

# COUNTY OF MIAMI ZONING ORDINANCE

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**ORDINANCE # 11-15-2021**

**ZONING ORDINANCE**

**1-1 A PART OF THE MASTER PLAN FOR THE COUNTY OF MIAMI**

An ordinance establishing a Zoning Ordinance for the County of Miami, Indiana and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of State Laws and the repeal of all ordinances in conflict herewith.

Whereas, State Laws, empowers the County of Miami, Indiana to enact a Zoning Ordinance and to provide for its administration, enforcement and amendments, and

Whereas, The Commissioners for the County of Miami, Indiana pursuant to the provisions of State Statutes, appointed a County Plan Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

Whereas, the County of Miami Plan Commission has divided the County into districts and has prepared regulation pertaining to such districts in accordance with a comprehensive plan so that adequate light, air, convenience of access and safety from floods, fire, and other danger may be secured; that congestion in the public streets may be lessened or avoided; that property values may be preserved, that the public health, safety, comfort, convenience and general welfare may be promoted, and

Whereas, the County of Miami Plan Commission has given reasonable consideration, among other things to the character of the districts and their peculiar suitability for particular uses, with a view to preserving the value of buildings and encouraging the most appropriate use of land throughout the County of Miami, and

Whereas, The County of Miami Plan Commission has given due public notice of hearings relating to Zoning Districts, regulations, and restrictions, and has held such public hearings, and

Whereas, all requirements of Chapter 178, Acts of 1979, and as may heretofore be amended, with regard to the preparation of this ordinance have been met.

Now, therefore, be it ordained by the County of Miami, Indiana

**1-2 TITLE**

This ordinance shall be known and may be cited as the

**“ZONING ORDINANCE OF THE COUNTY OF MIAMI, INDIANA”**

**1-3 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this ordinance are at variance or in any other conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standard, shall govern.


**1-4 SEVERABILITY CLAUSE**

Each Chapter, Section, Paragraph, or Sub-paragraph, or a part whenever divisible, of this Code of Zoning Ordinance is declared to be several, and the invalidity of any Chapter, Section, or divisible part thereof, shall not be construed to affect the validity of any other Chapter, Section, or part thereof in this Ordinance.

**1-5 REPEAL OF CONFLICTING ORDINANCE, EFFECTIVE DATE**

All previously enacted Zoning Ordinance is hereby repealed. This ordinance shall become effective on the 15<sup>th</sup> day of November 2021

**PASSED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF MIAMI, INDIANA ON THE**  
15<sup>th</sup> DAY OF November 2021

  
\_\_\_\_\_  
Alan Hunt, Chairman

  
\_\_\_\_\_  
Fred Musselman, Vice Chairman

  
\_\_\_\_\_  
Brenda G. Weaver, Commissioner

**ATTEST:**

  
\_\_\_\_\_  
Mary Brown, Miami County Auditor

**1-6 GENERAL PURPOSE**

Be it ordained by the Board of Commissioners of the County of Miami, Indiana that there be and there is hereby established a Plan Commission for the County of Miami, Indiana. To promote the orderly development of its Governmental units and environs, for the purpose of improving the present health, safety, convenience and welfare of the citizens of Miami County, Indiana. To the end that highway systems be carefully planned, that new community centers grow only with adequate highways, utilities, health, educational and recreational facilities. That the needs of Agriculture, Industry, and Businesses be recognized in future growth. That residential areas provide healthy surroundings for family life, and that growth of the said County of Miami, Indiana is commensurate with and promotive of the efficient and economical use of public funds. Said Plan Commission shall serve in an advisory capacity to the County Executive of the County of Miami, Indiana and shall have such regulatory power affecting the public welfare of the citizens of Miami County, Indiana as are not otherwise controlled, and such other power as may from time to time be granted to carry out the purpose of this ordinance.

**1-7 PLAN COMMISSION MEMBERS**

**1-7-1 NUMBER OF MEMBERS; ADVISORY PLAN COMMISSION**

Said County of Miami, Indiana Plan Commission shall consist of nine (9) members as follows:

- (A) One member appointed by the County Executive from its membership (Commissioners)
- (B) One Member appointed by the Fiscal Body from its membership (Council).
- (C) The County Surveyor or qualified deputy.
- (D) The County Extension Educator.

(E) Five (5) Citizen Members, appointed by the County Executives (Commissioners), of whom no more than three (3) may be of the same political party and all five (5) must live in the unincorporated area.

