

# The Zoning Ordinance of Johnson County, Indiana

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# Zoning Ordinance Johnson County

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**Section 6-101-1. GENERAL PROVISIONS**

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**A. TITLE**

The official title of this Ordinance is the “Zoning Ordinance of Johnson County, Indiana.”

**B. PURPOSE**

An Ordinance establishing comprehensive zoning regulations for Johnson County, Indiana, and providing for the administration, enforcement and amendment thereof, in accordance with the provisions of Public Law 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto.

**C. COMPLIANCE**

No structure shall be located, erected, constructed, reconstructed, moved, converted or enlarged, nor shall any structure or land be used or designed to be used, except in full compliance with all provisions of this Zoning Ordinance and after lawful issuance of permits required by this Zoning Ordinance.

**D. AUTHORITY**

This Ordinance is adopted pursuant to Public Law 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto.

**E. SEVERABILITY**

If any provision of this Ordinance or application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.

**F. REPEALING PROVISIONS**



All ordinances or parts of ordinances in conflict with provisions of this Ordinance shall be repealed by the passage of this Ordinance, except where such repeal is specifically not designated by this Ordinance.

#### **G. APPLICATION**

1. It is not intended by this Ordinance to interfere with, abrogate, or amend any existing easements, covenants or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul, or in any way interfere with any existing provisions of laws or Ordinances not specifically repealed by this Ordinance, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed by existing provisions, provisions of this Ordinance shall control, but where such private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.
2. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

#### **H. JURISDICTION**

This Zoning Ordinance shall apply to all unincorporated land within Johnson County with the exception of those buffer areas exercised by municipal corporations.

#### **I. EFFECTIVE DATE**

This Zoning Ordinance shall be in full force and effect from and after its passage, approval and publication according to law. Approved the 19<sup>th</sup> day of February, 2002 by the Board of County Commissioners, Johnson County, Indiana.

## **Section 6-101-2. ADMINISTRATION & ENFORCEMENT**

- A. Department of Planning & Zoning
  - B. Plan Commission
  - C. Board of Zoning Appeals
  - D. Variance Hearing Officer
  - E. Variances
  - F. Administrative Appeals
  - G. Special Exceptions
  - H. Permits
  - I. Amendments
  - J. Violations and Penalties
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- 

### **A. DEPARTMENT OF PLANNING AND ZONING**

The Board of County Commissioners shall appoint a Director of the Department of Planning and Zoning. The Director, or his/her delegate, shall enforce this Ordinance, and in support of such authority shall:

1. Issue all permits and keep permanent records thereof;
2. Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the terms of this Ordinance;
3. Issue violation notices for violations of the provisions of this Ordinance;
4. Maintain permanent and current records of this Ordinance, including all maps, amendments, special exceptions, variances, and records of hearings thereon;
5. Provide and maintain public information relative to all matters arising under this Ordinance;
6. Provide interpretation of this Ordinance, when necessary, and such technical and clerical assistance as the Board of Zoning Appeals, Plan Commission, and Variance Hearing Officer may require;
7. Review all proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by local, Federal or State law; and
8. Review all applications for improvement location permits for new construction to ascertain whether the proposed construction or addition lies in a flood hazard

area as defined in 6-101-4.R, Floodplain District.

**B. PLAN COMMISSION**

**1. General**

In accordance with State law, a Plan Commission shall be appointed which may adopt rules to govern its procedures. The Plan Commission shall hold meetings, keep minutes and, pursuant to notice, conduct public hearings, compel the attendance of witnesses, take testimony, and render decisions in writing, all as required by State law. When permitted, the Plan Commission may impose such conditions and requirements as it deems necessary for the protection of adjacent property and the public welfare.

**2. Powers and Duties**

The Plan Commission shall have the power to:

- a. Review and administer all matters upon which it is required to act under this ordinance.
- b. Review periodically the effectiveness of this Ordinance and initiate amendments or make recommendations in conjunction therewith;
- c. Consider such other matters and take such further actions as may be permitted by law; and
- d. Appoint a variance hearing officer to approve or deny dimensional variances as set forth in subsection D of this Section, and as provided in IC 36-7-4-923.

**C. BOARD OF ZONING APPEALS**

**1. General**

In accordance with IC 36-7-4-901, a Board of Zoning Appeals shall be appointed which may adopt rules to govern its procedures. The Board of Zoning Appeals shall hold meetings, keep minutes and, pursuant to notice, conduct hearings, compel the attendance of witnesses, take testimony, and render decisions in writing, all as required by law. When permitting any appeal, variance, special exception, or temporary use, the Board of Zoning Appeals may impose such conditions and requirements as it deems necessary for the protection of adjacent property and the public welfare.

## **2. Powers and Duties**

The Board of Zoning Appeals shall have the power to:

- a. Hear and determine administrative appeals from any order, requirement, decision, or determination made by the Director, or his/her delegate charged with the enforcement of this Ordinance;
- b. Hear and decide special exceptions to the terms of this Ordinance;
- c. Authorize, or deny, upon appeal in specific cases, variances from the terms of this Ordinance; and
- d. Approve extensions of temporary uses.

## **3. Judicial Review**

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

# **D. VARIANCE HEARING OFFICER**

## **1. Powers and Duties**

The variance hearing officer shall have the power to approve or deny dimensional variances contained within this Ordinance. The variance hearing officer may only approve applications as they are submitted, and may not place any conditions on the approval.

## **2. Variance Denial or Appeal**

If the variance hearing officer denies the variance application as submitted, the applicant may seek a variance from the Board of Zoning Appeals as set forth in this Ordinance. Such action shall not be considered as an administrative appeal.

## **3. Procedures**

The Plan Commission shall establish procedures, subject to Board of Commissioners approval, for the administration of the position of variance hearing officer, if so created.

# **E. VARIANCES**

## **1. General**

- a. The Board of Zoning Appeals shall have the power to approve or deny variances from the requirements of this Ordinance. In approving an application for variance, the Board may attach such conditions to the variance as it deems necessary to assure compliance with the purpose of this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
  
- b. A variance may be permitted if the granting of same will not be contrary to the public interest and, where, owing to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice be done.

## **2. Development (Dimensional) Variance Standards**

No variance shall be granted by the Board of Zoning Appeals in any case unless the Board finds specifically that:

- 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 will result in practical difficulties in the use of the property.

## **3. Use Variance Standards**

The Board of Zoning Appeals shall consider applications for variances from the permitted uses of this Ordinance. As to each variance that is granted, the Board may impose such conditions on the approval of the variance as it may deem advisable. Use variances granted by the Board of Zoning Appeals are not transferrable from the owner of property petitioning for the use variance to subsequent property owners. In no case shall an existing non-conforming use of neighboring land or structure in the same district, or permitted or non-conforming use of lands or structures in other districts, be considered grounds for the issuance of a use variance. A use variance may be approved under this section only upon a determination that:

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

- b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- c. The need for the variance arises from some condition peculiar to the property involved;
- d. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought; and
- e. The approval does not interfere substantially with the Comprehensive Plan.

#### **4. Application**

Application for variances shall be filed with the Department of Planning and Zoning in such form as may be prescribed from time to time by the Board of Zoning Appeals in its "Rules of Procedure."

#### **5. Public Hearing**

- a. The Board of Zoning Appeals shall hold a public hearing on each application for a variance. At least ten (10) days prior to the date set for such hearing, public notice of the time, date and place thereof, advising the location and nature of the subject appealed or petitioned, shall be given publication in a newspaper of general, daily, circulation in Johnson County and, in addition, actual notice of such hearing shall be given to all parties interested in such hearing as specified in the Board's "Rules of Procedure." The applicant shall be responsible for preparing a legal notice of the public hearing on a form provided by the Board and shall assume the cost of said notice and submit proof of its publication at the hearing. Said legal notice shall specifically refer to a commonly known street address of the parcel, if previously assigned.
- b. The applicant shall also serve notice to property owners within six hundred (600) feet of the affected area, or two (2) property owners, whichever is greater, by mail with certificate of mailing, in a form provided by the Board, not less than ten (10) days prior to the date set for such meeting, advising the location and nature of the subject appealed or petitioned, and the date, place and time of the hearing, or have notice served as specified in the Board's "Rules of Procedures." The applicant shall provide the Board with a complete list of the above mentioned owners, together with their last known addresses, from the County Auditor's office, along with proof of notice served, and shall assume the cost of said notice. The applicant shall certify, by notary public, that notification of surrounding property owners has been accomplished as required.

- c. The applicant shall also post, in a conspicuous place on the subject property, a notice approved by the Department of Planning, or consistent with the format provided in Figure 1, explaining the action being sought.

## **6. Scope of Variance**

A variance shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development is beyond the scope so authorized.

## **F. ADMINISTRATIVE APPEALS**

1. The Board of Zoning Appeals shall have the power to consider administrative appeals from any order, requirement, decision, grant or refusal made by the Director, or his representatives, charged with the administration and enforcement of this Ordinance.
2. The Board of Zoning Appeals shall establish procedures for applications, public notice, hearings, and other procedures as may be prescribed from time to time by the Board in its "Rules of Procedure."

## **G. SPECIAL EXCEPTIONS**

The Board shall have the power to authorize a special exception if the following requirements are met:

1. The use shall be specifically identified as a special exception in this Ordinance for the zoning district in question;
2. The special exception can be served with adequate utilities, access roads, drainage and other necessary facilities;
3. The special exception shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with any and all design development standards for the use identified in this Ordinance;
4. The special exception shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and property;
5. The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;

6. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood;
7. The special exception shall preserve the purpose of this Ordinance, and shall not interfere substantially with the Comprehensive Plan.

## **H. PERMITS**

No permit shall be issued unless the proposed structure or use of structure or land is in complete conformity with the provisions of this Ordinance, or unless a written order is received from the Board of Zoning Appeals, Board of County Commissioners, or a Court of competent jurisdiction.

### **1. Improvement Location Permit**

An Improvement Location Permit is required for all proposed construction or other development, including the placement of manufactured homes. Additionally, an Improvement Location Permit shall be obtained before any structure may be constructed, reconstructed, moved, enlarged, or structurally altered. If an Improvement Location Permit is issued, the applicant shall apply for an Occupancy Permit, which shall not be issued until the structure is complete and compliance with this Ordinance is in evidence, including the installation of permanent corner markers as indicated in the Subdivision Control Ordinance. An Improvement Location Permit shall be obtained for any of the following items, none of which may be included in only one permit; separate permits being required for each construction or alteration:

- a. Construction, reconstruction, moving, enlarging, or structurally altering any structure in excess of two-hundred (200) square feet, or any structure placed on a permanent foundation;
- b. Connecting to the storm or street drainage system;
- c. Locating a mobile home; or
- d. Making any significant alterations to features such as, but not limited to, reservoirs, lakes, ponds, roadside ditches, or sand or gravel excavations.

In reviewing applications for Improvement Location Permits for compliance with the requirements of this Ordinance, the building inspector shall ensure that all necessary permits from other State, Federal, and local agencies have been obtained.



## 2. Flood Hazard Determination

- a. The Building Inspector shall review all applications for Improvement Location Permits for new construction, additions to existing construction, or other development to ascertain whether the proposed construction, addition, or development lies in a flood hazard area.
  - i. If the construction lies in an identified floodway, the applicant shall forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources to apply for a permit for construction in a floodway.
  - ii. If the construction lies in a floodway fringe, the building inspector may issue a local building permit with the condition that the lowest floor, including the basement of the structure(s), is at least two (2) feet above the one hundred year flood elevation.
  - iii. In a floodplain district, the building inspector will require such modifications to the design and materials as may be deemed necessary to prevent flotation, collapse, or lateral movement of the structure in order to minimize potential future flood damage.
- b. Manufactured homes to be placed in manufactured home parks or subdivisions are required to be elevated to the recommended flood protection grade of that district and be properly anchored in accordance with the requirements of this Ordinance.

## 3. Technical Review Committee

- a. Creation

By this Ordinance, the creation of a Technical Review Committee is affirmed, consisting of duly appointed and designated representatives of the Plan Commission, whose duty it is to review proposed subdivision and site development plans for technical sufficiency before forwarding recommendations, in cases where this is required, to the Plan Commission. The Committee shall consist of the following official members, along with any number of unofficial, advisory members deemed necessary from time to time:

- i. Plan Commission member (D)
- ii. Plan Commission member (R)
- iii. County Planning Engineer
- iv. County Health Department Director
- v. County Surveyor
- vi. County Highway Director

- vii. County Agricultural Extension Agent
- viii. County Planning Director

b. Application

The Director may require an applicant to obtain site plan approval, prior to issuance of a building permit, from the Johnson County Technical Review Committee, where engineering design standards shall be based on Subdivision Control Ordinance requirements. Any alteration not covered in design standards shall be determined by the Committee and/or Drainage Board. At the option of the Committee, additional data may be required, or the Committee may elect to forward the application to the Commission or to the Drainage Board, where engineering design standards shall be based on Subdivision Control Ordinance requirements. When so forwarded, commercial projects shall be subject to preliminary and final drainage review by the Drainage Board.

c. Checkpoint Agencies

When an applicant is required to submit plans to the Technical Review Committee, a copy of the proposed plan shall be submitted to each of the following checkpoint agencies appropriate to the plan's location so that their comment may be made to the Administrator:

- i. County Highway Engineer
- ii. County Surveyor
- iii. County Solid and Water Conservation District
- iv. County Health Department
- v. Local Fire Department
- vi. Local School Corporation

To ensure that all checkpoint agencies have received a copy of the plans, a copy of a transmittal sheet for each checkpoint agency must be submitted to the Department of Planning office one week prior to the scheduled Technical Review Committee meeting at which the plan is to be reviewed.

d. Action by the Technical Review Committee

The Technical Review Committee, as a designate of the Plan Commission, may grant approval of the site plan with no conditions, or with conditions after citation of an ordinance section relied upon for conditions. Conditional site plan approval may also be granted subject to the receipt of approvals or permits required from other governmental units; however, no actual development, construction activity, or use of land shall commence until all such required approvals or permits have been obtained. Within fifteen (15) days of the Committee review, the Department of Planning shall provide

the applicant a written report specifying any changes required in order for the site plan to meet County ordinances.

e. Limitations on Site Plan Approval

Approval of a site plan shall be valid for a period of one (1) year unless a building permit is issued within that period, or unless a use has been lawfully commenced within that period.

f. Minor Adjustments

During development of the site, the Director, with the aid of the Technical Review Committee, if necessary, may authorize adjustments to a site plan when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development. Any decision allowed the Director by this subsection may be appealed directly to the Technical Review Committee.

**4. Occupancy Permit**

An Occupancy Permit shall be obtained before any person may:

- a. Occupy or use any structure hereafter constructed, reconstructed, moved, enlarged, or structurally altered;
- b. Change the use of a structure or land to a different use; or
- c. Change the nature of a non-conforming use to a permitted use.

**5. Temporary Occupancy Permit**

A Temporary Occupancy Permit may be issued for a period not exceeding six (6) months during alterations or partial occupancy of land or structures, provided that such temporary permit may include such conditions and safeguards as are necessary to protect the safety of occupants and the public.

**6. No Permit Required**

No Improvement Location Permit shall be required for:

- a. Routine maintenance, repair or remodeling of existing structures not involving any change of use, additional lot coverage, or increase in structure size;
- b. Lot and yard improvements such as fences, drives, sidewalks, patios,

retaining walls, play equipment and landscaping;

- c. Structures less than two-hundred (200) square feet in area and not on a permanent foundation.

## **7. Required Submission Materials**

All applications for permits shall be accompanied by a plot plan which is drawn to scale and shows clearly and completely the following information:

- a. The location, dimension and zoning classification of the property;
- b. The location and dimensions of any existing or proposed structure;
- c. All adjoining thoroughfares and any existing or proposed access to these thoroughfares;
- d. The existing and proposed uses of all structures and land;
- e. The location and type of sewerage system, water system, and drainage facilities; and
- f. Such other information as may be necessary to determine conformance with this Ordinance.

## **8. Duration of Permit**

If work described in any Improvement Location Permit has not begun within one- hundred eighty (180) days from the date of issuance thereof, or has been started but has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire. Further work beyond these time periods shall not proceed unless a new permit is obtained, or unless an extension of time for the original permit is granted by the Director.

# **I. AMENDMENTS**

## **1. Map Amendments**

- a. This Ordinance may be amended by action of the Board of County Commissioners provided, however, that any proposed amendment shall be considered by the Plan Commission, and a recommendation made thereon, before any final action is taken by the Board of County Commissioners.
- b. Map amendments to this Ordinance may be initiated by a request from the Board of County Commissioners to the Plan Commission, as a

petition by the Plan Commission, or by petition by the affected property owners of fifty percent (50%) or more of the area involved in the petition. Petitions shall be filed in the Department of Planning and Zoning on forms prescribed by the Plan Commission.

- c. The Plan Commission shall hold a public hearing within sixty (60) days of submission of the petition before final recommendation to the Board of County Commissioners.
- d. Notice Requirements
  - i. At least ten (10) days prior to the date set for such hearing, public notice advising the location and nature of the subject petitioned, time, date and place thereof, shall be given by publication in a newspaper of general, daily circulation in Johnson County. Notice must also be given as set forth in the "Rules of Procedure" of the Plan Commission. The applicant shall be responsible for preparing a legal notice of the public hearing on a form provided by the Commission and shall assume the cost of said notice and submit proof of its publication at the hearing. Said legal notice shall specifically refer to the commonly known street address of the parcel, if previously assigned.
  - ii. The applicant shall also serve notice to property owners within six hundred (600) feet of the affected area, or two (2) property owners, whichever is greater, by mail with certificate of mailing, in a form provided by the Commission, not less than ten (10) days prior to the date set for such meeting, advising the location and nature of the subject appealed or petitioned, and the date, place and time of the hearing, or have notice served as specified in its "Rules of Procedures." The applicant shall provide the Commission with a complete list of the above mentioned owners, together with their last known addresses, from the County Auditor's office, along with proof of notice served, and shall assume the cost of said notice. The applicant shall certify, by notary public, that notification of surrounding property owners has been accomplished as required.
  - iii. The applicant shall also post, in a conspicuous place on the subject property, a notice approved by the Department of Planning, or consistent with the format provided in Figure 1, explaining the action being sought.
- e. During the public hearing, the Plan Commission may require or allow a written commitment for a petition submitted under IC 36-7-4-608 (zoning map change), to the extent allowed by applicable law. When rezoning commitments are accepted, those commitments shall be incorporated into

the Plan Commission recommendation and forwarded to the Board of Commissioners in the form accepted. {Ord. 2003-1; 1-13-03}

- f. Following the public hearing, the Plan Commission shall make its recommendation which shall be certified within ten (10) business days by the secretary and presented by the secretary or a member of the Plan Commission at a meeting of the Board of County Commissioners after the Plan Commission has made its recommendation. The Plan Commission may make a favorable, unfavorable, or no recommendation.
- g. During Board of Commissioners review, it shall be within the discretion of the Board of Commissioners to approve a petitioner's request to amend a petition, or alter commitments, in a manner which either increases or decreases the density or intensity of use. The Board of Commissioners may require such amended petition to be re-heard by the Plan Commission. In such case, there shall be a requirement for the same notification and advertisement as for the original Plan Commission public hearing, with costs for said notification and advertisement to be paid by the petitioner. {Ord. 2003-1; 1-13-03}
- h. Any petitioner for rezoning shall be required to notify interested parties of the date of the Board of Commissioners' review of the rezoning petition, whether or not commitments are offered with the petition. If there is a proposed change in the petitioner's commitments as forwarded from the Plan Commission to the Board of Commissioners, the petitioner shall notify, by Certificate of Mailing, all persons required to be notified of the prior Plan Commission hearing. If the petition does not include offered commitments, or if there is no change in the petitioner's commitments as forwarded from the Plan Commission to the Board of Commissioners, the petitioner shall notify, by Certificate of Mailing, only those persons registered as speaking at the prior Plan Commission hearing. {Ord. 2003-1; 1-13-03}
- i. The Board of County Commissioners shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal. The Board of County Commissioners may adopt or reject the proposal by a majority vote of the full membership of the Board.
  - i. If the Board of County Commissioners adopts the proposal, it takes effect as other ordinances of the Board of County Commissioners.
  - ii. If the Board of County Commissioners rejects the proposal, it is defeated.
- j. If the Board of County Commissioners fails to act on the proposal within ninety (90) days after certification of a favorable

recommendation, the ordinance takes effect as if it has been adopted ninety (90) days after certification.

- k. If the Board of County Commissioners fails to act on the proposal within ninety (90) days after certification of an unfavorable recommendation, it is defeated.
- l. The Plan Commission shall not reconsider a defeated proposal until the expiration of one hundred eighty (180) days after its defeat.
- m. A commitment accepted by the Board of Commissioners shall be recorded in the Office of the County Recorder and takes effect upon the latter of the adoption of the rezoning ordinance or the recording of the commitment. Unless a commitment is modified or terminated in accordance with Section 6-101-2.I.1.p of this ordinance, a commitment is binding on the owner of the parcel, a subsequent owner of the parcel, and a person who acquires an interest in the parcel. An unrecorded commitment is binding on the owner of the parcel. An unrecorded commitment is binding on a subsequent owner of the parcel or a person acquiring an interest in the parcel only if the subsequent owner or person acquiring the interest has actual notice of the commitment. {Ord. 2003-1; 1-13-1303}
- n. Written commitments approved by the Board of Commissioners may be enforced jointly and severally by the Board of Commissioners, Plan Commission, and the owners of all parcels of land to which required notice of the Plan Commission public hearing was mailed. {Ord. 2003-1; 1-13-03}
- o. Approved commitments shall not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law. {Ord. 2003-1; 1-13-03}
- p. A written commitment that is permitted or required by the Plan Commission, and approved by the Board of Commissioners, may be modified or terminated only after a public hearing before the Plan Commission and forwarding of a recommendation to the Board of Commissioners for decision. Notice for the Plan Commission public hearing shall follow notice and advertisement requirements as for any other hearing before the Commission. The request for modification or termination may be initiated by the property owner or by the Plan Commission. {Ord. 2003-1; 1-13-03}
- q. A commitment made and approved by procedures contained in this ordinance automatically terminates if, after approval of the rezoning, the zoning of the parcel is further changed after another rezoning hearing, or the parcel is designated as a Planned Unit Development. {Ord. 2003-1; 1-13-03}

- r. In conflicts between this Section and IC 36-7-4-600 series, the Indiana Code shall govern.
- s. For a period of one (1) year after the adoption of this ordinance, a property owner may apply for rezoning of land from any zoning classification to A-1 (Agricultural) or AC (Agricultural Conservation) without paying the rezoning application fee.

## **2. Text Amendments**

- a. This Ordinance may be amended by action of the Board of County Commissioners provided, however, that any proposed amendment shall be considered by the Plan Commission and a recommendation made thereon before any final action is taken by the Board of County Commissioners.
- b. Text amendments to this Zoning Ordinance may be initiated by a request from the Board of County Commissioners to the Plan Commission, or by a request from the Plan Commission, the Director, or his/her designate, or any owner of property (or their representative) in Johnson County.
  - c. The Plan Commission shall hold a public hearing within sixty (60) days of receiving or initiating the proposal before making a recommendation to the Board of County Commissioners. At least ten (10) days prior to the date set for such hearing, public notice of a summary of the subject matter contained in the proposal, along with time, date, and place of the hearing, shall be given by publication in a newspaper of general circulation in Johnson County.
  - d. Following the public hearing, the Plan Commission shall make its recommendation, which shall be certified by the secretary or member of the Plan Commission, at a meeting of the Board of County Commissioners after the Plan Commission has made its recommendation. The Plan Commission may make a favorable, unfavorable or no recommendation.
  - e. The Board of County Commissioners shall vote on the proposal within ninety (90) days after the Plan Commission certified the proposal.
  - f. If the proposal receives a favorable recommendation from the Plan Commission
    - i. At the first regular meeting of the Board of County Commissioners after the proposal is certified, the Board of County Commissioners may adopt, reject, or amend the proposal by a majority vote of the



full membership of the Board. The Board shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

- (A). If the Board of County Commissioners adopts the proposal, it takes effect as other ordinances of the Board of County Commissioners.
  - (B). If the Board of County Commissioners fails to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted ninety (90) days after certification.
  - (C). If the Board of County Commissioners rejects or amends the proposal, it shall be returned to the Plan Commission for its consideration with a written statement of the reasons for the rejection or amendment. The Plan Commission has forty-five (45) days in which to consider the rejection or amendment and report to the Board of County Commissioners as follows:
    - (1). If the Plan Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the Board of County Commissioners as of the date of the filing of the Commission's report of approval with the Board of County Commissioners or the end of the forty-five (45) day period.
    - (2). If the Plan Commission disapproves the rejection or amendments, the action of the Board of County Commissioners on the original rejection or amendment stands only if confirmed by another majority vote of the Board of County Commissioners within forty-five (45) days after the Plan Commission certifies its disapproval. If the Board of County Commissioners fails to confirm its action under this clause, the ordinance takes effect in the manner provided in subparagraph (B).
- g. If the proposal receives an unfavorable or no recommendation from the Plan Commission:
- i. At a regular meeting of the Board of County Commissioners after the proposal is certified, the Board of County Commissioners may adopt, reject, or amend the proposal by a majority vote of the full membership of the Board of County Commissioners. The Board shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
    - (A). If the Board of County Commissioners adopts the proposal, it takes effect as other ordinances of the Board of County

Commissioners.

- (B). If the Board of County Commissioners rejects the proposal or fails to act on it within ninety (90) days after the certification, it is defeated. Failure of the Board to pass such proposed amendment after its rejection by the Commission shall constitute rejection of the proposed amendment and it shall not be reconsidered by the Commission or Board of Commissioners until the expiration of one (1) year after the date of original rejection.
  
- (C). If the Board of County Commissioners amends the proposal, it shall be returned to the Plan Commission for its consideration with a written statement of the reasons for the amendment. The Plan Commission has forty-five (45) days in which to consider the amendment and report to the Board of County Commissioners as follows:
  - (1). If the Plan Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the Board of County Commissioners as of the date of filing of the Commission's report of approval with the Board of County Commissioners or at the end of the forty-five (45) day period.
  
  - (2). If the Plan Commission disapproves the amendment, the action of the County Commissioners on the original amendment stands only if confirmed by another majority vote of the Board of County Commissioners within forty-five (45) days after the Plan Commission certifies its disapproval. If the Board of County Commissioners fails to confirm its action under this clause, the ordinance is defeated as provided in subparagraph (B).

## **J. VIOLATIONS AND PENALTIES**

### **1. Violation**

Any person who locates, erects, constructs, reconstructs, enlarges, changes, maintains, expands or uses any structure or land in violation of The Zoning Ordinance of Johnson County ("the Ordinance") or of any regulation enacted hereunder by the Johnson County Plan Commission or Board of Zoning Appeals commits a civil zoning violation, and shall be subject to the sanctions below.

In accordance with IC § 36-1-6-2, if a property is found to be in violation of this

Ordinance, the Director of the Department of Planning and Zoning ("the Department") or his/her designee may enter onto the property and take appropriate action to bring the property into compliance. Furthermore, continuous enforcement orders as defined in IC § 36-7-9-2 can be enforced and liens may be assessed.

## **2. Report of Violation**

Any person, including but not limited to, the Director and the employees of the Department, may allege violation[s] of this Ordinance, whether in person, by telephone, in writing, or electronically.

## **3. Investigation**

- a) Upon receipt of information alleging facts that would constitute a violation of the Ordinance, the Department, under the authority of the Director, shall open a violation file and within ten (10) calendar days perform an investigation of the property alleged to be in violation (the "Subject Property").
- b) Following this initial investigation, the Director or his/her designee shall note the findings of the investigation in the violation file and determine the existence of a violation. If the Director determines that no violation exists, the violation file shall be closed.

## **4. Notice of Zoning Violation**

- a) If the Director determines that a violation exists, the Director or his/her designee shall issue a written Notice of Zoning Violation to the legal owner of record, the current occupant/resident, any known mortgagee-in-possession, and any other known person believed to hold a possessory interest in the Subject Property. The Notice of Zoning Violation shall be delivered via certified mail.
- b) The Notice of Zoning Violation shall: 1) detail the specific nature of the violation; 2) cite the section of the Ordinance allegedly violated; 3) provide options for remedying the violation; 4) establish a date not more than fourteen (14) calendar days following the date of mailing of the Notice of Zoning Violation, by which resolution of the violation must occur, and; 5) indicate the possible additional fines and penalties that may accrue if the violation remains unresolved.
- c) Upon the issuance of the Notice of Zoning Violation, the owner shall be liable for a fine of one hundred dollars (\$100). The Notice of Zoning Violation shall state that the Director will waive the fine if the violation is resolved within the time allowed as stated in subpart (b) above or if the

violation becomes legally established by grant of a subsequent land use petition.

- d) If the certified letter containing the Notice of Zoning Violation is returned undelivered, or if the Director is otherwise unable to contact the owner of the Subject Property, additional written notice shall be posted in a conspicuous location at the Subject Property. No further notification shall be required.

## 5. Remediating Options

Upon receipt of a Notice of Zoning Violation, the owner of the Subject Property may, not later than the deadline established in the Notice of Zoning Violation: 1) take corrective action; 2) file for a variance, special exception, rezoning, or other land use petition to resolve the violation, or; 3) file an appeal of the Notice of Zoning Violation with the Johnson County Board of Zoning Appeals (the "BZA"), which appeal shall be docketed for the next available regularly scheduled hearing of the BZA.

### a) Corrective Action

- i. The owner of the Subject Property may correct the violation by bringing the property into compliance with the requirements of the Zoning Ordinance. Upon correction of the zoning violation within the time allowed as stated in subpart (b), and following a Department staff site inspection confirming the same, the Director shall close the Notice of Zoning Violation case, waive the fine, and notify the owner of the disposition of the matter via First Class US Mail.
- ii. At the discretion of the Director, a written alternative corrective plan proposed by the Subject Property owner, which shall provide for the full remedy of the zoning violation in a timely manner, may be accepted. Subsequent deviation from that approved alternative corrective plan shall result in continuing enforcement activity as prescribed in this Ordinance.

### b) Filing of Land Use Petition

- i. The owner of the Subject Property may file a land use petition with the Johnson County Plan Commission or BZA to remedy the violation. Any such petition must be filed on the forms prescribed by the Department and by the date indicated in the Notice of Zoning Violation, and must include full payment of the required land use petition filing fees established pursuant to this

Ordinance. During the pendency of a land use petition filed hereunder, no additional enforcement actions shall be performed, and no additional fines imposed.

- ii. If the land use petition is denied, withdrawn or dismissed, and the violation continues, enforcement activity shall continue as prescribed in this Ordinance.
  - iii. If the land use petition is granted, the Director shall close the Notice of Zoning Violation case, waive the fine, and notify the owner and additional parties indicated in Section J.4.a of this Ordinance of the disposition of the matter via First Class US Mail.
- c) Appeal of Decision to Issue Notice of Zoning Violation and/or Hearing Before the Board of Zoning Appeals

The owner of the Subject Property may appeal the Notice of Zoning Violation to the BZA, as a formal Appeal of an Administrative Decision. Any such appeal must be filed on the forms prescribed by the Department and by the date indicated in the Notice of Zoning Violation, and must include full payment of the required filing fees established pursuant to this Ordinance. During the pendency of an appeal filed hereunder, no additional enforcement actions shall be performed, and no additional fines imposed.

- i. If the appeal is upheld by the BZA, the Director shall close the Notice of Zoning Violation case, waive the fine, and notify the owner and additional parties indicated in Section J.4.a of this Ordinance of the disposition of the matter via First Class US Mail.
- ii. If the appeal is denied or dismissed by the BZA or withdrawn by the petitioner, and the violation continues at the Subject Property, enforcement activity shall resume as allowed by law.
- iii. As established in IC § 36-7-4-1604, a petition for judicial review of a Board of Zoning Appeals decision may be filed only after exhausting all administrative remedies available. Failure to timely object to a zoning decision or timely petition for review of a zoning decision within the period prescribed waives the right to judicial review.
- iv. Judicial review of a BZA decision is prescribed and limited by IC § 36-7-4-1611.

## **6. Failure to Remedy and Ongoing Enforcement**

- a) If at least ninety (90) days have elapsed from the mailing of a Notice of Zoning Violation pursuant to Section J.4.a above, and the violation has not been resolved pursuant to Section J.5 above, the Director shall record with the County Auditor a statement enumerating all outstanding fees and fines related to the Notice of Ordinance Violation, as provided by IC § 36-1-6-2. Said list shall include the name of the owner of the parcel of real property on which fees are delinquent; the legal description of the Subject Property, as shown on the records of the County Auditor; and the amount of the delinquent fees.
- b) The list shall then be recorded with the County Recorder, who shall charge a fee for recording the list under the fee schedule established in IC § 36-2-7-10.
- c) A lien shall then be placed on the property owner's tax duplicate. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be distributed to the county general fund.
- d) If the violation is not corrected within thirty (30) days following the imposition of a lien as noted above, a lawsuit may be commenced by the designated enforcement entity in a court of general jurisdiction in Johnson County, Indiana, as prescribed in this Ordinance, in IC § 36-1-6, and by other applicable laws and ordinances.

## **7. Fines and Penalties**

- a) In addition to the initial one hundred dollar (\$100) fine attached to the Notice of Zoning Violation, as set forth in section J.4.c above, the owner of the Subject Property may additionally be fined, at the discretion of the Director, not more than three hundred dollars (\$300.00) per violation. Each day a violation continues beyond the resolution date established by the Notice of Zoning Violation shall constitute a separate offense.
- b) All fines prescribed by this section for civil zoning violations shall be paid within three (3) business days to the Department of Planning and Zoning, which shall render to the person making payment a receipt stating the amount and purpose for which the fine has been paid. All fine payments shall be remitted to the county general fund.
- c) Except as otherwise ordered by a court, the Director may, at the Director's discretion and as prescribed in this Ordinance, waive some or all assessed

finer following the full and timely correction of a violation.

