including, but not limited to soil preparation, crop and animal husbandry services and the sale, rental service and commercial repair of agricultural production equipment. Also, commercial processing of agricultural products, including livestock and poultry are included.

**AGRICULTURAL USE.** This 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.

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

*Note to Reviewers: The Cottage housing type (Sec. 4.4.3) has a required alley for vehicular access and also would usually front on a regular street. I was going to amend the alley definition above to take into account the Cottage but it seems that this definition still works. This definition seems to be written to prevent an alley as being the only frontage that a property has.*

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

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

*Note to Reviewers: Added "arcade" for Sec. 6.1.9.*

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

**BASEMENT.** A story partly or wholly underground.

*Note to Reviewers: Existing language about basements counting as a story, for height measurement, has been moved to the Height section of the Measurements and Special Cases Section (Sec. 4.3.11)*

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

**BASE FLOOD.** See "Regulatory Flood".

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

- (1) Provides sleeping accommodations to the public for a fee;
- ~~(2) has no more than six guest rooms;~~
- (3) Is subordinate and incidental to the ~~main~~ primary residential use of the building property; and
- (4) Provides breakfast to its guests as part of the fee.
- ~~(5) provides sleeping accommodations for no more than 15 consecutive days to a particular guest;~~
- ~~(6) provides one on-site parking space for each guest room;~~

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~~(7) is limited to one double faced sign not to exceed four square feet per side;~~

~~(8) is permitted by Special Use in the following districts: A-1, R-1, R-2, R-3, R-4, B-1 and B-2~~

*Note to Reviewers: Stricken standards above have been put into the Accessory Structures and Uses, Off-Street Parking, and Use Table Sections.*

**BED AND BREAKFAST INN.** An establishment that:

(1) Provides sleeping accommodations to the public for a fee;

~~(2) has seven to 14 guest rooms;~~

(2) Provides breakfast to its guests as part of the fee;

~~(4) provides sleeping accommodations for no more than 30 consecutive days to a particular guest;~~

(3) Provides a designated area within the establishment where the operator shall must reside;

(4) Is residential in character; and

(5) Is the primary use on the property.

~~(7) provides one on-site parking space for each guest room;~~

~~(8) 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;~~

~~(9) is permitted by Special Use in the following districts: A-1, R-3, R-4 and B-1;~~

~~(10) is a permitted use without Special Use in the B-2, B-3, M-1 and M-2 districts.~~

*Note to Reviewers: Stricken standards above have been put into the Specific Use Standards, Off-Street Parking, and Use Table Sections.*

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

**BUILDING.** See "Structure".

**BUILDING LINE.** The line nearest the front of and across a lot established by the front most plane of a building wall. ~~establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.~~

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*Note to Reviewers: "Building Line" is not necessarily the same as the "Building Setback Line", defined below.*

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

**BUILDING SETBACK LINE.** A line parallel to the street line, side lot line or rear lot line, at a distance regulated by the ~~front yard~~ setback requirements in this Code section Ordinance.

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

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

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

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

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

**~~CAR WASH. AUTOMOBILE LAUNDRY.~~** A building, or portion of it, where automobiles are washed by using a chain conveyor and blower or steam cleaning device or by any other method.

*Note to Reviewers: Car wash changed from Automobile Laundry to use the more common term.*

**~~CARTAGE, LOCAL.~~** ~~Pick up and delivery of parcels, packages and freight by motor truck within 15 miles of that city or town where the business operates.~~

**~~CELLAR.~~** ~~A story with more than one half of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be deemed a story for the purpose of height measurements.~~

**CHILD CARE CENTER.** A non-residential building where at least 17 children receive child care from a provider:

- (1) While unattended by a parent, legal guardian, or custodian;
- (2) For regular compensation; and

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- (3) For more than four hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays

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

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

~~**COMMERCIAL.** See Business.~~

~~**CORNER LOT.** See Lot, Corner.~~

~~**CORNER LOT, REVERSED.** See Lot, Reversed Corner.~~

**CURB LEVEL.** The level of the established curb in front of the building measured at the center of that front. If a building faces on more than one street, the "curb level" ~~shall be~~ is the average of the levels of the curbs at the center of the front of each street. If no curb elevation has been established, the mean ~~level of the land~~ finished grade immediately adjacent to the building ~~shall be~~ deemed is the "curb level."