**ADVISORY PLAN COMMISSION**

**1-7-2 ORGANIZATION**

(A) At the first meeting each calendar year, the Commission shall elect from its Members a Chairman, Vice Chairman, and Secretary:

(B) Meetings shall be conducted pursuant to I.C. 5-14-1.5-1et seq. (Open Door Law).

(C) Meetings shall be held monthly. The Chairman or fifty (50) percent of the membership may only call special meetings.

**1-7-3 POWER AND DUTIES**

**TO EFFECTUATE THE PURPOSE OF THIS ORDINANCE, THE COUNTY OF MIAMI PLAN COMMISSION SHALL HAVE THE POWER AND DUTIES AS OUTLINED IN I.C 36-7-4-201 et seq., AS AMENDED FROM TIME TO TIME.**

**1-8 ENFORCEMENT**

It is the intent of this ordinance that all questions of enforcement shall be first presented to the Zoning Administrator, that such question shall be presented to the Board only on appeal from the decision of the Zoning Administrator, and that recourse from the decision of the Board shall be to the Courts as provided by law. Nothing in this Ordinance shall prevent any official of the County of Miami, Indiana from appealing a decision of the Board to the Courts as provided in Indiana Law. Any such appeal shall be made within thirty (30) days of the Board's written decision.

**1-9 BOARD OF ZONING APPEALS**

**1-9-1 ORGANIZATION**

(A) The Board of Zoning Appeals for the County of Miami, Indiana is hereby established in accordance with I.C. 36-7-4-901, I.C.36-7-4-902 of the State of Indiana and all acts now or hereafter amendatory thereto.

(B) The Board of Zoning Appeals shall consist of five (5) Members as follows:

(1) Three (3) citizen members appointed by the Executive Body (Commissioners) of the County whom one must be a member of the Plan Commission and two (2) must not be a Member of the Plan Commission

(2) One (1) Citizen Member appointed by the Fiscal Body (County Council) of the County of Miami, who must not be a Member of the Plan Commission.

(3) One (1) citizen Member appointed by the Advisory Plan Commission who must be a member of the Plan Commission.

(C) The Board shall meet at a regular scheduled monthly meeting or at the call of the Chairman.

(D) All meetings shall be open to the public, except those that are exempt by State Law.

(E) At the first meeting of the calendar year, the Board shall elect from its Members a Chairman, Vice Chairman.

(F) All procedure for the Board of Zoning Appeals shall be in accordance with the rules outline in 36-7-4-900

### **POWERS AND DUTIES**

#### **THE BOARD OF ZONING APPEALS SHALL HAVE THE POWER TO EFFECTIVELY CARRY OUT THEIR DUTIES AS FOLLOW:**

(A) Hear and determine appeals from and review any order requirement, decision, or determination made under this Ordinance, by the Zoning Administrator.

(B) Permit and authorize contingent uses and Special Exception subject to, and within the limitations prescribed by the provisions of this Ordinance.

(C) Approve or deny, upon written application in specific cases, variances from the terms of this Ordinance. Such Variances may be approved only upon written determination by the Board of the Findings set forth in I.C. 36-7-4-918.4. As the same may be amended from time to time.

(D) In exercising its power, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from as in its opinion, ought to be done in the premises; and to that end have all powers of the official, Person or entity from whom or which the appeal is taken. In approving a Special Exception, Contingent Use or Variance. The Board may also impose such reasonable conditions regarding the location, character and other features of the proposed building, structure, or use, with which the appeal or application before it is concerned, as it may deem advisable in the furtherance of the purpose of this Ordinance and the protection of the public convenience and welfare. Such conditions may include a requirement for the recording of a written instrument in a form acceptable to the Board, binding the present and subsequent owners of the parcel of land affected and all parties having an interest therein to the terms of such conditions.

### **1-9-3 AUTHORITY AND JURISDICTION**

(1) This ordinance, which was enacted pursuant to Indiana home rule and planning enabling legislation (Indiana Code, Titles 36-1-3-4 and the 36-7-4-600 series, as amended) authorizes the Miami County Plan Commission to enforce and regulate this ordinance for all of the unincorporated areas in Miami County and incorporated towns except the following: (Bunker Hill, Converse and the City of Peru).

### **1-10 DUTIES OF ZONING ADMINISTRATOR**

1. With the advice of the Law Department;

(A) Upon finding that any of the provisions of this Ordinance are being violated, he shall notify that person responsible for the violation(s), on site or by certified mail ordering the action necessary to correct such violation(s). If on site notification is given, a follow-up report shall be sent within seventy (72) hours by certified mail stating what violation(s) have occurred.