- d) No permit application or land use petition, other than one intended as a Remediating Option as described in Section J.5 of this Ordinance, may be filed with the Department of Planning and Zoning relative to any property which is the subject of an unresolved violation.

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## Section 6-101-3. DEFINITIONS

- A. Word Interpretations
  - B. Definitions
- 

### A. WORD INTERPRETATIONS

For purposes of this Ordinance, the following terms shall have the meaning indicated below:

1. Present tense shall also include the future tense.
2. A singular number shall include plural and plural shall include singular.
3. The word "shall" is mandatory; the word "may" is permissive.
4. The word "used" includes "designated" or "intended to be used."

### B. DEFINITIONS

Certain words used in this Ordinance are defined below. Any words not defined as follows shall be construed in their generally accepted meanings.

**ACCESSORY DWELLING UNIT:** A secondary single-family dwelling unit with independent means of ingress and egress, attached to or detached from an associated primary single-family dwelling on the same parcel, that provides independent living facilities including provisions for sleeping, eating, cooking and sanitation. An accessory dwelling unit must be a structure built on a permanent foundation, and may not be a mobile home or a recreational vehicle.

**ACCESSORY SOLAR ENERGY CONVERSION SYSTEM (SECS)** -A SECS that is part of the structure of a residence or business or part of the permitted yard of a residence or business and which is designed to provide electrical power, heating or cooling, or water heating only for the residence or business.

**ACCESSORY USE OR STRUCTURE:** A structure which (1) is subordinate to and serves a principal building or use; (2) is subordinate in area, extent or purpose to the principal building to be served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building or use served; and (4) is located on the same lot with the building or use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere. A structure that is located on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**ADDITION (TO AN EXISTING STRUCTURE):** Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**ADULT ENTERTAINMENT FACILITY:** A facility having a significant portion of its function as adult entertainment which includes the specific types of uses identified below:

**ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to “specified sexual activities” or “specified anatomical areas,” as herein defined, or an establishment with a segment or section devoted to the sale or display of such material.

**ADULT ENTERTAINMENT BUSINESS:** Any establishment involved in the sale of services or products characterized by the exposure or presentation of “specified sexual activities,” “specified anatomical areas” or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

**ADULT MINI-MOTION PICTURE THEATER:** A facility with a capacity for less than (50) fifty persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons therein.

**ADULT MOTION PICTURE THEATER:** A facility with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons therein.

**ADULT PARAPHERNALIA STORE:** An establishment having as a substantial or significant portion of its stock in trade, mechanical and/or non-mechanical devices which are distinguished or characterized by their intended use for sexual arousal and/or massage of “specified anatomical areas,” as herein defined, or an establishment with a segment or section devoted to the sale or display of such devices.

**MASSAGE ESTABLISHMENT:** Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Indiana, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.

**MASSAGE:** A method of treating or stimulating the external parts of the human body by

rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.

**SPECIFIED SEXUAL ACTIVITIES:** Human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio; and fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

**SPECIFIED ANATOMICAL AREAS:** Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state even if completely and opaquely covered.

**AGRICULTURAL LAND:** All real property within the boundaries of Johnson County currently used for agricultural operations or upon which agricultural operations may reasonably be established in the future.

**AGRICULTURAL OPERATION:** Includes, but is not limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, cultivation, growing, harvesting, and processing of any agricultural commodity, including viticultural, horticultural, or timber; the raising of livestock, fur bearing animals, fish, or poultry; and any commercial agricultural practices performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage, to market, or to carriers for transportation to market.

**AGRICULTURE:** The use of the land or structures for agricultural purposes, including farming, dairying, pasturage, agriculture, or husbandry; for the packing, treating or storage of produce; and for necessary accessory structures and uses; provided, however, that the operation of any such accessory structures and uses shall be secondary to that of the normal agricultural activities.

**AIR POLLUTION:** Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, or to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

**ALLEY:** A public right-of-way which normally affords a secondary means of access to abutting property.

**ALTERATION:** Any change, addition, or modification in construction. Any change in the structural members of a structure, such as load-bearing walls, columns, beams, or girders.

**AMATEUR RADIO SUPPORT STRUCTURES:** Poles, master towers and antennae used in the operation of amateur radios licensed by the Federal Communication Commission.

**APPLICANT:** A landowner or developer, as hereinafter defined, who has filed an application for development, including their heirs, successors, and assigns.

**APPROVED:** Acceptable to the appropriate authority having jurisdiction, by reason of investigation, accepted principles, or tests by nationally recognized organizations.

**ASSISTED LIVING CENTER:** An institution which provides for lease or purchase of apartments or condominiums as dwellings for individuals, who because of physical or mental limitations, cannot function independently and/or maintain a household without assistance. Such an institution may provide meals, medical and rehabilitation services, and other services to residents.

**BED AND BREAKFAST HOME:** An owner-occupied dwelling, or portion thereof, that contains guest rooms where short-term lodging, with or without food, is provided for compensation.

**BLOCK:** A unit of land bounded by streets or by a combination of streets and public land, cemeteries, railroad rights-of-way, waterways, boundary lines of municipalities or any other barrier to the continuity of development.

**BOARD:** The Board of Zoning Appeals of Johnson County, Indiana.

**BOARD OF COUNTY COMMISSIONERS:** The Board of County Commissioners of Johnson County, Indiana.

**BUILDING:** Any structure having a roof supported by columns or walls, and designed, built, and used for the shelter, protection, or enclosure of persons, animals, or property, and having an ascertainable stationary location on or in land or water, whether or not affixed to the land. A building is also a structure.

**BUILDING FRONT:** The side(s) of a building that parallels and is visible from the right-of-way of any or all Corridor Streets, as hereinafter defined.

**BUILDING HEIGHT:** The vertical distance measured from the average grade level to the highest point of a building or structure, excluding chimneys, smokestacks, stage towers, spires, bell towers, water towers, ornamental towers, conveyors, or flag poles. Where the finished grade of a structure is not uniform, the average of all sides of a building or structure shall be used to determine the building height.

**BUILDING LINE:** The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

**CERTIFICATE OF OCCUPANCY:** See "Occupancy Permit."

**CHILD CARE:** A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

**CHILD CARE CENTER:** A facility licensed by the State of Indiana where at least seventeen

(17) children receive child care from a provider while unattended by a parent, legal guardian, or custodian for regular compensation for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

**CHILD CARE HOME:** A residential structure licensed by the State of Indiana in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, or other relative) at any time receive child care from a provider while unattended by a parent, legal guardian, or guardian; for regular compensation; and for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

**CLINIC:** Any establishment where human patients are examined and treated by a doctor or dentist, but not hospitalized overnight.

**COMMERCIAL SOLAR ENERGY CONVERSION SYSTEM (SECS)** - A SECS which has a nameplate capacity of at least ten (10) megawatts; and captures or converts solar energy into electricity for the purpose of selling the electricity for use in locations other than where it is generated.

**COMMON OPEN SPACE:** A parcel(s) of land, an area of water, or a combination of land and water within a development site, designed or intended for the use or enjoyment of residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants. Street rights-of-way, driveways and parking lots which directly serve dwellings or commercial buildings shall not be counted toward area requirements of common open space. Those structures directly serving recreational areas may be counted toward common open space area requirements, at the discretion of the Plan Commission.

**COMMUNICATIONS ANTENNA:** Any structure designed for transmitting or receiving radio, television, or telephone communications, including omni-directional or whip antennae, directional or panel antennae, and microwave dish antennae, which may be mounted on an existing building or on a communications tower, and including the accessory equipment cabinet necessary to operate the antennae.

**COMMUNICATIONS FACILITY:** Any communications antenna or communications tower, as defined by this Ordinance, which is operated by any agency or corporation, including a public utility regulated by the Indiana Regulatory Commission or any agency or franchisee of Johnson County, or any police, fire, emergency medical or emergency management agency, but not including satellite dish antennae, defined as parabolic dishes designed for "receive-only" viewing of satellite programs for private viewing, or radio and TV antennae, defined as freestanding or building-mounted antennae located on residential property designed to enhance radio or television reception for the residents of the dwelling.

**COMMUNICATIONS TOWER:** Any structure, whether freestanding or attached to a building, designed to support multiple communications antennae, including monopole, self-supporting, and guyed towers, and one or more of the following mounts for antennae: rotatable platform, fixed platform, multipoint, side arm and pipe mounts for microwave

dishes.

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

**COMPREHENSIVE PLAN:** The Comprehensive Plan of Johnson County, Indiana, including all amendments adopted by the Board of County Commissioners of Johnson County.

**CONFINED FEEDING LOT:** An area within which the confined feeding of animals for food, fur, or pleasure purposes takes place in lots, pens, ponds, sheds or buildings where all food is supplied by means other than grazing (IC 13-18-10).

**CONFINED FEEDING OPERATION:** (1) Any confined feeding of three hundred (300) or more cattle, six hundred (600) or more swine or sheep, or thirty thousand (30,000) or more fowl; or (2) any animal feeding operation utilizing a waste lagoon or holding pit; or (3) any animal feeding operation where the operator elects to come under Public Law 1, Acts of 1995, or amendments thereto; or (4) any animal feeding operation that is causing violation of Public Law 1, Acts of 1995, or amendments thereto, as determined by the State office of jurisdiction.

**CONTRACTOR'S OFFICE:** Any building or structure used as the permanent place of business for a general contractor or tradesman, but where the site does not include the outdoor storage of construction equipment, material, and company vehicles.

**CONTRACTOR'S YARD:** Any developed or vacant land used as a place of storage for a general contractor or tradesman, including the storage of construction equipment, material, and company vehicles.

**CORRIDOR GREENBELT:** (1) That portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of Interstate 65 having a minimum depth of fifty (50) feet from the street right-of-way line; (2) that portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of State Route 37 having a minimum depth of thirty (30) feet from the street right-of-way line; and (3) that portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of State Route 135 having a minimum depth of twenty (20) feet from the street right-of-way line.

**CORRIDOR STREET:** Any major or minor arterial, or major or minor collector street, as indicated in the Johnson County Comprehensive Plan, that intersects State Route 37, State Route 135, or Interstate 65 within the boundaries of the Corridor Overlay District.

**DAY CARE FACILITY:** See "Child Care Center" and "Child Care Home."

**DEVELOPER:** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate

including, but not limited to:

- (1) installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
- (2) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (3) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (4) mining, dredging, filling, grading, excavation, or drilling operations;
- (5) construction and/or reconstruction of bridges or culverts;
- (6) storage of materials; or
- (7) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**DIRECTOR:** The Director of the Department of Planning and Zoning of Johnson County, Indiana. The staff liaison of the Johnson County Advisory Plan Commission who issues permits, administers the daily office business of the Commission, and enforces the provisions of this Ordinance, all under guidance, direction and control of the Commission and/or the Board of Commissioners.

**DISCARDING:** To abandon, deposit, desert, discharge, dispose, drop, dump, eliminate, emit, jettison, leave, pitch, place, put, scrap, spill, throw, or toss any item, any solid waste or derivative thereof, or any inherently waste-like material in a manner such that the discarded substance remains upon the land as solid waste.

**DISTRICT:** A zoning district as created and defined in the Zoning Ordinance of Johnson County, Indiana.

**DUMPING:** The discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse, construction and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, implement parts, fence wire and all other items and materials defined as "solid waste" and in IC 13-11-2-205.

**DWELLING:** A permanent building, or portion thereof, designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels, motels, lodging houses, or mobile homes.

**DWELLING UNIT:** One (1) or more rooms which are arranged, designed or used as living quarters for one family.

**DWELLING, MULTIPLE-FAMILY:** A dwelling, or portion thereof, containing three (3) or more dwelling units, including condominiums.

**DWELLING, SINGLE-FAMILY:** A dwelling containing one (1) dwelling unit only.

**DWELLING, TWO-FAMILY:** A dwelling containing two (2) dwelling units only.

**EASEMENT:** An authorization or grant by a property owner to a specific person(s) or entity, or to the public to use land for specific purposes, where the ownership of such easement is retained by the granting party.

**ENCLOSED MALL SHOPPING CENTER:** A commercial real estate development comprised of department, retail and/or commercial stores, the majority of which stores have entrances facing upon a common enclosed mall. This definition shall not include free-standing buildings located at or about such enclosed mall shopping center.

**ENCROACHMENT:** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, telephone, sewer, water transmission drains, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs and other similar equipment, for the furnishing of adequate services by such public utilities or municipal or other governmental agencies, but not including buildings. This definition is not intended to include private commercial enterprises such as cellular communications facilities, but only those public facilities necessary for the health, safety, and general welfare of the community. In addition, this definition shall not apply to sewage treatment plants or similar facilities.

**EXCAVATION:** Any act by which earth, sand, gravel, rock, mineral substances, or organic substances, other than vegetation, is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, including the conditions resulting there from.

**FAMILY:** One (1) or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three (3) persons not so related, together with his/their domestic servant(s), maintaining a common household in a dwelling unit. A family may include not more than two (2) roomers, boarders or permanent guests, whether gratuitous or not.

**FEMA:** The Federal Emergency Management Agency.

**FENCE:** A structure partially or completely surrounding a part of, or the whole of, a lot which is intended to prevent intrusion from without and straying from within the area controlled,



but not including a hedge or other natural growth.

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

**FLOOD DISTRICT:** Refer to definitions of zoning districts.

**FLOOD HAZARD AREAS:** Any flood plain district, floodway district, floodway fringe district, or any combination thereof which is subject to inundation by the regulatory flood or any flood plain district as delineated by Zone A on a Flood Hazard Boundary Map.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

**FLOOD PLAIN:** The area adjoining the river or stream which has been or may hereafter be covered by floodwater. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

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

**FLOOD, REGULATORY:** That flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a one hundred (100) year period, as shown on the Flood Insurance Rate Maps (FIRM). This flood is equivalent to a flood having a probability of occurrence of one (1) percent in any given year.

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

**FLOODWAY DISTRICT:** That area designated as a "Commission Floodway" by the Indiana Department of Natural Resources (DNR).

**FLOODWAY FRINGE DISTRICT:** Those portions of flood hazard areas lying outside the floodway district.

**FLOOR AREA OF A BUILDING:** For determining off-street parking and loading requirements, the sum of the gross horizontal areas of the floors of a building or portion thereof devoted to a specific use, including accessory storage areas located within selling space such as counters, racks or closets; and any basement floor areas devoted to

retailing activities, the production or processing of goods, or to business or professional offices.

**FRONTAGE:** See "Lot Line, Front."

**FRONTLIKE FACADE:** The exterior portion of a structure which is not the front, but gives the appearance of a front like facade by the materials used in construction, architectural style and details.

**FOUNDATION, PERMANENT:** In-ground support for exterior walls of structures, such support typically composed of wood, concrete, or masonry, designed to safely support imposed loads based on soil type, and generally extending below the frost line.

**GARBAGE:** All putrescible animal solid, vegetable solid, and semi-solid wastes from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

**GRADE:** The average level of the finished surface on the ground adjacent to the exterior walls of the building or structure.

**GUEST ROOM:** Referring only to bed and breakfast establishments, a sleeping room intended to serve no more than two (2) transient guests per night, such room not to contain cooking facilities.

**HARDSHIP (AS RELATED TO VARIANCES OF THIS ORDINANCE):** The exceptional hardship that would result from a failure to grant the requested variance. The [Governing Body] requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HEIGHT:** The height of a WECS is considered the height of the tower plus the height of the blade at its highest point.

**HOME OCCUPATION:** An occupation or activity conducted entirely within a principal dwelling, which is clearly customary, incidental, and secondary to the use of the building for dwelling purposes, pursuant to this Ordinance.

**HOT TUB:** See "Swimming Pool."

**INDUSTRIAL, HEAVY:** The manufacturing, storage, processing, assembly, fabrication, or repairing of any materials or products where processes involved therein may produce noise, vibration, electrical disturbance, air or water pollution, heat, odors, glare, waste matter, outdoor storage of materials, or other hazardous or commonly recognized offensive conditions.

**INDUSTRIAL, LIGHT:** The manufacturing, storage, processing, fabrication, or repairing of certain materials or products where no process involved will produce noise, vibration, electrical disturbance, air or water pollution, heat, glare, waste matter, odor or fire hazard which will disturb or endanger any neighboring property, and where all operations shall be contained within an enclosed area.

**INERT SOLID WASTE:** Uncontaminated earth, rocks, concrete, bricks, tiles, aged asphalt, natural wood, brush, leaves, wood chips, or sawdust used or intended to be used as fill material within thirty (30) days of accumulation or deposit for that purpose.

**INOPERABLE VEHICLE:** Any vehicle, licensed or unlicensed, that is partially dismantled or not fully assembled.

**INTEGRATED CENTER:** An area of commercial development of one (1) or more lots, comprised of:

1. Two (2) or more individual, unrelated and separately operated uses in one (1) building sharing common-site facilities; or
2. One (1) or more buildings containing unrelated and separately operated uses occupying a common site, that utilizes one (1) or a combination of common site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or
3. One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, that are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

**INTERIOR GREENBELT:** (1) That portion of the front of a lot that is immediately adjacent and parallel to the right-of-way of Interstate 65 Corridor Streets having a minimum depth of twenty-five (25) feet from the street right-of-way line; (2) that portion of the front of a lot that is immediately adjacent and parallel to the right-of-way of State Route 37 Corridor Streets having a minimum depth of fifteen (15) feet from the street right-of-way line; and (3) that portion of the front of a lot that is immediately adjacent and parallel to the right-of-way of State Route 135 Corridor Streets having a minimum depth of ten (10) feet from the street right-of-way line.

**INTERIOR PARKING:** Those parking spaces located in the interior of a parking lot which create definable parking aisles away from the periphery or edge of the lot.

**JUNK YARD:** An open area where waste, scrap material or one (1) or more motor vehicles, or parts thereof, not in running or operable condition, and/or not bearing current license plates, are bought, sold, exchanged, stored, baled, packed, disassembled or handled, but excluding uses established entirely within enclosed buildings, and further excluding outside storage permitted as an accessory use to any lawfully established automobile sales, service or repair facility.

**KENNEL:** Any premises, or portion thereof, on which more than four (4) dogs, cats or other household domestic animals over (4) four months of age are kept or on which more than two (2) such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

**LARGE WECS:** Any WECS which is more than 50 kilowatts.

**LONG TERM STORAGE:** The maintenance or containment of solid waste for a period of thirty (30) days or more.

**LOT:** A parcel of land intended to be separately owned, developed, or otherwise used as a unit. A parcel of land occupied, or intended to be occupied, by a building and its accessory buildings, or by group dwellings and their accessory buildings, together with such open spaces as are required, having at least the minimum area required for the lot in the zoning district in which such lot is located and having its principal frontage on a public or approved private street right-of-way.

**LOT AREA:** The total horizontal area within the lot lines of a lot, excluding any street rights-of-way.

**LOT, BUILDABLE AREA:** That portion of a lot bounded by the required front, rear, and side setback lines.

**LOT, CORNER:** A lot located at the intersection of two or more streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees. A lot abutting a curved street or streets shall be considered a corner lot if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than one hundred thirty-five (135) degrees in front of the lot. The required setback on all sides bounded by a street, excluding alleys, shall equal the front building setback of the district in which the lot is located. On a corner lot, the rear lot line shall be opposite the side of the house considered by the Department of Planning and Zoning to be the front.

**LOT COVERAGE:** The total area of earth horizontally covered by roofed structures, including accessory structures, such as, but not limited to, garages, roofed patios and roofed porches.

**LOT DEPTH:** The mean horizontal distance between front and rear lot lines, measured at right angles to the front lot line.

**LOT, FLAG:** A lot approved with less frontage on a public street than is normally required, where a narrow panhandle access corridor leads to the bulk of the lot located behind lots or parcels with normally required street frontage.

**LOT LINE, FRONT:** The lot lines abutting a street right-of-way, excluding alleys; or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

**LOT LINE, REAR:** A lot line or connected lines between the ends of the side lot lines and which is, or are, parallel to, or approximately parallel to, the front lot line.

**LOT LINE, SIDE:** A lot line or connected lot lines commencing at an end of a front lot line and terminating either at an intersection with an end of the rear lot line or at an intersection with the opposite side lot line, no portion of which is parallel to or approximately parallel to the front lot line.

**LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the County Recorder's Office prior to adoption of this Ordinance; or a parcel of land, the deed to which has been recorded in the County Recorder's Office prior to adoption of this Ordinance.

**LOT, THROUGH:** A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot. Such lots shall provide the required front setback along each street, except alleys.

**LOT WIDTH:** The horizontal distance between side lot lines, measured at the established front setback line and measured at right angles to the lot depth.

**MICRO WECS:** A WECS which is less than 5 kilowatts.

**MINIMUM GROUND FLOOR AREA:** The minimum ground floor area of a proposed structure, exclusive of open porches, attached garages, and accessory structures.

**MINIMUM ROAD FRONTAGE:** The minimum property on one (1) side of a street or County road measured along the right-of-way of the street or County road between property lines.

**MOBILE HOME:** A transportable, factory-built structure larger than three hundred and twenty (320) square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

**MOBILE HOME PARK:** An area of land under single ownership used for the parking of two (2) or more occupied mobile homes.

**MOBILE HOME SITE:** The area of land in a mobile home park for the parking of one mobile home.

**MOBILE HOME SUBDIVISION:** A residential subdivision designed exclusively for, and occupied by, mobile homes in which the homes and land are owned by the same person.

**NATURAL RESOURCES:** The Indiana Department of Natural Resources (DNR).

**NEW CONSTRUCTION:** Any structure for which the "start of construction" commenced

after the effective date of the community's first floodplain ordinance.

**NON-CONFORMING LOT:** A lot of record which does not conform to the lot area or lot width regulations of this Ordinance.

**NON-CONFORMING STRUCTURE:** A structure designed, converted or adapted for a use prior to the adoption of provisions prohibiting such use or structure in such location.

**NON-CONFORMING USE:** Any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance, or any of its amendments, which does not conform to provisions of this Ordinance.

**NURSING HOME:** A private home for the care of children or the aged or infirm, or a place of rest and/or therapy for those suffering bodily disorders, but not including facilities for the treatment of injuries or for surgical care.

**OCCUPANCY PERMIT:** A certificate signed by an official of Johnson County stating that the occupancy and use of land, building, or structure referred to therein complies with the provisions of this ordinance and all other building and local codes which may be applicable. Also referred to as a "Certificate of Occupancy".

**OFF-GRID SOLAR ENERGY CONVERSION SYSTEM:** A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

**OFF-STREET LOADING:** An area which is designated permanently for the loading and unloading of vehicles as well as associated egress areas, none of which may lie within a public right-of-way.

**OFF-STREET PARKING:** The provision of parking spaces on a lot, appropriate in number to accommodate the applicable land use(s), including driveways and maneuvering room, located entirely out of public rights-of-way.

**OWNER:** An individual or entity having sufficient proprietary interest to seek development of land.

**PERIPHERAL PARKING:** Those parking spaces located at the edge or periphery of a parking lot.

**PLAN COMMISSION:** The Advisory Plan Commission of Johnson County, Indiana.

**POND:** A still body of water having a surface area of five thousand (5,000) square feet or more.

**PRINCIPAL BUILDING:** The building in which the primary use on the lot is conducted. With regard to school, recreational, or other uses of property which may include several buildings in which activity occurs, the Director shall determine whether or not each building shall be classified as a "principal building." Standards recognized by the Indiana

Department of Fire and Building Services shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

**PRINCIPAL USE:** The primary use to which the premises is devoted, and the main purpose for which the premises exists, as distinguished from a secondary or accessory use.

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

**PUBLIC SANITARY SEWER SYSTEM:** Any system, other than an individual septic tank, tile field, mound system, or similar disposal method, that is operated by a municipality, governmental agency, or public utility for the collection, treatment, and disposal of wastes.

**PUBLIC UTILITY STRUCTURE:** Electrical and telephone substations and distribution centers, filtration plants, pumping stations, water reservoirs, public or package sewer treatment plants, telephone exchanges, radio and television transmitting or relay stations, antenna towers, and other similar public utility service structures. This definition is not intended to apply to private utilities constructed solely for the use of a specific development.

**RECREATIONAL VEHICLE:** A vehicle primarily designed as temporary living quarters for recreation, camping, or travel, either with its own motor power or mounted on or towed by another powered vehicle.

**RECREATIONAL VEHICLE PARK:** An area of land used for the parking of two (2) or more recreational vehicles.

**REGULATORY FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 6-101-4.R.3.a of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**RELIGIOUS INSTITUTIONS:** An institution that people regularly attend or participate in, or which holds religious services, meetings, and activities typically incidental to such institution, but not including daycare facilities, schools, or commercial uses.

**RETAIL SALES:** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**RIGHT-OF-WAY:** A specific and particularly described strip of land dedicated to the public fee simple, granted to the public by easement, or assumed for public use and accepted by the County to be devoted to use by the general public for general transportation purposes, utilities,

and/or small cell facilities and associated wireless support structures, whether or not in actual fact improved or actually used for such purposes.

**SELF-SERVICE STORAGE FACILITY:** A building or group of buildings situated within a controlled-access and fenced compound, consisting of small, individual, self-contained units that are leased or owned for the storage of commercial or household goods or supplies.

**SETBACK:** A line parallel to and equidistant from the relevant lot line (rear, side) between which no buildings or structures above normal grade level may be erected as prescribed in this Ordinance. The minimum required front setback shall be measured from the thoroughfare right-of-way line, or in the case of a flag lot, from the front lot line, to any portion of any structure, with the exception of projections allowed by this Ordinance. (See illustration of various lot types, with setbacks, at the end of this "Definitions" section.)

**SIGN:** A single or multi-faced structure or device designed for the purpose of informing or attracting the attention of persons typically not on the premises on which the structure or device is located.

**SIGN AREA:** (1) The area that is enclosed by one (1) rectangle, the sides of which make contact with the extreme points or edges of the sign excluding the supporting structure that does not form part of the sign proper or of the display; **or** (2) The area of a sign composed of characters or words attached directly to a large, uniform building wall surface and shall be the smallest combination of rectangles that enclose the whole group, including any loops or special symbols.

**SIGN, AWNING OR CANOPY:** Any sign that is part of, or attached to, an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A sign on a marquee is not considered an awning or canopy sign.

**SIGN, BANNER:** A temporary sign composed of lightweight material enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

**SIGN COPY:** The wording or graphic illustrations on a sign surface either in permanent or removable letterform.

**SIGN, ELECTRONIC VARIABLE MESSAGE (EVMS):** A sign, or component of a sign, where the display is light-based and can be changed or rearranged either in the field, or from a remote location, without physically altering the face or the surface of the sign, such as an electrically or electronically controlled message center. Also known as a digital sign.

**SIGN, FREE-STANDING:** A sign that is completely or principally self-supported by posts or other supports independent of any building or other structure. The following types of signs shall be considered free-standing signs for the purpose of this Ordinance:

**SIGN, GROUND:** Any sign, other than a pole sign, in which the entire bottom is in contact



with or is closely associated with the ground and is independent of any other structure.

**SIGN, POLE:** Any sign supported by one upright pole, column, or brace placed in or on the ground and not attached to any building or structure.

**SIGN, INFLATABLE:** Any temporary sign designed to be inflated and attached to a building or any part of the lot by means of a tether so as to float freely in the air; or a similar sign anchored to a building or lot in any manner.

**SIGN, INCIDENTAL:** A small, permanent, freestanding sign accessory to the primary use of land that is located on or within five feet of pedestrian entrances and exits, parking areas, loading areas, drive-through service areas, and stormwater management features.

**SIGN, INTERIOR:** A sign within the interior of any building, or within an outdoor area enclosed by a fence or other structure, and not visible from adjoining lots owned by persons other than the owner of the lot on which the sign is located, and not visible from the public right-of-way.

**SIGN, OFF-PREMISES:** A sign that directs attention to a business, profession, commodity, or service offered on a lot other than that on which the sign is located.

**SIGN, PORTABLE:** A sign that by its design and construction is readily movable from one location to another, mounted on wheels or on a small trailer frame, or mounted on a supportive frame that is designed to sit on top of the ground or to be temporarily staked or tied to the ground.

**SIGN, PROJECTING:** A sign that is wholly dependent upon a building for support and that extends outward there from, typically in a direction perpendicular to the building wall.

**SIGN, PUBLIC:** Signs of a non-commercial nature and in the public interest erected by, or on the order of, a public utility, a public agency, or a public officer(s) in performance of their public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, signs directing the traveling public to public and quasi-public facilities, or signs on public buildings or structures and the like.

**SIGN, STRUCTURAL:** A sign that is architecturally and structurally integral to a building. For illustrative purposes only, examples may include names of buildings, dates of erection, monumental citations, and commemorative tablets.

**SIGN, TEMPORARY:** A sign constructed of cloth, canvas, fabric, plastic, metal, plywood, or other light material, with or without a structural frame, designed or intended to be displayed for a limited period.

**SIGN, WALL:** Any sign affixed directly to, painted on, or otherwise inscribed on an exterior wall and confined within the limits of any building.

**SIGN, WINDOW:** A sign installed inside a window for purposes of viewing from outside

the premises. This term does not include merchandise located in a window.

**SIGN, YARD:** A temporary free standing sign accessory to the primary use of land that is located in the yard of a lot. For illustrative purposes only, examples may include signs posted by a realtor or home improvement company, signs expressing an opinion, and garage sale advertising.

**SMALL WECS:** Any WECS which is greater than 5 kilowatts but less than 50 kilowatts.

**SOLAR ENERGY CONVERSION SYSTEMS (SECS):** A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy.

**SOLID WASTE:** Any yard waste, garbage, refuse, rubbish, sludge, or other discarded or disposed materials, including solids, liquids, semi-solids, or contained gaseous material resulting from any operation, activity, or source.

**SPECIAL EXCEPTION:** A use that is not listed as a permitted use in the particular zoning district under this Ordinance but which may be compatible with such uses and may promote the realization of the purposes of this Ordinance if such use is restricted as to intensity and location in the district and to such other conditions as may be required by the Board of Zoning Appeals.

**STREET:** A partially or fully improved public right-of-way which affords the principal means of access to abutting property.

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

**SUPPLY YARDS:** A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles or similar vehicles.

**SWEPT AREA:** The diameter of the circle encompassing all blades for WECS.

**SWIMMING POOL:** Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground, or on-ground swimming pools, hot tubs, and spas.

**USE:** The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

**VARIANCE:** A dispensation permitted by the Johnson County Board of Zoning Appeals on individual parcels of property as a method of alleviating an unnecessary hardship by allowing a reasonable use of the building, structure, or property, which, because of unusual circumstances, is denied by the terms of this Ordinance. Two types of variances are provided

for within this Ordinance:

**VARIANCE, DIMENSIONAL:** A type of variance to alleviate dimensional limitations presented by the physical characteristics of a parcel of land.

**VARIANCE, USE:** A type of variance granted by the Board of Zoning Appeals to property owners to alleviate a hardship by allowing a land use not specifically identified as a permitted use or special exception within the zoning district in which the parcel of land is located. Use variances are not transferrable to subsequent owners of the property.

**VEHICLE:** An automobile, motorcycle, truck, trailer, semitrailer, bus, school bus, recreational vehicle, or motorized bicycle.

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

**WHOLESALE:** Business establishments that generally sell commodities and material in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

**WIND ENERGY CONVERSION SYSTEM (WECS):** All necessary devices that together convert wind energy into electricity, including the blade, rotor, nacelle, generator, WECS tower, electrical components, turbine, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s); and including all other components.

**WIND FARM:** Two or more small or large WECS on a single property or adjoining properties under the same ownership.

**YARD:** An open space on the same lot with a building or structure, unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by this Ordinance (See Appendix A).

**YARD, FRONT:** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. (See Appendix A).

**YARD, REAR:** A yard defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard. (See Appendix A).

**YARD, SIDE:** A yard extending along the side of a lot from the front yard to the rear yard.

(See Appendix A).

**YARD SALES:** Temporary sales for the purpose of relieving a household of goods and wares, operated from residential property, and considered a permitted accessory use to a residence in any zoning district, provided the sale is held no more than three (3) times in any calendar year per address, nor more than one (1) time in any one month, with a duration of no more than three (3) consecutive days. This definition is also intended to encompass garage sales, rummage sales, or similar activities.

**ZONING MAPS:** The maps of each township of Johnson County, Indiana, showing the zoning districts therein.



## **Section 6-101-4. ZONING DISTRICT REGULATIONS**

- A. Zoning Districts and Maps
  - B. Required Front Yard Setbacks by Zoning District
  - C. A-1, Agricultural District
  - D. AC, Agricultural Conservation Overlay District
  - E. RR, Rural Residential District
  - F. R-1, Single-Family Residential District
  - G. R-2, Single-Family Residential District
  - H. R-3, One- and Two-Family Residential District
  - I. R-4, Multi-Family Residential District
  - J. R-5, Mobile Home Park District
  - K. B-1, Neighborhood Business District
  - L. B-2, Community Business District
  - M. I-1, Light Industrial District
  - N. I-2, Heavy Industrial District
  - O. CO, Corridor Overlay District
  - P. PUD, Planned Unit Development District
  - Q. STD, Special Terrain District
  - R. FCO, Flood Control Overlay District
- 

### **A. ZONING DISTRICTS AND MAPS**

#### **1. Establishment of Zoning Districts**

The County is divided into the districts stated in this Ordinance as shown by district boundaries on the zoning maps. The districts are:

- A-1, Agricultural District
- AC, Agricultural Conservation Overlay District
- RR, Rural Residential District
- R-1, Single-Family Residential District
- R-2, Single-Family Residential District
- R-3, One- and Two-Family Residential District
- R-4, Multi-Family Residential District
- R-5, Mobile Home Park District
- B-1, Neighborhood Business District
- B-2, Community Business District
- I-1, Light Industrial District
- I-2, Heavy Industrial District
- CO, Corridor Overlay District
- PUD, Planned Unit Development District
- STD, Special Terrain District
- FP, Floodplain District

## **2. Zoning Map**

- a. A zoning map of each township in Johnson County is hereby adopted as part of this Ordinance. Zoning maps shall be kept on file and available for examination at the office of the Plan Commission of Johnson County.
- b. Flood plain districts (areas subject to inundation by the regulatory flood) as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the County of Johnson" dated March 2, 1989, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps, along with any subsequent revisions to the text or maps, are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the Office of the Plan Commission of Johnson County.