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

**DETAILED PLANNED UNIT DEVELOPMENT ORDINANCE.** ~~The approved rezoning ordinance that is accompanied by a Detailed Planned Unit Development Site Plan and Planned Unit Development Plat. Any Planned Unit Development that was applied for as a Detailed Planned Unit Development, was submitted to the Site Plan Review Committee for its consideration, had a Public hearing as prescribed by law and meets all of the requirements, restrictions, provisions, and standards of Specifications I.~~

~~**DETAILED DEVELOPMENT PLAN PLANNED UNIT DEVELOPMENT PLAT.** A~~ The drawing submitted with the application for a Detail Planned Unit Development ~~and will be~~ and, upon approval, made part of the Detailed Planned Unit Development Ordinance. This ~~site development plan plat is to~~ must be signed



and sealed by a ~~Professional~~ registered Indiana land surveyor ~~and Licensed in the state of Indiana~~ and must contain all information specified by the Zoning Ordinance and Rules of Procedure adopted by the ~~Advisory~~ Plan Commission.

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

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

- (1) Construction, reconstruction, or placement of any addition to a building;
- (2) Installing a mobile home on site, preparing a site for a mobile home or installing a recreational vehicle on site for more than 180 days;
- (3) Installing utilities, erection of walls and fences, construction of roads;
- (4) Construction of flood control structures such as levees, dikes, channel improvements, etc;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Outside storage of materials; or
- (8) Any other activity that might change the direction, height or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

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

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

**~~DWELLING UNIT, ACCESSORY SUBORDINATE.~~** ~~Living space which is part of an owner occupied one family dwelling, which includes all facilities, and is provided by alteration or design for use by family members with the primary mode of entry through the main structure. An attached or detached independent dwelling unit located on the same property as the primary dwelling unit.~~

**~~DWELLING GROUP.~~** ~~Two or more one family or multiple family dwellings, or boarding or lodging houses, located on one zoning lot, but not including tourist courts or motels.~~

*Note to Reviewers: Above term is not used in this ordinance.*

**~~EDUCATIONAL INSTITUTION.~~** ~~Any public, parochial, charitable or non-profit junior college, college or university, except trade or business schools, and including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.~~

*Note to Reviewers: Above term is handled in the Use Categories Section of Article 5.*

**FAMILY.** One or more persons related by blood, marriage or adoption, or a group of not more than five persons, excluding servants, who need not be related by blood, marriage or adoption, living together and maintaining a common household, but not sororities, fraternities or other similar organizations.

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

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

**FARMERS MARKET, OUTDOOR.** An outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers where at least 75 percent of the displayed inventory of the products sold in each farmers market is farm products or value-added farm products.

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

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**FARM PRODUCT, VALUE-ADDED.** Any product processed by a producer from a farm product, such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or prepared foods.

*Note to Reviewers: The above 3 definitions are related to farmers markets (SUP in A-1, Permitted by Right in B-1, -2 and -3) to distinguish them from something like a flea market, which is a SUP in A-1 and in several other districts.*

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

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

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

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

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

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

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

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

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**~~FUEL SALES. AUTOMOBILE SERVICE STATION.~~** A place where gasoline vehicular fuel, stored only in underground tanks, kerosene, lubricating oil or grease, for operation of automobiles, are is offered for sale to the public on the premises, along with minor accessories and service for automobiles, but not including major automobile repairs; washing of automobiles where no chain conveyor, blower or steam cleaning device is employed. If the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be deemed a public garage.

*Note to Reviewers: I attempted to modernize this definition by using the term "fuel" rather than "gasoline" in order to account for other types of car fuels. I removed mention of kerosene, since the term fuel would cover that (if kerosene cars even exist), and oil since that is not fuel. It is normal now for car washes to have a conveyor or chain and to have blowers, so that was removed.*

**GARAGE, BUS.** Any building used or intended to be used for the storage of three or more passenger motor buses or motor coaches used in public transportation, including school buses.

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

**GARAGE, PARKING. PUBLIC.** A building other than a private garage, ~~used for the care, incidental servicing and sale of automobile supplies, or where motor vehicles are parked or stored for remuneration, hire or sale within the structure,~~ but not including trucks, tractors, truck trailers, and commercial vehicles exceeding one and one-half ton capacity.

**GENERAL DEVELOPMENT PLAN.** The drawings submitted with the application for a General Planned Unit Development ~~and that, upon approval,~~ will be attached to the General Planned Unit Development District Ordinance. The General Development Plan must contain all information specified by the Zoning Ordinance and Rules of Procedure adopted by the ~~Advisory Plan Commission~~.