(B) Order discontinuance of illegal uses of land, building, or structures.

(C) Order removal of illegal buildings or structures or illegal additions or structural alteration.

(D) Order discontinuance of any illegal work being done. (See STOP WORK ORDER in Definitions Section 1-13 this Ordinance in accordance with I.C. 36-7-4-1001).

2. Issue Improvement Location Permits and Certificate of Occupancy and such other similar administrative duties as are permissible under the Law.

3. Take other action authorized by the Ordinance to ensure compliance with or to prevent Violation(s) of this Ordinance as outlined in Section 3-8-1 of this ordinance

#### 1-11 APPLICATION AND INTERPRETATION

(A) For the purpose of these regulations, certain numbers, abbreviations, terms, words, and phrases used herein shall be used, interpreted, and defined as set forth in this article.

(B) Whenever any words and phrases used herein are not defined herein but are defined in the State Laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the content otherwise requires.

(C) For the purpose of these regulations, certain words and phrases used herein shall be interpreted as follows:

1. The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity.

2. The masculine includes the feminine.

3. The present tense includes the past and future tense, the singular number includes the plural.

4. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.

5. The word "used" or "occupied" includes the words "intended, arranged, or designed to be used or occupied".

(D) All other words not herein defined in this Ordinance shall be interpreted according to the plain meaning of the word described therein. It shall not be construed against the County of Miami, the applicant or the aggrieved party.

#### 1-12 DEFINITIONS

**ABANDONMENT:** A non-conforming use shall be considered abandoned when; (1) The use of the property is replaced by a conforming use; (2) or the building or premises are left vacant for six (6) months; (3) and most of the equipment and furnishings have been removed and not replaced. This definition applies only to nonconforming uses.

**ABANDONED VEHICLE:** Shall mean a vehicle at least six (6) model years old unlicensed or mechanically inoperable, and is left on private property continuously in a location visible from public property for more than ten (10) days.

**ACCESS ROAD:** Shall mean a road or easement that provides access to a parcel of land that is a minimum of twelve (12) feet in width.

**ACCESSORY USE, RESIDENTIAL:** A subordinate use that relates to the same lot as a primary use and is used other than for human occupancy. Accessory use for dwelling shall consist of garage, carport, storage building, swimming pool, or similar use compatible to family dwelling.

**ACCESSORY USE, COMMERCIAL:** A subordinate use that relates to the same lot as a primary use and is used other than the primary use. An accessory use shall be in the same category as the primary (i.e.)



residential, retail business, food, government, etc. Whenever there are two uses of different uses, it shall be considered two primary uses and each must be considered a primary use.

**ADULT BOOK STORE:** Means an establishment having as a substantial or significant portion (more than one fourth) of its stock and/or sales in, pictures, (still or motion), books, magazines, and other periodicals which are distinguished or characterized by emphasis of matter depicting, describing, or relating to "specified sexual activities," or "specified anatomical areas", or an establishment with a segment or section devoted to (one fourth or more of its floor space) for sale or display of such material. There shall be no more than one (1) establishment located in any one (1) block.

(A) SPECIAL SEXUAL ACTIVITIES: Means (1) human genitals in a state of sexual stimulation or arousal, (2) Acts of human masturbation, sexual intercourse or sodomy, (3) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(B) SPECIFIED ANATOMICAL AREAS: Means (1) less than completely and opaquely covered; (A) human genitals, pubic region, (B) buttock, and (C) female breast below a point immediately above the top of the areola; (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**AGRICULTURE:** Means an activity for profit, but not limited to:

- (A) The raising of trees; vines and crops of any kind;
- (B) The maintaining, breeding, and raising of poultry and livestock of any kind;
- (C) The harvesting, curing, processing, packaging, shipping, packing and selling of agricultural products for profit produced on the premises.

**AGRICULTURE BUILDING:** Means an approved structure utilized for the conduct of farming operation for the purpose of housing farm animals, feed, and farm equipment, but does not include dwelling or garage.

**AIRCRAFT:** Means a contrivance intended for use or designed for navigation of or flight in the air or outer space, by humans, including missiles and all hobby planes.

**AIRPORT:** Means any area which is used or intended to be used for takeoff and landing of aircraft, including helicopters and any appurtenance area, which are used or intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie down areas.

**ALLEY:** Means a right-of-way other than a street, road, crosswalk, or easement that provides secondary access for the special accommodation of the abutting property.

**AMUSEMENT CENTER:** Means an establishment where the business is to provide entertainment for recreation such as, bowling, pool, billiards, video games or other similar games or devices.