## **3. Zoning District Boundaries**

When uncertainty exists with respect to the boundaries of various districts as shown on the zoning map, the following rules shall apply:

- a. District boundaries shown within lines of streets, streams or shorelines, transportation rights-of-way, lot lines, or municipal corporation lines, shall be deemed to follow their centerlines. The vacation of streets shall not affect the location of such district boundaries.
- b. Whenever a single lot of two (2) acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot. Whenever a single lot greater than two (2) acres in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located. Where a zoning district boundary line divides a lot and where distances from the boundary line to property lines are not specifically indicated on the zoning map, the exact boundary line location shall be determined by measurement, using the scale of the zoning map.
- c. When the Director cannot ascertain the location of a district boundary by centerlines, by the scale or dimensions of the zoning map, or by other methods, he shall refuse action, and upon appeal, the Board of Zoning Appeals shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this Ordinance.

## **3. Non-Permitted Uses**

Those uses not expressly listed as a permitted use or listed as eligible for a

special exception, are prohibited; provided, however, it is recognized that this Ordinance may require interpretation to determine whether a use is consistent with a permitted use within a particular zoning district. Therefore, any use which is not specifically set forth in this Ordinance may be reviewed by the Planning Director for consistency with the intent set forth in each zoning district and for compatibility with use characteristics typical of uses permitted within those districts or zones. Based upon the Planning Director's review, the Planning Director may determine the appropriate zoning district, if any, for any use which is not specifically set forth herein. In case of a disagreement with the determination of the Planning Director in assigning a use to an appropriate zoning district, or denying such use, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provisions of Section 6-101-2(C)(2)(a) of the Zoning Ordinance.

**B. REQUIRED FRONT YARD SETBACKS BY ZONING DISTRICT**

District	Major Arterial	Minor Arterial	Major Collector	Minor Collector	Local Access	Cul-de-Sac
FP	50	45	40	35	35	25
A-1	50	45	40	35	35	25
AC	50	45	40	35	35	25
RR	50	45	40	35	35	25
R-1	50	45	40	35	30	25
R-2	50	45	40	35	30	25
R-3	45	40	35	30	25	20
R-4	45	40	35	30	25	20
R-5	50	45	40	35	30	20
B-1	50	45	40	35	35	25
B-2	50	45	40	40	40	35
I-1	50	45	40	40	40	35
I-2	50	45	40	40	40	35



**C. A-1, AGRICULTURAL DISTRICT**

**1. Purpose**

The purpose of the A-1, Agricultural District is to accommodate agricultural operations and practices. In addition, the A-1, Agricultural District preserves and protects agricultural land, the rural character of Johnson County, and the agricultural tradition of the county. The intent of this district is to allow agricultural development by reason of location and the availability of natural resources and infrastructure system.

**2. Lot and Yard Requirements**

- a. The following development standards shall apply within the A-1, Agricultural District:

Uses where applicable	All permitted uses and special exceptions identified in A-1, Agricultural District.
Minimum Lot Size	Two (2) acres or the minimum acreage needed as determined by the Johnson County Health Department to accommodate a drain field for a septic system, tested and approved replacement septic system, and adequate separation between septic wastes and well water.
Minimum Road Frontage	100 feet
Minimum Lot Width	208 feet
Maximum Lot Coverage	25 percent
Minimum Front Yard Setback	See Table, Page 54Page 54
Minimum Side Yard Setback	10 feet
Minimum Rear Yard Setback	20 feet, or five feet per Section 6-101-5.C.
Maximum Building Height	50 feet
Minimum Ground Floor Area for Principal Use	1000 square feet for single-story structures, 900 square feet for two or more stories.

- b. Minimum Lot Density

All original lots within the A-1, Agricultural District may be split (by Minor Roadside Subdivision) provided that the resulting parcels, including the lot of record, shall not average a lot density of greater than one (1) lot per ten (10) acres.

c. Minimum Lot Size

Provided that the minimum lot density does not exceed one (1) lot per ten (10) acres (see above), the minimum lot size within the A-1, Agricultural District shall be two (2) acres or the minimum acreage needed as determined by the Johnson County Health Department to accommodate a drain field for a septic system, tested and approved replacement septic system, and adequate separation between septic wastes and well water.

**3. Permitted uses**

The following uses are permitted within the A-1, Agricultural District:

- a. Agricultural operations, including confined feeding lots
- b. One-family dwellings
- c. Public parks and playgrounds
- d. Cemeteries
- e. Essential services
- f. Accessory uses
- g. Roadside agricultural produce stands
- h. Home occupations
- i. Feed mills and fertilizer sales
- j. Grain elevators
- k. Child care services for 5 or fewer children
- l. Dairies
- m. Public and parochial schools
- n. Religious institutions
- o. Federal, State, County, or municipal buildings
- p. Accessory dwelling unit

**4. Special Exceptions**

The following special exceptions shall be permitted within the A-1, Agricultural District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Child care homes
- b. Child care centers
- c. Bed & breakfast homes
- d. Public or private utility structures
- e. Public swimming pools
- f. Nursing homes
- g. Mobile homes required by farmers
- h. Private clubs
- i. Private camps

- j. Mineral excavation
- k. Sanitary landfills
- l. Veterinary hospitals
- m. Private air strips
- n. Kennels
- o. Cellular communications facilities

## **D. AC, AGRICULTURAL CONSERVATION OVERLAY DISTRICT**

### **1. Purpose**

The purpose of the AC, Agricultural Conservation Overlay District is to permit the voluntary conservation of agricultural land for agricultural operations and practices in Johnson County. The Agricultural Conservation Overlay District may only be exercised in those rural areas of Johnson County that are already located within an A-1, Agricultural District.

### **2. Voluntary Application**

A petition to rezone property within Johnson County to the Agricultural Conservation Overlay District, or a petition to rescind such rezoning, must be filed by the owner of the property in question, or with the expressed written consent of the property owner.

### **3. Permitted Uses**

Uses permitted in the A-1, Agricultural District are permitted within the AC, Agricultural Conservation Overlay District.

### **4. Special Exceptions**

Uses identified as special exceptions in the A-1, Agricultural District, only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance, shall be permitted as special exceptions in the AC, Agricultural Conservation Overlay District.

### **5. Subdivision of Property Prohibited**

The subdivision of property (as defined in the Subdivision Control Ordinance of Johnson County) is strictly prohibited in the Agricultural Conservation Overlay District.

### **6. Lot and Yard Requirements**

Lot and yard requirements identified within the A-1, Agricultural District shall apply within the AC, Agricultural Conservation Overlay District.

**E. RR, RURAL RESIDENTIAL DISTRICT**

**1. Purpose**

The purpose of the RR, Rural Residential District is to provide for low density, one-family residential development while maintaining the existing rural character of Johnson County. The maximum overall density of residential development in the Rural Residential District shall be one (1) residential dwelling unit per acre.

**2. Lot and Yard Requirements**

- a. The following development standards shall apply within the Rural Residential District.

Use	All permitted uses and special exceptions identified in RR, Rural Residential District
Minimum Lot Size	43,560 square feet (one (1) acre), or additional acreage as required for the development of a septic system as required by the Johnson County Health Department, including a required set-aside area reserved for a tested and approved replacement septic system.
Minimum Road Frontage	100 feet
Minimum Lot Width	208 feet
Maximum Lot Coverage	25 percent
Minimum Front Yard Setback	See Table, Page 54
Minimum Side Yard Setback	10 feet
Minimum Rear Yard Setback	20 feet, or five feet per Section 6-101-5.C.
Maximum Building Height	35 feet; except for structures associated with agricultural uses, where the maximum building height is 50 feet.
Minimum Ground Floor Area for Principal Use	900 square feet

### **3. Permitted Uses**

The following uses are permitted within the RR, Rural Residential District:

- a. One-family dwellings
- b. Public parks and playgrounds
- c. Cemeteries
- d. Essential services
- e. Accessory uses
- f. Agriculture, except confined feeding operations
- g. Home occupations
- h. Child care services for 5 or fewer children
- i. Public and parochial schools
- j. Religious institutions
- k. Bed & breakfast homes
- l. Golf courses
- m. Federal, State, County, or municipal buildings
- n. Accessory dwelling unit

### **4. Special Exceptions**

The following special exceptions shall be permitted within the RR, Rural Residential District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Child care homes
- b. Child care centers
- c. Hospitals
- d. Public or private utility structures
- e. Public swimming pools
- f. Private clubs
- g. Private camps
- h. Nursing homes
- i. Cellular communications facilities
- j. Assisted living centers

**F. R-1, SINGLE FAMILY RESIDENTIAL DISTRICT**

**1. Purpose**

The purpose of the R-1, Single-Family Residential District is to provide for residential development at an average density of two (2) dwelling units per acre. Development of major subdivisions in the R-1 District shall be limited to sites served by public sanitary sewer systems. Major subdivisions should be limited to sites which are located adjacent to major collectors, minor arterials, or major arterials, as defined in the Johnson County Comprehensive Plan Update; and are generally best located immediately adjacent to RR, R-1, or R-2 Residential Districts.

**2. Lot and Yard Requirements**

Use	Single-family residences	All other permitted uses and special exceptions identified in R-1 Single-Family Residential District
Minimum Lot Size	Not Applicable*	21,780 square feet*
Minimum Road Frontage	90 feet	90 feet
Minimum Lot Width	90 feet	90 feet
Maximum Lot Coverage	30 percent	40 percent
Minimum Front Yard Setback	See Table, Page 54	See Table, Page 54
Minimum Side Yard Setback	10 feet	10 feet
Minimum Rear Yard Setback	20 feet, or five feet per Section 6-101-5.C.	20 feet
Maximum Building Height	35 feet	35 feet; or 50 feet for structures associated with agricultural uses
Minimum Building Area for Principal Use	1600 square feet for single-story; 2400 square feet for two or more stories.	1600 square feet for single-story; 2400 square feet for two or more stories.

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

### 3. Permitted Uses

The following uses are permitted within the R-1, Single-Family Residential District:

- a. One-family dwellings
- b. Public parks and playgrounds
- c. Cemeteries
- d. Essential services
- e. Accessory uses
- f. Agriculture, except confined feeding operations
- g. Home occupations
- h. Child care services for 5 or fewer children
- i. Public and parochial schools
- j. Religious institutions
- k. Federal, State, County, or municipal buildings
- l. Accessory dwelling unit, if:
  - i. not in a recorded major or minor subdivision, or
  - ii. explicitly allowed per recorded subdivision plat

### 4. Special Exceptions

The following special exceptions shall be permitted within the R-1, Single-Family Residential District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Accessory dwelling unit
- b. Child care homes
- c. Child care centers
- d. Hospitals
- e. Public or private utility structures
- f. Public swimming pools
- g. Private clubs
- h. Private camps
- i. Golf courses
- j. Nursing homes
- k. Cellular communications facilities
- l. Assisted living centers



**G. R-2, SINGLE FAMILY RESIDENTIAL DISTRICT**

**1. Purpose**

The purpose of the R-2, Single-Family Residential District is to provide for residential development at an average density of three and one-half (3.5) dwelling units per acre. Development of major subdivisions in the R-2 District shall be limited to sites served by public sanitary sewer systems. They should be limited to sites which are located adjacent to major collectors, minor arterials, or major arterials, as defined in the Johnson County Comprehensive Plan Update; and are generally best located immediately adjacent to R-1, R-2, or R-3 Residential Districts.

**2. Lot and Yard Requirements**

Use	Single-Family Dwellings	All other permitted uses and special exceptions identified in R-2 Single-Family Residential District
Minimum Lot Size	Not Applicable*	13,000 square feet*
Minimum Road Frontage	80 feet	80 feet
Minimum Lot Width	80 feet	80 feet
Maximum Lot Coverage	35 percent	40 percent
Minimum Front Yard Setback	See Table, Page 54	See Table, Page 54
Minimum Side Yard Setback	10 feet	10 feet
Minimum Rear Yard Setback	20 feet, or five feet per Section 6-101-5.C.	20 feet
Maximum Building Height	35 feet	35 feet; or 50 feet for structures associated with agricultural uses
Minimum Building Area for Principal Use	1000 square feet for single-story; 2000 square feet for two or more stories.	1000 square feet for single-story; 2000 square feet for two or more stories

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

### 3. Permitted Uses

The following uses are permitted within the R-2, Single-Family Residential District:

- a. One-family dwellings
- b. Public parks and playgrounds
- c. Cemeteries
- d. Essential services
- e. Accessory uses
- f. Agriculture, except confined feeding operations
- g. Home occupations
- h. Child care services for 5 or fewer children
- i. Public and parochial schools
- j. Religious institutions
- k. Federal, State, County, or municipal buildings
- l. Accessory dwelling unit, if:
  - i. not in a recorded major or minor subdivision, or
  - ii. explicitly allowed per recorded subdivision plat

### 4. Special Exception

The following special exceptions shall be permitted within the R-2, Single-Family Residential District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Accessory dwelling unit
- b. Child care homes
- c. Child care centers
- d. Hospitals
- e. Public or private utility structures
- f. Public swimming pools
- g. Private clubs
- h. Private camps
- i. Golf courses
- j. Nursing homes
- k. Funeral homes
- l. Cellular communications facilities
- m. Assisted living centers

## H. R-3, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT

### 1. Purpose

The purpose of the R-3, One- and Two-Family Residential District is to provide for residential development at a density of six (6) dwelling units per acre. Development of major subdivisions in the R-3 District shall be limited to sites served by public sanitary sewer systems. They should be limited to sites which are located adjacent to major collectors, minor arterials, or major arterials, as defined in the Johnson County Comprehensive Plan Update, and are generally best located immediately adjacent to R-2, R-3, or R-4 Residential Districts.

### 2. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-3, One- and Two-Family Residential District:

Use	Single-Family and Two-Family Dwellings	All other permitted uses and special exceptions within the R-3 One- and Two-Family Residential District
Minimum Lot Size	Not Applicable*	13,000 square feet*
Minimum Road Frontage	70 feet	70 feet
Minimum Lot Width	70 feet	70 feet
Maximum Lot Coverage	35 percent	40 percent
Minimum Front Yard Setback	See Table, Page 54	See Table, Page 54
Minimum Side Yard Setback	10 feet	10 feet
Minimum Rear Yard Setback	20 feet, or five feet per Section 6-101-5.C.	20 feet
Maximum Building Height	35 feet	35 feet
Minimum Building Area for Principal Use	900 square feet for single-story; 1800 square feet for two or more stories.	900 square feet for single-story; 1800 square feet for two or more stories.

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

### 3. Permitted Uses

The following uses are permitted within the R-3, One- and Two-Family Residential District:

- a. One-family dwellings
- b. Two-family dwellings
- c. Public parks and playgrounds
- d. Essential services
- e. Accessory uses
- f. Home occupations
- g. Child care services for 5 or fewer children
- h. Public and parochial schools
- i. Religious institutions
- j. Federal, State, County, and municipal buildings
- k. Accessory dwelling unit, if:
  - i. not in a recorded major or minor subdivision, or
  - ii. explicitly allowed per recorded subdivision plat

### 4. Special Exceptions

The following special exceptions shall be permitted within the R-3, One- and Two-Family Residential District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Accessory dwelling unit
- b. Child care homes
- c. Child care centers
- d. Hospitals
- e. Public or private utility structures
- f. Public swimming pools
- g. Private clubs
- h. Private camps
- i. Golf courses
- j. Nursing homes
- k. Funeral homes
- l. Assisted living centers

**I. R-4, MULTI-FAMILY RESIDENTIAL DISTRICT**

**1. Purpose**

The purpose of the R-4, Multi-Family Residential District is to provide for residential development at a density of fourteen (14) dwelling units per acre while allowing for one-and-two family residential development at a density of six (6) dwelling units per acre. Development of major subdivisions or multi-family projects in the R-4 District shall be limited to sites which are located adjacent to minor or major arterials, as defined in the Johnson County Comprehensive Plan Update. Major subdivisions shall be served by public sanitary sewer systems.

**2. Lot and Yard Requirements**

The following lot and yard requirements shall apply within the R-4, Multi-Family Residential District:

Use	Multi-Family Dwellings	Single-Family and Two-Family Dwellings	All other permitted uses and special exceptions within the R-4 Multi-Family Residential District
Minimum Lot Size	87,120 sq. ft.	Not Applicable*	8,000 square feet*
Minimum Road Frontage	100 feet	50 feet	50 feet
Minimum Lot Width	100 feet	50 feet	50 feet
Maximum Lot Coverage	60 percent	35 percent	60 percent
Minimum Front Yard Setback	See Table, Page 54	See Table, Page 54	See Table, Page 54
Min. Side Yard Setback	20 feet	10 feet	10 feet
Min. Rear Yard Setback	20 feet	20 feet, or five feet per Section 6-101-5.C.	20 feet
Max. Building Height	50 feet	35 feet	35 feet
Minimum Ground Floor Area for Principal Use	750 square feet	900 square feet	750 square feet

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

### **3. Permitted Uses**

The following uses are permitted within the R-4, Multi-Family Residential District:

- a. Multi-family dwellings
- b. One-family dwellings
- c. Two-family dwellings
- d. Public parks and playgrounds
- e. Essential services
- f. Accessory uses
- g. Home occupations
- h. Child care services for 5 or fewer children
- i. Public and parochial schools
- j. Religious institutions
- k. Federal, State, County, and municipal buildings

### **4. Special Exceptions**

The following special exceptions shall be permitted within the R-4, Multi-Family Residential District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Child care homes
- b. Child care centers
- c. Hospitals
- d. Public and private utility structures
- e. Public swimming pools
- f. Nursing homes
- g. Private clubs
- h. Private camps
- i. Funeral homes
- j. Assisted living centers

**J. R-5, MOBILE HOME PARK DISTRICT**

**1. Purpose**

The purpose of the R-5, Mobile Home Park District is to provide for the placement of mobile homes within a large-scale unified development under single ownership. Specific standards are included to promote developments that are one-family residential in character and which minimize incompatibilities with surrounding land uses.

**2. Lot and Yard Requirements**

The following lot and yard requirements shall apply within the R-4, Multi-Family Residential District:

Use	All permitted uses and special exceptions identified in the R-5, Mobile Home Park District.
Minimum Lot Size	5,000 square feet
Minimum Road Frontage	50 feet
Minimum Lot Width	50 feet
Minimum Front Yard Setback	See Table, Page 54
Minimum Side Yard Setbacks	7 feet per side yard with two (2) side yards; 14 feet between structures
Minimum Rear Yard Setback	20 feet, or five feet per Section 6-101-5.C.
Maximum Structure Height	30 feet
Lot Coverage For Structures	30 percent by mobile home, 40 percent by all structures

**3. Permitted Uses**

The following uses are permitted within the R-5, Mobile Home Park District:

- a. Mobile homes qualifying as H.U.D. code manufactured dwellings.
- b. Community buildings specifically designed and operated to serve the development, including child day care centers, dry cleaning and laundry, neighborhood commercial uses, and indoor recreation facilities.
- c. Mobile home sales and management offices, when located in the interior of the park and limited to three percent (3%) of the total park area.
- d. Home occupations
- e. Public parks and playgrounds
- f. Accessory uses

#### 4. Development Conditions

##### a. General Requirements

- i. It shall be unlawful for any person to park, place, locate or permit the parking, placing or locating of any occupied mobile home within the County except in a mobile home park district, with the exception of a mobile home required by a farmer, which may be approved as a Special Exception in the A-1 and AC zoning districts, and with the added exception of those temporary mobile homes permitted under Section 6-101-5 of this Ordinance.
- ii. It shall be unlawful for any person to park, place or locate, or permit the parking, placing or locating of any unoccupied mobile home within the County except on a mobile home sales lot.
- iii. It shall be unlawful for a person to establish, construct, alter or enlarge a mobile home development on land located in the County unless such land is zoned R-5. Prior to construction or issuance of a permit, a final development plan shall be submitted to the Plan Commission for review and approval at a public hearing.

##### b. Site Conditions

- i. No mobile home shall be used for any purpose other than that of a one-family dwelling or office for the developer. Further, no commercial enterprise shall be carried on within the confines of the mobile home park other than specifically enumerated under the conditions of the development plan.
- ii. Minimum area of a mobile home park shall be fifteen (15) acres with the first phase not less than five (5) acres. The maximum density shall be five (5) mobile homes per acre.
- iii. Individual mobile home sites within a mobile home park shall not be sold or transferred; however, the entire park may be sold or transferred to a new owner.

##### c. Standards for Mobile Home Developments

- i. Landscaping
  - (A). The outer boundaries of a mobile home park shall contain a buffer zone. This buffer zone shall consist of a greenbelt strip, not less than thirty (30) feet in width, located along all development boundaries. Existing plant material may serve in whole or in part as the required buffer upon approval of



the final development plan.

- (B). Each mobile home lot shall include two (2) trees with a minimum trunk diameter of two (2) inches at a height of twelve (12) inches above the ground at planting.

ii. Mobile Home Spaces

- (A). Mobile home parks shall be divided into lots with permanent markers indicating the corners of each lot.
- (B). Setback lines, yard requirements and lot coverage.
  - (1). All mobile homes shall be set back at least fifty (50) feet from any public right-of-way outside the development and at least twenty (20) feet from any private drive or public street within the development.
  - (2). No mobile home or structure shall be located closer than forty (40) feet to the boundaries of the development.

iii. Recreation

- (A). In all parks there shall be one or more recreation areas which shall be accessible to all residents. The size of such recreation areas shall not be less than ten (10) percent of the gross site area, and shall not include water bodies, detention or retention ponds, or slope lands having an average slope in excess of fifteen (15) percent.
- (B). Recreation facilities, such as playgrounds, swimming pools and community buildings, should be provided to the extent necessary to meet the anticipated needs of the residents of the park.
- (C). Recreation areas shall be centrally located and away from traffic hazards.

iii. Street and Drive Requirements

- (A). Entrances to a mobile home park shall abut a public street and shall be designed to allow free movement of traffic onto such public street. Entrance ways shall have radii adequate for safe and convenient ingress and egress.

- (B). All streets shall be constructed to County specifications.
  - (C). Names shall be assigned to all streets and drives appearing on the final plan and shall be approved by the Director. All mobile home stands shall be systematically identified as they appear on the final plans.
  - (D). Driveway Requirements
    - (1). Driveways shall be provided on the site where necessary for convenient access to service entrances of buildings.
    - (2). Driveways shall be a minimum of ten (10) feet wide.
    - (3). All driveways shall be hard surfaced.
- v. Parking Requirements
- (A). At least two (2) off-street parking spaces nine (9) feet by eighteen (18) feet each shall be provided on each mobile home lot.
  - (B). No parking shall be permitted on any street or drive.
  - (C). The developer shall provide a minimum of one (1) visitor parking space for every five (5) home lots. Visitor spaces may be located in one centrally located site or may be equally distributed throughout the development.
- vi. Mobile Home Stands
- (A). Each mobile home stand shall be either:
    - (1). A reinforced concrete pad of suitable thickness to support the home and appurtenances or the runners with rebar rods, but shall not be less than four (4) inches thick; or
    - (2). A foundation on suitable concrete footings at least thirty- six (36) inches below grade with suitable cross-bracing provided and all remaining open spaces filled with sand or gravel or other suitable material.

(B). Adequate drainage grading away from the mobile home shall be provided.

vii. Permanent Structures

(A). Buildings shall comply with applicable zoning and building regulations and be approved by the Plan Commission.

(B). A separate area shall be provided, which shall be fenced, screened or otherwise enclosed, for the storage of residents' camping trailers, boats, snowmobiles and other similar items. These items shall not be stored in any other area of the mobile home park.

viii. Dependent Mobile Homes and Occupied Travel Trailers Prohibited

A mobile home without bath and kitchen facilities is prohibited in all mobile home parks.

ix. Pedestrian Ways

(A). A common concrete walk system shall be provided and maintained on both sides of all streets within the park. Such common walk shall have a minimum width of four (4) feet.

(B). All mobile homes shall be connected to common walks or parking areas by concrete or paved individual walks with a minimum width of three (3) feet.

(C). All walkways shall conform the Americans with Disabilities Act (ADA) standards.

ix. Mobile Home Installation

(A). The mobile home shall be anchored and tied down in compliance with industry standards, and in a manner sufficient to resist flotation, collapse, or lateral movement of the home.

(B). Mobile homes located in Flood Hazard Areas shall be anchored in accordance with industry standards or standards established by FEMA, whichever are more restrictive.

(C). All mobile homes shall have permanent skirting.

xi. Storage

Each lot shall have a minimum of fifty (50) square feet of storage area, whether it be in a central building or in an enclosed accessory structure on the lot.

xii. Utilities

All utilities shall be underground except control instrumentation and substations, which must be screened by planting or ornamental walls.

xiii. Lighting

Street lights shall be provided at all intersections and a minimum five- hundred (500) foot spacing as needed between intersections.

**5. Procedure for Zoning and Development Approval**

a. Preliminary Filing

Any developer proposing a mobile home park in the County shall submit to the Department of Planning and Zoning a legal description of the property and a preliminary development plan of the proposed development. The preliminary filing is to permit staff the opportunity to review and comment on the proposed plans prior to filing.

b. A final development plan shall be filed with the rezoning application.

c. Final Development Plan

Twelve (12) copies shall be submitted and shall include the following items:

- i. Name and address of applicant, name and address of owner of property, name and address of person preparing the plan.
- ii. Location map and legal description of development.
- iii. Development plan of proposed area containing the following information:

(A). Proposed name of development;

- (B). Date, scale and north arrow;
- (C). Contour information at vertical intervals of not less than two (2) feet, with reference to U.S. Geodetic Survey (USGS) datum;
- (D). Indication of gross land area of the development and a computation of the density of the development;
- (E). Drawing indicating how surface water drainage will be handled;
- (F). Drawing indicating location of available sanitary sewers, how sewage will be treated and how domestic water will be supplied; and how the park will be served.
- (G). Location of all proposed fire hydrants;
- (H). Statement of restrictions contemplated, if any, such as:
  - (1). Placement of oil tanks, storage sheds, fences and patios;
  - (2). Skirting;
  - (3). Pets;
  - (4). Parking;
  - (5). Boats and outside storage.
- (I). Elevation of water table, percolation data and description of soil type;
- (J). Layout and width of all streets;
- (K). Service building and maintenance building;
- (L). Playgrounds;
- (M). Mobile home space and mobile home stands;
- (N). Parking spaces, driveways and sidewalks;
- (O). Boundaries, fencing and screen planting, including types of

plant materials;

(P). Street lighting;

(Q). Landscaping;

(R). Typical lot detail;

(S). Tentative letter from the State Department of Health and the Indiana Department of Environmental Management as to sanitary sewer and water distribution system;

(T). Statement of review and tentative approval by the County Highway Engineer of all access onto public streets; and

(U). Any other information deemed necessary by the Plan Commission.

d. Submission to Plan Commission and Board of County Commissioners

i. The development plan shall be reviewed and approved by the Plan Commission and the Board of County Commissioners as part of the zoning application in accordance with Section 6-101-2 of this Ordinance. As a condition of approval either the Plan Commission or the Board of County Commissioners may require modifications to the development plan to ensure compliance with the standards of this Ordinance and to promote the purpose of this district.

ii. Following rezoning by the Board of County Commissioners, construction of the mobile home park shall be in accordance with the approved development plan.

e. Amendments to Approved Development Plan

i. The Director or his/her designate may review and approve proposed minor amendments provided that the changes:

(A). Maintain the purpose and intent of the approved plan; and

(B). Do not result in the addition, deletion, or relocation of approved curb cuts onto public streets or cross access drives onto adjoining properties; increase the density or size of the mobile home park; reduce or alter the perimeter treatment of the site; add to the approved uses of the park; reduce approved setbacks for buildings, homes, structures, and other site elements; or

create a significant impact on surrounding properties.

- ii. All other amendments shall be deemed major and must be reviewed and approved by the Plan Commission following a public hearing.

## K. B-1, NEIGHBORHOOD BUSINESS DISTRICT

### 1. Purpose

The purpose of the B-1, Neighborhood Business District is to provide a mix of small commercial, office, and public uses designed to serve the convenience purposes of a neighborhood market. The scale of development within the B-1, Neighborhood Business District shall be compatible with surrounding residential development that the neighborhood business district is designed to serve.

### 2. Lot and Yard Requirements

Use	All permitted uses and special exceptions in B-1 Neighborhood Business District, excluding One-, Two-, and Multi-family dwellings	Multi-family dwellings	One- and Two-family dwellings
Minimum Lot Size	11,000 square feet*	87,120 sq. ft.	13,000 sq. ft.*
Maximum Lot Coverage	60 percent	60 percent	35 percent
Minimum Road Frontage	75 feet	100 feet	50 feet
Minimum Lot Width	75 feet	100 feet	50 feet
Minimum Front Yard Setback	See Table, Page 54	See Table, Page 54	See Table, Page 54
Min. Side Yard Setback	20 feet	30 feet	10 feet
Min. Rear Yard Setback	20 feet	30 feet	20 feet, or five feet per Section 6-101-5.C.
Max. Building Height	50 feet	50 feet	35 feet
Minimum Ground Floor Area for Principal Use	750 square feet	750 square feet	900 square feet

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.



### **3. Permitted Uses**

The following uses are permitted within the B-1, Neighborhood Business District:

- a. Retail sales establishments not exceeding 50,000 square feet in gross floor area.
- b. Bakeries
- c. Barber and beauty shops
- d. Delicatessens
- e. Florists
- f. Laundromats
- g. Medical and dental offices and clinics
- h. Restaurants
- i. Taverns
- j. Theaters
- k. Dry cleaners
- l. Offices, banks, financial institutions, and insurance agencies
- m. Personal and professional services
- n. Federal, State, County, or municipal buildings
- o. Public parks and playgrounds
- p. Contractor's office, excluding contractor's yard
- q. Essential services
- r. Museums
- s. Accessory uses
- t. Home occupations
- u. Public swimming pools
- v. Funeral homes
- w. Assisted living centers
- x. Nursing homes
- y. Public and parochial schools

### **4. Special Exception**

The following special exceptions shall be permitted within the B-1, Neighborhood Business District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. One-family dwellings
- b. Two-family dwellings
- c. Multi-family dwellings
- d. Auto sales, service, and repair
- e. Commercial recreation facilities
- f. Public or private utility structures

- g. Religious institutions
- h. Private clubs
- i. Drive-in businesses
- j. Public parking lots
- k. Cellular communications facilities
- l. Child care centers

**L. B-2, COMMUNITY BUSINESS DISTRICT**

**1. Purpose**

The purpose of the B-2, Community Business District is to provide a mix of commercial, office, public, and small-scale industrial uses which meet the needs of a countywide market.

**2. Lot and Yard Requirements**

The following lot and yard requirements shall apply within the B-2, Community Business District:

Use	Multi-family dwellings	All permitted uses and special exceptions identified in B-2, Community Business District, except multi-family dwellings
Minimum Lot Size	87,120 square feet	23,000 square feet*
Maximum Lot Coverage	60 percent	60 percent
Minimum Road Frontage	100 feet	120 feet
Minimum Lot Width	100 feet	120 feet
Minimum Front Yard Setback	See Table, Page 54	See Table, Page 54
Minimum Side Yard Setback	30 feet	30 feet
Minimum Rear Yard Setback	30 feet	30 feet
Maximum Building Height	50 feet	50 feet
Minimum Ground Floor Area for Principal Use	750 square feet	750 square feet

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

**3. Permitted Uses**

The following uses are permitted within the B-2, Community Business District:

- a. Retail sales establishments
- b. Bakeries
- c. Barber and beauty shops
- d. Delicatessens

- e. Florists
- f. Accessory uses
- g. Laundromats
- h. Medical and dental offices and clinics
- i. Restaurants
- j. Taverns
- k. Dry cleaners
- l. Offices, banks, financial institutions, and insurance agencies
- m. Personal and professional services
- n. Federal, State, County, or municipal buildings
- o. Public parks and playgrounds
- p. Contractor's office, excluding contractor's yard
- q. Essential services
- r. Museums
- s. Auto sales, service and repair
- t. Hotels and motels
- u. Private clubs
- v. Drive-in businesses
- w. Veterinary hospitals
- x. Kennels
- y. Theaters
- z. Hospitals
- aa. Farm implement sales, service, and repair
- bb. Home occupations
- cc. Public swimming pools
- dd. Funeral homes
- ee. Printing shops
- ff. Mini storage buildings
- gg. Assisted living centers
- hh. Nursing homes
- ii. Public and parochial schools

#### **4. Special Exceptions**

The following special exceptions shall be permitted within the B-2, Community Business District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance.