**GENERAL PLANNED UNIT DEVELOPMENT DISTRICT (GPUD):** A zoning district for which a General Planned Unit Development Ordinance has been ~~be~~ adopted ~~and complies with Specifications I~~ and where a Detailed Planned Unit Development must be adopted prior to any further development.

**GENERAL PLANNED UNIT DEVELOPMENT ORDINANCE.** The approved rezoning ordinance that is accompanied by a General Development Plan. ~~A planned unit development that was applied for as a General Planned Unit Development, lacks the information required for a Detailed Planned Unit~~

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~~Development, has a Public hearing, and meets all of the requirements, restrictions, provisions, and standards of Specifications I. A General Planned Unit Development will require, within two years, an application for a Detail Planned Unit Development be filed. The adoption of a General Planned Unit Development Ordinance by the Plan Commission and the Legislative body does not constitute an approval of a Detailed Planned Unit Development.~~

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

**GROUP HOME.** A residential facility for both individuals with a developmental disability and individuals with a mental illness.

*Note to Jm: The Group Home definition above comes from State statutes. Sec. 12-28-4.*

**GUEST.** An individual who rents a guest room in a Bed and Breakfast Homestay or a Bed and Breakfast Inn.

**GUEST ROOM.** A sleeping room intended to accommodate not more than four guests each night.

**GUEST HOUSE.** Living quarters within a detached accessory building, located on the same premises with the ~~principal building~~ primary residence, for use by temporary guests of the occupants of the premises. A guest house ~~shall have no~~ must have no kitchen facilities and ~~shall~~ must not be rented or otherwise used as a separate dwelling.

**HOME OCCUPATION.** A gainful occupation carried on by occupants of a dwelling unit as a use which is secondary to the use of the dwelling unit for residential purposes. No evidence of the home occupation taking place exists outside of any building on the property. Any home occupations meeting these standards shall be permitted uses in all districts.

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

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

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**HOSPITAL OR SANITARIUM.** An institution open to the public in which patients or injured persons are given medical, surgical and/or psychiatric care; or an institution for the care of contagious or incurable diseases.

~~**HOTEL APARTMENT.** A building containing dwelling units or individual guest rooms, the majority of which are for permanent guests. Maid and janitor service may be provided. Kitchen facilities need not be included.~~

**HOTEL.** A building in which more than five rooms or suites are reserved to provide living and sleeping accommodations for temporary guests with no provision in those rooms for cooking facilities.

~~**HOUSEHOLDER.** The occupant of a dwelling unit who is either its owner or lessee.~~

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

*Note to Reviewers: I think we need to have one term for the above definition, rather than ILP, zoning clearance, site plan review, etc. If we consistently use the same term, people will get what it means.*

**INTENSIVE LIVESTOCK OPERATION. 1.** ~~An Intensive Livestock Operation is:~~ Any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, goats, poultry/fowl, turkeys/ducks, or other livestock ~~in concentrations of 1,500 or more animal units on a large scale,~~ including any associated buildings, structures, excavations, or enclosed areas ~~directly involved therein, including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations or areas directly connected to or associated with such operations.~~

**JUNK YARD.** Any open area where waste, scrap metal, scrap paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

**KENNEL.** Any lot or premises ~~or portion of it~~ on which a combined total of more than five dogs, cats, and other household domestic animals over six months of age are kept; or on which more than two of such animals are kept for:

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

*Question for Reviewers: Any suggested changes to kennel?*

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**LABORATORY, COMMERCIAL.** A facility devoted to experimental study, testing, or analysis without manufacturing, assembly, or packaging of products ~~shall not be conducted within this facility.~~

**LEGISLATIVE BODY.** ~~Refers to~~ The Board of County Commissions for Elkhart County in the un-incorporated areas and in the incorporated areas the Town Council of Wakarusa, Town Council of Bristol, Town Council of Middlebury and Town Council of Millersburg.