**AMUSEMENT PARK:** Means a commercial establishment where the business is any outdoor activity used for recreation purpose.

**APARTMENT HOUSE:** Means the same as dwelling, containing three or more units or efficiency apartments where more than one different family resides.

**ARCHERY RANGE:** Means a place indoor or outdoor where the public may participate in the art of shooting bow and arrow

**AUTOMATIC CAR WASH:** Means a building or portion thereof, where automobiles are washed by mechanical devices of any kind.

**AUTOMOBILE BODY SHOP:** Means a building where minor or major repair is made to a vehicle that has been wrecked, damaged or in need of registration because of element deterioration. Paint booth shall be in accordance with state guidelines. Hold area shall be completely enclosed by a Six (6) foot privacy fence.

**AUTOMOBILE DEALERSHIP:** Means a lot where a franchise for new and used vehicles are sold and serviced.

**AUTOMOBILE HOLD AREA:** Means a fenced or enclosed area where wrecked, damaged, or impounded vehicles are stored or kept for a period of time waiting for insurance, title, police release, or being held as an abandoned vehicle.

**AUTOMOBILE PARTS STORE:** Means a building where automobile parts and accessories are sold and no maintenance is performed.

**AUTOMOBILE REPAIR SHOP:** Means a building where major or minor repairs are made to vehicles, that is completely enclosed. All vehicles on hold lot shall be licensed or held in a hold area completely enclosed by a six (6) foot privacy fence.

**AUTOMOBILE SALES LOT:** Means a lot arranged, designed or used for the display for sale of operable Motor Vehicles where no repair work is done. This shall not include trucks over one ton.

**AUTOMOBILE SALES AND SERVICE LOT:** Means a lot in which new or operable used vehicles are sold and no more than twenty percent of the trade is dedicated to minor repair.

**AUTOMOBILE TIRE SALES AND REPAIR SERVICE:** Shall mean a building where new and used tires are sold or repaired. All used or discarded tires shall be stored inside a fenced in storage area and covered so no water may accumulate in the tires or the cover.

**BED AND BREAKFAST:** Means a Residential Building converted to a lodging house available to transients, which include the morning meal. A portion of the premises may be used by the person for a social, literary purpose, provided that the social or literary purpose does not exceed more than thirty-five guests and excluding the sale of alcoholic beverages through any means.

**BLOCK:** Means an area that abuts a street and lies between two (2) adjoining streets or barriers such as a railroad right-of-way or a waterway.

**BOARD:** Means the County of Miami Board of Zoning Appeals.

**BOARDING HOUSE:** Means a building available to transients, in which lodging and meals are regularly provided for compensation, for at least three (3), but not more than fifteen (15) persons.

**BUILDING:** Means a roofed structure for the shelter, support, enclosure, or protection of person, animals, or property.

**BUILDING AREA:** Means a lot or parcel of land where a building may be constructed and all building requirements can be met and authorized by the Zoning Ordinance. In an unincorporated area, a building area shall have a minimum of fifty (50) feet access from a County Road or street and be no less than one hundred and fifty by two hundred feet in size at the building line. Only one dwelling is authorized on any building lot.

**BUILDING, DETACHED:** Means a building having no structural connection with another building.

**BUILDING HEIGHT:** means the vertical distance measured from the adjoining street centerline grade at a point opposite the principal frontage of the building to the highest point of the ceiling of the top story. In the case of a flat roof; to the deck line of a mansard roof; and to the main height level between the eaves and ridges of a gable, hip or gambrel roof. The building may be measured from the average elevation of the finished lot grade at the front of the building.

**BUILDING LINE:** The line nearest the street and across a lot establishing the minimum open space to be provided between buildings and specified structures and street lines.

**BUILDING LOT:** means a parcel of land that has been divided into a lot by subdivision or metes and bounds approved by the Plan Commission for the purpose of building some type of structure. Only one dwelling shall be authorized on any building lot.

**BUILDING, MAIN:** means a building constituting the principal use on the lot. Only one principal use building may be placed on any lot or parcel of land. All other buildings must be subordinate to the main building. (See Accessory Uses this chapter)

**BUILDING, NON-CONFORMING:** means a legally existing building, which fails to comply with the regulations set forth in this Ordinance applicable to the district in which such building is located.

**BUSINESS:** means the purchase, sale or exchange of goods, or service, or the maintenance for profit of offices or recreational or amusement enterprises.

**BUSINESS DISTRICT:** Means B1, B2, and B3 Districts.

**BUSINESS WHOLESALE:** means a business establishment that generally sells commodities, including but not limited to perishable or flammable in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. The commodities are basically for further resale, for use in the fabrication of a product, or for use by business service.