- a. Building supply store, including lumber sales
- b. Commercial recreation facilities
- c. Dairies
- d. Multi-family dwellings
- e. Wholesale businesses
- f. Commercial schools
- g. Religious institutions
- h. Public transportation terminals
- i. Mobile home sales

- j. Livestock auctions
- k. Adult entertainment businesses
- l. Public parking lots
- m. Public or private utility structures
- n. Truck stops
- o. Cellular communications facilities
- p. Recreational vehicle parks

**M. I-1, LIGHT INDUSTRIAL DISTRICT**

**1. Purpose**

The purpose of the I-1, Light Industrial District is to accommodate limited manufacturing uses having a minimal impact on surrounding areas. The intent is to allow manufacturing development by reason of location and the availability of adequate transportation and infrastructure systems, while protecting the surrounding uses from negative external effects.

**2. Lot and Yard Requirements**

The following lot and yard requirements shall apply within the I-1, Light Industrial District:

Use	All permitted uses and special exceptions identified in I-1, Light Industrial District.
Minimum Lot Size	23,000 square feet*
Maximum Lot Coverage	65 percent
Minimum Road Frontage	100 feet
Minimum Lot Width	100 feet
Minimum Front Yard Setback	See Table, Page 54
Minimum Side Yard Setback	50 feet
Minimum Rear Yard Setback	50 feet
Maximum Building Height	50 feet
Minimum Ground Floor Area for Principal Use	Not applicable

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

### **3. Permitted Uses**

The following uses are permitted within the I-1, Light Industrial District:

- a. Federal, State, County, or municipal buildings other than schools
- b. Contractor's office, including contractor's yard
- c. Essential services
- d. Research and testing labs
- e. Warehouses
- f. Public parking lots
- g. Offices, banks, financial institutions, and insurance agencies
- h. Auto sales, service, and repair
- i. Manufacturing (enclosed), with allowance for 10% retail floor area (gross)
- j. Assembly, warehousing, and distribution of previously prepared material
- k. Accessory uses
- l. Wholesale businesses
- m. Service business providing support services to manufacturing activities
- n. Automobile and truck repair shops, including painting, upholstering, reconditioning, and body repair when performed entirely within a building
- o. Machine, tool, and die shops, excluding presses and similar equipment
- p. Equipment rental facilities
- q. Building supply store, including lumbar sales
- r. Agriculture, except confined feeding lots
- s. Home occupations
- t. Truck stops

### **4. Special Exceptions**

The following special exceptions shall be permitted within the I-1, Light Industrial District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G of this Ordinance:

- a. Communication, television, and radio towers
- b. Airports and heliport landing fields
- c. Truck, tractor, trailer or bus storage, parking lot, yard, or garage
- d. Stadiums, auditoriums, and arenas
- e. Public or private utility structures
- f. Cellular communications facilities
- g. Public transportation terminals
- h. Adult entertainment businesses
- i. Restaurants
- j. Hotels and motels

- k. Motor freight terminals
- l. Supply yards
- m. Public and parochial schools



## N. I-2, HEAVY INDUSTRIAL DISTRICT

### 1. Purpose

The purpose of I-2, Heavy Industrial District is to accommodate a broad range of industrial activities, diverse in products, operational techniques, and size, which have a greater impact on the surrounding environment than the I-1, Light Industrial District. The uses permitted in this district generally include those manufacturing and industrial activities which cannot be operated economically without creating some conditions which may be objectionable to the occupants of adjoining properties and which, for that reason, must be grouped in areas where similar industrial uses are now located or where the permitted uses will be best located in accordance with the Johnson County Comprehensive Plan.

### 2. Lot and Yard Requirements

The following lot and yard requirements shall apply within the I-2, Heavy Industrial District:

Use	All permitted uses and special exceptions identified in I-2, Heavy Industrial District.
Minimum Lot Size	40,000 square feet
Maximum Lot Coverage	65 percent
Minimum Road Frontage	100 feet
Minimum Lot Width	100 feet
Minimum Front Yard Setback	See Table, Page 54
Minimum Side Yard Setback	50 feet
Minimum Rear Yard Setback	50 feet
Maximum Building Height	50 feet
Minimum Ground Floor Area for Principal Use	Not applicable

\* Minimum lot area shall be 87,120 square feet (two acres) if the lot is not served by a community sanitary sewer system approved by the State Board of Health.

### 3. Permitted Uses

The following uses are permitted within the I-2, Heavy Industrial District:

- a. Federal, State, County, or municipal buildings other than schools

- b. Contractor's office
- c. Contractor's yard
- d. Auto sales, service, and repair
- e. Essential services
- f. Public transportation terminals
- g. Research and testing labs
- h. Warehouses
- i. Public parking lots
- j. Assembly, warehousing, and distribution of previously prepared material
- k. Accessory uses
- l. Wholesale businesses
- m. Service businesses providing support services to manufacturing activities
- n. Automobile and truck repair shops, including painting, upholstering, reconditioning, and body repair when performed entirely within a building
- o. Machine, tool, and die shops
- p. Outdoor storage facilities
- q. Equipment rental facilities
- r. Building supply store, including lumber sales
- s. Livestock auctions
- t. Motor freight terminals
- u. Agriculture, including confined feeding lots
- v. Manufacturing
- w. Grain elevators
- x. Supply yards
- y. Truck and railroad terminals
- z. Processing plants
- aa. Home occupations
- bb. Truck stops

#### **4. Special Exceptions**

The following special exceptions shall be permitted within the I-2, Heavy Industrial District only as specifically authorized by the Board of Zoning Appeals in accordance with the regulations of Section 6-101-2.G (Administration and Enforcement, Special Exceptions) of this Ordinance:

- a. Communication, television, and radio towers
- b. Truck, tractor, trailer or bus storage, parking lot, yard, or garage
- c. Stadiums, auditoriums, arenas
- d. Stockyards and slaughter houses
- e. Public or private utility structures
- f. Airports and heliport landing fields
- g. Mineral excavation, including gravel pits
- h. Junk yards
- i. Bulk fuel storage
- j. Concrete mixing

- k. Manufacture and processing of explosive material
- l. Cellular communications facilities
- m. Adult entertainment businesses
- n. Restaurants
- o. Hotels and motels
- p. Kennels
- q. Public and parochial schools

## O. CO, CORRIDOR OVERLAY DISTRICT

### 1. Purpose, Intent and Authority

#### a. Statement of Purpose

It is the purpose of this district to establish standards for the design of sites, buildings, structures, plantings, signs, street hardware and such other improvements that are visible to the public and affect the physical development of land within the State Route 37, State Route 135 (within White River Township), and Interstate 65 corridors. The standards in this district shall not apply to agricultural operations, as defined in this Ordinance, or to the sale of produce from land on which the agricultural operation takes place. The following standards shall be considered in evaluating projects proposed within a Corridor Overlay District:

- i. All structures will be evaluated on the overall appearance of the project and shall be based on the quality of its design and its relationship to the surrounding area.
- ii. The quality of design goes beyond the materials of construction to include scale, mass, color, proportion, and compatibility with adjoining developments.
- iii. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
- iv. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

#### b. Statement of Intent

These standards are intended to promote high quality creative development that will combine imagination, innovation and variety in the appearance of buildings and sites in the overlay district. These standards are further intended to preserve and enhance property values and to promote the public health, safety and welfare by providing for consistent and coordinated treatment of the property encompassed by the established corridors. The impact of new development upon these corridors creates a setting that commands the highest standards of development which encourages efficient use of land, promotes coordinated development, permits innovative site designs, establishes development standards and

preserves the integrity of the roadways within the corridors.

c. Authority

Authority underlying creation of the Corridor Overlay Districts is provided in IC 36-7-4-201 et. seq. and IC 36-7-4-601 et. seq.

d. Statement of Significance

- i. State Route 37 is a limited access highway crossing Johnson County on a north/south axis on the west side of the county near White River.  
The highway is paralleled through most of the County by the Old State Route 37 and is intersected at seven locations by major county roads. The corridor lies in the path of the outward growth of the Indianapolis metropolitan area and is expected to experience increased pressure for commercial development in the future. Future development of this highly visible corridor will dramatically change the image of Johnson County.
- ii. State Route 135 is a high volume highway traversing Johnson County through White River, Union, and Hensley Townships that links Indianapolis to southern Indiana. The highway serves as both a commuter route for persons working in Marion County and as a "Main Street" that provides local service and community facilities to the residents. The northern portion of the corridor has experienced substantial commercial development and this development pressure is expected to occur further south. Further development along State Route 135 will continue to change the rural character of this corridor into a more intense urban environment.
- iii. Interstate 65 is a high-volume, four-lane, limited-access highway traversing eastern Johnson County through Blue River, Clark, Franklin, Needham, and Pleasant Townships. Interstate 65 is a principal regional transportation corridor linking Indianapolis with major metropolitan areas including Chicago, Illinois and Louisville, Kentucky. Development along the corridor is expected to be at first centered on one of the three interchanges currently located in the County, and later along the corridor in general.

**2. Boundaries**

a. State Routes 37 and 135

The boundaries of the State Route 37 and State Route 135 Corridor Overlay Districts are hereby established and the Director is hereby authorized to show said boundaries on the Official Zoning Map of the County of Johnson. The boundaries of these Corridor Overlay Districts are located five hundred (500) feet from and on either side of the centerline of said routes in White River Township only.

b. Interstate 65

The boundaries of the Interstate 65 Corridor Overlay District are hereby established and the Director is hereby authorized to show said boundaries on the Official Zoning Map of the County of Johnson. The boundaries of the Interstate 65 Corridor Overlay District are located six-hundred (600) feet from and on either side of the centerlines of the outermost traveled lanes of the Interstate.

**3. Plan Commission Approval**

Approval by the Plan Commission, or its duly appointed or designated representative, shall be required for any proposed or revised development plan, structure or structural alteration in a Corridor Overlay District. Plan Commission approval of the architectural design, landscaping, drainage, sewerage, parking, signage, lighting and access to the property shall be necessary prior to: (1) the establishment of any use of the land; (2) the issuance of any improvement location permit; (3) the erection, construction or structural alteration of any building(s); or (4) modification or revision of any site development plan. The Plan Commission, in reviewing applications, shall examine factors concerning the site, site plan, and the surrounding area, which include but are not limited to the following items:

- a. Topography;
- b. Zoning on site;
- c. Surrounding zoning and existing land use;
- d. Streets, curbs, gutters, and sidewalks;
- e. Access to public streets;
- f. Driveway and curb cut locations in relation to other sites;
- g. General vehicular and pedestrian traffic;
- h. Internal site circulation;

- i. Special and general easements for public or private use;
- j. On-site and off-site surface and subsurface storm and water drainage;
- k. On-site and off-site utilities;
- l. The means and impact of sanitary sewage disposal and water supply technique;
- m. Dedication of streets and rights-of-way;
- n. Protective restrictions or covenants and/or recorded commitments;
- o. Provisions for adequate and acceptable setbacks, lighting, signage, screening, landscaping, and compatibility with existing platted residential uses; and
- p. Effects the proposed project may have on the entire Corridor Overlay District.

#### **4. Building Design Standards**

- a. Architectural Design Requirements
  - i. Exterior metal walls shall be prohibited on all buildings erected, constructed, altered, repaired or used which abut or are adjacent to Corridor Streets.
  - ii. Building facades may be constructed from masonry or glass, as defined below, or other materials or products which provide the same desired stability and quality, such as composite stone, plaster, or "Dryvit." Products other than those listed must be approved by the Plan Commission or its duly appointed or designated representative.
    - (A). Masonry Construction: Includes all masonry construction which is composed of solid, cavity, faced, or veneered-wall construction, unless otherwise approved by the Plan Commission or its duly appointed or designated representative.
      - (1). Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard or durable all-weather stone. Ashlar, cut

stone, and dimensioned stone construction techniques are acceptable.

- (2). Brick material used for masonry construction shall be composed of hard fired (Kiln-fired) all-weather standard size brick or other all-weather facing brick.
- (3). Concrete finish or precast concrete panel (tilt wall) construction shall be exposed aggregate, bush-hammered, sand blasted, or other concrete finish as approved by the Plan Commission or its duly appointed or designated representative.

(B). Glass Walls: Includes glass curtain walls or glass block construction. A glass curtain wall shall be defined as an exterior wall which carries no floor or roof loads, and which may consist of a combination of metal, glass and other surfacing materials supported in a metal framework.

- iii. The materials and finishes of exposed roofs shall compliment those used for the exterior walls. Standing-seam metal roofs shall be permitted. An exposed roof shall be defined as that portion of a roof visible from ground level of the corridor or any adjacent public thoroughfare or residentially zoned or used area.
- iv. Roof mounted equipment on exposed roofs shall be screened from view. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.
- v. All building mechanical and electrical equipment located adjacent to the building and visible from a public thoroughfare or a residentially zoned or used area shall be screened from view. Such screens and enclosures shall be treated as an integral element of the building's appearance.
- vi. The exposed walls and roofs of buildings shall be maintained in a clean, orderly, and attractive condition, free of cracks, dents, punctures, breakage, and other forms of visible marring. Materials that become excessively faded, chalked or otherwise deteriorated shall be refinished, repainted or replaced.
- vii. Loading berths and exterior work areas shall be screened from view from public ways. Screening shall be accomplished by use of walls, fencing, planting, or combinations of these, and shall be equally effective in winter and summer.



b. Relationship of Buildings to Site

- i. The site shall be planned to accomplish a desirable transition with the streetscape and provide for adequate planting, safe pedestrian movement, and parking area.
- ii. Site planning in which setbacks and yards are in excess of zoning requirements is encouraged to provide an interesting relationship between buildings.
- iii. Parking areas shall be treated with decorative elements, building wall extensions, plantings, beams, or other innovative means so as to attractively landscape and/or screen parking areas from view from public ways.
- iv. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
- v. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

c. Building Orientation

All structures shall be sited to front onto Corridor Streets (as defined herein) or give the appearance of a front-like facade on Corridor Streets.

d. Minimum Building Height

All principal structures within the Corridor Overlay District shall have a minimum building height of fourteen (14) feet for structures with a flat roof. However, for structures with a gable, hip, gambrel or other type of pitched roof, the minimum building height shall be twelve (12) feet to the lowest eaves of the structure.

**5. Signage Standards**

- a. Signage shall be designed to be an integral part of the architectural and landscaping plans. The colors, materials, and style of signage shall be architecturally compatible and accentuate the buildings and landscaping on the site. The colors, materials, and lighting of every sign shall be restrained.
- b. All signs, except private traffic directional signs, are prohibited in

the required greenbelt areas.

- c. Private traffic directional signs and pavement markings for the direction and control of traffic into, out of, and within the site shall conform to the Manual on Uniform Traffic Control Devices, as published by the Indiana Department of Highways.
- d. The integration of project signage to identify multiple businesses is encouraged.
- e. Within the I-65 Corridor Overlay District, signs may be erected, on B-1, B-2, I-1, and I-2 lots, which meet the definition of "High-Rise Signs," as defined in this ordinance. A minimum of one thousand (1000) feet of separation shall be maintained between high-rise signs, and such signs shall maintain said distance from a residential district, residential use, or local, State, or Federally-created historic district. Minimum setback shall be twenty (20) feet from any property line.
- f. Off-premises signs shall be prohibited in all Corridor Overlay Districts, with the exception of the I-65 Corridor Overlay District (See Section 6-101-9.K).
- g. All on-premises signage shall conform to the standards and requirements of the underlying zoning district.
- h. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
- i. Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.
- j. Identification signs of standardized design such as corporate logos shall conform to the same requirements imposed on all other signs.

## **6. Landscaping Plan**

- a. A landscaping plan shall be submitted to the Director for approval at the same time other plans (i.e. architectural design, lighting, parking, signage, and site plans) are submitted. This plan shall be drawn to scale, including dimensions and distance, shall delineate all existing and proposed structures, private parking areas, walks, handicap ramps, terraces, driveways, signs, lighting standards, steps and other similar structures; and shall delineate the location, size, and description of all landscape materials. Landscape treatment for plazas, roads, paths, and service and private parking areas shall be designed as an integral and coordinated part of the

landscape plan for the entire lot.

b. Areas to be Landscaped

i. Greenbelt

The greenbelt shall be suitably landscaped and shall be otherwise unoccupied except for steps, walks, terraces, driveways, lighting standards, and other similar structures, but excluding private parking areas. The greenbelt width is as defined by this Ordinance. Mounding and other innovative treatments are to be especially encouraged in this area.

ii. Parking Lot Perimeter

A minimum six (6) foot wide landscaping strip shall be provided around the perimeter of the parking lot. The landscaping strip shall be planted with canopy trees, ornamental trees, and low shrubs. A minimum of one (1) canopy tree or ornamental tree per every forty (40) feet of perimeter shall be provided within the landscaping strip, along with a minimum of one (1) shrub per every four (4) feet.

iii. Parking Lot Interior

All parking lot landscaping shall be of a quality to improve and enhance the site and its surrounding area. Effective use of mounding and existing topography is encouraged. Landscaping and planting areas shall be reasonably dispersed throughout the parking area, and not less than five (5) percent of a private parking lot shall be landscaped. (For purposes of this computation, landscaping in the Greenbelt, adjacent to buildings, and on the periphery of the lot shall not be included.) Landscaping shall be specifically provided at the ends of parking rows and as a means of separating parking from major circulation aisles within lots. One (1) shade tree shall be provided for every one hundred twenty (120) square feet of this interior parking lot landscaping area. Plant material within parking lots shall provide for safe visibility and maintain clear site lines between two (2) and eight (8) feet from the top of the curb. Such landscaping shall be provided in any combination of planting islands, planting peninsulas, and entrance ways, and shall be dispersed so as to define aisles and limit unbroken rows of parking to one hundred fifty (150) lineal feet.

c. Landscaping Standards

- i. The interior dimensions, specifications and design of any planting area or planting medium proposed to be constructed shall be sufficient to protect the landscaping materials planted therein and to provide for proper growth.
- ii. Primary landscaping materials used in the Greenbelt shall consist of one or a combination of the following: shade trees, ornamental trees, and shrubs.
- iii. The primary landscaping materials used in and around private parking areas shall be trees which provide shade at maturity. Shrubbery, hedges, and other planting material may be used to compliment tree landscaping, but shall not be the sole contribution to the landscaping.
- iv. All shade trees proposed to be used in accordance with any landscaping plan shall be a minimum of eight (8) feet in overall height and have a minimum trunk diameter of two and a half (2½) inches at a height twelve (12) inches above ground at planting. They should be of a variety which will attain an average mature spread greater than twenty (20) feet.
- v. Landscaping materials selected should be appropriate to local growing and climatic conditions. Wherever appropriate, existing trees should be conserved and integrated into the landscaping plan. Plant material shall be selected for interest in its structure, texture, color and for its ultimate growth. Indigenous and other hardy plants that are harmonious to the design, and of good appearance, shall be used.
- vi. The landscaping plan shall ensure that sight distance is not obstructed for drivers of motor vehicles.
- vii. Where natural or existing topography patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography shall be permitted where it contributes to good appearance.
- viii. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
- ix. In location where plants will be susceptible to injury by pedestrians or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices.

- x. Where building sites limit planting, the placement of trees in parkways or paved areas is encouraged.
  - xi. In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone, gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.
- d. Landscaping Installation and Maintenance
- i. The interior  
All landscaping required by the approved landscaping plan shall be installed prior to the issuance of a building occupancy permit if said permit is to be issued during a planting season, or within six (6) months of the date an occupancy permit is issued during a non-planting season.
  - ii. Maintenance  
  
It shall be the responsibility of the owners and their agencies to ensure proper maintenance of the landscaping, in accordance with the standards set by this Ordinance and as indicated on the landscaping plan which has been approved by the Director. This is to include, but not be limited to, replacing dead plantings with identical varieties or a suitable substitute, and keeping the area free of refuse and debris.
  - iii. Changes after Approval  
  
Any change or deviation to an approved landscaping plan shall require the approval of the Director. Changes that do not conform to this Section shall be subject to the procedures for a variance as established in Section 6-101-2.E of this Ordinance. Landscaping improvements made on a site that are not in conformance with the approved landscaping or site plan shall be considered a violation of this Section and subject to the fines and penalties established in this Ordinance. However, landscaping improvements may exceed the minimum requirements shown on the approved plan.
- e. Inspection
- The Director, or a duly appointed representative, shall have the authority to visit any lot within a Corridor Overlay District to inspect the landscaping.

## 7. Parking Requirements

Parking is to be discouraged between the required front setback and the building(s) when other suitable areas for parking exist on the property; however, a maximum of twenty (20) percent private parking may be permitted in the area between the front yard setback and the building(s). Efforts to break up large expanses of pavement are to be encouraged by the interspersing of appropriate planting areas wherever possible. The number of parking spaces required is as established in Section 6-101-7.D of this Ordinance, depending upon the zoning and the intended land use. Alternatives to the established parking requirements may be approved for developments which have a mixture of uses with peak parking requirements that do not coincide in time and thereby may share parking spaces. The applicant shall provide expertly prepared justification for seeking such exception (i.e., a reference such as "Shared Parking," Urban Land Institute). There shall be an appropriate number of parking spaces, accessible to the building(s), identified as being reserved for use by handicapped individuals, and these spaces shall be of sufficient width (minimum of twelve (12) feet) to accommodate their needs. All parking standards shall comply with Section 6-101- 7 of this Ordinance.

## 8. Lighting Requirements

In reviewing the lighting plan for a lot proposed to be developed in the Corridor Overlay District, factors to be considered by the Commission shall include but are not limited to:

- a. Lighting at the property line (to measure no more than one half (0.5) footcandle);
- b. Safety provided by the lighting;
- c. Security provided by the lighting;
- d. Possible light spillage or glare onto adjoining properties or streets. (Down- shielding is encouraged and spillage or glare onto adjoining properties is prohibited.);
- e. Attractiveness of the lighting standards and their compatibility with the overall treatment of the property;
- f. Height and placement of lighting standards considering the use;
- g. Exterior lighting, when used, shall enhance the building and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas.

## **9. Access to Individual Sites**

- a. The Corridor Streets, by their functional nature as primary thoroughfares, must have reasonable restrictions as to the number and location of access points within the Overlay District.
- b. State Road 37 and Interstate 65: Represents a total barrier to access except for county road intersections.
- c. State Route 135: Represents a major thoroughfare which must be controlled as to the number of access points (curb cuts) permitted.
- d. In order to provide safe and efficient traffic movement to and from adjacent lands and to protect the functional integrity of the corridor's primary thoroughfares, in many cases frontage roads, access roads, and distributors roads will have to be built. Such roads shall be coordinated with those of continuous lots and designed to preserve the aesthetic benefits provided by the greenbelt areas. Access at the side or rear of buildings is encouraged. New access points onto the primary thoroughfares in the corridor shall be coordinated with existing access points whenever possible.
- e. Curb cuts shall be established no closer than one (1) for each four hundred (400) feet of frontage. No curb cuts shall be allowed within two hundred (200) feet of any intersection of public roads. Opposing curb cuts shall align squarely or be offset no less than two hundred (200) feet.

## **10. State Road 135 - Access to Potential Development Sites**

Stub streets shall be built in all cases where adjacent lots have reasonable potential for development. Reasonable potential shall include any adjacent parcel of adequate size for commercial or residential development or any adjacent parcel so determined by the Plan Commission or its duly appointed or designated representative.

## **11. Other Standards**

- a. Outside Storage Prohibited

No outside, unenclosed storage of refuse (whether or not in containers) shall be permitted on any lot. All refuse shall be contained completely within the principal or accessory building(s).

- b. Loading Berth Requirements

Loading berth requirements shall be as specified in the underlying zoning district, except that any loading or unloading berth or bay shall be screened from view beyond the site by landscaping or other screening.

c. Accessory Buildings and Uses

All accessory buildings and uses which are permitted in the underlying zoning district shall be permitted within the Corridor Overlay District, except that any detached accessory building on any lot shall be designed to be architecturally compatible with the primary structure with which it is associated. All accessory buildings shall have a roof.

d. Paving Requirements

All parking areas shall be finished with a hard surface such as asphalt or concrete.



## **P. PUD, PLANNED UNIT DEVELOPMENT DISTRICT**

### **1. Intent and Purpose**

The basic intent of these PUD regulations is to replace the usual development approval process, involving rigid use and bulk specifications, with more flexible procedures involving a PUD plan submitted by a developer and approved by the County. These regulations recognize that, while the standard zoning functions (use and bulk) and the standard subdivision functions (platting and design) are appropriate for the regulation of land uses in areas or neighborhoods of the community that are already substantially developed, these controls represent a type of pre-regulation and regulatory rigidity which would frustrate the application of the PUD concept. Thus, where PUD techniques are permitted, the normal use and dimensional specifications contained elsewhere in this Ordinance and applicable to the respective zoning districts are replaced by an approval process in which the approved plan becomes the basis for continuing land use controls. Planned Unit Developments do not necessarily correspond in minimum lot size, type of dwelling unit, density, lot coverage, or required open space, to any other residential district requirements. The purpose of this Section is to improve and protect the public health, safety and welfare by pursuing the following objectives:

- a. To ensure that future development is in accordance with the Comprehensive Plan;
- b. To encourage innovations in land development and redevelopment;
- c. To foster the safe, efficient, and economic use of the land, transportation, public facilities, and services;
- d. To facilitate the provision of adequate public services such as transportation, water, sewer, storm drainage, electricity, and public parks;
- e. To avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;
- f. To encourage patterns of land use which decrease trip length of automobile travel and encourage trip consolidation;
- g. To minimize adverse environmental impacts of development;
- h. To improve the design, quality, and character of new development, and encourage the provision of open space within such developments;
- i. To foster a more rational pattern of relationship between

residential, commercial, and industrial uses;

- j. To protect existing neighborhoods from harmful encroachment by intrusive or disruptive development.

## **2. Applicability and Ownership**

The PUD zoning district shall be applicable to any proposed major subdivision with a gross area of one hundred (100) acres or more. Additionally, the PUD zoning district may be applicable to any area where the applicant can demonstrate that this proposal will meet the objectives of this Ordinance. Any proposed major subdivision where proposed development standards such as lot size, lot width, density, and setbacks do not meet the underlying zoning district requirements must follow the PUD process indicated herein. The entire tract of land involved in a PUD application must be under the control of the applicant, which may be a single person, entity, corporation, or a group of individuals, entities, or corporations. An application must be signed by the owner or owners of the land included in the tract. In the case of multiple ownership, the approved plan shall be binding on all owners.

## **3. Inclusion of Acreage Remainder**

If contiguous land owned by the applicant(s) of a proposed PUD is significantly less than the minimum amount of acreage required for a PUD, and said land would, in the Commission's opinion, be rendered undevelopable by approval of the proposed PUD, the Commission may require the contiguous land to be included in the proposed PUD.

## **4. Permitted Uses**

Residential uses may be of a variety of types in order to promote development of a balanced community. Commercial and other non-residential uses may be included in a PUD, subject to approval by the Commission. Such uses, their locations, and commercial area designs, shall be compatible with residential uses. Industrial uses are prohibited in a PUD where residential uses are proposed. The classification of industrial uses shall be as set forth in the I-1 and I-2 provisions of this Ordinance.

## **5. Land Use Intensity and Design Guidelines**

The following are general guidelines for development within a proposed Planned Unit Development; however, the recommendation of the Plan Commission and the decision by the Board of Commissioners are not constrained by these guidelines. The Plan Commission and the Board of Commissioners may recommend approval/approve a Planned Unit

Development that is inconsistent with these guidelines and may recommend denial/deny a Planned Unit Development that is consistent with these requirements.

a. Residential Densities

- i. Overall – The maximum residential density for the overall project should be no more than twenty-five percent (25%) greater than the density allowed in the former zoning district, computed by comparing the total number of dwelling units to the gross land area of the project.
- ii. Sections – The maximum residential density for any particular section should be no more than fifteen (15) units per acre, computed by comparing the number of dwelling units within a particular section to the gross land area of that particular section.

b. Land Use Ratios

- i. Commercial – Commercial uses may occupy up to a maximum of ten (10) percent of the gross land area.
- ii. Industrial – Industrial uses may not be permitted in a PUD where residential uses are proposed.
- iii. Residential – Area not devoted to commercial or open space area may be devoted to residential uses. Where a PUD borders an existing single-family use or a district zoned as A-1, AC, RR, R-1, or R-2, the two-family and multi-family portions of the PUD should be developed more toward the interior rather than the periphery of the tract so that single-family detached residences border the adjacent single-family use or A-1, AC, RR, R-1, or R-2 district.
- iv. Recreation and open space – There should be at least twenty percent (20%) of the gross land area in a PUD that provides for common open space. Street rights-of-way, parking areas, slopes exceeding 15%, floodways, and structures for habitation should not be included in the open space area calculations. No more than forty (40) percent of this open space should be covered by water. Open space features considered eligible for inclusion in the required twenty percent may include the following:
  - (A). Agricultural uses, including horticulture, wholesale nurseries, the raising of crops, and buildings related to the same; neighborhood open spaces such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact

passive recreational uses. Equestrian facilities may be permitted, but should not consume more than three-quarters of the minimum required greenway land.

- (B). Woodlots, arboreta, and other similar silviculture uses;
- (C). Woodland preserves or other similar conservation uses;
- (D). Public park or recreation areas owned and operated by a public or private nonprofit agency, not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills;
- (E). Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway land or five acres, whichever is less. Playing fields, playgrounds, and courts may not be located within one hundred fifty (150) feet of abutting properties. Parking facilities for the same may also be permitted, and may generally be gravel-surfaced, unlighted, and properly drained; provide safe ingress and egress; and contain no more than ten parking spaces.
- (F). Golf courses may constitute up to half of the minimum required greenway land, but shall not include driving ranges or miniature golf. Parking areas and any associated structures may not be included within the percentage of required minimum greenway. Parking and access ways may be paved and lighted.
- (G). Easements for drainage, access, sewer or water lines, or other public purposes. Street rights-of-way may traverse conservation areas but may not count toward the minimum required greenway land.
- (H). Detention or retention ponds

## **6. Development Standards**

Minimum lot size, setback, and lot width are not specifically regulated by this Section, although the Commission may be guided by standards set elsewhere in this Ordinance for comparable conditions and by common good practice. Maximum building height shall be as set forth in the underlying zoning

district.

## **7. Common Open Space**

Common property in a PUD is a parcel of land, together with any improvements thereon, the use and enjoyment of which are shared by owners and occupants. When common property exists, the ownership of such common property may be either public or private, and satisfactory arrangements shall be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and recreational and open space areas. The landowner or applicant shall provide for and establish an organization for the ownership and maintenance of any private common open space, and such organization shall not be dissolved nor shall it dispose of any common open space.

## **8. Utilities and Streets**

All utilities, including communication and electrical systems, shall be placed underground within the limits of a PUD. Appurtenances to these systems may be expected. The design and designation of all streets, public or private, shall be subject to the approval of the Commission. Minimum pavement construction and dimension standards shall be as set forth in the Subdivision Control Ordinance.

## **9. Covenants and Maintenance**

There shall be established covenants and other similar deed restrictions which provide for the control and maintenance of all common areas, recreation facilities, and open spaces. If any open space or recreation facility is to be used solely by the residents of the PUD, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.

## **10. Improvements**

The petitioner shall provide financial assurance for the satisfactory installation of all facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Control Ordinance.

## **11. Procedure**

The authorization of a PUD shall require approval of a Sketch Plan, Preliminary Master Plan, and Final Master Plan, as stipulated in this Section.

a. Neighborhood Meeting

Prior to application for Sketch Plan review by the Technical Review Committee, the applicant shall have conducted a neighborhood meeting to present the proposed PUD to those same nearby residents who will later be required to be informed of the necessary public hearings regarding the PUD. The notice shall take the form of first-class mail to surrounding property owners within six hundred (600) feet of the parcel, or two (2) property owners, whichever is greater. The applicant shall certify, by notary public, that notification of surrounding property owners has been accomplished as required. The applicant shall then present the notarized document, the list of property owners, and a copy of the mailed notice to the Department of Planning upon application for sketch plan review. The purpose of such a neighborhood meeting before filing is to allow the applicant to address significant remonstrator issues before completion of major engineering design work, thereby possibly shortening the length of review while protecting area residents.

b. Sketch Plan

Upon application by the owners of the area involved in a PUD petition, a sketch plan for the PUD shall be presented to the Department of Planning and Zoning for placement on the agenda of the Technical Review Committee. Five (5) copies of a sketch plan shall be submitted, drawn approximately to scale but not to the precision of a finished engineering drawing, showing the following:

- i. The existing topographical features of the site;
- ii. General map of the watershed in which the project is located;
- iii. General outlines of the interior roadway system and all existing rights- of-way and easements, whether public or private;
- iv. Delineation of the various residential and non-residential uses, indicating for each area its general extent, size, and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling unit type;
- v. Calculation of the residential density in dwelling units per gross acre, including interior roadways;
- vi. The interior open space system;
- vii. Extent and frequency of flooding on portions of the site subject

to flooding;

- viii. Principal ties to the community at large with respect to transportation, water supply, and sewage disposal;
- ix. General description of the availability of other community facilities such as schools, fire protection, and cultural facilities, if any, and how these facilities are affected by the proposal;
- x. General statement of how common open space is to be owned and maintained;
- xi. If the development is to be staged, a general indication of how the staging is to proceed;
- xii. Proposed deed covenants, in general terms, proposed to be made part of the PUD.

c. Preliminary Master Plan Approval and Rezoning Petition.

i. Procedure

After review of the sketch plan by the Technical Review Committee, the applicant may apply for Preliminary Master Plan approval and may simultaneously apply for rezoning of the tract to PUD. Both applications may be considered at the same required public hearing before the Plan Commission. Although Preliminary Master Plan and rezoning procedures may progress concurrently, the rezoning shall not take effect until after approval of the Final Master Plan, in order to allow the Final Master Plan to be made part of the rezoning ordinance.

ii. Application Filing

Application for Preliminary Master Plan approval shall be submitted to the Plan Commission. The proposed plan and any supporting documents shall be filed with the Commission office at least ten (10) days in advance of the public hearing at which the plan is to be reviewed.

iii. Public Notification

- (A). The applicant shall submit proof of publication from a newspaper of local, daily, general circulation verifying that public notice of said hearing has been given. Such notice shall

appear in said paper at least ten (10) days prior to the date of the public hearing, and shall specifically include reference to a commonly known street address, if available, for the subject property.