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

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

~~**LINE OF A BUILDING.** (for measuring yards). A line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to that lot line, exclusive of those features permitted to extend into a yard.~~

*Note to Reviewers: I believe "Building Setback Line" above makes this definition unnecessary.*

~~**LOADING AND UNLOADING SPACE, OFF-STREET.** An open hard-surfaced area of land other than a street or public way, which is principally used for the standing, loading and unloading of ~~motor~~ trucks, tractors, and trailers to avoid undue interference with the public use of streets and alleys. ~~That space shall be not less than 10 feet in width, 45 feet in length and 14 feet in height, exclusive of access aisles and maneuvering space.~~~~

~~open or enclosed, other than a street or a public right of way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers, while avoiding undue interference with the public use of streets and alleys.~~

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**LOT.** When used alone, this word ~~shall~~ means a "zoning lot" unless the context of this Code section clearly indicates otherwise.

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

~~**LOT DEPTH.** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.~~

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*Note to Reviewers: How to measure lot depth is covered in Sec. 4.3.4.*

**LOT, FRONTAGE.** The front of a lot shall be that boundary of a lot along a public street. For a corner lot, the owner may designate either street line as the front lot line.

**LOT, INTERIOR.** A lot other than a corner or reversed corner lot.

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

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

*Question for Reviewers: Include graphic in Sec. 4.3.7C here instead?*

~~**LOT WIDTH.** The horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building line.~~

*Note to Reviewers: How to measure lot width is covered in Sec. 4.3.3.*

**LOT, ZONING.** (See "Zoning Lot")

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

**LOT LINE, INTERIOR.** A side lot line common with another lot.

**LOT LINE, REAR.** The rear lot line is the lot line or lot lines most nearly parallel to and most remote from the front lot line. Lot lines other than front or rear lot lines are side lot lines.

**LOWEST FLOOR.** The lowest of the following:

- (a) The top of the basement floor;
- (b) The top of the garage floor, if the garage is the lowest level of the building;
- (c) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
- (d) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - (1) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of area subject to



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flooding. The bottom of all such openings shall be no higher than one foot above grade.

- (2) Such enclosed space shall be usable for parking of vehicles purposes and building access.

**MANUFACTURE.** The making of anything by any agency or process.

**MANUFACTURED HOME.** A ~~transportable, factory-built home designed and built in a factory~~ which bears a seal certifying that it was built in compliance with Indiana Public Law 360 or a transportable, factory-built home:

- (a) ~~dwelling Designed and Built in a factory after January 1, 1981; and~~
- (b) Which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 [ 42 U.S.C. 5401 et seq. ] and Indiana Code 36-7-4 section 1106 ~~as amended, which was constructed after January 1, 1981;~~

~~or is a dwelling.~~

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

~~**MARQUEE OR CANOPY.** A permanent roof like structure which projects from the wall of a building and overhangs the public way.~~

~~**CLINIC OR MEDICAL OR DENTAL OFFICE OR LABORATORY HEALTH**~~

~~**CENTER.** An establishment where patients are admitted for special study and treatment by two or more licensed physicians or dentists and their professional associates, practicing medicine together.~~

*Note to Reviewers: This existing definition seems to prohibit solo practicing dentists or doctors. It has been edited to change that.*

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

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

*Note to Reviewers: 15,000 barrels per year seems to be the national standard for a*

*microbrewery.*

**MOBILE HOME.** A transportable factory-built home that is:

- (a) Designed as a year round residential dwelling;
- (b) Built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law of 1974 [42 U.S.C. 5401 et seq. ], and is not a ~~Sectional~~ Manufactured Home (~~106.50 this subsection~~); and
- (c) ~~is~~ Built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.

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

**MOBILE HOME SUBDIVISION.** (existing and new). Any area of land platted for subdivision with the facilities to include, at a minimum, the utilities, the streets, final site grade, or the concrete pads on which the mobile homes are to be affixed. If construction is completed before the effective date of the floodplain management regulations adopted by the county it is considered an existing mobile home subdivision. All others are to be considered as new mobile home subdivision.

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

**MOBILE HOME PARK.** (existing and new). Any area of land in single ownership upon which two or more mobile homes are placed ~~and~~ with the facilities to include, at a minimum, the utilities, the streets, final site grade, or the concrete pads on which the mobile homes are to be affixed. If construction is completed before the effective date of the floodplain management regulations adopted by the county it is considered an existing mobile home park. All other are to be considered as new mobile home park.

**MOTEL.** A group of attached or detached buildings containing individual living and sleeping ~~or living~~ units, ~~designed for or used temporarily by automobile tourists or transients for temporary guests,~~ with garage attached or parking space conveniently located to each unit. This term also includes ~~including~~ auto courts, motels, motor lodges or other similar type uses.