**CAMPGROUND:** Means an area of land used or designed to be used to accommodate three (3) or more camping units, including cabins, tents, travel trailers, or other camping outfits.

**CARPORT:** Means a structure with roof, which is unenclosed or partly enclosed, attached to dwelling or other structure, or unattached for the purpose of providing protection for a motor vehicle or other goods.

**CEMETERY:** means land used for the burial of the dead and dedicated for cemetery purposes including columbium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

**CERTIFICATE OF OCCUPANCY:** means a certificate issued by the Zoning Administrator stating that the Occupancy and uses of the land or a building or structure referred to therein complies with the provisions of this ordinance. See certificate of occupancy 2-4 this ordinance.

**CHILD CARE CENTER:** Means a building where four (4) or more children receive childcare from a provider.

(1) while unattended by a parent, legal guardian, or custodian;

(2) for regular compensation; and

(3) for more than four (4) Hours but less than twenty-four (24) hours in each of ten (10)

consecutive days per year excluding Saturdays, Sundays and holidays.

**CHILD CARE, HOME:** Means a residential structure in which at least four (4) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative, but not more than twelve (12) children including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative, all of whom are less than eleven (11) years of age, at any time receive child care from the provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive

days per year, excluding intervening Saturdays, Sundays, and holidays.

**CHILDREN'S HOME OR CHILD CARING INSTITUTION:** Means any children's home, orphanage, institution or other place maintained or conducted by any group or person engaged in receiving and

caring for dependent, neglected, handicapped children or children in danger of becoming delinquent or in operating for gain a private business of boarding children who are unattended by parent or guardian, or person in loco parentis, except licensed foster homes.

**CHURCH:** A building together with its accessory buildings and uses, where persons regularly assemble for religious worship and is maintained and controlled by a religious body organized to sustain public worship.

**CLINIC:** means an establishment in which patients are admitted for study or treatment of a disease, disorder, or disability, and in which service of a least two (2) physicians, dentists, or chiropractors are provided.

**CLUB:** Means a building or portion thereof or premises owned or operated by a person for social, literary, political, educational or recreational purpose primarily for the exclusive use of members and guest, including the sale of alcoholic beverages.

**COMPREHENSIVE PLAN:** a plan recommended by the Plan Commission and adopted by the County Commissioners, in accordance with the laws of the State of Indiana, for the promotion of public health, safety, morals, convenience, order, of the general welfare and for the sake of efficiency and economy in the process of development. The Plan Commission shall prepare a comprehensive plan, which may include policies for:

- (1) The development of public ways, public spaces, public structures, and public and private utilities;
- (2) The issuance of improvement location permits on platted and unplatted lands, and;
- (3) The laying out and development of public ways and services to platted and unplatted land.

**COMMERCIAL VEHICLE:** Means any vehicle over one ton used for commercial use including but not limited to tractor-trailer, dump trucks, semi and school buses.

**COMMISSION:** Means the County of Miami Plan Commission.

**COMMON COUNCIL:** Means the County of Miami Common Council.

**CONDOMINIUM:** Means ownership in common with others of a parcel of land and certain parts of a building thereon, which would normally be used by all the occupants, such as yard, foundations, basements, floors, walls, hallways, stairways, elevators, and all related common elements, together with individual ownership in fee of a particular unit.

**CONFINEMENT FEEDING:** shall mean as feeding of animals grown for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where feed is supplied to them by means other than grazing. For the purpose of this Ordinance, the "Confinement Feeding" shall be limited to the confined feeding of (1) 300 or more cattle; (2) 600 or more swine or sheep, or (3) 30,000 or more fowl. These numbers have been established by P.L. 175, act of the 1971 Indiana General Assembly. In the event that said Act is amended, this ordinance shall be deemed amended so that it is in conformity with said Act. (See restriction 2-13-3F this ordinance)

**CONVENIENCE STORE:** Shall mean a retail business where gas, bread, dairy products, and other small convenient items are sold.

**CORRECTIONAL FACILITY:** Means a building or structure used to house prisoners who may be incarcerated for a given period of time.

**CUL-DE-SAC:** means a local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement, including public safety vehicles.

**DAY CARE CENTER:** An agency, organization, or private individual providing care for more than 17 children not related by blood or marriage to, or not the legal wards or foster children of the attendant adult.

**DOG POUND:** Means a parcel of land where animals are kept in a structure or outside pens for the purpose of providing care, shelter, and confinement while waiting for ownership claim, quarantine, or other confinement.