- (B). The applicant shall also be required to notify surrounding property owners, by certified mail, return receipt requested, within six hundred (600) feet of the parcel, or two (2) property owners, whichever is greater, at least ten (10) days prior to the date of the public hearing. The applicant shall then certify, by notary public, that notification of surrounding property owners has been accomplished as required.
- (C). The applicant shall also post, in a conspicuous place on the subject property, a notice provided by the Department of Planning explaining the action being sought.

iv. Submission Requirements

Twelve (12) copies of the Preliminary Master Plan shall be filed. The plan shall be prepared by a licensed engineer, surveyor, architect, or landscape architect, at a scale of not more than one hundred (100) feet to the inch. The plan and supporting documents shall show the following:

- (A). An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within six hundred (600) feet of the applicant's property;
- (B). A topographic map of the entire area showing contour intervals of not more than two (2) feet of elevation;
- (C). Name of project, name and address of applicant, and name, address and seal of professional preparer;
- (D). North point, scale, and date;
- (E). Existing and proposed watersheds, water courses and water bodies;
- (F). Areas of the site subject to flooding, including delineation of the 100-year flood boundary;



- (G). Street layout and design, including all existing rights-of-way and easements, whether public or private;
- (H). Proposed site development densities and uses for the overall tract and within each phase;
- (I). General description of the availability of community facilities such as schools, fire protection services, and cultural facilities, if any, and how these facilities are affected by the proposal;
- (J). The open space plan and planned sites for recreation areas, community centers, schools, and similar improvements, where applicable;
- (K). Location of all existing and proposed improvements, including drains, ditches, culverts, retaining walls, and fences; location and description of method of sewage disposal and water supply; location and size of all signs (street name, traffic control, and permanent community signs); location and design of street and parking lighting; and the amount of building area proposed for non-residential uses, if any;
- (L). A plan for phasing the construction of the project. It is the intent of this section that the tempo and sequence of development in a PUD be such that land uses that provide only moderate school revenues, yet require large municipal and school service costs are scheduled simultaneously with those that provide larger local revenues yet which are not as costly to service;
- (M). Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of development, the design of the building, and the number, size, and type of dwelling units;
- (N). A general landscaping plan for the site showing landscape intent, types of plant material to be provided, and intensity and scale of landscaping with site details, where appropriate, to fully explain the concept. The landscaping plan shall be provided at the same scale as the overall development plan;
- (O). The application shall certify that a professional consultant is being utilized in the planning procedures. Said consultant shall be involved in the application procedures.

v. Factors for Consideration

Plan Commission review of a Preliminary Master Plan shall include, but not be limited to, the following considerations:

- (A). Adequacy and arrangement of vehicular traffic areas and circulation, including intersections, road widths, channelization structures, signs, and traffic controls;
  - (B). Adequacy and arrangement of pedestrian traffic areas and circulation, separation of pedestrian from vehicular traffic, and pedestrian convenience;
  - (C). Location, arrangement, appearance, and sufficiency of off-street parking and loading;
  - (D). Location, placement, and size of buildings, lighting, and signs.
  - (E). Type and arrangement of landscape features;
  - (F). Adequacy, location, and size of storm sewer and sanitary waste disposal facilities;
  - (G). Adequacy of structures or roadways in areas with moderate to high susceptibility for flooding, ponding, or erosion;
  - (H). Possible adverse effects on property adjacent to the development.
  - (I). In its review, the Commission may consult with the County Highway Engineer, other departments or officials, or the Technical Review Committee, as well as with Federal and State agencies such as the Indiana State Board of Health and the Department of Natural Resources, among others.
- vi. Plan Commission Action on Preliminary Master Plan and Rezoning
- (A). Within one month of the close of the public hearing on the Preliminary Master Plan application and rezoning application, the Plan Commission shall forward a recommendation to the Board of Commissioners. The Plan Commission's action shall be in the form of a written statement to the applicant (a copy of the minutes of the meeting shall be sufficient) stating whether the Preliminary Master Plan and rezoning are recommended for approval. If no recommendation is made within said one

month period, the recommendation shall be considered favorable for approval of the petitions. The Commission's statement may include recommendations as to desirable revisions to be incorporated into the Final Master Plan, conformance with which shall be recommended to the Board of Commissioners as a condition of approval.

- (B). The applicant may be permitted or required to make a written commitment concerning the use or development of the parcel in order to receive approval of a PUD. These commitments shall be recorded in the office of the County Recorder and shall take effect upon approval of the Final Master Plan. A recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment may be modified or terminated only by a decision of the Commission made at a public hearing.
- (C). If the Preliminary Master Plan and rezoning ordinance are recommended for denial, the Commission's statement shall contain the reasons therefore. In such case, the Commission may advise further study of the application and resubmission to the Commission after revisions have been made.

vii. Board of Commissioners Action on Preliminary Master Plan and Rezoning

The Board of Commissioners shall review the proposed Preliminary Master Plan and rezoning application within thirty (30) days of the date of the Plan Commission recommendation. The Board may approve, approve with conditions, refer back to the Plan Commission, or deny the application. Rezoning approval shall take the form of an ordinance amendment to be signed by the Board of Commissioners after approval of the Final Master Plan. If the Board of Commissioners grants, by formal resolution, approval of the proposed Preliminary Master Plan, the Final Master Plan may then be submitted to the Plan Commission.

d. Final Master Plan Approval

i. Procedure

After receiving conditional approval from the Board of Commissioners on a Preliminary Master Plan, the applicant may prepare the detailed Final Master Plan for submission to the Plan Commission. The Final Master Plan shall conform substantially to the

Preliminary Master Plan given conditional approval, and should incorporate any conditions imposed by the Board of Commissioners during review of the Preliminary Master Plan. Said plan shall also contain a statement of the good faith intent of the applicant to carry out the proposed development in accordance with the Final Master Plan.

ii. Application Filing

Application for Final Master Plan approval shall be submitted to the Plan Commission. The proposed plan and any supporting documents shall be filed with the Commission office at least ten (10) days in advance of the public hearing at which the plan is to be reviewed.

iii. Public Notification

(A). The applicant shall submit proof of publication from a newspaper of local, daily, general circulation verifying that public notice of said hearing has been given. Such notice shall appear in said paper at least ten (10) days prior to the date of the public hearing, and shall specifically include reference to a commonly known street address, if available, for the subject property.

(B). The applicant shall also be required to notify surrounding property owners, by certified mail, return receipt requested, within six hundred (600) feet of the parcel, or two (2) property owners, whichever is greater, at least ten (10) days prior to the date of the public hearing. The applicant shall then certify, by notary public, that notification of surrounding property owners has been accomplished as required.

(C). The applicant shall also post, in a conspicuous place on the subject property, a notice provided by the Department of Planning explaining the action being sought.

iv. Submission Requirements

Twelve (12) copies of the Final Master Plan shall be filed. The plan shall be prepared by a licensed engineer, surveyor, architect, or landscape architect, at a scale of not more than one hundred (100) feet to the inch. The plan and supporting documents shall show all requirements of the Preliminary Master Plan submission, plus the following:

- (A). A street numbering designation for each building;
  - (B). Infrastructure improvements, including construction details, showing centerline elevations, pavement type, curbs, gutters, culverts, etc.;
  - (C). A detailed landscaping plan for the site, including a plant list containing common and botanical names, sizes at the time of installation and maturity, and quantities of plant materials;
  - (D). A sign and lighting plan, showing all permanent signs and sign easements, and site lighting and street fixtures;
  - (E). Common open space documents detailing proposed maintenance agreements;
  - (F). Guarantees for the completion of all required improvements and facilities;
  - (G). Restrictive covenants, if required or proposed;
  - (H). Any information required by the Board of Commissioners during Preliminary Master Plan approval.
- v. Plan Commission Action on Final Master Plan
- (A). Within one month of the close of the public hearing on the Final Master Plan application, the Plan Commission shall forward a recommendation to the Board of Commissioners. The Plan Commission's action shall be in the form of a written statement to the applicant (a copy of the minutes of the meeting shall be sufficient) stating whether or not the Final Master Plan is recommended for approval. If no recommendation is made within said one month period, the recommendation shall be considered favorable for approval of the petition. The Commission's statement may include desirable conditions to be incorporated into the Final Master Plan, conformance with which shall be recommended to the Board of Commissioners as conditions of approval.
  - (B). If the Final Master Plan is recommended for denial, the Commission's statement shall contain the reasons therefore. In

such case, the Commission may advise further study of the application and resubmission to the Commission after revisions have been made.

vi. Board of Commissioners Action on Final Master Plan

The Board of Commissioners shall review the proposed Final Master Plan within thirty (30) days of the date of the Plan Commission recommendation. The Board may approve, approve with conditions, refer back to the Plan Commission, or deny the application. Said Final Master Plan, when approved by the Board of Commissioners, shall become a part of the rezoning ordinance for the PUD. The Final Master Plan shall contain a statement of approval by the Board of Commissioners and shall bear the same signatures as required on the rezoning ordinance. The Final Master Plan shall be recorded with the Johnson County Recorder's Office.

e. Platting Procedures

After approval of the Final Master Plan and signing of the rezoning ordinance, the applicant may submit preliminary and final plats for individual phases of the PUD, to be reviewed by the County following the same procedures indicated in the Subdivision Ordinance for conventional subdivisions. Preliminary plats and final plats for individual phases shall be approved and signed by the Plan Commission. The Board of Commissioners does not participate in the review or approval of preliminary plats, final plats, or building permits. Preliminary plats for individual phases of the PUD shall conform to the approved Final Master Plan.

f. Regulations Specific to Final Plats for PUDs

Before any development takes place, a detailed Final Plat of all or the first phase of a development shall have been approved and the plat submitted for Plan Commission signatures. The Final Plat shall conform substantially to the Preliminary Plat receiving prior approval. It shall incorporate any conditions that may have been required during Preliminary Plat approval. An application for Final Plat shall be submitted to the Plan Commission within twelve (12) months after Preliminary Plat approval. In the event that a Final Plat application is not received within the twelve-month period or an extension of time granted by the Plan Commission, the action of the Board of Commissioners approving the Preliminary Master Plan shall be declared null and void. In the case of phased PUDs, Preliminary Plat application for each subsequent phase shall follow the preceding phase Final Plat approval by no more than twenty-four (24) months; otherwise a new application for Preliminary Master Plan approval for the unfinished phases will be

required. A plan submitted for Final Plat approval shall be deemed to be in substantial conformance with the Preliminary Plat provided that modification of the plat from Preliminary to Final does not:

- i. Vary the proposed gross residential density of use for the entire PUD. (If one phase of a modified PUD proposes an increased density or decreased density (to be no more than five (5) percent in any case), a subsequent phase or phases must show a like decrease or increase in order to keep overall density as approved);
- ii. Involve a reduction of the area set aside for common open space nor the relocation of such areas;
- iii. Increase by more than five (5) percent the floor area of the proposed non-residential uses;
- iv. Increase by more than five (5) percent the total ground area covered by buildings nor involve a change in the height of buildings.

g. Approval of Construction Plans

Following review of the Preliminary Plat and concurrent with submission of the Final Plat, the applicant shall file detailed construction plans and specifications thereof for approval. The applicant may request approval of the construction plans prior to submission of the Final Plat, rather than submitting them with the Final Plat; however, in no event shall Final Plat approval be given prior to approval of the construction plans. Inspection of improvements shall be under the direction of the Board of Commissioners. The applicant shall sign an "Agreement for Inspection and Testing Services", as prescribed in the Subdivision Control Ordinance.

h. Final Plat Review and Determination of Conformance

In order to be recorded, a Final Plat shall be found to be in substantial conformance with the plan granted Preliminary Plat approval. If the Final Plat deviates from the Preliminary Plat to a greater degree than that specified in Section 6-101-4.P.11.f, above, a new Preliminary Plat application and public hearing shall be required, as per Section 6-101-4.P.11.j, below, "Changes in the PUD."

i. Approval and Recording of the PUD

When a bond is required, the designated official shall sign the plat after the bond has been approved, and all conditions of the Preliminary Plat approval have been satisfied. The Board of Commissioners may require that

the performance bond be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing. When installation of improvements is required, the designated official shall sign the plat after all conditions of the Preliminary Plat approval have been satisfied and all improvements satisfactorily completed. The County shall provide written evidence that the required public facilities have been installed in a satisfactory manner.

j. Changes in the PUD

In the exercise of its continuing jurisdiction, the County may, from time to time, allow modification of the approved Final Plat in a manner consistent with the approved Preliminary Plat to provide for circumstances and conditions unforeseen at the time of original approval. If, during site development, it becomes apparent that certain elements of the plan, as it has been approved, are not feasible and are in need of significant modification exceeding that of Section 6-101-4.P.11.f, above, the applicant shall present the requested changes to the Plan Commission for recommendation to the Board of Commissioners. This paragraph does not apply to zoning designations. Notice by publication shall be sufficient notice for proceedings related solely to modification of final plats, unless a change in proposed land uses or development regulations such as setbacks is proposed, in which case the changes will require a new public hearing for re-approval of the Final Master Plan.

k. Rezoning Limitations

The Commission shall not initiate any amendments to the Zoning Ordinance concerning property involved in a PUD before completion of the development, as long as the development is in conformity with the approved Final Master Plan and is proceeding in accordance with the time requirements. Rezoning may, however, be initiated with consent of the property owner.

l. Abandonment

Upon abandonment of a development authorized under this Section (abandonment deemed to have occurred when no improvements have been made pursuant to the approved Final Master Plan for twenty-four (24) months, or upon expiration of the approval), the Commission shall initiate an amendment to the Zoning Ordinance so that the land will be rezoned to a category which most nearly approximates its then existing uses or such other zoning district which it deems appropriate.

m. Official Zoning Map Amended



Upon final passage of the PUD rezoning ordinance by the Board of Commissioners, the specific area rezoned shall be shown on the Official Zoning Map of the County as a PUD district. Reference shall be made on the map to the number, title, and date of passage of said rezoning ordinance. Upon final passage, the ordinance, as well as the approved PUD master plan and any other supporting documents designated by the Board of Commissioners, shall constitute the zoning regulations for the specific PUD. Any matters not specifically addressed by said ordinance shall be governed by the Zoning Ordinance and the Subdivision Control Ordinance.

**Q. STD, SPECIAL TERRAIN DISTRICT**

**1. Purpose**

The STD, Special Terrain District was created to promote and encourage the use of land which is non-farmable, such as lowlands, wooded areas, or extremely rough terrain.

**2. Application of Special Terrain District**

- a. Where a tract of land is deemed to be at least seventy-five percent (75%) non-farmable by the Technical Review Committee, based on inclusion of features such as lowlands, wooded areas, extremely rough terrain, or the like, the applicant may initiate this section by following the guidelines contained in Section 6-101-4.P (PUD Planned Unit Development).
- b. When using the PUD Section procedure, the words "Planned Unit Development" or the letters "PUD" shall mean "Special Terrain Development" or "STD."
- c. The Commission shall be given full and complete latitude in design standards, including, but not limited to, lot sizes and areas, street rights-of-way, pavement width, curbs, sewers, etc., and shall not be bound by other zoning or subdivision control standards which exist within the County. In addition to those open space features listed in PUD Section 6-101-4.P.5.b.iv of this Ordinance, floodways and slopes of greater than fifteen percent (15%) may be counted toward open space requirements.

**3. Permitted Uses**

This Section may be used for residential, commercial or industrial uses, however, no combination of these is permitted.

**4. Lot and Yard Requirements**

There is no maximum or minimum acreage requirement within the STD, Special Terrain District.

## **R. FLOOD CONTROL OVERLAY DISTRICT**

### **1. Statutory Authorization, Findings of Fact, Purpose, and Objectives**

#### **a. Statutory Authorization**

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

#### **b. Findings of Fact**

- i. The flood hazard areas of Johnson County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- ii. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

#### **c. Statement of Purpose**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

- iv. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
- v. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- vi. Make federal flood insurance available for structures and their contents in Johnson County by fulfilling the requirements of the National Flood Insurance Program.

**d. Objectives**

The objectives of this ordinance are:

- i. To protect human life and health.
- ii. To minimize expenditure of public money for costly flood control projects.
- iii. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- iv. To minimize prolonged business interruptions.
- v. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- vi. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

**2. Definitions**

The following definitions apply only to Section 6-102 (H) (2) and Section 6-101-4 (R). Unless specifically defined below, words or phrases used in Section 6-101-4 (R) shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

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

presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

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

**ADDITION (to an existing structure):** Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

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

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

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

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

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

**BUILDING:** see "Structure."

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

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

**CRITICAL FACILITY:** A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

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

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

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;

- (6) construction and/or reconstruction of bridges or culverts;
- (7) 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 structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

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

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

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

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

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

**FEMA:** Federal Emergency Management Agency.

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

**FLOOD HAZARD AREA:** Any floodplain, floodway, fringe or combination thereof which is subject to inundation by the regulatory flood.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

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

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

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

**FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

**FLOODPROOFING (DRY FLOODPROOFING):** A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

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

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

**FREEBOARD:** A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

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



**HARDSHIP:** The exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

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

**INCREASED COST OF COMPLIANCE (ICC):** The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

**LETTER OF FINAL DETERMINATION (LFD):** A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

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

**LETTER OF MAP REVISION (LOMR):** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

**LETTER OF MAP REVISION BASED ON FILL (LOMR-F):** An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

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

**LOWEST FLOOR:** The lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
  - b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
  - c) such enclosed space shall be usable solely for the parking of vehicles and building access.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

**MAP PANEL NUMBER:** The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.

**MARKET VALUE:** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value

can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**MITIGATION:** Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

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

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

**NEW CONSTRUCTION:** Any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

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

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

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88):** As adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**OBSTRUCTION:** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**ONE-PERCENT ANNUAL CHANCE FLOOD:** The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.

**PHYSICAL MAP REVISION (PMR):** An official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**POST-FIRM CONSTRUCTION:** Construction or substantial improvement that started on or after the effective date of the initial FIRM of Johnson County.

**PRE-FIRM CONSTRUCTION:** Construction or substantial improvement that started on or before the effective date of the initial FIRM of Johnson County.

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

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

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

**REGULATORY FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 6-101-4 (R) (3) (b) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**REPETITIVE LOSS:** Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

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

**SPECIAL FLOOD HAZARD AREA (SFHA):** Lands within the jurisdiction of the County (including extraterritorial jurisdictions or 'buffer zones') subject to inundation by the regulatory flood. The SFHAs of Johnson County are generally identified as such on the Johnson County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2007 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code.

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

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

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

**WATERCOURSE:** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

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

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

**ZONE A:** (see definition for A zone)

**ZONE B, C, AND X:** Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

### **3. General Provisions**

#### **a. Lands to Which This Ordinance Applies**

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

#### **b. Basis for Establishing Regulatory Flood Data**

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

- i. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Johnson County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Johnson County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated August 2, 2007 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- ii. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Johnson County, delineated as an "A Zone" on the Johnson County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2007 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana

Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

- iii. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- iv. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

**c. Establishment of an Improvement Location Permit**

An Improvement Location Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

**d. Compliance**

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

**e. Abrogation and Greater Restrictions**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**f. Discrepancy between Mapped Floodplain and Actual Ground Elevations**

- i. In cases where there is a discrepancy between the mapped floodplain

(SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

- ii. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- iii. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

**g. Interpretation**

In the interpretation and application of this ordinance all provisions shall be:

- i. Considered as minimum requirements.
- ii. Liberally construed in favor of the governing body.
- iii. Deemed neither to limit nor repeal any other powers granted under state statutes.

**h. Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Johnson County, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**i. Penalties for Violation**

Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of an Improvement Location Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Johnson County.

- i. A separate offense shall be deemed to occur for each day the violation continues to exist.
- ii. The Floodplain Administrator shall inform the owner that any such



violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

- iii. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

#### **4. Administration**

##### **a. Designation of Administrator**

The Board of Commissioners of Johnson County hereby appoints the Director to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

##### **b. Permit Procedures**

###### **i. Application Stage**

- (A). A description of the proposed development.
- (B). Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- (C). A legal description of the property site.
- (D). A site development plan showing existing and proposed development locations and existing and proposed land grades.
- (E). Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- (F). Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- (G). Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 6-101-4 (R) (4) (c) (vi) for additional information.)

ii. Construction Stage

Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

iii. Finished Construction.

Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

**c. Duties and Responsibilities of the Floodplain Administrator**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- i. Review all Improvement Location permits to assure that the permit requirements of this ordinance have been satisfied.
- ii. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- iii. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 6-101-4 (R) (5) (e) & (g) (i) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- iv. Ensure that all necessary federal or state permits have been received prior to issuance of the Improvement Location permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- v. Maintain and track permit records involving additions and improvements to residences located in the floodway.
- vi. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- vii. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- viii. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- ix. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- x. Review certified plans and specifications for compliance.

- xi. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 6-101-4 (R) (4) (b).
- xii. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 6-101-4 (R) (4) (b).
- xiii. Stop Work Orders
  - (A). Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
  - (B). Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- xiv. Revocation of Permits
  - (A). The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - (B). The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

## **5. Provisions for Flood Hazard Reduction**

### **a. General Standards**

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

- i. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- ii. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not

limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

- iii. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- iv. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- v. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- vi. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- vii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- viii. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- ix. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

**b. Specific Standards**

In all SFHAs, the following provisions are required:

- i. In addition to the requirements of Section 6-101-4 (R) (5) (a), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - (A). Construction or placement of any structure having a floor area greater than 400 square feet.
  - (B). Addition or improvement made to any existing structure

where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

- (C). Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
  - (D). Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  - (E). Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
  - (F). Reconstruction or repairs made to a repetitive loss structure.
  - (G). Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- ii. **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 6-101-4 (R) (5) (b) (iv).
- iii. **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 6-101-4 (R) (5) (b) (iv). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- (A). A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 6-101-4 (R) (4) (c) (xii).
  - (B). Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- iv. **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

Designs must meet the following minimum criteria:

- (A). Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
- (B). The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- (C). Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (D). Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- (E). The interior portion of such enclosed area shall not be

partitioned or finished into separate rooms.

- (F). The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

v. **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- (A). The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
- (B). The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
- (C). The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
- (D). The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- (E). The top of the lowest floor including basements shall be at or above the FPG.

vi. **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

- (A). These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
  - (1) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an



adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (2) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 6-101-4 (R) (5) (b) (iv).
  - (3) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- (B). These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
- (1) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - (2) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 6-101-4 (R) (5) (b) (iv).
  - (3) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- (C). Recreational vehicles placed on a site shall either:
- (1) be on site for less than 180 days;

- (2) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
    - (3) meet the requirements for “manufactured homes” as stated earlier in this section.
  - vii. **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
    - (A). Shall not be used for human habitation.
    - (B). Shall be constructed of flood resistant materials.
    - (C). Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
    - (D). Shall be firmly anchored to prevent flotation.
    - (E). Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
    - (F). Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 6-101-4 (R) (5) (b) (iv).
  - viii. **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

**c. Standards for Subdivision Proposals**

- i. All subdivision proposals shall be consistent with the need to minimize flood damage.
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

- iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- v. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- vi. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

**d. Critical Facility**

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

**e. Standards for Identified Floodways**

Located within SFHAs, established in Section 6-101-4 (R) (3) (b), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 6-101-4 (R) (5) of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

**f. Standards for Identified Fringe**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 6-101-4 (R) (5) of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

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

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

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a

permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 6-101-4 (R) (5) of this ordinance have been met.

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

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 6-101-4 (R) (5) of this ordinance have been met.

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

#### **h. Standards for Flood Prone Areas**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 6-101-4 (R) (5).

### **6. Variance Procedures**

#### **a. Designation of Variance and Appeals Board.**

The Board of Zoning Appeals as established by the Board of Commissioners of Johnson County shall hear and decide appeals and requests for variances from requirements of Section 6-101-4 (R).

**b. Duties of Variance and Appeals Board.**

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision in accordance with Section 36-7-4-1003 of Indiana Statute and Section 6-101-2 (F) of this Ordinance.

**c. Variance Procedures**

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

- i. The danger of life and property due to flooding or erosion damage.
- ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- iii. The importance of the services provided by the proposed facility to the community.
- iv. The necessity of the facility to a waterfront location, where applicable.
- v. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- vi. The compatibility of the proposed use with existing and anticipated development,
- vii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- viii. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- ix. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

- x. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**d. Conditions for Variances.**

- i. Variances shall only be issued when there is:
  - (A). A showing of good and sufficient cause.
  - (B). A determination that failure to grant the variance would result in exceptional hardship.
  - (C). A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- ii. No variance for a residential use within a floodway subject to Section 6-101-4 (R) (5) (e) or (g) (i) of this ordinance may be granted.
- iii. Any variance granted in a floodway subject to Section 6-101-4 (R) (5) (e) or (g) (i) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- iv. Variances to the Provisions for Flood Hazard Reduction of Section 6-101-4 (R) (5) (b) may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- v. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- vi. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- vii. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the

increased risk resulting from the reduced lowest floor elevation (See Section 6-101-4 (R) (6) (e)).

- viii. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section 6-101-4 (R) (6) (e)).

**e. Variance Notification**

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

- i. The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- ii. Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

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

**f. Historic Structure**

Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.

**g. Special Conditions**

Upon the consideration of the factors listed in Section 6-101-4 (R) (6), and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.



**Section 6-101-5. DEVELOPMENT STANDARDS**

- A. Applicability
- B. One Principal Building Per Lot
- C. Accessory Uses and Structures
- D. Essential Services
- E. Outdoor Storage of Vehicles and other Materials
- F. Visual Clearance on Corner Lots
- G. Temporary Uses of Land and Structures
- H. Performance Standards
- I. Permitted Projections in Required Yards
- J. Front Setbacks for Developed Residential Areas
- K. Residential Design Standards
- L. Fence Standards

**A. APPLICABILITY**

All uses shall comply with the following development standards in the interest of protecting public health, safety and welfare, and lessening injury to property. No use in existence on the effective date of this Ordinance shall be so altered or modified as to conflict with these standards.

**B. ONE PRINCIPAL BUILDING PER LOT**

No more than one (1) single-family or two-family dwelling unit shall be constructed on any lot, tract, or parcel of land. Each distinct business use shall occupy a separate lot, excepting strip centers, malls, or buildings containing more than one business.

**C. ACCESSORY USES AND STRUCTURES**

Accessory uses and structures are permitted in all zoning districts in accordance with the provisions of this Section.

1. Accessory uses and structures shall be incidental and subordinate to, and commonly associated with, the operation of the principal use of the property.
2. Accessory uses and structures shall be operated and maintained under the same ownership and on the same property, or on adjoining property under the same ownership, as the principal use.
3. A primary dwelling or structure shall be constructed prior to the construction of an accessory structure, unless the accessory structure is solely for agricultural use in an A-1 or RR District.

#### 4. Accessory Structure Area and Height Regulations

- a. In the A-1 and RR Districts:

The total square footage of all accessory structures on a parcel less than or equal to two (2) acres and adjoining a parcel less than or equal to two (2) acres shall not exceed seventy-five (75) percent of the square footage of the footprint of the principal building.

The height of accessory structures on a parcel less than or equal to two (2) acres and adjoining a parcel less than or equal to two (2) acres shall not exceed twenty-five (25) feet; provided, however, such an accessory structure shall not exceed the height of the principal building.

There shall be no limit to the size of accessory structures on a parcel greater than two (2) acres or on a parcel less than or equal to two (2) acres that does not adjoin a parcel less than or equal to two (2) acres; provided, however, such accessory structures shall not exceed the maximum building height of the zoning district in which the parcel lies.

- b. In the R-1, R-2, R-3, R-4, R-5, B-1, B-2, I-1, and I-2 Districts:

The total square footage of all accessory structures on a parcel less than or equal to ten (10) acres shall not exceed fifty (50) percent of the square footage of the footprint of the principal building.

The height of accessory structures on a parcel less than or equal to ten (10) acres shall not exceed twenty-five (25) feet; provided, however, such an accessory structure shall not exceed the height of the principal building.

There shall be no limit to the size of accessory structures on parcels greater than ten (10) acres; provided, however, such accessory structures shall not exceed the maximum building height of the zoning district in which the parcel lies.

5. Accessory structures exceeding eight thousand (8,000) square feet shall be set back at least twenty-five (25) feet from all property lines.

6. Accessory structures shall not encroach into any required buffer yard.
7. Accessory structures shall not be permitted in any front yard or in any drainage, utility, or other platted or recorded easement, except in the A-1 and R-R Zoning Districts, where an accessory structure may be located in the front yard, provided the subject parcel has a minimum area of two acres, and the accessory structure has a minimum front setback of 100 feet.
8. Accessory structures, including open-air game courts, shall adhere to front, side and rear setback requirements, except that detached accessory structures with a building area of 200 square feet or less shall provide minimum 5-foot rear setbacks.
9. Accessory structures shall not contain a dwelling unit, unless in accordance with Section 6-101-6.K of this Ordinance.
10. Fences, hedges, walls, driveways, curbs, retaining walls, lattice work, screens, trees, flowers, plants, mail boxes, nameplates, lamp posts, bird baths, benches, landscaping, and the like, are permitted in any required front, side, or rear yard, provided they do not violate the requirements of this Ordinance.

#### **D. ESSENTIAL SERVICES**

Essential services shall be allowed in any district insofar as permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an essential service may be permitted in any district when approved by the Director. In granting such permission, the Director shall take into consideration the location, size, use, and effect such building will have on adjacent land and buildings, and may require review by the Technical Review Committee.

#### **E. OUTDOOR STORAGE OF VEHICLES AND OTHER MATERIALS**

1. No more than one (1) unlicensed, inoperable, or partially dismantled vehicle may be stored on a property in an agricultural, residential, or industrial zoning district.
2. No person shall dump or allow the accumulation of solid waste on his/her property with the exception of compost piles and materials defined as inert solid waste to be used during fill operations and not for long-term storage.
3. No person shall dump any solid waste or inert solid waste along County roadways or within County property except in an approved and properly permitted solid waste disposal facility.

4. In platted major residential subdivisions, one (1) trailer or recreational vehicle may be stored in the side or rear yard on a hardsurfaced drive. Such vehicles, parked or stored, shall not be connected to water, gas, or sanitary sewer facilities, and shall not be used for living or housekeeping purposes.
5. Parking or outdoor storage of trucks and/or trailers over one (1) ton rated capacity, step vans, cargo vans, buses, mobile homes, or manufactured units, except temporary parking for the delivery of goods and/or services, shall not be permitted within any platted major residential subdivision.

#### **F. VISUAL CLEARANCE ON CORNER LOTS**

1. No fence, wall, hedge, tree, shrub, or other object which obstructs sight lines and elevations between two and one-half (2½) and eight (8) feet above the street shall be placed, planted, or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points thirty- five (35) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.
2. The same sight line limitations defined in Section F.1, above, shall apply to any area within ten (10) feet of the intersection of a street right-of-way line with the edge of any driveway pavement or alley line. No portion of a private driveway for a corner lot shall be permitted on dedicated rights-of-way within seventy (70) feet of the centerline intersections of streets adjacent to the corner lot.

#### **G. TEMPORARY USES OF LAND AND STRUCTURES**

##### **1. General Regulations**

A permit for a temporary structure or land use such as a carnival, revival meeting, construction facility, seasonal sale, or use of a similar nature (not including mobile homes) may be issued by the Director provided the following conditions are met:

- a. The use is, in fact, temporary and will terminate at a specific time as determined by the Director;
- b. The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire and other emergency vehicles;
- c. Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets;

- d. No banners, pennants, or noise-producing devices of a disruptive nature shall be permitted in a residential district;
- e. Outdoor lighting shall be shielded or directed away from adjoining residential property and streets;
- f. Neighboring uses shall not be adversely affected; and
- g. The property shall be returned to its original condition, devoid of temporary use remnants, upon termination of the temporary use period.