~~**MOTOR FREIGHT TERMINAL, PRIVATE.** A building to which freight is brought by motor truck, and there assembled and sorted for routing in intrastate and interstate shipment by motor truck.~~

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

**~~NONCONFORMING USE, STRUCTURE, SIGN OR LOT OF RECORD.~~** Any ~~building, use, structure, sign or lot of record or land~~ lawfully occupied, ~~erected or established by a use or lawfully established on or before~~ [insert effective date] which does not conform with the provisions of this Code section ~~as amended~~ Zoning Ordinance.

**NURSING HOME OR REST HOME.** A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not facilities for the treatment of sickness or injuries or for surgical care.

**~~OPEN STAIRS AND BALCONY.~~** ~~An open unenclosed stairway or balcony not covered by a roof or canopy, which may extend or project into a required yard not more than four feet. That stairway shall not extend into a required front yard more than 30 inches.~~

**~~ORDINANCE.~~** ~~The County Zoning Ordinance. (Section 36-7-4-600 of the County Code).~~

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

**PARKING LOT OR STRUCTURE, COMMERCIAL.** A open area or structure surfaced with dust free materials, designed and used for the parking of vehicles which is operated as a business enterprise with a service charge or fee being paid to the owner or operator of the parking structure or lot.

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

**PARKING AREA, PRIVATE OFF-STREET.** An open, surfaced area of land, other than a street or public way, designed, arranged, and made available for the storage of private passenger ~~automobiles~~ vehicles only, of occupants, employees or customers of the building or buildings for which the parking area is developed and is accessory.

**PERMITTED USE.** A use specifically enumerated as permissible by the regulations of a particular zoning district upon satisfaction of the standards and requirements of this ordinance. A permitted use is designated with a "P" in the use table in Articles 5.

**PLAN COMMISSION.** The Elkhart County Area Plan Commission.

**PLANNED UNIT DEVELOPMENT ORDINANCE (GENERAL AND DETAILED).** An ordinance adopted by the Legislative Body with jurisdiction over the real-estate subject property creating a General or a Detailed Planned Unit Development after "certification of the proposal" from the Elkhart County Plan Commission. All A General and or Detailed Planned Unit Development Ordinances are is an amendment to the official zoning maps. The form and format of the Planned Unit Development Ordinance is outlined in Section 6 of Specification I.

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

**PRIMARY STRUCTURE.** The primary main or predominant permitted use structure of any zoning lot, building, or structure.

**PRIMARY PRINCIPAL USE.** The primary main or predominant permitted use of any zoning lot, building, or structure.

**PRODUCER.** A person or entity that:

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

*Note to Reviewers: This is another farmers market-related definition.*

~~**PROFESSIONAL OFFICE.** A professional office shall be incidental to the residential occupancy, when conducted in a residential district. It shall be conducted by a member of the resident family entirely within a residential building and accessory building and shall include only the offices of doctors or practitioners, ministers, architects, landscape architects, professional engineers, attorneys, authors musicians and other recognized professional occupations occasionally conducted within residences.~~

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

**RAILROAD RIGHT-OF-WAY.** A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, or water towers.

**RECREATION VEHICLE.** A vehicle which is:

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

**REGULATORY FLOOD.** ~~Is designated as~~ The 100-year flood zone on the Federal Insurance Rate Maps. This flood event ~~that~~ has a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources. The regulatory flood elevation at any location is as defined in ~~Specifications L—Flood Hazard Control Section 6~~-Sec. 7.5. ~~Regulatory Flood Elevations.~~ The Federal Rate Maps for the following communities are to be made part of this Ordinance by this reference:

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

**RESTAURANTS, DRIVE-IN, OR DRIVE-THROUGH ~~FAST FOOD.~~** Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building ~~or for carry-out or outside of the building after being ordered from an outdoor drive-through or drive-in facility.~~ with consumption either on or off the premises, and whose design or principal method of operation includes both:

- ~~(a) Foods, frozen desserts, or beverages usually served in edible containers or in paper, plastic or other disposable containers; and~~
- ~~(b) Self-service, with customers encouraged to wait on themselves.~~

**RESTAURANTS, STANDARD, INCLUDING THOSE SERVING ALCOHOLIC**

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

- (a) Customers, normally provided with an individual menu, are served their foods, frozen desserts or ~~alcoholic~~ beverages by a restaurant employee at the same table or counter at which those items are consumed;
- (b) A cafeteria-type operation where foods, frozen desserts or ~~alcoholic~~ beverages generally are consumed within the restaurant building; and
- (C) A drive-through or drive-in facility does not exist on the property.