**DISCARDED USED PROPERTY:** Means paper, trash, household furniture or appliances, vehicle parts, wood products, Metal, or other similar products.

**DISTRICT OR ZONES:** means an area within which there are uniform regulations governing the use, height, area, size, and intensity of the use of building and land and open space about the buildings. (See Districts section 2-1)

**DRIVE-IN RESTAURANT;** means a building or structure in which food and / or drink are primarily prepared for sale and human consumption under one or more of the following conditions;

- (1) Within vehicles on the premises with such structure;
- (2) On the premises outside of such structure;
- (3) Take-out restaurants for human consumption off the premises;
- (4) Access driveway to window for pickup orders.

**DRIVEWAY:** Means that minimum area of land required to provide reasonable access from the street to the dwelling.

**DRY-CLEANERS:** Means a place where material such as clothes, drapery, or other similar products are dropped off for cleaning or processing.

**DUMP, OPEN:** Means any premises or portion thereof used for the disposal or storage of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or vehicle parts thereof, offal, dead animals, or hazardous materials by abandonment, discarding, bumping reduction, burial, incineration, or any means and whatever purpose which does not conform to the requirement and specification as set forth in this ordinance.

**DWELLING:** means a place or part of a building that is used primarily as a place of abode, but not including a hotel, motel, bed and breakfast, lodging house, boarding house, or tourist home as defined in this ordinance.

**DWELLING, MULTI-FAMILY:** Means a single building consisting of three (3) or more dwelling units, with varying arrangements of entrances and party walls.

**DWELLING, SINGLE-FAMILY:** Means a building consisting of a single dwelling unit only, separated from other dwelling units by open space. Only one Single family Dwelling shall be authorized on any lot.

**DWELLING, TWO FAMILY:** Means a dwelling that is designed or converted into two separate dwellings for occupancy of two family units, which may be separated, by walls, carport, or garage.

**EASEMENT:** means an authorization granted by the property owner for the use by another of any designed use or interest of his property for clearly specified purpose(s).

**ENLARGEMENT, OR TO ENLARGE:** "enlargement" means an addition to the floor area of an existing building and increase in the size of any structure, and increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

**FAMILY:** means one or more persons living as a single housekeeping unit, but not including a group occupying a hotel, motel, club, nursing home, dormitory or fraternity or sorority house.

**FARM, DWELLING:** Shall mean a residential dwelling on a parcel of land of ten (10) acres or more zoned Agriculture.

**FARM, GENERAL:** means an area ten (10) acres or more which is used for growing of the usual farm products such as vegetable, fruit trees, and grain, and their storage facilities, as well as the usual farm poultry and farm animals such as horses, cattle, sheep and swine.

**FAST-FOOD ESTABLISHMENT:** means a drive-in or other fast food establishment permitting consumption of or carry out from the premises.

**FENCE:** means a barrier intended to prevent escape or intrusion or to mark a boundary.

**FITNESS CENTER:** Means a structure used for the development of the body or mind, which may include fitness equipment, spars, suntan booths, swimming pool, tract, and any other activity used in developing the body.

**FIREWORKS BUSINESS:** Means a place or booth where fireworks such as a roll of paper containing an explosive set off as a noisemaker or celebration are kept, stored or sold. (See restriction 2-13-4 this Ordinance)

**FLEA MARKET:** means the retail sale of used merchandise from individually rented space of land or structure that is open for business more than twice in any one calendar year.

**FLOOD PLAIN:** means the area adjoining the river or stream, which has been or may hereafter be covered by floodwater from the regulatory flood.

**FLOODWAY:** means the channel of the river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream shown on the floodway-flood boundary maps of the Federal Insurance Administration.

**FLOOD FRINGE:** means those portions of the flood hazard area lying outside the floodway, shown on the floodway-flood boundary maps, of the Federal Insurance Administration.

**FOUNDATION:** means the supporting member of a wall or structure.

**FOWL:** means a domestic cock or hen, or any of several domesticated or wild birds.

**FUNERAL HOME:** means a dwelling or structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

**FUR BEARING PROPERTY:** means the raising or keeping of fur bearing animals for the purpose of sale, collecting pelts to be used in manufacturing of clothing or for food supply.

**GROUND FLOOR AREA:** means the area of a building in square feet as measured in a horizontal plan, at the ground level within its largest outside dimensions, exclusive of open porches, breezeway, terraces, garage, and exterior stairways.