## **2. Regulations Specific to Particular Temporary Uses**

- a. Sales offices, model homes, or model apartments may be approved for a maximum allowable time period of twenty-four (24) months. Any requested extension must be submitted for Board of Zoning Appeals review two (2) months prior to the expiration of the original approval. A maximum of two (2) such uses shall be permitted per subdivision section at any one time.
- b. Parking lots designed for a special event in any zoning district may be approved for a maximum of thirty (30) days.
- c. Yard sales for the purpose of relieving a household of goods and wares, operated from residential property, are considered permitted accessory uses to a residence in any zoning district, provided the sale is held no more than three (3) times in any calendar year per address, nor more than one (1) time in any one month, with a duration of no more than three (3) consecutive days. No permit is required.
- d. Temporary Occupancy Permits for Mobile Homes

The Director may permit temporary occupancy of a mobile home in any zoning district provided that the following conditions prevail:

- i. The applicant intends to build a permanent home on the premises within twelve (12) months. The applicant, in demonstrating an intent to construct a permanent home and as a condition of receiving a temporary occupancy permit, must:
  - (A). Supply proof of ownership of the premises;
  - (B). Obtain approval from the Johnson County Health Department for a septic system, or supply a copy of a sewer hook-up

- permit from the appropriate jurisdiction;
  - (C). Obtain a building permit for the permanent home;
  - (D). Certify the notification and absence of objection among landowners within six hundred (600) feet or two (2) property owners, whichever is greater, of the site, and;
  - (E). Pay fees for all permits according to the fee schedule approved by the Johnson County Board of County Commissioners.
- ii. The applicant or an immediate blood relative requires constant attention due to a handicap or infirmity. The applicant, in certifying the need to temporarily occupy a mobile home shall:
- (A). Obtain approval from the Johnson County Health Department for a septic system or supply a copy of a sewer hook-up permit from the appropriate jurisdiction;
  - (B). Provide a licensed physician's certification of the handicap or infirmity specifically corroborating the need for constant attention;
  - (C). Certify the notification and absence of objection among landowners within six hundred (600) feet or two (2) property owners, whichever is greater, of the site, and;
  - (D). File fees for all permits according to the fee schedule approved by the Johnson County Board of County Commissioners.
- iii. The temporary occupancy permit shall expire twelve (12) months after the date of issuance. The mobile home shall be removed from the premises by the applicant no later than thirty (30) days after the expiration of the temporary occupancy permit. The Director may extend the temporary permit for a period of twelve (12) months for good cause. Any request for an extension beyond the first extension must be heard by the Board of Zoning Appeals subject to the notice and filing requirements associated with BZA hearings.
- e. Temporary Occupancy of Permanent Structures

In cases where a property owner lives in an existing permanent residential structure and wishes to construct a new permanent residential structure on

the same property to serve as the same property owner's living quarters, the property owner may continue to reside in the existing residential structure provided that the following conditions prevail:

- i. The applicant intends to build a permanent home on the premises within twelve (12) months. The applicant, in demonstrating an intent to construct a permanent home and as a condition of receiving a building permit for the proposed residence, must:
  - (A). Supply proof of ownership of the premises;
  - (B). Supply a copy of the approval of the existing septic system from the Johnson County Health Department, or supply a copy of a sewer hook-up permit from the appropriate utility;
  - (C). Certify the notification and absence of objection among landowners within six hundred (600) feet or two (2) property owners, whichever is greater, of the site;
  - (D). Provide a performance bond or other security to the County, in an amount equal to one hundred (100) percent of the cost of demolition of the existing residential structure, to ensure removal of that structure.
  - (E). Pay fees for all permits according to the fee schedule approved by the Johnson County Board of County Commissioners.
- ii. The temporary occupancy permit for the new residence shall expire ninety (90) days after the date of issuance. The old residence shall be removed from the premises by the applicant, and outstanding issues related to the new residence shall be corrected, prior to the expiration of the temporary occupancy permit. A Certificate of Occupancy for the new residence may then be issued.

## **H. PERFORMANCE STANDARDS**

All uses established or placed into operation after the effective date of this Ordinance shall comply with the following performance standards in the interest of protecting public health, safety and welfare, and lessening injury to property. No use in existence on the effective date of this Ordinance shall be so altered or modified as to conflict with these standards.

### **1. Fire Protection**

Firefighting equipment and prevention measures acceptable to the local fire

department shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.

a. Incombustible to Moderate Burning Materials

The storage, utilization, or manufacture of materials or products ranging from incombustible to moderate burning, as determined for liquids by a closed cup flash point of not less than 187 degrees Fahrenheit, is permitted subject to compliance with all other applicable performance standards.

b. Free Burning to Intense Burning Materials

The storage, utilization, or manufacture of materials or products ranging from free or active burning to intense burning, as determined for liquids by a closed cup flash point of less than one hundred eighty-seven (187) degrees Fahrenheit but not less than one hundred five (105) degrees Fahrenheit, is permitted subject to compliance with all other applicable performance standards and provided the following conditions are met:

- i. Said materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls; and
- ii. All such buildings or structures shall be set back at least forty (40) feet from lot lines or, in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the American Insurance Association; or, if the materials, goods, or products are liquids, the protection thereof shall be in conformity with standards prescribed by the American Insurance Association.

c. Flammable and Explosive Materials

The utilization in manufacturing processes of materials which produce flammable or explosive vapors or gases, determined for liquids by a closed cup flash point of less than one-hundred five (105) degrees Fahrenheit, shall be permitted provided that:

- i. A final manufactured product does not itself have a closed cup flash point of less than one-hundred eight-seven (187) degrees Fahrenheit;
- ii. The use and storage of such materials shall be in conformity with



standards prescribed by the American Insurance Association and the requirements of any other ordinances;

- iii. The storage of more than fifty thousand (50,000) gallons of materials or products having a closed cup flash point of less than one hundred five (105) degrees Fahrenheit (exclusive of storage of finished products in original sealed containers) is prohibited;
- iv. The storage of more than one hundred thousand (100,000) gallons of materials or products having a closed cup flash point of less than one hundred eighty (180) degrees Fahrenheit (exclusive of storage of finished products in original sealed containers) is prohibited.

## **2. Heat**

Any operation producing intense heat shall be conducted within a completely enclosed building in such a manner so as not to create a public nuisance or hazard.

## **3. Radiation Hazards**

All operations using or storing radioactive materials, whether or not licensed by the Atomic Energy Commission, shall comply with all applicable Federal, State and local statutes.

## **4. Electrical Disturbance**

- a. In all districts, no use, activity, or process shall be conducted which produces electric and/or magnetic fields which adversely affect public health, safety, and welfare, including, but not limited to, interference with normal radio, telephone, or television reception from off the premises where the activity is conducted.
- b. In all districts, no use, activity, or process shall be conducted which causes any interference with public safety communications.
- c. In all districts, structures, including communications facilities, shall be constructed and/or maintained so as to prevent interference with existing public safety communications.
- d. In all districts, structures, including communications facilities, shall be constructed and/or maintained so as to provide for in-building public safety communications coverage.

## **5. Vibration**

No use shall cause vibrations or concussions detectable beyond property boundary lines without the aid of instruments.

## **6. Smoke and Particulate Matter**

The emission of smoke or particulate matter by established commercial or industrial land uses, in such manner or quantity as to endanger or be detrimental to the public health, safety, comfort, or welfare, is not permitted. For the purpose in the grading of the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 on the Ringelmann Chart is prohibited at all times, except as otherwise provided hereinafter. The emission, from all sources within any lot area, of particulate matter containing more than

ten (10) percent by weight of particles having a diameter larger than forty-four (44) microns is prohibited. Dust and air pollution, within lot boundaries, shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing or other acceptable means. The emission of more than eight (8) smoke units (as defined by the United States Bureau of Mines) per hour per stack is prohibited, including smoke of a density in excess of Ringelmann No. 2. However, during one (1) one-hour period in each 24-hour day, each stack may emit up to sixteen (16) smoke units when blowing soot or cleaning flues. Only during fire-cleaning periods, however, shall smoke of Ringelmann No. 3 be permitted, and then for not more than three (3) minutes.

## **7. Noise**

- a. No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, shrillness, or vibration, based on the Maximum Permitted Sound Levels table in subsection 5.b., below. Said noise shall be muffled or otherwise controlled so as not to become detrimental, provided however, that public safety sirens and related apparatus used solely for public purposes, as well as agricultural uses, athletic events, fairs, concerts, construction activities, fireworks displays, and like events, shall be exempt from this standard.
- b. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American National Standards Institute, ANSI S1.2-1962 "American Standards Meter for the Physical Measurement of Sound." Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereby prescribed, provided that such noises shall be capable of being accurately measured with such equipment.

Octave Band (Frequency cycles per Second)	Maximum Permitted Sound Level (Decibels)		
	Within Residential Districts	Within Business Districts	Within Industrial Districts
0 to 75	72	75	75
75 to 150	67	70	74
150 to 300	59	63	69
300 to 600	52	57	64
600 to 1200	46	52	58
1200 to 2400	40	45	52
2400 to 4800	34	40	47
Above 4800	32	38	43

Noises capable of being so measured, for the purpose of this Section, shall be those noises which cause rapid fluctuations of the needle of the sound level meter, with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured, such as those of an irregular or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses. At no point on the boundary of a property in a particular zoning district shall the sound intensity level of any individual operation or plant exceed the decibel levels in the designated octave bands described in the table above. Where the emitting and receiving premises are in different zoning districts, the limits governing the more restrictive district shall apply to any regulated noise entering that district.

#### 8. Water and Waste Pollution

There shall be no discharge, at any point, into any sewerage system, or stream, or into the ground, of any materials in such a way or of such a nature or temperature as will contaminate or otherwise cause the emission of hazardous materials except in accordance with applicable State and local statutes.

#### 9. Lighting

All exterior lighting shall be shielded to avoid casting light above three tenths (0.3) footcandle or glare upon any property located in a residentially zoned

district or used for residential purposes, or above one-half (0.5) footcandle or glare upon any non-residential adjacent property. Exceptions to the above shall apply to temporary events such as fairs, athletic events, fireworks displays, or like uses. For all uses, exterior lighting shall be shielded so as not to cast direct light on street rights-of-way. The intensity of illumination shall be measured at the property line.

## **I. PERMITTED PROJECTIONS IN REQUIRED YARDS**

The following projections shall be permitted in required yards, except where easements are located, subject to the conditions and limitations set forth in this Section:

### **1. Projections Permitted in Front Yards**

- a. Awnings and canopies;
- b. Chimneys projecting two (2) feet or less into yard;
- c. Bay windows projecting three (3) feet or less into yard;
- d. Overhanging eaves and gutters projecting three (3) feet or less into yard;
- e. Handicap access ramps located no further than five (5) feet from the structure;
- f. Open porches or stoops projecting six (6) feet or less into front yard.

### **2. Projections Permitted in Side Yards**

- a. All projections permitted in front yards;
- b. Outside stairway, open or enclosed, projecting four (4) feet or less into the yard.

## **J. FRONT SETBACKS FOR DEVELOPED RESIDENTIAL AREAS**

In any residential district where at least fifty (50) percent of the lots, fronting on a particular street section, bounded by the nearest intersecting streets, are occupied by existing residential structures, the minimum depth of a front yard for proposed new residential construction shall not be less than the average of the depths of the front yards of existing residential structures along that street.

## **K. RESIDENTIAL DESIGN STANDARDS**

These design standards shall apply to all single-family and two-family residential

development in all major residential subdivisions platted after the regulations' date of adoption, except for such development zoned PUD.

1. **Exterior materials.** A primary dwelling's exterior materials, excluding windows, entry doors, overhead doors, and associated trim, shall include the following in any combination:
  - a. brick, stone, or other traditional masonry media laid individually and adhered by mortar;
  - b. wood siding, cement-based siding, resin-bound engineered wood siding, or an equivalent-quality siding material;
  - c. galvanized or galvalume metal panel or siding; glass, stucco, or pre-cast concrete panel; or
  - d. EIFS and heavy-grade vinyl siding (minimum 0.044-inch), which are permitted only on a dwelling's rear elevation, and may account for no more than 40 percent of that rear elevation's area. However, single-family dwellings in the R-3 and R-4 zoning districts may employ EIFS or heavy-grade vinyl siding on any of a dwelling's elevations, but on no more than 50 percent of a dwelling's total elevation area.
2. **Windows.** There shall be at least two windows per floor on building facades facing a street, a rear lot line, or common area, and at least one window per floor on building facades facing a side lot line. To count toward this requirement, a window must have an area of at least eight square feet.
3. **Eaves.** Primary dwellings shall provide minimum 12-inch eaves, measured from framing, along all facades.
4. **Roofs.**
  - a. Roofs shall be surfaced with asphalt shingle, industry-approved synthetic shingle, slate, shake, standing seam metal, or tile.
  - b. Sloped main roofs shall have a minimum pitch of 6/12. However, lower-pitched roofs historically associated with a clearly-established architectural idiom, such as Craftsman, Prairie, Italianate, Federal, Spanish and bungalow, shall be permitted at the Director's discretion.
  - c. Flat roofs shall require parapet screening, which shall completely obscure from ground view all rooftop mechanical equipment and facilities, and shall be constructed of the same material as the primary façade.
5. **Attached Garages.**

- a. No more than two car bays may share a common garage door.
- b. A dwelling's aggregate garage door width may not exceed 40 percent of the total width of the dwelling. However:
  - i. There is no aggregate garage door width limitation for side entry (45- to 90-degree) attached garages, for attached garages offset 20 feet or more behind the front façade of a dwelling, or for three-car attached garages.
  - ii. Aggregate garage door width may be up to 50 percent of the total width of the dwelling if at least two of the following architectural elements are provided: decorative garage door, garage door windows, embellishing masonry, or similar enhancing architectural elements.

**6. Architectural Diversity.**

- a. Adjoining lots shall not be developed with the same primary dwelling building model. Here, "primary dwelling building model" shall refer to the dwelling's architectural elevations, rather than its interior floor plan.
- b. No more than 30% of the lots on a block may be developed with the same primary dwelling building model.
- c. Variety in primary dwelling building models shall be based on architectural articulation, fenestration, use of exterior materials and colors, massing and silhouette, with regard to all four building elevations.
- d. The developer may propose an alternative method for meeting these architectural diversity regulations. Such method may be approved administratively by the Director if it is deemed to meet or exceed the purpose of the regulations. The Director's administrative decision may be formally appealed to a public hearing of the Board of Zoning Appeals by any party.

**L. FENCES**

Fences on lots zoned R-1, R-2, R-3 and R-4 must meet the following regulations:

- a. Fences in side or rear yards may be no taller than six feet.
- b. Fences in front yards may be no taller than 3.5 feet. However, on a corner lot, a front-yard fence may be up to six feet tall within one, but not both, of the required front yards.
- c. All fences must meet the clear sight requirements detailed in Section 6-101-5-F.1 of this ordinance.

- d. Barbed wire, razor wire, electrified wire and similar materials are prohibited.
- e. Chain link fences must be vinyl-coated black or dark green, and may not be filled with slats.
- f. A fence may not be erected in any drainage and/or utility easement.

**Section 6-101-6. REGULATIONS APPLICABLE TO SPECIFIC USES**

- A. Swimming Pools
- B. Home Occupations
- C. Bed and Breakfast Homes
- D. Adult Entertainment Facilities
- E. Confined Feeding Lots
- F. Recreational Vehicles
- G. Recreational Vehicle Park
- H. Amateur Radio Support Structures
- I. Communications Facilities
- J. Wind Energy Conversion Systems
- K. Solar Energy Conversion Systems
- L. Small Cell Facilities and Associated Wireless Support Structures
- M. Accessory Dwelling Units

**A. SWIMMING POOLS**

Swimming pools and hot tubs, as defined by this Ordinance, shall be permitted as accessory structures subject to the following provisions:

1. The structure, or the yard in which it is located, or any part thereof, shall be enclosed with a fence or protective barrier of a minimum of five (5) feet in height, measured on the exterior of the fence. All gates within such fence shall be self-closing and self-locking. In lieu of such an enclosure, the structure may be protected with a secured pool cover meeting ASTM requirements.
2. Construction and operation shall meet all appropriate municipal, County or State requirements.

**B. HOME OCCUPATIONS**

A home occupation shall comply with the following:

1. The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one (1) employee who is not a part of the family.
2. The home occupation shall be carried on wholly within the principal structure and shall be clearly incidental and subordinate to its use for residential purposes by its occupants. No more than twenty-five (25) percent of the gross floor area of any dwelling unit shall be used for a home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. Signage shall be prohibited.



4. Levels of noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare in amounts greater than those normally associated with domestic use shall not be produced.
5. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restrictive materials shall be used or stored on the site in amounts greater than those normally associated with domestic use.
6. Vehicles associated with the home occupation shall be limited to the following:
  - a. Not more than one (1) vehicle shall be used for the purposes of the home occupation.
  - b. Such vehicle shall not be any commercially licensed vehicle larger than a one (1) ton truck.
7. No traffic, including deliveries and/or pickups of goods, shall be generated by such use in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this Ordinance.

#### **C. BED AND BREAKFAST HOMES**

The following provisions shall apply to all bed & breakfast homes:

1. Food shall be offered only to overnight patrons of the bed & breakfast home. Food preparation shall comply with local and State health code requirements.
2. There shall be no changes in the exterior of the home.
3. There shall be no more than five (5) guest rooms for rent. Such establishment shall be in operation for not less than ten (10) nights in a twelve (12) month period and shall provide accommodations for no more than thirty (30) consecutive nights for a particular guest.
4. Parking shall consist of one (1) space per employee plus one (1) space per guest room, in addition to those spaces for the residential use. All parking shall be located in rear yards and shall be screened from adjoining land uses according to the screening requirements contained in this Ordinance. All on-site vehicular circulation and traffic patterns shall be approved by the Technical Review Committee.

5. Each establishment shall be limited to the display of one (1) non-illuminated sign per street frontage, said sign to be attached flat against the wall of the establishment and limited to a size of no more than twelve (12) square feet. No show windows or other exterior displays shall be permitted by the use occupying the premises to promote or advertise services retained or offered.
6. Establishment or operation of the use shall not change the character of the neighborhood.
7. All uses and operations shall be conducted within completely enclosed buildings. Accessory buildings and structures such as barns, sheds, and the like may not be used for guest rooms on a bed and breakfast property.
8. The bed and breakfast home must be owner occupied.
9. Sanitary facilities serving the use must be approved by the Johnson County Health Department.
10. The establishment shall maintain an accurate, up-to-date guest register which shall be available at all times for inspection.
11. Parking lot illumination, if proposed, must not result in an illumination intensity of more than one-tenth (0.1) foot-candle at any adjacent residential property boundary, or one-half (0.5) foot-candle at any non-residential property boundary. Parking lot lighting must be of a down-directed variety, the standards for which may not exceed a height of eighteen (18) feet and must be of an architectural style compatible with the bed and breakfast home. A parking lot lighting plan must be submitted as part of the required application for the Technical Review Committee.

#### **D. ADULT ENTERTAINMENT FACILITIES**

The following provisions shall apply to all adult entertainment facilities:

1. No adult entertainment use shall be located within a two-thousand (2,000) foot radius of any residentially zoned district or residential use, or other adult entertainment business.
2. Adult entertainment uses shall not be located within two-thousand (2,000) feet of schools, whether public or private, religious institutions, parks and play fields, or other areas in which large numbers of minors eighteen (18) years or younger regularly congregate.
3. Adult entertainment uses shall not be located within two-thousand (2,000) feet of

an incorporation line of any municipality located within Johnson County in whole or in part; any extra-territorial jurisdiction located within or adjacent to Johnson County in whole or in part; or any neighboring County line.

4. The distance between an adult entertainment business and any public or private school, religious institution, park, play field, residentially zoned district, residential use, or other adult entertainment use is measured in a straight line without regard to intervening structures or objects, from the closest lot line of the adult entertainment business to the nearest lot line of the school, religious institution, park, play field, residentially zoned district, residential use, or other adult entertainment business.

**E. CONFINED FEEDING LOTS**

Confined feeding lots shall conform to the provisions of Indiana Title IC 13-18-10.

**F. RECREATIONAL VEHICLES**

Recreational vehicles shall not be occupied in any location other than an approved recreational vehicle park.

**G. RECREATIONAL VEHICLE PARK**

In any district in which a recreational vehicle park is permitted, the following requirements shall apply:

1. Recreational vehicle parks shall have direct access to a public highway or road with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of recreational vehicles into and out of the parks.
2. Conditions of soil, groundwater level, drainage, geologic structure, and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, noise, severe erosion, sudden flooding, or the possibility of subsidence.
3. The density of a park shall not exceed fifteen (15) recreational vehicle spaces per acre of gross site area.
4. The minimum area of a recreational vehicle park shall be five (5) acres.
5. Recreational vehicles shall be separated from each other and from other park buildings or structures by at least ten (10) feet.
6. All recreational vehicles and structures shall comply with the required

minimum setback provisions of this Ordinance. Where the boundary line of a recreational vehicle park coincides with that of a residential district other than along a thoroughfare or alley, a setback of at least twenty-five (25) feet shall be required.

7. At least one centrally-located recreation area, equal in size to at least eight percent (8%) of the gross park area, shall be provided in each recreational vehicle park. Streets, parking areas, and park service facility areas shall not be included in computation for recreational areas.
8. Food stores, restaurants, sporting goods stores, laundromats, dry-cleaning pickup stations, and similar convenience and service shops may be permitted in recreational vehicle parks containing fifty (50) or more spaces, provided that:
  - a. Such shops and the parking area required by their use shall not occupy more than ten percent (10%) of the total park area.
  - b. The shops shall be primarily for the use of park occupants.
  - c. Such shops shall be so located and designed within the park so as to present no visible evidence of their commercial nature to persons outside the park.
9. Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs, and other structures customarily incidental to a recreational vehicle park shall be permitted as accessory uses.

#### **H. AMATEUR RADIO SUPPORT STRUCTURES**

Amateur radio support structures shall be permitted as accessory uses provided they do not violate the requirements of this Ordinance. The structures shall be constructed and/or installed in accordance with all applicable requirements of the National Electric Code as well as the manufacturer's specifications. All structures must be properly grounded. The support structure shall be made of non-corrosive hardware. The installation of guy wires and support anchor structures may be permitted in the required setback areas. The Director may require submission of documentation to verify compliance with all applicable codes and requirements as well as any other information which may pertain to the installation of such structures. No amateur radio support structures shall exceed seventy-five (75) feet in height above average ground level.

#### **I. COMMUNICATIONS FACILITIES**

In addition to the general requirements for special exceptions provided in Section 6-101-2(G) of this Ordinance, the standards and criteria for considering special exception approval for communications facilities shall be as follows:

1. Proposed communications facilities may be permitted in any zoning district that specifically provides for their location, but not in a Corridor Overlay District within such district. Proposed new communications towers must gain special exception approval by the Johnson County Board of Zoning Appeals. Proposed antenna additions to existing structures need not gain special exception approval; however, all other applicable requirements of this Section shall be imposed for such antenna additions.
2. Any applicant proposing a new communications tower shall demonstrate that efforts have been made to obtain permission to mount an antenna or antennae on an existing building, public utility transmission structure, or communications tower rather than erecting a separate tower. The applicant shall contact, by certified mail, all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed site. If utilization of an existing structure is not an option, the applicant shall provide written proof to this effect which shows that one of the following situations exists:
  - a. The proposed equipment would exceed the structural capacity of the existing building, public utility transmission or storage structure, or communications tower, and reinforcement of the existing structure cannot be accomplished.
  - b. The proposed equipment would cause RF (Radio Frequency) interference with other existing or proposed equipment for that existing structure and the interference cannot be prevented.
  - c. Existing buildings, public utility transmission structures, or communications towers do not have adequate space, access, or height to accommodate the proposed equipment.
  - d. Addition of the proposed equipment would result in NIER (Non-Ionizing Electromagnetic Radiation) levels which exceed adopted Federal or State emissions standards.
  - e. A reasonable business arrangement cannot be achieved.
3. The applicant shall submit evidence that the facility or tower, and its method of installation, has been designed to accommodate multiple antennae, in order to allow for future co-location, and must allow future co-location arrangements.

4. The applicant shall demonstrate that it is licensed by the Federal Communications Commission (FCC) to operate a communications facility. At any time during the calendar year that an amendment to the FCC license is issued, a copy of the amended license shall be submitted to the Johnson County Department of Planning and Zoning within thirty (30) days of issuance.
5. Proof shall be provided that the proposed communications facility complies with safety standards and electromagnetic field limits established by the FCC. In the event that the FCC imposes more stringent standards at a later date, those standards shall apply.
6. Proof shall be provided that the communications facility has been reviewed, and has not been determined to be a hazard, by the Federal Aviation Administration (FAA). The communications tower shall meet all FAA regulations.
7. Proof shall be provided that the proposed communications facility will not cause RF (Radio Frequency) interference, or any other interference, with existing public safety communications systems. If constructed, all communications facilities shall be maintained so as to prevent interference with existing public safety communications systems.
8. The applicant shall submit evidence that the facility, tower, or antenna addition to an existing tower or structure, and its method of installation, has been designed by a civil or structural engineer registered in the State of Indiana and is certified by that engineer to be structurally sound and able to withstand wind and other loads in accordance with applicable building codes.
9. The owner of any communications facility shall be required to conduct periodic inspections of the facility to ensure structural integrity. Inspections shall be conducted by an engineer licensed by the State of Indiana. The cost of the inspection shall be borne by the tower owner. The result of the inspection shall be provided to the Department of Planning and Zoning. Such inspections shall be required as follows:
  - a. Monopole towers - at least once every ten (10) years.
  - b. Self-supporting towers- at least once every five (5) years
  - c. Guyed towers - at least once every three (3) years.
10. Adequate access by means of a public street or an access easement to a public street shall be provided to facilitate periodic visits by maintenance workers. Said access drive shall be composed of an all-weather, dust proof surface.

11. The distance between the base of the communications tower and any property line shall at least equal the height of the tower. If the facility is erected on a leased parcel taken from a parent tract, this distance may be measured to the property line of the parent tract. In addition, self-supporting towers (not monopole towers) shall be sited no closer than one thousand (1,000) feet to any residence. An accessory structure erected in connection with the facility shall meet required setbacks for the district in which it is located.
12. The applicant shall demonstrate that the proposed height of the communications facility is the minimum height necessary to function effectively.
13. For communications facilities other than those added to existing structures, enclosure by a chain-link or similar fence at least six (6) feet in height shall be required. Said fence shall have a self-latching gate to limit accessibility to the general public.
14. All guy wires and all guyed towers shall be clearly marked so as to be visible at all times. All guy wires shall be a minimum of five (5) feet from any property line.
15. Landscaping shall be installed and maintained by the owner of any communications tower as necessary for proper screening of associated equipment storage or maintenance buildings. The Board of Zoning Appeals may determine the extent of screening during special exception approval.
16. All lighting, other than that required by the FAA, shall be shielded and reflected away from adjoining properties.
17. The facilities which are erected to maintain a communications facility may not include offices, long-term vehicle storage, other outdoor storage, broadcast studios, or other uses that are not needed to send or receive signals, unless such facilities are permitted uses in the zoning district.
18. Approval under this Section will automatically lapse if the communications facility is not used for six (6) consecutive months. In such case, all portions of the communications facility will be removed by the party responsible for erecting the facility, or the property owner, with costs of removal to be borne by that party.
19. Within R-1 and R-2 districts, all wireless communications facilities must be camouflaged so as to be as harmonious as possible with the surrounding environment. The adequacy of the proposal will be evaluated in the Special Exception review process.
20. No lettering, symbols, images, trademarks, signs or advertising of any kind shall

be placed on, or affixed to, any part of a tower or structure, other than as required by the Federal Aviation Administration, by Federal Communications Commission or other agency regulations, or as required to protect public health and safety.

21. Any applicant proposing a new communications tower shall provide a map or maps identifying the potential alternate sites for the new tower that have feasibility to serve the applicant's service territory needs.
22. The Board of Zoning Appeals may require the applicant proposing a new communications tower to prove any one or more of the following:
  - a. that the applicant has a gap in its service territory;
  - b. that the applicant has made a thorough effort to evaluate all alternative sites and that the alternatives are not feasible; and
  - c. that the proposal is the least intrusive means of serving the applicant's service territory gap.

## **J. WIND ENERGY CONVERSION SYSTEMS**

Standards and criteria for considering special exception approval for Wind Energy Conversion Systems shall be as follows:

### **1. Permitting:**

- a. Micro WECS are permitted in all zoning districts as a special exception
- b. Small WECS are permitted in all zones except R-3, R-4, and R-5 as a special exception.
- c. Large WECS are only permitted in Agricultural, Rural Residential, and Industrial Zones as special exceptions.
- d. With the approval of a special exception, a review of a building permit will be conducted administratively to ensure compliance to ordinances. The permit will be charged as a commercial structure other than buildings.
- e. As a part of the permit, the petitioner is required to provide a location map to Mapping so the tower can be added to the County GIS
- f. All WECS shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of



design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories and meet National Electrical Code.

## **2. Standards for Individual Towers:**

- a. Noise: All WECS must meet current county ordinances for noise pollution.
- b. Setbacks: Small WECS must be located at least twice its height from all property lines. Large WECS must be located at least twice the height from all property lines and at least 1,000 feet from all buildings not belonging to the WEC owner. Property line setbacks between separate parcels both of which are participating in the project may be waived upon agreement of the landowner(s). When the WECS facilities for a single project encompass multiple parcels, there is no required setback from a property line for the internal property lines in the project.
- c. Climbing: All towers must be unclimbable or made unclimbable for the bottom 15 feet and must include features to deter climbing or be protected by anti-climbing devices such as:
  - i. Fences with locking portals at least six (6) feet in height; or
  - ii. Anti-climbing devices fifteen (15) feet vertically from the base of the WECS tower; or
  - iii. Locked WECS tower doors.
- d. Aesthetics: Only non-reflective, unobtrusive colors are permitted. Blades are permitted to be black for ice mitigation.
- e. Braking: All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- f. FAA: All WECS shall comply with all applicable FAA requirements.
- g. Maintenance: The owner or operator of the WECS must annually report continued operation to the planning and zoning office.
- h. Warnings: Warning and no trespassing signs must be placed at the base of the tower for all except Micro WECS.
- i. Emergency: All WECS must meet local fire and safety provisions.

- j. Lighting: Lighting must conform to current lighting requirements of the Zoning Ordinance of Johnson County. (See Section 6-101-5(H)(9).)
- k. Fencing: Fencing may be required around the base of the WECS if it is considered necessary for safety concerns.
- l. Measurement of height: Unless otherwise specified, as used in this section, the height for a WECS tower is measured from the ground to the tip of the blade at its maximum distance from the ground.
- m. Distance from Power Lines: All WECS shall be located at least 1.5 times their height from power lines.
- n. Wiring: All electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations, controls, and similar facilities
- o. The electrical company serving the property is to be notified of the construction of a WECS.
- p. Maximum Vibrations: Any proposed wind turbine generator shall not produce vibrations humanly perceptible beyond the property on which it is located or cause vibration that is detectable in nearby structures or damage to underground wells.

### **3. Wind Farm Standards:**

- a. The following standards from Individual Towers shall apply to Wind Farms: Noise, Placement, Climbing, Aesthetics, Braking, FAA, Maintenance, Warnings, Emergency, Lighting, Fencing, Distance from Power Lines, and Wiring.
- b. Setbacks: All WECS are to meet setback standards under Section 6-101-6.J.2.c and towers must be located at least 1.25 times their height from another tower.
- c. Signs and Warnings: The following notices shall be clearly visible and facing the public right-of-way on all facility perimeter fencing at least once every 500 feet (which may be combined on one sign) if fenced:
  - i. "No Trespassing" signs.
  - ii. "Danger" warning signs appropriate for electrical systems.
  - iii. Signage posting emergency telephone number(s).

#### 4. Decommissioning Plan

Prior to receiving approval for a Large WECS or Wind Farm under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing-the Large WECS or Wind Farm at the end of its serviceable life or upon becoming a discontinued or abandoned use, to ensure that the Large WECS or Wind Farm is properly decommissioned.

- a. Surety Bond- Large WECS
  - i. Applicant for a Large WECS shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commissioners to be sufficient to satisfy the decommissioning agreement requirements.
  - ii. Other proof of financial responsibility may be:
    - (a). Cash advance to county to be released upon completion of decommissioning plan; or,
    - (b). An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
  - iii. The Bond, or other proof of financial responsibility, shall be released upon receipt of a certificate of inspection by the Director of the Planning and Zoning Department indicating that the Large WECS has been fully decommissioned in accordance with the decommissioning plan, with no unresolved issues related to the required decommissioning.
- b. A decommissioning plan shall include, at a minimum, language ~~to~~ addressing the following:
  - i. Assurance: Written assurance that the facilities will be properly decommissioned upon the end of the project life or in the event that the facility is abandoned.
  - ii. Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the Large WECS facility which cost estimate shall include any offsetting effects of salvage value. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning Large WECS.
  - iii. Cost adjustments: Terminology shall be included in the decommissioning plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.
- c. Discontinuation and Abandonment

- i. Discontinuation: All Large WECS shall be considered a discontinued use after six (6) consecutive months without energy production, unless a plan is developed and submitted to the Director outlining the steps and schedule for returning the Large WECS to service within six (6) consecutive months. Large WECS shall be subject to decommissioning upon ceasing energy production for more than twelve (12) consecutive months.
- ii. Abandonment by the owner or operator: To address concerns regarding the potential abandonment by the owner or operator, the applicant shall provide an affidavit to the Director representing that all easements for solar collection shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.
- iii. Removal : A WECS owner's obligations shall include, at the WECS owner's expense, removal of all physical material pertaining to the project improvements to no less than a depth of six (6) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the WECS, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such WECS improvements, unless otherwise agreed to by the property owner and Johnson County at the time of the discontinuation or abandonment of the WECS.
- iv. Written Notices : Prior to implementation of the existing procedures for the resolution of a decommissioning default(s), the Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- v. Costs Incurred by the County: If the County has to remove a WECS and appurtenant facilities, it may sell the salvage to defray the costs of removal. The permittee or grantor shall grant a license to Johnson County to enter the property to remove the WECS pursuant to the terms of an approved decommissioning plan.

## **K. SOLAR ENERGY CONVERSION SYSTEMS**

The regulation of solar energy conversion systems, solar farms and facilities and other solar energy devices is authorized by Indiana Code § 36-7-2-2 and is designed to protect the public health, welfare and safety. The purpose of this Section is to plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements associated with SECS. These regulations allow solar energy conversion systems, solar

farms and facilities and other solar energy devices in certain areas, and, therefore, do not have the effect of unreasonably restricting the use of such facilities other than for the preservation and protection of the public health and safety. These regulations are not intended to and do not have the effect of significantly increasing the cost of such systems, decreasing the efficiency of such systems, or impeding alternative systems of comparable cost and efficiency. Standards and criteria for Solar Energy Conversion Systems shall be as follows:

**1. Permitting:**

- a. Accessory SECS are permitted in all zoning districts.
- b. Commercial SECS are only permitted in Agricultural and Industrial Zones as special exceptions.
- c. With the approval of a special exception, a review of an improvement location permit will be conducted administratively for Commercial SECS to ensure compliance to ordinances, and the permit will be charged as a non-residential use improvement location permit .
  - i. The Director may require an applicant to obtain site plan approval, prior to issuance of an improvement location permit, from the Johnson County Technical Review Committee as set forth in code 6-101-2(H)(3), where engineering design standards shall be based on Subdivision Control Ordinance requirements and any other applicable authority.
- d. A review of a permit will be conducted administratively for Accessory SECS to ensure compliance with ordinances. Building or roof-mounted solar energy conversion systems will be treated as a remodel permit and will be charged as such. Ground mounted systems will be reviewed as an Improvement Location Permit and will be charged as such.
- e. For a building permit or improvement location permit, the applicant ~~may~~ shall submit to the Planning and Zoning Department a site plan which includes the general footprint of the solar energy conversion system, the number of panels, the generating capacity, the location of all fences, electrical poles and lines, the location of all other equipment and structures, the location of any and all underground electrical lines, facilities and structures, and the location of all access roads, rights-of-way and easements.
  - i. An applicant shall submit certificate(s) of design compliance for the SECS to be installed, that the solar equipment manufacturer(s) have obtained from Underwriters Laboratories, and that certify that the SECS meets National Electrical Code requirements.