~~**RESTAURANTS, STANDARD.** Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready to-consume state, and whose design or principal method of operation includes at least one of the following characteristics: 1. customers, normally provided with an individual menu, are served their foods, frozen desserts or beverages by a restaurant employee at the same table or counter at which those items are consumed, and 2. a cafeteria-type operation where foods, frozen desserts or beverages generally are consumed within the restaurant building.~~

*Note to Reviewers: The stricken definition above is identical to the one above it except for the lack of alcohol.*

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

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

*Note to Reviewers: This definition had standards within it in the current Zoning Ordinance. These standards have been moved to Sec. 5.5, Accessory Uses and Structures. They could go to the Section on Temporary Uses but Staff is having second thoughts about including that procedure and standards in this Zoning Ordinance.*

**SALES, RUMMAGE ~~(PUBLIC)~~.** A temporary sale, conducted by a non-profit organization such as a church, school or club, where members or associates of the group bring articles or items to a central structure to be sold to raise money for use by the organization.

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**SANITARIUM.** ~~A private hospital, whether or not the facility is operated for a profit.~~

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

**SECTIONAL MANUFACTURED HOME.** ~~A dwelling made up of factory built and factory assembled units, requiring more than one unit to constitute a dwelling, 20 feet or more in width over the length when assembled on site. And complying with the definition of a Manufactured Home (item 80.00 this subsection).~~

*Note to Reviewers I think "manufactured home" covers this term.*

**SETBACK LINE, BUILDING.** See Building, Setback line.

**SHALL.** ~~"Shall" is always mandatory, not directory.~~

**SIGN.** ~~A name, identification, description, display or illustration affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. A "sign" shall does not include any display of official court or legal notices nor shall it include the flag, emblem or insignia of a nation, state, political subdivision or organization, or a school or religious group. A sign shall not include a sign located completely within an enclosed building unless the context of this Code section shall so indicate. Each display surface of a sign shall be deemed a sign.~~

*Note to Reviewers Stricken provisions above are incorporated into Sign section.*

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

**SITE PLAN REVIEW COMMITTEE.** ~~A committee created to give recommendations of compliance for any applications made under Specifications I of this ordinance. The committee membership shall be as follows: Environmental Division Manager from the Elkhart County Health Department (or a~~

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~~designate); Plan Manager for the Advisory Plan Commission (or a designate); Engineering Manager from the County Highway Division ( or a designate); County Surveyor (or a designate); Code Enforcement Management/ Zoning Administrator ( or a designate) . The Site Plan Review Committee will review all applications that have been submitted for a Detailed Planned Unit Development. The committee will render a recommendation of compliance based on the requirements, provisions, and standards of Specification I. The Committee shall also follow the Rules of Procedure adopted for them by the Elkhart County Advisory Plan Commission.~~

*Note to Reviewers: This committee is established and described n Article 2.*

**SPECIAL FLOOD HAZARD AREA.** Those lands within the jurisdiction of Elkhart County, Town of Bristol and Town of Middlebury that are subject to inundation by the Regulatory Flood. The Special Flood Hazard Area for Elkhart County are generally identified as such on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for Elkhart County, Community Number 180056, adopted 11/1/79 with amended panels 0010B, 0015B, 0020B, and 0050B dated 6/5/85. ~~The Special Flood Hazard Area for the Town of Bristol are generally identified as such on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the Town of Bristol, Community Panel Number 180060, Adopted 4/16/79. The Special Flood Hazard Area for the Town of Middlebury are generally identified as such on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the Town of Middlebury, Community Panel Number 180460, Adopted 8/15/83.~~

*Note to Reviewers: The stricken portion is covered in Sec. 7.5.*

**SPECIAL USE.** Any use of land or buildings, or both, described and permitted by this Code section, ~~subject to the provisions of Specification F~~ that requires a Special Use Permit in accordance with Sec. 3.6.

**STABLE, ~~LIVERY~~ PUBLIC OR COMMERCIAL.** Any building, other than a private stable, designed, arranged, used or intended to be used for the storage of horses and horse-drawn vehicles or both.