**GROUP HOME:** shall mean a facility occupied by eight or less persons which may be licensed by the department of State or Local Government to provide a family-like and long term living environment to individuals who are not related to the head of household and who are developmentally disabled, mentally ill, aged, blind, deaf, or in need of adult supervision; which provides room and board and other services in accordance with their individual needs and alternative family programs; and semi-independent living programs as defined by IC 16-13-22-1 (2). No group home may be located within 3,000 feet of any other similar facility in any residential area.

**HALFWAY HOUSE:** shall mean a facility occupied by eight (8) or less persons to provide a family-like and short-term (under six months) living environment to individuals who are not related to the head of household for rehabilitation, in need of supervision, which provides room and board. No halfway house may be within 3,000 feet of any other similar facility in any residential area.

**HAZARDOUS WASTES:** means any solid or liquid waste with inherent dangers, including but not limited to, toxic chemicals, explosives, pathological wastes, radioactive materials, materials likely to cause fires, liquids, semi-liquids, sludge containing less than thirty percent solids, pesticides, pesticide containers, raw animal manure, septic tank pumping, and raw or digested sewage sludge.

**HEIGHT:** means, with respect to a building, the vertical distance measured from elevation of the finished grade of the ground to the highest point of the roof. With respect to other than buildings, measured to the highest point of the structure.

**HOME AGRICULTURE USE:** means the raising or keeping of not more than two (2) livestock animals; (IE: ungulate mammal), or fifteen (15) fowl on an area two (2) acres or more, zoned agriculture. Home agriculture uses shall not be authorized in any residential subdivision or within the confines of the City limits.

**HOME OCCUPATION:** means a use conducted entirely within an enclosed dwelling, employing only the family inhabitants thereof, which is clearly incidental and secondary to residential occupancy and does not change the character thereof. Specifically excluded is the storage and display of merchandise not produced by such home occupation, any activity involving any building alterations, window display, equipment, machinery, or outdoor storage. Dancing and band instrument instruction, nursing homes, tea rooms, tourist homes, animal hospitals, kennels, automobiles repair and body shops, and retail businesses, trade, or sale of items not produced on the premises shall not be considered home occupation except as outlined in section 3-1. (See Home Occupation Section 3-1 this ordinance)

**HOME PROFESSIONAL OFFICE:** means a portion of a dwelling used as a professional office by the occupant of the dwelling, which use does not change the residential character of the dwelling. Some examples of professional offices may be Accountant, Bookkeeper, Surveyor, Insurance Salesman, Attorney, and other similar use. (See signs Section 2-14-3 this ordinance)

**HOME WORKSHOP:** means a use conducted entirely within a dwelling or in an accessory building located on the same lot, parcel, or tract of land as the dwelling. Use for residential purposes, provided the home workshop is clearly incidental and secondary to the use of the property for residential purposes and does not change the character thereof or having any exterior evidence. Home workshops may not exceed more than five hundred (500) square feet of gross floor area. They shall not have anyone employed. Home workshops may not create any noise, odor, or other nuisances beyond the premises that could cause a hazard to public health, safety, or welfare. Some examples of home workshops may be, Seamstress, Woodcraft, Interior decorator, Arts and Crafts, One Chair Beauty shop or barbershop and other similar uses.

**HOSPITAL:** means a place, which provides overnight medical or surgical facilities, which care for the sick or injured persons.

**HOSPITAL, ANIMAL:** means a place with overnight facilities for the medical or surgical care for sick or injured animals.

**HOTEL OR MOTEL:** means a building or group of buildings, in which lodging is provided and offered to the public for compensation, and catering primarily to the public traveling by motor vehicle.

**IMPACT ZONE:** Means a geographic area designated where a monetary charge imposed on new development by a unit to defray or mitigate the capital cost of infrastructure that is required as outlined in IC 36-7-4-1307 thru 1342

**IMPROVEMENT:** means any building, structure, work of art or other object constituting a physical alteration of real estate or change of use.

**IMPROVEMENT LOCATION PERMIT:** means a permit issued by an Official of the County of Miami, who has the responsibility for enforcing the Zoning Ordinance and authorizing an improvement

**INDUSTRIAL PARK:** Shall mean an area of land used or designed for several manufacturing Businesses that are located on the same or divided parcel of land.

**JUNK:** includes but not limited to scrap metals and their alloys, bones, rags, used cloth, rubber, rope, tinfoil, bottles, chemicals and plastic, (discarded) old or used machinery, tools, appliances, fixtures, utensils, lumber, boxes or crates, pipe or pipe fittings, used tires, and manufactured goods that are worn deteriorated or obsolete as to make them usable in their existing condition.