- f. All Solar Energy Conversion Systems shall conform to applicable industry standards, as well as all local, state and federal regulations. All SECS shall comply with all Federal Aviation Administration rules and regulations, and Federal Communications Commission rules and regulations.
- g. All off-grid solar energy conversion systems are exempt from these standards.

## **2. Standards for Accessory SECS**

- a. Setbacks: Ground-mounted SECS must meet the structure setback for the zoning district. For all parcels located in a platted major subdivision, ground-mounted SECS shall not be permitted in any front yard or in any drainage, utility, or other platted or recorded easement.
- b. Height: Building and roof-mounted solar energy conversion systems shall be included when determining the building or structure height and shall not cause the building or structure to exceed the maximum allowed height in the zoning district.

Ground or pole-mounted solar energy conversion systems shall not exceed 25 feet in height as measured from the natural grade to the top of the panel or arrays when oriented at maximum tilt.

- c. Lot Coverage: Ground-mounted systems shall meet the existing lot coverage restrictions for the zoning district except as defined below.
  - i. Ground-mounted systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.
- d. Ground-mounted systems shall not count toward the maximum number of accessory structures permitted.

## **3. Standards for Commercial SECS**

The development of commercial or utility scale solar energy conversion systems where such systems present few land use conflicts with current and future development patterns.

- a. Setbacks: Setback distance for Commercial SECS shall be measured from the edge of the solar energy conversion system array, excluding security fencing, screening, or berm.

- i. All ground-mounted solar panels or arrays must be at least 150 (one-hundred fifty) feet from any property line of a non-participating landowner's property line. Property line setbacks between separate parcels both of which are participating in the project may be waived upon agreement of the landowner(s).
  - ii. When the solar facilities for a single project encompass multiple parcels, there is ~~no required~~ required setback from a property line for the internal property lines in the project.
  - iii. All ground-mounted solar panels or arrays must be at least one hundred (100) feet from the edge of any public right of way.
  - iv. All ground-mounted solar panels or arrays must be at least two hundred (200) feet from the property line if adjoined by property that is zoned residential, and at least two (200) hundred feet from the property line if adjoined by property that is zoned agricultural which has a single family dwelling within five hundred (500) feet of the solar panels or arrays.
  - v. When the solar facilities for a single project encompass multiple parcels, the solar panels or arrays must be at least 150 feet from any existing participating dwelling unit.
- b. Height: Building and ~~or~~ roof-mounted solar energy conversion system shall be measured together when determining the building or structure height and shall not cause the building or structure to exceed the maximum allowed height in the zoning district.

Ground or pole-mounted solar energy systems shall not exceed 25 feet in height as measured from the natural grade to the top of the panel or arrays when oriented at maximum tilt.

- c. Landscape Buffer - Any Commercial SECS shall be required to meet the landscape standards as listed in Section 6-101-8(C)(2)(a). All Commercial SECS installation shall require a minimum Buffer Yard where the subject parcel abuts a parcel with a permitted residential use.
- d. Lighting: Lighting must conform to current lighting requirements of the Zoning Ordinance of Johnson County. (See Section 6-101-5(H)(9).)
- e. Ground Covering Plan: Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project in perennial vegetated ground cover.

To the maximum extent feasible and economical, perennial vegetation ground cover shall be based on a diverse seed mix of

native species consistent with guidance specific to the local area based on guidance provided by the National Resources Conservation Service, Soil and Water Conservation District, or Conservation District. The site shall be planted and maintained to be free of all invasive species, as listed by the Indiana Invasive Species Council.

No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, spot control of noxious weeds, or as otherwise may be deemed necessary to protect public health and safety. Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.

- f. Fencing: Perimeter fencing for the site shall not include barbed wire or woven wire designs and shall preferably use wildlife-friendly fencing standards.
- g. Signs and Warnings: The following notices shall be clearly visible and facing the public right-of-way on all facility perimeter fencing near the main entrance of the facility (which may be combined on one sign) if fenced:
  - i. "No Trespassing" signs.
  - ii. "Danger" warning signs appropriate for electrical systems.
  - iii. Signage posting emergency telephone number(s).
- h. Wetlands and Flood Plains: A SECS Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) as a flood plain.

Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.

- i. Noise: The noise level of all SECS shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- j. Legal Drains: No solar energy conversion system, farm or facility may encroach upon any regulated ditch or legal drain easement.
- k. Private and Mutual Drains: No solar energy conversion system may encroach upon any private or mutual drain or ditch. If the construction of the solar



energy system requires the relocation of any private or mutual drain or ditch, such relocation must be approved by the parties to the private or mutual drain or ditch, performed at the expense of the SECS operator, and relocated in a manner so as not to materially impede the function of the drain or ditch. This obligation to refrain from encroaching upon any private or mutual drain or ditch continues and applies even if the encroachment is discovered after construction of the project.

1. All electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls.

#### **4. Decommissioning Plan**

Prior to receiving approval for a Commercial SECS under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a the Commercial SECS at the end of ~~their~~ its serviceable life or upon becoming a discontinued or abandoned use, to ensure that the Commercial SECS is properly decommissioned.

- a. Surety Bond-Commercial SECS
  - i. Applicant for a Commercial SECS shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commissioners to be sufficient to satisfy the decommissioning agreement requirements.
  - ii. Other proof of financial responsibility may be:
    - (a). Cash advance to county to be released upon completion of decommissioning plan; or,
    - (b). An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
  - iii. The bond, or other proof of financial responsibility, shall be released upon receipt of a certificate of inspection by the Director of the Planning and Zoning Department indicating that the Commercial SECS has been fully decommissioned in accordance with the decommissioning plan, with no unresolved issues related to the required decommissioning plan.
- b. A decommissioning plan shall include, at a minimum, language addressing ~~to~~ the following:

- i. Assurance: Written assurance that the facilities will be properly decommissioned upon the end of the project life or in the event that the facility is abandoned.
  - ii. Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the Commercial SECS facility which cost estimate shall include any offsetting effects of salvage value. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning Commercial SECS.
  - iii. Cost adjustments: Terminology shall be included in the decommissioning plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.
- c. Discontinuation and Abandonment
- i. Discontinuation: All Commercial SECS shall be considered a discontinued use after six (6) consecutive months without energy production, unless a plan is developed and submitted to the Director outlining the steps and schedule for returning the Commercial SECS to service within six (6) consecutive months. Commercial SECS shall be subject to decommissioning upon ceasing energy production for more than twelve (12) consecutive months.
  - ii. Abandonment by the owner or operator: To address concerns regarding the potential abandonment by the owner or operator, the applicant shall provide an affidavit to the Director representing that all easements for solar collection shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.
  - iii. Removal: An SECS owner's obligations shall include, at the SECS owner's expense, removal of all physical material pertaining to the project improvements to no less than a depth of six (6) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the SECS, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such SECS improvements, unless otherwise agreed to by the property owner and Johnson County at the time of the discontinuation or abandonment of the SECS.
  - iv. Written Notices: Prior to implementation of the existing procedures for the resolution of such a decommissioning default(s), the Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

- v. Costs Incurred by the County: If the County has to remove a SECS and appurtenant facilities, it may sell the salvage to defray the costs of removal. The permittee or grantor shall grant a license to Johnson County to enter the property to remove the SECS pursuant to the terms of an approved decommissioning plan.

**L. SMALL CELL FACILITIES AND ASSOCIATED WIRELESS SUPPORT STRUCTURES**

**1. Purpose**

The purpose of this section is to establish reasonable land use and development standards allowing for the location of small cell facilities within unincorporated Johnson County, while minimizing the potential negative impacts of such facilities. This section applies only to small cell facilities and associated wireless support structures as defined and detailed herein. Conventional, taller, wireless communications facilities are regulated in Section 6-101-6.I.

**2. Definitions**

For purposes of this Section 6-101-6 K, the words and phrases below are defined as follows:

- a. “antenna” means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.
- b. “base station” means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.
- c. “collocation” means the placement or installation of wireless facilities on existing electrical transmission towers, existing utility poles, existing wireless support structures, and existing structures, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.
- d. “construction plan”, when referring to a new wireless support structure, means a written plan for construction that indicates the aesthetics of the wireless support structure; the total height and width

of the small cell facility and wireless support structure including cross section and elevation, footing, foundation and wind speed details; a structural analysis indicating the capacity for future and existing antennas including a geotechnical report and calculations for the foundation's capacity; the identity and qualifications of each person directly responsible for the design and construction; and signed and sealed documentation from the applicant that shows the proposed location of the small cell facility and wireless support structure and all easements and existing structures within one thousand (1,000) feet of such small cell facility or wireless support structure.

“construction plan”, when referring to the substantial modification of an existing small cell facility or wireless support structure, means a plan that describes the proposed modifications to the wireless support structure and all equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

e. “electrical transmission tower” means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

f. “equipment compound” means the area that: (1) surrounds or is near the base of a wireless support structure; and (2) encloses wireless facilities.

g. “existing structure” does not include a utility pole or an electrical transmission tower.

h. “permit authority” means the Johnson County Department of Planning and Zoning and the board of zoning appeals within the jurisdiction of unincorporated Johnson County.

i. “person” means a corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.

j. “small cell facility” means: (1) a personal wireless service facility as defined by the Telecommunications Act of 1996, 47 U.S.C. or (2) a wireless service facility that satisfies the following requirements: (a) each antenna, including exposed elements, has a volume of three (3) cubic feet or less; (b) all antennas, including exposed elements, have a total volume of six (6) cubic feet or less; and (c) the primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less. This term does not

include a wireless support structure.

k. "substantial modification of a small cell wireless support structure" means the mounting of a small cell facility on a wireless support structure in a manner that: (1) increases the height of the wireless support structure by ten percent (10%) of the original height of the wireless support structure or greater; or (2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the width of the wireless support structure and existing appurtenances. The term substantial modification does not include the following: (1) increasing the height of a wireless support structure to avoid interfering with an existing antenna, or (2) increasing the diameter or area of a wireless support structure to: (a) shelter an antenna from inclement weather; or (b) connect an antenna to the wireless support structure by cable.

l. "utility pole" means a structure that is: (1) owned or operated by: (a) a public utility; (b) a communications service provider; (c) a municipality; (d) an electric membership corporation; or (e) a rural electric cooperative; and (2) designed and used to: (a) carry lines, cables, or wires for telephone, cable television, or electricity; or (b) provide lighting.

m. "wireless service facility" means the set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

n. "wireless support structure" means a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

### **3. Restrictions on Placement of New Wireless Support Structures**

a. Restrictions on placement within right-of-way

i. New wireless support structures are permitted in all zoning districts within the right-of-way, except within right-of-way identified as "Local" rights-of-way by the Existing Thoroughfare Map of the Johnson County Comprehensive Plan.

ii. New wireless support structures located within the right-of-way shall be placed at the back of the right-of-way, adjacent to where adjoining property lines intersect. The Johnson County Highway Department

may approve a deviation from this requirement due to specific site conditions.

- b. Restrictions on Placement outside of the right-of-way
  - ii. New wireless support structures are not permitted outside the right-of-way in the A-1, RR, R-1, R-2, R-3, R-4, R-5, and PUD Districts.
- c. New wireless support structures shall not impede visual clearance as specified in Section 6-101-5 (F) of this Ordinance.
- d. New wireless support structures shall not block or encroach upon any sidewalk or walkway.
- e. New wireless support structures shall be a minimum of five-hundred (500) feet from any other wireless support structure located on the same side of the street (or along the same side of the closest street if located outside of the right-of-way).
- f. New wireless support structures shall be a minimum of seventy-five (75) feet from the intersection of any two street right-of-ways, measured from the point at which the back of the right-of-way lines intersect.
- g. New wireless support structures shall be a minimum of twenty (20) feet from any utility pole.

#### **4. Collocation**

Small cell facilities may be collocated on existing structures, existing electrical transmission towers, and existing utility poles at any location in any zoning district.

#### **5. Specifications**

Beginning on the effective date of March 14, 2017, new small cell facilities and new wireless support structures shall meet the following specifications:

- a. Height

Small cell facilities and wireless support structures shall not exceed fifty (50) feet in height. However, in no instance shall small cell facilities and wireless

support structures exceed 110% of the tallest existing utility pole located along the same street (or closest street if placed outside of the right-of-way) within five-hundred (500) feet.

b. Support structures shall be maintained in good working order at the cost of the applicant, including the cost of electricity.

c. Facility Size

Each antenna, including exposed elements, shall not exceed a volume of three (3) cubic feet. All antennas, including exposed elements, shall not exceed a total volume of six (6) cubic feet. The primary equipment enclosure located with the facility shall not exceed a volume of seventeen (17) cubic feet or less. Alternatively, all facility equipment at a single facility, with the exception of the antenna itself, may be ground mounted in a cabinet having an area not to exceed forty (40) cubic feet and a height not to exceed forty-eight (48) inches.

d. All support structures shall have a plaque identifying the structure, the owner and the owner's contact information, and said plaque shall not exceed 0.25 square feet.

e. All wiring and fiber shall be concealed within the support structure and all conduit, wiring and fiber shall be buried between structures and/or structures and ground mounted cabinets. All service lines (e.g. electric lines) to the support structure must also be buried unless service lines in the area of the support structure are aerial. In that event, service lines to the support structure may also be aerial, except for any service drop crossing a street or roadway which would need to be bored and placed under such street or roadway.

f. Wireless support structures and facilities shall be designed to blend into the surrounding environment and complement existing streetscape elements through the use of color, camouflaging and architectural treatment. Any equipment mounted to the support structures shall also match the support structure in color and general design. Approval of the aesthetic design of the wireless support structures and small cell facilities shall be at the discretion of the permit authority.

g. Any proposed wireless support structure shall be designed and engineered structurally, electrically and in all other respects, to accommodate both the initial small cell facility and one or more

additional small cell facilities. The support structure shall be designed to allow for future rearrangement of cellular communication equipment and antennas upon the structure and to accept cellular communication equipment and antennas mounted at varying heights.

h. Continued Operation

A person receiving a permit for (1) construction of a new wireless support structure; (2) substantial modification of a wireless support structure; or (3) collocation of wireless facilities inherently agrees that if the wireless support structure or wireless facilities are not used for a period of six (6) consecutive months, they will be removed by the facility owner at its expense. Should such owner fail to remove the wireless support structure or wireless facilities after ninety (90) business days from the date a Notice of Violation is issued by the County, the County may remove such structure or facilities and bill the owner for the costs of removal and cleanup of the site.

i. Confidential Information

All confidential information submitted by an applicant shall be maintained to the extent authorized by Ind. Code 5-14-3 *et. seq.*

**6. Permits**

a. A person that provides wireless communications service or otherwise makes available infrastructure for wireless communications services shall apply for a permit from the permit authority to (a) locate a small cell facility and wireless support structure, or (b) perform a substantial modification of a small cell wireless support structure.

b. An applicant shall demonstrate that the proposed small cell facility, wireless support structure or substantial modification thereof complies with all applicable laws and ordinances governing land use and development.

c. Within the right-of-way, a right-of-way permit issued by the Johnson County Highway Department is required to (a) locate a small cell facility and wireless support structure, (b) perform a substantial modification or (c) collocate wireless facilities on existing structures.

d. Permits for New Wireless Support Structures



A proposal for a new wireless support structure shall include a map identifying all wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater within a one-half (1/2) mile radius of the proposed new wireless support structure. The new wireless support structure shall not be approved unless the person submits written documentation and an affidavit affirming that the small cell facility planned for the proposed wireless support structure cannot be accommodated on an existing or approved utility pole or electrical transmission tower or other existing structure with a height of fifty (50) feet or greater within a one-half mile radius of the proposed new wireless support structure due to one (1) or more of the following reasons:

- i. The proposed small cell facility would exceed the structural capacity of existing or approved wireless support structures, utility poles, electrical transmission towers, and/or structures with a height of fifty (50) feet or greater as documented by a qualified and licensed professional engineer and that existing or approved wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater cannot be reinforced, modified, or replaced to accommodate the planned telecommunication equipment at a reasonable cost; or
- ii. The proposed small cell facility would cause interference impacting the usability of other existing telecommunication equipment at the site if placed on existing or approved wireless support structures, utility poles, electrical transmission towers, and/or structures with a height of fifty (50) feet or greater as documented by a qualified and licensed professional engineer, and that the interference cannot be prevented at a reasonable cost; or
- iii. Existing or approved wireless support structures, utility poles, and/or electrical transmission towers within a one-half (1/2) mile radius cannot accommodate the planned small cell facility at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or
- iv. The persona has been unable to enter a commonly reasonable lease term with the owners of existing or approved wireless support structures, utility poles, electrical transmission towers, and structures with a height of fifty (50) feet or greater.

- e. Contents of Application for new wireless support structures and substantial modification of small cell wireless support structures

An application for a permit shall include the following:

- i. The name, business address, and point of contact for the applicant.
- ii. The location address, and Latitude and Longitude of the proposed or affected wireless support structure or small cell facility.
- iii. A construction plan, as defined herein, that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment sufficient to determine compliance with applicable standards.

- f. Single Application for new wireless support structures and substantial modification of small cell wireless support structures

An applicant may submit one (1) application for the location or substantial modification of multiple small cell facilities and associated wireless support structures proposed for the same general location. The permit authority may issue a single permit for all such facilities and support structures included in the application rather than individual permits for each.

- g. Procedure for new wireless support structures and substantial modification of small cell wireless support structures

- i. Determination of Completion/Defects.

Within ten (10) calendar days of receipt of an application, the permit authority shall review the application to determine if the application is complete. If the permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. An applicant that receives a written notice of incompleteness may cure the defects and resubmit the corrected application within thirty (30) calendar days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

ii. Determination of Compliance with Zoning and Land Use Ordinances.

Within ninety (90) calendar days of making an initial determination of completeness, the permit authority shall review the application to determine if it complies with applicable laws and ordinances governing land use and zoning, and shall notify the applicant in writing whether the application is approved or denied. If the applicant requested additional time to cure defects per (i) above, the ninety (90) day period is extended for a corresponding amount of time. If the application for the proposed wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, the permit authority may have not more than thirty (30) additional calendar days to determine the application's compliance with applicable zoning and land use laws and ordinances.

h. Written Determinations for new wireless support structures and substantial modification of small cell wireless support structures

A written determination shall state clearly the basis for the decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial. A notice is considered written if it is included in the minutes of a public meeting of the permit authority.

## 7. Construction Requirements

All small cell facilities, wireless support structures, and other related improvements constructed within the Plan Commission jurisdiction shall comply with the following requirements:

- a. All small cell facilities and wireless support structures shall be designed and constructed to conform to all applicable provisions of this Ordinance, the Building Code of the State of Indiana, as amended, and the Federal Communications Commission (FCC), when applicable.
- b. All small cell facilities and wireless support structures shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code, as amended, and the Electronics Industry

Association.

- c. All small cell facilities and wireless support structures shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code, as amended.
- d. All small cell facilities and wireless support structures shall be constructed to conform with the requirements of the Occupational Safety and Health Administration (OSHA).
- e. All small cell facilities and wireless support structures shall be designed and constructed to conform to all applicable standards of the American National Standards Institute (ANSI) manual, as amended.

#### **M. ACCESSORY DWELLING UNITS**

- 1. There may be no more than one accessory dwelling unit per lot.
- 2. An accessory dwelling unit's building area shall be no greater than 75% of the building area of the associated primary dwelling, and no greater than 1,000 square feet. The accessory dwelling unit's building area shall not count toward the accessory building area restrictions of Section 6-101-5-C.4.
- 3. The property owner's principle residence must be the property's primary or accessory dwelling.

## Section 6-101-7. OFF-STREET PARKING REQUIREMENTS

- A. General Provisions
  - B. Plan Review
  - C. Regulations and Requirements
  - D. Schedule of Off-Street Parking Requirements
  - E. Off-Street Loading Requirements
- 

### A. GENERAL PROVISIONS

Off-street parking and loading provisions of this Section shall apply as follows:

1. For all buildings and structures erected and all uses of land established after the effective date of this Ordinance, accessory parking and loading facilities shall be provided as required by the regulations herein.
2. For any non-conforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation provided, however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Section for equivalent new uses.
3. When the intensity of use of any building, structure, or premises is increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities as required herein shall be provided for such increase in intensity or use.
4. Whenever the existing use of a building or structure is changed to a new use, parking or loading facilities shall be provided as required for such new use.
5. Single-family residential structures and uses shall be subject only to subsection C.2.a and subsection D of this Section, Schedule of Off-Street Parking Space Requirements.
6. Off-street parking facilities required herein shall not be used for the repair, dismantling, or wrecking of any vehicles, equipment or material.
7. Off-street parking and loading spaces shall be provided on the same lot as the use served except as otherwise provided in this Ordinance. Adequate area shall be provided to permit any maneuvering necessary to reach off-street parking and loading areas.

8. Off-street parking facilities in existence on the effective date of this Ordinance and located on the same lot as the building or use served shall not hereafter be reduced below, or if already less than, shall not be further reduced below requirements for a similar new building or use under the provisions of this Ordinance.

**B. PLAN REVIEW**

Plans for any off-street parking lots, parking structures, or loading areas required under this Section shall be submitted to the Director for review and approval of applicable regulations. The plan shall show the following:

1. Total number of parking spaces of current, existing, and proposed areas;
2. Parking aisles;
3. Vehicle circulation;
4. Entrances and exits;
5. Sidewalks and pedestrian circulation;
6. Signage;
7. Lighting;
8. Storm water detention areas;
9. Landscaping islands;
10. Landscape and buffer areas with types of vegetation to be planted;
11. Dimensions for features shown on the plan, with distances from property lines and structures noted;
12. Other relevant information requested by the Director.

**C. REGULATIONS AND REQUIREMENTS**

**1. Number of Off-Street Parking Spaces**

- a. Except as otherwise noted in this Section, the number of off-street parking spaces for each new principal use shall be provided in accordance with subsection D of this Section.
- b. The parking lot requirements for a use not specifically listed in the chart in subsection D shall be the same as for a listed use of similar characteristics of

parking demand generation, as determined by the Director.

- c. For determining off-street parking and loading requirements, the sum of the gross horizontal areas of the floors of a building, or portion thereof, devoted to a specific use, shall be calculated. These areas shall include accessory storage areas located within selling space, such as counters, racks or closets; and any basement floor areas devoted to retailing activities, the production or processing of goods, or business or professional offices.
- d. When computing the number of parking spaces, any fraction shall be rounded up to the next highest number.
- e. A maximum of one-hundred thirty percent (130%) of the required number of parking spaces indicated in subsection D of this Section, Schedule of Off-Street Parking Requirements, may be provided for a particular use. Provided the intent and purpose of this Ordinance is not nullified, this maximum may be waived by the Plan Commission or its duly appointed or designated representative in their discretion, for reasons including but not limited to:
  - i. Aesthetics;
  - ii. Amount of pervious area;
  - iii. General vehicular and pedestrian traffic;
  - iv. Internal site circulation;
  - v. Landscaping, and
  - vi. Site design
- f. In determining the number of parking spaces required for a business, industry, institution, or any other concern which encompasses a number of different, yet related activities, the Director may determine the total number of parking spaces required by adding the amount of spaces required for each specific activity as listed in subsection D of this Section.

## **2. Location of Parking Facilities**

- a. The off-street parking areas required for residential buildings or uses shall be located on the same lot with the building or use served. In major residential subdivisions, the parking requirements for one- and two-family residential uses may not occupy more than fifty percent (50%) of the front yard area.
- b. The required off-street parking spaces for any number of separate buildings, structures, or uses may be provided collectively on one lot, provided the total number of such spaces shall be not less than the sum of requirements for the various individual buildings, structures, or uses computed separately in accordance with this Ordinance.

- c. When two or more uses are located within the same building or structure, off-street parking spaces equal in number to the sum of the separate requirements for each use shall be provided.
- d. Off-street parking areas for any business, industrial, or institutional use shall not be located closer than thirty (30) feet to any lot or parcel located in a residential district or used for residential purposes.
- e. Parking spaces shall not be located within twenty (20) feet of the existing or proposed street right-of-way line. Increased setback distances from residential districts or uses are required, as indicated above.

### **3. Joint Parking Facilities**

- a. Joint use of up to fifty percent (50%) of required parking areas may be permitted for two or more uses located on the same parcel or adjacent parcels, provided that the developer or owner can demonstrate to the Director that the uses will not overlap in hours of operation or in demand for shared spaces. This shall be guaranteed by a recorded written agreement from the owner or owners, and binding on all future owners, and shall be submitted to the Director.
- b. Shared parking areas shall be located not more than three-hundred (300) feet from the uses they are intended to serve and shall be connected to that use by a defined pedestrian walkway.
- c. Any subsequent change in land uses among the shared parking users shall require adequate parking as defined in subsection D of this Section.

### **4. Access**

Driveway entrances and exits to parking lots shall be located a minimum of seventy (70) feet from the centerlines of intersecting streets in order to prevent hazards in the street and impeding the flow of traffic in the parking lot. Entrances shall be designed to allow vehicles entering the site to be stored to prevent backup on the adjacent street. Parking lot entrances and exits shall be consolidated when possible to limit the number of access points to the site. In instances where parking areas are one-hundred (100) feet or more wide, the parking lot entrance shall be a minimum of fifty (50) feet from the nearest existing access drive.

### **5. Parking Lot Design**

- a. All off-street parking areas, driveways, loading areas, and maneuvering access thereto shall be surfaced with an all-weather, dustproof, impervious,



hard-surface pavement, and provide drainage which shall meet County specifications as prescribed by the Johnson County Subdivision Regulations. This surface shall be maintained in good condition and free of weeds, dirt, trash, and debris.

- b. All parking lots for commercial, manufacturing, institutional, and multi-family residential uses shall be paved with concrete, asphalt, or decorative concrete or asphalt pavers.
- c. Required parking spaces for all uses shall be a minimum width of ten (10) feet and a minimum length of twenty (20) feet, except parallel parking spaces which shall have a minimum length of twenty-two (22) feet.
- d. The number and dimensions of handicapped parking spaces, which shall be located adjacent to the building served, are to be provided in conformance with the requirements of the Americans with Disabilities Act, as follows:

<b>Number of Parking Spaces in Lot</b>	<b>Required Minimum Number of Accessible Spaces*</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total spaces
1,001 and over	20, plus 1 for each 100 spaces over 1,000 spaces
* For every 8 accessible spaces, at least one must be a van-accessible space.	

- e. All parking lots for commercial, manufacturing, institutional and multi-family residential uses shall be separated from adjoining non-paved surfaces with a continuous concrete curb at least six (6) inches in height. All parking lots shall be designed to provide adequate storm water drainage, including onsite detention capabilities. Curbed traffic islands are to be located on both ends of each parking row to facilitate safe traffic circulation

within the parking lot.

- f. Required off-street parking spaces shall be so designed, arranged and regulated as to have individual spaces marked, be unobstructed and have access to an aisle or driveway so that any vehicle may be moved without moving another and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way.
- g. All parking areas shall be provided with circulation aisles of adequate dimension to ensure efficient internal circulation. The following standards shall apply:

Angle of Parking Relative to Circulation Aisle	Circulation Aisle Width	One- or Two-Way Circulation
0 degrees (parallel parking)	12 feet	One
30 degrees	12 feet	One
45 degrees	14 feet	One
60 degrees	18 feet	One
90 degrees (perpendicular parking)	24 feet	Two

- h. All signage within parking areas shall conform to the standards within the Sign Regulation section of this Ordinance (Section 6-101-9).
- i. Lighting within parking areas shall conform to Section 6-101-5.G.9 of this Ordinance.

**D. SCHEDULE OF OFF-STREET PARKING REQUIREMENTS**

Accessory off-street parking spaces shall be provided as required for the following uses:

TYPE OF USE	SPACE REQUIREMENTS
<b>Residential Uses</b>	
Single- two-, multi-family, and townhouse dwelling	2 spaces per dwelling unit
Boarding and lodging houses, fraternity, and sorority	1 space per bed
Home occupation	Maximum of 1 space per home occupation (in addition to the space requirements for the dwelling unit)

<b>Commercial Uses</b>	
Automobile, mobile home, truck, recreational vehicle, boat, or farm implement sales	1 space per 300 square feet of showroom floor area plus 1 space per 2,000 square feet of outdoor sales area
Auto service station or repair	1 space per pump plus 2 spaces per service bay
Car wash (self service or automatic)	2 spaces per bay
Convenience retail	1 space per 200 square feet
Greenhouse	1 space per 1,000 square feet
Hotel, motel, or bed-and-breakfast	1 space per room plus 1 space per employee on the largest shift; if conference space, then an additional 1 space per 200 square feet of indoor conference meeting space
Video Rental Store	1 space per every 300 square feet
Movie theater	1 space per 2 seats
Office (Professional, Government, and Business)	1 space per 300 square feet
Plant nursery	1 space per 300 square feet plus 1 space per acre
Rental agency	1 space per 300 square feet plus 1 space per 1,000 square feet of outdoor display area
Restaurant or fast food establishment	1 space per 2.5 seats plus 1 space per employee on the largest shift
Retail sales and services establishment under 150,000 square feet	1 space per 200 square feet
Retail sales and services establishment 150,000 square feet or greater	1 space per 300 square feet
Roadside sales	5 spaces per stand
Shopping center under 150,000 square feet	1 space per 250 square feet
Shopping center 150,000 square feet or greater	1 space per 300 square feet
Tavern or night club	1 space per 100 square feet
Wholesale sales	1 space per 600 square feet plus 1 space per employee on the largest shift
<b>Schools, Churches, Health Care Facilities, and Other Institutions</b>	
Religious Institutions	1 space per 4 seats in the main place of assembly plus 1 space per 300 square feet of classroom and meeting areas
Clinic or medical health center	1 space per 300 square feet

Day care or kindergarten	1 space per employee plus 1 space per 6 students
Elementary School	One space per classroom, plus one space per four seats in auditorium and/or gymnasium areas, plus one space per 200 square feet of office area.
High School	One space per six students, based on projected maximum classroom capacity, plus one space per four seats in auditorium and/or gymnasium areas, plus one space per 200 square feet of office area.
College or University	One space per four students, based on projected maximum enrollment, plus one space per four seats in auditorium and/or gymnasium area, plus one space per 200 square feet of office area.
Trade School, Business School, or Commuter College	One space per two students, plus one space per 200 square feet of office area
Hospital	1 space per 2 beds plus 1 space per employee on the largest shift
Medical office building	1 space per 250 square feet
Nursing of convalescent facility	1 space per bed plus 1 space per employee on the largest shift
Penal or correctional institution	1 space per employee on the largest shift plus 1 space per 5 cells
Research, medical, or optical laboratory	1 space per 300 square feet
<b>Cultural and Entertainment Facilities</b>	
Bowling alley	5 spaces per lane
Carnival, circus, or fair	50 spaces per acre
Golf course	6 spaces per hole
Meeting or party hall, country club, or dance hall	1 space per 200 square feet of indoor space; plus 1 space per 5,000 square feet of outdoor meeting area
Private club or lodge	1 space per 200 square feet plus 1 space per 2 seats in main place of assembly
Race track	1 space per 4 seats or six feet of benches
Riding stable (public)	1 space per stall
Stadium or coliseum	1 space per 3 seats or six feet of benches
Tennis or racquetball facility	2 space per court plus 1 space per employee on the largest shift
<b>Manufacturing, Warehouse, and Miscellaneous</b>	
Cemetery	1 space per employee on the largest shift

Airport	1 space per employee on the largest shift, plus 1 space for every 1,000 square feet of hanger space or 1 space per outdoor aircraft storage space
Manufacturing establishment	1 space per 500 square feet
Mineral extraction, borrow pit, top soil removal or storage	1 space per employee on the largest shift
Mortuary or crematorium	1 space per 50 square feet of public area
Motor bus or railroad passenger station	1 space per 4 seats in waiting area
Post office	1 space per official vehicle plus 1 space per employee on the largest shift plus 1 space per 200 square feet
Sanitary landfill or refuse dump; sewage plant, or recycling plant	1 space per employee on the largest shift plus 1 space per 4 acres
Self-service storage	1 space per 50 storage units plus 1 space per 300 square feet of office space
Truck terminal	1 space per 1,000 square feet of covered building space
Warehouse or storage facility	1 space per 500 square feet of indoor storage plus 1 space per 1,500 square feet of outdoor storage
Water treatment or storage facility	1 space per employee on the largest shift

#### **E. OFF-STREET LOADING REQUIREMENTS**

1. Every building which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles shall be required to have off-street loading zones in accordance with requirements of this Ordinance.
2. All required off-street loading facilities which serve a building, structure, or use of land erected, established, altered, enlarged, or intensified after the effective date of this Ordinance shall be located on the same lot as the building, structure, or use of land to be served.
3. All required off-street loading facilities shall be located according to front, side or rear yard requirements of the principal structure or use which it serves. Off-street loading facilities shall be located in a manner to prevent vehicle maneuvering in or blockage of rights-of-way.
4. Areas designated as off-street loading facilities may not be used to satisfy the parking requirements established in subsection D of this Section, Schedule of Off-Street Parking Requirements.
5. Each loading berth shall have minimum dimensions of not less than twelve (12)

feet in width, sixty-five (65) feet in length and fourteen (14) feet vertical clearance, exclusive of access drives, aisles and maneuvering space. The Technical Review Committee may approve deviations from this requirement in cases where receipt or distribution of materials or merchandise is accomplished principally or entirely by vehicles comparatively smaller than those requiring a typical loading berth having the dimensions above.