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

**STORY, HALF.** ~~That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more~~



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~~than four and one-half feet above the finished floor of that story. If any one family dwelling, two family dwelling, or multiple family dwelling is less than three stories in height, a half-story in a sloping roof shall not be counted as a story for the purpose of this Code section. If a multiple family dwelling is three or more stories in height, a half-story shall be deemed a story.~~

**STREET.** A public way other than an alley.

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

**STRUCTURE.** Anything constructed, erected or placed on or above ground that is enclosed by walls and/or a roof and is used to shelter or protect persons, animals, chattel, or property; including but not limited to gas or liquid storage tanks, mobile homes, prefabricated or manufactured buildings; and recreational vehicles to be installed on or at a site for more than 180 days. But does not include anything:

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

~~**BUILDING, NONCONFORMING.** A legally existing building which fails to comply with the regulations set forth in this Code section Ordinance applicable to the district in which that building is located.~~

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

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

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

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

~~**TERRACE, OPEN.** A level and rather narrow plane, or platform, which for the purpose of this Code section is located adjacent to one or more faces of the principal primary structure and which is constructed not more than four feet in height above the average level of the adjoining ground.~~

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

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

~~**TRUCK PARKING AREA, OR YARD.** Any land used or intended to be used for the storage or parking of trucks, tractors, truck trailers and including commercial vehicles, while not loading or unloading, which exceed one and one-half tons in capacity.~~

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

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

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

*Note to Reviewers: In relation to Sec. 4.3.2.*

~~**VEHICLE PARKING SPACE.** The area required for parking one automobile, being an area nine feet wide and 20 feet long plus 70 square feet of maneuver area for each vehicle parking space making a total of 250 square feet.~~

**VEHICLE AUTOMOBILE REPAIR, MAJOR.** Engine rebuilding, or major reconditioning, or painting of worn or damaged motor vehicles or trailers; ~~collision service, including body, frame or fender straightening or repair; and~~

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~~overall painting of vehicles. A major vehicle repair establishment may also include operations that characterize a minor vehicle repair establishment.~~

*Note to Reviewers: I struck specific examples of major vehicle repair because those are listed in the Use Category tables in Sec. 5.2.4l.*

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

**VEHICLE CAR RACE TRACK.** A Special Use on any real estate racing area that may be non-profit or for-profit, public or private, paved or unpaved, and that is used by vehicles, including but not limited to bicycles, automobiles, motorcycles or any other motorized vehicles on a dirt or paved courses used to with compete competition against the clock or other vehicles.

*Note to Reviewers: "Vehicle Race Track" above combines elements of the "Go Kart Track", "Motor Cross Track" and "Private Off-Road Track" definitions stricken below. This is a recurring code enforcement problem in the County.*

**VEHICLE SALES, RENTAL OR LEASING FACILITY USED CAR LOT.** Any premises on which three or more used or new cars, trailers or trucks are offered for sale, rental, or lease or are sold, rented, leased during any calendar year.

~~**GO-KART TRACK.** A Special Use on any real estate used by motorized vehicles which are similar in nature to an automobile but with a size in miniature and usually intended to accommodate one or two occupants and is for recreational, practice, competition, and/or personal amusement whether or not for profit or compensation.~~

~~**MOTOR CROSS TRACK.** A Special Use on any real estate used by vehicles, but not limited to bicycles, motorcycles or any motorized vehicles, on but not limited to a cross country course of rough terrain, steep hills and hairpin curves for profit or compensation.~~

~~**PRIVATE OFF ROAD TRACK.** A Special Use on any real estate used by vehicles, but not limited to bicycles, motorcycles, or any motorized vehicles, for recreational, practice and/or personal amusement which is not for profit included but not limited to cross country courses of rough terrain. Exempted uses shall be for bicycles, motorcycles or any motorized vehicles used for transportation to and from the real estate with the use on site being limited to storage of the vehicle.~~

~~**OFF ROAD TRACK ( PRIVATE ).** See Private Off Road Track.~~

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

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

In addition, a winery may include indoor tasting rooms, outdoor tasting patio areas, and a sales room where wine made or bottled on-premise and wine-related items produced or manufactured elsewhere may be sold.

**AUTOMOBILE WRECKING YARD.** Any place where two or more non-operable motor vehicles or vehicle parts are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of those motor vehicles or parts, and including any used farm vehicles or farm machinery, or parts, stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise.

**ZONE.** Same as zoning district.

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

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

**Question for Reviewers:** *Mention a combined deed in the above definition?*

**ZONING MAPS, OFFICIAL.** The zoning map or maps incorporated by reference into this Code section Ordinance.

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