6. All open off-street loading berths shall be improved with concrete pavement or comparable hard surface pavement.

## **Section 6-101-8. LANDSCAPING AND SCREENING REQUIREMENTS**

- A. Application
  - B. Landscape Plan
  - C. Landscape Buffers Between Incompatible Uses
  - D. Parking Lot Landscaping
  - E. Areas to be Landscaped
  - F. Landscaping Materials
  - G. Landscaping Installation and Maintenance
  - H. Performance and Maintenance Bonds
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### **A. APPLICATION**

This section of the Zoning Ordinance shall apply to all zoning districts, including overlay districts, and to all uses within those districts, with the exception of one- and two-family residential dwellings and property. 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**

Where required by the zoning district regulations, a landscape plan must be submitted to the Director for approval prior to the issuance of a building permit. This plan shall be drawn to scale and include the following information:

1. Property owner's name, address, and telephone number;
2. Existing and proposed structures;
3. Parking areas and driveways;
4. Walkways;
5. Location of existing trees or wooded areas (showing all trees at least eight (8) feet in overall height which have a minimum trunk diameter of two (2) inches at a height of twelve (12) inches above the ground) and a tree preservation plan delineating those existing trees or wooded areas that will be preserved;
6. Name, location, size at planting or placement, and number of all landscape materials, both man-made and natural;

7. Contractor's name, address, and telephone number, if contractor has been hired;
8. Any other information deemed necessary and relevant by the Director.

**C. LANDSCAPE BUFFERS BETWEEN INCOMPATIBLE USES**

**1. General Restrictions**

Landscape buffers shall be reserved for the planting of materials as required in this Section. No parking, sidewalks, accessory buildings, or other impervious surfaces shall be permitted, unless specifically authorized by this Ordinance. Landscape buffers may be located within required yards as established in the applicable district regulations. Where requirements for landscape buffers and perimeter parking lot landscaping overlap, the more restrictive requirement shall apply. Where natural topography or existing vegetation serves buffering purposes, the Director may, after inspection of the site and documentation of findings, allow the existing conditions to substitute for the requirements below.

**2. Size and Improvement of Landscape Buffers**

The size and composition of landscape buffers between various uses shall be as indicated below. Area within the buffer that is not planted with trees or shrubs shall be maintained in grass or other acceptable ground cover.

**a. Business Uses**

Where a commercial use (including PUD commercial) abuts a residential district or use, a landscape buffer twenty (20) feet in width shall be provided. Within the buffer, the following requirements shall be provided along the entire length of the buffer:

- i. a tree screen, consisting of two staggered rows of 30% deciduous, 70% evergreen trees, with individual trees to be at least six (6) feet in height at planting and spaced no more than twenty (20) feet apart.
- ii. shrubs of a non-deciduous species, planted in staggered rows, with individual shrubs to be at least two (2) feet in height at planting and spaced no more than six (6) feet apart.

**b. Industrial Uses**

Where an industrial use abuts a residential district or use, a landscape buffer thirty (30) feet in width shall be provided. Within the buffer, the following requirements shall be provided along the entire length of the buffer:



- i. a tree screen, consisting of two staggered rows of 30% deciduous, 70% evergreen trees, with individual trees to be at least eight (8) feet in height at planting and spaced no more than fifteen (15) feet apart.
- ii. shrubs of a non-deciduous species, planted in staggered rows, with individual shrubs to be at least two (2) feet in height at planting and spaced no more than six (6) feet apart.

c. Multi-family or Mobile Home Developments

Where a multi-family or mobile home development abuts an R-1 or R-2 district or single-family use, a landscape buffer fifteen (15) feet in width shall be provided. Within the buffer, the following requirement shall be provided along the entire length of the buffer: a tree screen, consisting of two staggered rows of 30% deciduous, 70% evergreen trees, with individual trees to be at least six (6) feet in height at planting and spaced no more than fifteen (15) feet apart.

**D. PARKING LOT LANDSCAPING**

1. A six (6) foot wide landscaping strip shall be provided around the perimeter of the parking lot. The landscaping strip shall be planted with canopy trees, ornamental trees, and low shrubs. A minimum of one (1) canopy tree or ornamental tree per every forty (40) feet of perimeter shall be provided within the landscaping strip, along with a minimum of one (1) shrub per every four (4) feet.
2. A minimum of five percent (5%) of the gross vehicular area of the parking lot shall be landscaped. Perimeter parking lot landscaping shall not be included toward satisfying this requirement. One (1) shade tree shall be provided for every one hundred twenty (120) square feet of this five percent interior landscaping area. Plant material within parking lots shall provide for safe visibility and maintain clear sight lines between two (2) and eight (8) feet from the top of the curb. Such landscaping shall be provided in any combination of planting islands, planting peninsulas, and entrance ways, and shall be dispersed so as to define aisles and limit unbroken rows of parking to one hundred fifty (150) lineal feet.
3. No more than seventy percent (70%) of the length of a perimeter parking lot landscaping area in a rear or side yard may be utilized for placement of a berm or masonry wall. A berm shall not exceed a height of six (6) feet or a slope of thirty (30) degrees and shall be completely covered with shrubs, grass, or other living ground cover. A masonry wall shall not exceed a height of six (6) feet.

## **E. AREAS TO BE LANDSCAPED**

1. Parking areas shall be screened according to subsection D of this Section, above.
2. Roadway rights-of-way shall be landscaped with grass and trees. No walls, fences, or signs shall be permitted in a right-of-way. Landscaping shall not impede visual clearance according to Section 6-101-5.F (Visual Clearance on Corner Lots) of this Ordinance.
3. 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 or an adjacent property.
4. Freestanding signs and off-premises signs, excluding billboards, shall be landscaped according to the provisions of Section 6-101-9 (Signs) of this Ordinance.
5. On property zoned R-1, R-2, or R-3, no more than 40 percent of the total front yard area may be covered by driveway, sidewalk, parking area, or any impervious surface. However, on corner lots, no more than 50 percent of the total front yard area may be covered by impervious surface. The remainder shall be planted with grass or other suitable landscaping materials.

## **F. LANDSCAPING MATERIALS**

Landscaping 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:

### **1. Living Plant Materials**

- a. Minimum trunk diameter of deciduous canopy and ornamental trees shall be two and one-half (2½) inches at a height twelve (12) inches above ground. The minimum height of evergreen trees shall be six (6) feet at planting;
- b. Shrubs or hedges shall have a minimum height of twenty-four (24) inches at planting;
- c. Grasses or ground cover;
- d. Vines

2. Non-living materials, indicated below, shall be limited to planting beds and around individual plants and shall not exceed twenty-five percent (25%) of the total square footage of landscaped area:
  - a. Rocks, pebbles, or sand;
  - b. Mulch, including stone or bark;
  - c. Berms;
  - d. Lakes, ponds, streams, or fountains;
  - e. Ornamental fences or masonry walls, architecturally compatible with surrounding development.

## **G. LANDSCAPING INSTALLATION AND MAINTENANCE**

### **1. Installation**

All landscaping required by the approved landscaping plan shall be installed prior to the issuance of a building occupancy permit if said permit is issued during a planting season, or within six (6) months of the date an Occupancy Permit is issued during a non-planting season.

### **2. Maintenance**

It shall be the responsibility of the owners and their agencies to ensure proper maintenance of the landscaping, in accordance with the standards set by this Ordinance and as indicated on the landscaping plan which has been approved by the County. This is to include, but not be limited to, replacement of dead plantings with identical varieties or a suitable substitute, and the maintenance of the area free of refuse and debris.

### **3. Changes after Approval**

Any change or deviation to an approved landscaping plan shall require the approval of the Director. Changes that do not conform to this Section shall be subject to the procedures for a variance as established in this Ordinance. Landscaping improvements made on a site that are not in conformance with the approved landscaping or site plan shall be considered a violation of this Section subject to the fines and penalties established herein, provided, however, that landscaping improvements may exceed the minimum requirements as shown on the approved plan.

#### **4. Inspection**

The Director, or his/her designate, shall have the authority to visit any lot to inspect the landscaping.

#### **H. PERFORMANCE AND MAINTENANCE BONDS**

Where landscaping is required to be installed pursuant to this Section, a performance bond or other financial security shall be submitted in the amount of one hundred (100) percent of the cost of the required landscaping. Such financial security shall be posted with the Department of Planning and Zoning as a prerequisite to obtaining permits for development of a site and shall be required for a period of one (1) year from the date of issuance of such permits. Upon completion of the landscaping improvements and inspection by the Department, the financial security shall be released. The Department shall require the posting of a maintenance bond or other financial security in the amount of five (5) percent of the total cost of landscaping improvements, or a minimum of five hundred (500) dollars, whichever is greater, to guarantee the replacement of landscaping material, if necessary, for a period of two (2) years from the date of release of the performance security.

## **Section 6-101-9. SIGNS**

- A. Purpose
  - B. Permit Required
  - C. General Provisions
  - D. Maintenance
  - E. Nonconforming Signs
  - F. Exempt Signs
  - G. Prohibited Signs
  - H. Temporary Signs
  - I. Illumination of Signs
  - J. Sign Standards by Zoning District
  - K. Off-Premises Signs
  - L. Definitions
- 

### **A. PURPOSE**

It is the purpose of this Section to provide a balanced system of signage to facilitate communication between people and their environment and to avoid visual clutter that is potentially harmful to traffic safety, property values, community appearance, and the economic vitality of Johnson County.

### **B. PERMIT REQUIRED**

1. Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the jurisdiction of the Johnson County Plan Commission, or cause the same to be done without first obtaining a sign permit for each sign from the Department of Planning and Zoning.
2. Application for a permit shall be made to the Department on forms provided by the Department, and shall include, and be accompanied by, the following information:
  - a. Name and address of the property owner of the premises on which the sign is located or is to be located;
  - b. Name and address of the owner of the sign;
  - c. Consent from the property owner;
  - d. Clear and legible drawings with description showing the location of the sign that is the subject of the permit, and all other signs for which a construction permit is required, when such signs are on the same premises;

- e. Drawings showing dimensions, construction supports, sizes, electrical wiring and components, materials of the sign, method of attachment, and character of structural members to which attachment is made. If required by the Director, engineering data shall be supplied on submitted plans and certified by a duly licensed engineer;
  - f. A statement, in writing, that the applicant has obtained all necessary licenses and/or approvals from other affected governmental agencies pertaining to any sign proposed to be erected, constructed, altered, repaired, improved, maintained, converted, or manufactured adjacent to, or visible from, any State or Federal roadway.
3. The following shall not be considered as creating a sign and therefore shall not be required to have a sign permit:
- a. The changing of a message on an approved sign.
  - b. Painting, repainting, cleaning, or other normal maintenance and repair of a sign or sign structure, unless a structural change is involved.

### **C. GENERAL PROVISIONS**

The following general provisions shall apply to all signs in all zoning districts:

1. No portion of any sign may be erected within ten (10) feet of a street right-of-way, except for temporary yard signs as permitted in this section.
2. Free-standing signs shall be located no closer than fifteen (15) feet to the side lot line.
3. Free-standing signs shall be no greater than ten (10) feet in height, except as otherwise permitted in this Section.
4. No portion of any sign may be erected so as to obstruct sight lines along any right-of-way or so as to obstruct sight lines to traffic control devices, street name signs at intersections, directional signs, or signals and/or railroad grade crossings, and shall maintain required vision clearance requirements as stipulated by Section 6-101-5.F of this Ordinance.
5. A landscaping area equal to the total sign area shall be installed at the base of all permanent free-standing signs, with the exception of off-premises signs. A landscaping plan shall be submitted with each sign permit application for a permanent free-standing sign, such landscaping plan to be approved by the Department of Planning and Zoning.

**D. MAINTENANCE**

1. All signs shall be maintained in a good state of repair, including, but not limited to, repair of defective parts, painting and cleaning. The replacement of the structural members of a non-conforming sign shall not constitute maintenance as defined in this Section, but shall be considered as new construction and must, therefore, satisfy all requirements of this Ordinance.

**E. LEGALLY ESTABLISHED, NON-CONFORMING SIGNS**

Any sign lawfully established prior to the effective date of this Ordinance that does not conform to the regulations herein shall be deemed a legally established, non-conforming sign and may be continued except under the following provisions:

1. If there is an increase in the size of the sign area or an increase in the height of the sign;
2. If the sign is relocated from its original place of installation;
3. If there is a complete replacement of the structural elements of the sign;
4. If the sign is covered by a variance granted by the Board of Zoning Appeals, that has expired;
5. If the sign is destroyed to an extent equal to or greater than fifty percent (50%) of its value; and/or
6. If a sign becomes definable as an off-premises sign, due to the change in use of the lot.

**F. EXEMPT SIGNS**

The following signs are exempt from other requirements of this Section, except for the noted requirements:

**1. Damaged Sign**

A conforming sign erected under a legally obtained permit that is damaged or destroyed by wind, weather, or other accidental means beyond the control of the applicant may be replaced or restored to its original size, shape, and location (as prior to the accident) without obtaining an additional permit. Replacement of a damaged or destroyed sign with a new sign of different size, shape, or location from the original sign shall require a permit.

**2. Incidental Signs**

Incidental signs in residential zoning districts shall be no greater than one and one half (1.5) square feet in area and no greater than two and one half (2.5) feet in height. Incidental signs in non-residential zoning districts shall be no greater than six (6) square feet in area and no greater than six (6) feet in height. Incidental signs shall be a minimum of three (3) feet from any parking or maneuvering area.

**3. Interior Signs**

**4. Public Signs**

**5. Structural Signs**

Structural signs shall be no greater than two (2) square feet in area and each structure shall have no more than one sign per pedestrian entrance.

**6. Window Signs**

Signs located in or on windows do not require a permit as long as such signs are located on the inside of the building.

**G. PROHIBITED SIGNS**

The following signs are prohibited. It shall be unlawful to erect and maintain:

1. Any sign that does not qualify as a sign permitted or exempted under this Section.
2. Off-premises signs, except as expressly permitted in this Section.
3. Flashing, scrolling, or animated signs.
4. Portable signs, inflatable signs, banners, pennants, propellers, pinwheels, streamers, and similar small objects, except to the extent permitted as temporary signs.
5. Signs imitating or resembling official traffic or government signs or signals.
6. Signs located within or projecting into a public right-of-way, other than traffic or government signs or signals located permanently or temporarily for public safety.
7. Signs tacked, pasted, or otherwise affixed to or located on buildings, barns,



sheds, trees, towers, utility poles, posts, fences, benches, trash containers, parking meters, or other structures, and that are visible from a roadway, and not an exempt sign, and not a banner sign.

8. Signs on vehicles or trailer frames, whether or not the trailer wheels have been removed, shall be prohibited, except for commercial vehicles that are lawfully and temporarily parked and otherwise moved and operated in the course of regular, routine, and reasonable use of such vehicle or trailer.
9. Signs painted on, or attached to, any fence or wall that is not structurally a part of a building.
10. Signs that emit audible sound, odor, or visible matter.
11. Signs that, by reason of their size, location, movement, content, coloring or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment vehicle, or that hide from view any traffic or roadway sign, signal or device.

## **H. TEMPORARY SIGNS**

Only the temporary signs specified in this subsection are permitted temporary signs, and such permitted temporary signs are subject to the conditions provided herein. These permitted temporary signs shall be permitted on or off-premises, unless otherwise specified by this subsection. No permit is required for permitted temporary signs.

### **1. Banners**

One (1) banner per lot may be displayed in business districts and for a period not to exceed ten (10) consecutive days per month. Said sign is not to exceed forty (40) square feet in area or six (6) feet in height. With the exception of street banners authorized as provided below, banners are only permitted in business districts.

### **2. Inflatable Signs**

Inflatable signs may be displayed for no more than fourteen (14) days during a calendar year on any lot in a business or industrial district, limited to one (1) such sign per lot. Such sign shall not exceed the permitted building height by more than twenty (20) feet.

### **3. Portable Signs (including "a-frame", "t-frame" and "arrow" signs)**

One (1) portable sign per lot may be displayed in business districts for no more than a cumulative total of sixty (60) days per calendar year. Such signs shall not exceed forty (40) square feet in area or six (6) feet in height.

#### **4. Street Banners**

Street banners advertising public events, and not advertising commercial goods or services, and only for locations designated by the Director and/or County Highway Department, may be displayed during and for fourteen (14) days prior and fourteen (14) days after the event.

#### **5. Yard Signs**

Except as otherwise provided within this Section 6-101-9, no more than one yard sign may be displayed on a lot. In agricultural and residential districts, yard signs shall not exceed four (4) square feet in area and four (4) feet in height. In business and industrial districts, yard signs shall not exceed thirty-two (32) square feet in area and ten (10) feet in height. Yard signs that do not exceed four (4) square feet in area and four (4) feet in height may be placed closer than ten (10) feet to the street right-of-way, but may not be placed within one (1) foot of a street right-of-way.

#### **6. Yard Signs During Election Periods**

There shall be no limit on the number of yard signs permitted during election periods, provided that all signs are placed in one line perpendicular to the right-of-way, and displayed for no more than forty-five (45) days prior to a scheduled election and such additional yard signs shall be removed within seven (7) days after such election. Such additional yard signs shall be subject to the yard sign dimensional and location restrictions stated in subsection (H)(5) above.

#### **7. Yard Signs on Lots Undergoing New Construction**

Three (3) additional yard signs may be displayed on a previously undeveloped lot undergoing new construction. Such additional yard signs shall be subject to the yard sign dimensional and location restrictions stated above, except that one sign may be as large as thirty-two (32) square feet in area and ten (10) feet in height. Such signs shall be removed upon completion of the construction project.

### **I. ILLUMINATION OF SIGNS**

1. Sign illumination shall be designed so as not to cause glare that may result in traffic hazards or that may interfere with the customary use of nearby residences, in accordance with Section 6-101-5.H, Performance Standards, of this Ordinance.

2. In residential districts, only signs located within subdivision common area or in a designated sign easement and on lots having an institutional use may be illuminated, which may be by external illumination only. In non-residential districts, all signs may be externally and internally illuminated provided they meet other provisions established in this Ordinance.
3. Illuminated signs facing the side or rear lot line of an adjoining lot used for residential purposes shall not be located within fifty (50) feet of such side or rear lot line.
4. Electronic variable message signs are permitted, provided:
  - a. Such signs do not create a traffic hazard to vehicular traffic on thoroughfares along which the sign is oriented;
  - b. Such signs may not be placed closer than thirty-five (35) feet to a public right-of-way;
  - c. The area containing the changing messages shall not exceed thirty (30) percent of the total sign area;
  - d. No more than one (1) such sign shall be permitted per lot.
  - e. Such signs shall have a minimum static display time of eight (8) seconds.
  - f. Such signs shall not be permitted in agricultural, residential, or neighborhood business districts. Such signs shall not be located within three-hundred (300) feet of a residential use.

## **J. SIGN STANDARDS BY ZONING DISTRICT**

### **1. Residential**

This section shall apply to the following zoning districts: A-1, AC, RR, R-1, R-2, R-3, R-4, and R-5.

- a. In subdivision common area and on properties used for agricultural operations, institutional purposes, or for municipal purposes, one (1) permanent free-standing sign and one (1) wall sign are permitted. Free-standing signs shall not exceed thirty two (32) square feet in area and six (6) feet in height. Wall signs shall not exceed one and one half (1 1/2) square feet in area for each lineal foot of building frontage. However, in no instance shall the total wall sign area exceed fifty (50) square feet.
- b. Signs listed under Exempt Signs and Temporary Signs, to the extent

permitted within the Exempt Signs and Temporary Signs subsections, are permitted.

## 2. Business and Industrial

This section shall apply to the following zoning districts: B-1, B-2, I-1, and I-2.

### a. Free-standing buildings, within or not within an integrated center:

i. One (1) free-standing sign shall be permitted for each lot. The sign shall not exceed thirty-two (32) square feet in area. In the event that such lot fronts more than one road, additional free-standing signs may be permitted at the discretion of the director.

### ii. Wall sign

No specific limit is imposed on the number of wall signs; however, the total maximum sign area for all wall signs on a given building frontage shall be two (2) square feet in area for each lineal foot of building frontage. In no instance shall the total sign area for all signs for a single establishment exceed one hundred (100) square feet in area. A free standing building that is situated on more than one (1) street may have wall signs located on each exposed wall, per the size limitations above.

iii. Projecting signs may be used instead of wall or free-standing signs provided they do not project more than eighteen (18) inches beyond the building to which it is attached, project beyond the lot line or public right-of-way line and maintain a clearance of ten (10) feet over pedestrian areas.

### b. Integrated Centers

i. One (1) free-standing sign shall be permitted within an integrated center and shall meet the following requirements:

(A). Such sign shall have a maximum sign area of two hundred (200) square feet and a maximum height of twenty-five (25) square feet.

(B). Where an integrated center has in excess of six hundred (600) feet of road frontage, one (1) additional free-standing sign shall be permitted. The distance between signs shall be at least five hundred (500) feet.

ii. Wall sign

No specific limit is imposed on the number of wall signs per establishment within the integrated center; however, the total maximum sign area for all wall signs for a single establishment shall be two (2) square feet in area for each lineal foot of building frontage. In no instance shall the sign area for all signs for a single establishment exceed one hundred (100) square feet in area.

**K. OFF-PREMISES SIGNS**

Off-premises signs shall meet the following requirements:

1. Off-premises signs, except as expressly permitted in this Section, may only be located along Interstate Highway 65 and must also be located within a business or industrial district.
2. Size, setback, height and area restrictions:

<b>Minimum Setback</b>	<b>Maximum Height</b>	<b>Maximum Area</b>
20 feet (all lot lines)	30 feet	750 square feet for each side of the sign.

3. The minimum distance between any off-premises signs shall be two-thousand (2,000) feet.
4. Off-premises signs shall be located at least two thousand (2,000) feet from any residential zoning district or residential use.
5. Off-premises signs shall be located at least two-thousand (2,000) feet from any local, State or Federally-created historic district.
6. Off-premises signs shall be located within six hundred sixty (660) feet from the Interstate Highway 65 right-of-way.
7. Off-premises signs shall be located at least five (500) hundred feet from an interchange or intersection, to be measured along the right-of-way of the interstate at the beginning or end of pavement widening at the exit from or entrance to the main traveled way.
8. An off-premises sign may be mounted with two (2) faces back-to-back, or "V-ed" at an angle not to exceed sixty (60) degrees.

9. Off-premises signs that are double stacked, one on top of the other, are prohibited.
10. Extensions to the basic rectangular sign area shall not exceed a maximum of four (4) feet along the top and maximum of one (1) foot on the sides and bottom.
11. Electronic Variable Message Signs are not permitted.

## L. DEFINITIONS

**INTEGRATED CENTER:** An area of commercial development of one (1) or more lots, comprised of:

1. Two (2) or more individual, unrelated and separately operated uses in one (1) building sharing common-site facilities; or
2. One (1) or more buildings containing unrelated and separately operated uses occupying a common site, that utilizes one (1) or a combination of common site facilities, such as driveway entrances, parking areas, driving lanes, signs, maintenance and similar common services; or
3. One (1) or more buildings containing unrelated and separately operated uses occupying individual sites, that are interrelated by the utilization of one (1) or a combination of common facilities, such as driveway entrances, public or private street network, parking areas, maintenance and other services.

**SIGN:** A single or multi-faced structure or device designed for the purpose of informing or attracting the attention of persons typically not on the premises on which the structure or device is located.

**SIGN AREA:** (1) The area that is enclosed by one (1) rectangle, the sides of which make contact with the extreme points or edges of the sign excluding the supporting structure that does not form part of the sign proper or of the display; **or** (2) The area of a sign composed of characters or words attached directly to a large, uniform building wall surface and shall be the smallest combination of rectangles that enclose the whole group, including any loops or special symbols.

**SIGN, AWNING OR CANOPY:** Any sign that is part of, or attached to, an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A sign on a marquee is not considered an awning or canopy sign.

**SIGN, BANNER:** A temporary sign composed of lightweight material enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

**SIGN COPY:** The wording or graphic illustrations on a sign surface either in permanent or removable letterform.

**SIGN, ELECTRONIC VARIABLE MESSAGE (EVMS):** A sign, or component of a sign, where the display is light-based and can be changed or rearranged either in the field, or from a remote location, without physically altering the face or the surface of the sign, such as an electrically or electronically controlled message center. Also known as a digital sign.

**SIGN, FREE-STANDING:** A sign that is completely or principally self-supported by posts or other supports independent of any building or other structure. The following types of signs shall be considered free-standing signs for the purpose of this Ordinance:

**SIGN, GROUND:** Any sign, other than a pole sign, in which the entire bottom is in contact with or is closely associated with the ground and is independent of any other structure.

**SIGN, POLE:** Any sign supported by one upright pole, column, or brace placed in or on the ground and not attached to any building or structure.

**SIGN, INFLATABLE:** Any temporary sign designed to be inflated and attached to a building or any part of the lot by means of a tether so as to float freely in the air; or a similar sign anchored to a building or lot in any manner.

**SIGN, INCIDENTAL:** A small, permanent, freestanding sign accessory to the primary use of land that is located on or within five feet of pedestrian entrances and exits, parking areas, loading areas, drive-through service areas, and stormwater management features.

**SIGN, INTERIOR:** A sign within the interior of any building, or within an outdoor area enclosed by a fence or other structure, and not visible from adjoining lots owned by persons other than the owner of the lot on which the sign is located, and not visible from the public right-of-way.

**SIGN, MARQUEE:** A permanent roof-like shelter extending from part or all of the building face over a right-of-way (sidewalk), public or private, and constructed of some durable material such as metal, glass, plastic or wood.

**SIGN, OFF-PREMISES:** A sign that directs attention to a business, profession, commodity, or service offered on a lot other than that on which the sign is located.

**SIGN, PORTABLE:** A sign that by its design and construction is readily movable from one location to another, mounted on wheels or on a small trailer frame, or mounted on a supportive frame that is designed to sit on top of the ground or to be temporarily staked or tied to the ground.

**SIGN, PROJECTING:** A sign that is wholly dependent upon a building for support and that extends outward there from, typically in a direction perpendicular to the building wall.

**SIGN, PUBLIC:** Signs of a non-commercial nature and in the public interest erected by, or on the order of, a public utility, a public agency, or a public officer(s) in performance of their public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, signs directing the traveling public to public and quasi-public facilities, or signs on public buildings or structures and the like.

**SIGN, STRUCTURAL:** A sign that is architecturally and structurally integral to a building. For illustrative purposes only, examples may include names of buildings, dates of erection, monumental citations, and commemorative tablets.

**SIGN, TEMPORARY:** A sign constructed of cloth, canvas, fabric, plastic, metal, plywood, or other light material, with or without a structural frame, designed or intended to be displayed for a limited period.

**SIGN, WALL:** Any sign affixed directly to, painted on, or otherwise inscribed on an exterior wall and confined within the limits of any building.

**SIGN, WINDOW:** A sign installed inside a window for purposes of viewing from outside the premises. This term does not include merchandise located in a window.

**SIGN, YARD:** A temporary free standing sign accessory to the primary use of land that is located in the yard of a lot. For illustrative purposes only, examples may include signs posted by a realtor or home improvement company, signs expressing an opinion, and garage sale advertising.



## Section 6-101-10. NON-CONFORMING USES

- A. Purpose
  - B. Continuance and Alteration of Nonconforming Uses
  - C. Discontinuance or Abandonment
  - D. Nonconforming Lots of Record
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### A. PURPOSE

Lawful existing uses which would be prohibited or restricted under the terms of this Ordinance, or future amendments, and which do not conform to the regulations of the district in which they are located, shall be subject to certain limitations. The regulations set forth below are intended to provide a means whereby nonconforming uses can be gradually eliminated and re-established in more suitable locations throughout the County.

### B. CONTINUANCE AND ALTERATION OF NONCONFORMING USES

#### 1. Expansion

If a lawful use of land, structure, or land and structure in combination exists on the effective date of adoption or amendment of this Ordinance that would not be permitted in the district under the terms of this Ordinance, that use may be continued pursuant to requirements listed herein and subject to the following provisions:

- a. No existing land or structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of land or structure to a use permitted in the district in which it is located.
- b. No nonconforming use in a floodway district shall be expanded or enlarged without a permit for construction in a floodway from the Department of Natural Resources.

#### 2. Extension

Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, but shall not be expanded to occupy any land outside such building.

#### 3. Change in Use

- a. A nonconforming use of a lot or structure may not be changed to another nonconforming use. Change of use for nonconforming uses shall be

limited to those uses permitted by right in the district in which the nonconforming lot or structure is located, or to those uses allowed by Special Exception. Once a nonconforming use is changed to a conforming use, it shall not thereafter be changed to a nonconforming use.

- b. Any land, structure, or land and structure in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such land or structure is located, and the nonconforming use may not thereafter be resumed.

#### **4. Repair**

A nonconforming parcel may be maintained, and a nonconforming structure may be repaired or maintained; provided, however, that no nonconforming parcel or structure may be altered in a way which increases its nonconformity, but any parcel, structure, or portion thereof, may be altered to decrease its nonconformity.

#### **5. Damage, Destruction, or Razing**

- a. Any nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is undertaken within eighteen (18) months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty.
- b. In a Floodplain District only, any nonconforming use which is damaged by flood, fire, explosion, act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than forty (40) percent of its pre-damaged value.
- c. If a nonconforming structure is voluntarily razed by the property owner, or if a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

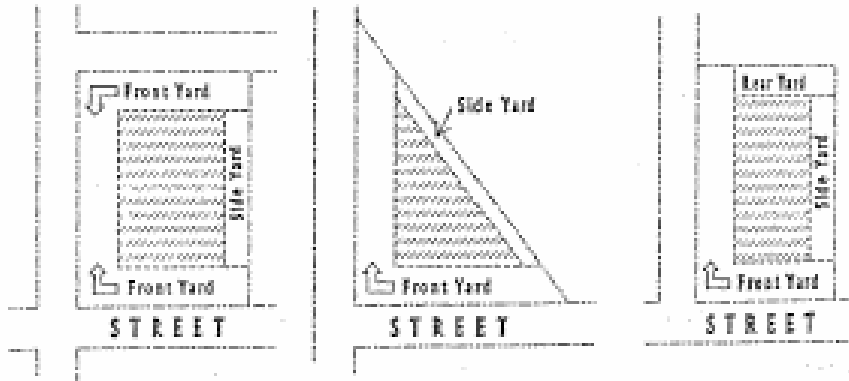
### **C. DISCONTINUANCE OR ABANDONMENT**

When a nonconforming use of land, structure, or land and structure in combination is discontinued or abandoned for twelve (12) consecutive months, the structure, land, or structure and land in combination shall not thereafter be used except in conformance with regulations of the district in which it is located.

#### **D. NONCONFORMING LOTS OF RECORD**

1. Any lot of record existing at the effective date of this Ordinance and at that time held in separate ownership different from ownership of adjoining lots may be used for the erection of a structure, even though the lot area, road frontage, and lot width are less than the minimum requirements of this Ordinance, as long as all other regulations contained in this Ordinance are met.
2. Ten acre or larger nonconforming tracts created prior to February 19, 2002 shall be exempt from the minimum road frontage and lot width requirements, regardless of ownership considerations, provided the:
  - a. property was divided and described by means of a recorded legal description (more specifically a deed or such other instrument as shall be considered appropriate) on or before February 19, 2002; or
  - b. property was the subject of a valid building permit had been issued prior to November 20, 1989.
3. In establishing the eligibility of a tract for exemption from the minimum lot width, road frontage and lot width requirements, the following information shall be provided by the person or persons seeking the exemption:
  - a. a plat map showing the boundaries of the tract(s), the easement or other means of access to a public road, and provisions for maintenance of the access by the individual property owner(s); and
  - b. a recorded legal description (more specifically a deed or such other instrument, as shall be considered appropriate) recorded on or before the date of enactment of the minimum frontage standard on November 20, 1989.

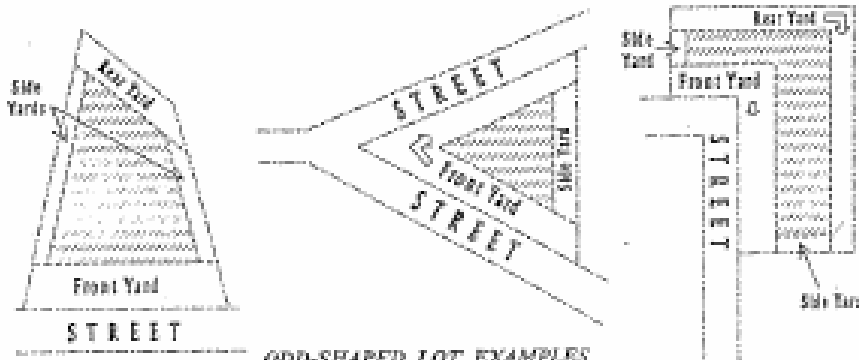
# Appendix A



**CORNER LOT EXAMPLES**



**INTERIOR LOT EXAMPLES**



**ODD-SHAPED LOT EXAMPLES**

**REQUIRED YARDS**