**JUNKYARD:** means a place usually outdoors, where waste, junk, or discarded used property other than organic matter is accumulated and /or stored including one or more unlicensed or inoperable vehicle (s).

**KENNEL:** means a place where four or more dogs are kept or maintained for pets, breeding, or sale of, which are more than twelve weeks old.

**LANDFILL:** SEE SANITARY FILL or PRIVATE LANDFILL

**LAUNDROMAT:** means a business that provides washer, dryer, dry-cleaning, and /or ironing machines for hire to be used by the customers on the premises.

**LOADING SPACE:** means an off-street space, at least ten (10) feet wide and fifty (50) feet long, with a minimum height clearance of fourteen (14) feet, for the temporary parking of a commercial vehicle while loading or unloading merchandise or material, and which abuts on a street or other appropriate means of access.

**LODGE:** means a social, fraternal, or service oriented organization primarily for the use of its members.

**LOT:** means a parcel, tract, or area of land accessible by means of a street or place abutting upon a street or easement.

**LOT, CORNER:** means a lot at the junction of and abutting two (2) intersecting or intercepting streets. (See figure 1 for sketch).

**LOT, COVERAGE:** means the percentage of the lot area that is occupied by buildings or structures.

**LOT, INTERIOR:** means a lot other than a corner lot. (See figure 1 for sketch).

**LOT, THROUGH:** means a lot fronting on two (2) parallel, or approximately parallel streets and includes lot frontage on both a street and a watercourse or lake. (See figure 1 for sketch).

**LOT, WIDTH:** means the distance between the side lot lines as measured on the building line.

**LOT LINE, FRONT:** means the line separating the Lot from the street. A corner lot shall be deemed to have only one (1) front. The front yard shall be deemed to mean the area from the front edge of the dwelling to the street.

**LOT LINE, REAR:** Means, on an interior or corner lot, the lot line that is opposite the front lot line and farthest from it. Except for a triangular or other irregularly shaped lot, it shall mean the line ten (10) feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the front lot line. A through lot has no rear lot line.



**LOT LINE, SIDE:** means a lot line other than front or rear lot line.

**LOT, SETBACK LINE:** means the distance between a street right-of-way, property line or structure that shall be kept free from any construction.

**MANUFACTURED HOME:** means a dwelling unit fabricated in an off- site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code or Indiana Public Law 360, Acts of 1971. Such a unit shall also meet all of the following conditions:

(1) "Type I" shall be considered a Single Wide that may or may not have a manufactured room addition, built to specifications according Public Law 360, act of 1971, or

"Type II" shall be considered a Double Wide, or Manufactured Sectional Home built to specifications according to Public Law 360, Act of 1971.

"Type III" shall be considered dwellings constructed utilizing modular or panelized construction or precut logs built according to the Uniform Building Code for one- and two-family homes.

(2) "Under-floor space "means that space between the bottom of the floor joint and the earth.

(3) "Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to garages, patios, and porches.

(4) Any Manufactured Home placed on a lot or parcel of land shall meet the following restrictions:

(A) Contain at least nine hundred sixty (960) square feet of occupied space as manufactured per dwelling unit, and may be double-section or Multi-section Manufactured housing unit;

(B) Be constructed after January 1, 1981;

(C) Be placed onto a permanent under-floor foundation installed in conformance with the Indiana One- and Two-Family Dwelling Code. (See Figure 6)

(D) Have wheels, axles, and hitch mechanisms removed;

(E) Have skirting installed around the entire manufactured home.

**MANUFACTURING PLANT:** The processing and converting of any unfinished or finished materials or products, or any of these into articles or substances of different character, or for a different purpose, also industries furnishing labor in the case of manufacturing or the refinishing of manufacturing articles.

**MANURE STORAGE STRUCTURES:** Shall mean any pad, pit, pond, lagoon, tank, building, or manure containment area used to store or treat manure, including any portions of buildings used specifically for manure storage or treatment. (As defined by 327 IAC 16-2-24)

**MASTER PLAN:** the complete plan or any of its parts for the orderly development of the county as prepared by the commission and adopted in accordance with I.C 36-7-4-500 Series General Assembly of Indiana, and all Acts amendatory thereof, as now or may hereafter be in effect.

**MINERAL EXTRACTION:** means (1) mining or quarrying, and (2) removal of earth materials.

**MINI-WAREHOUSE:** means a structure or enclosed storage area containing individually rented or owned compartments or stalls for storage only.

**MOBILE HOME:** means a vehicle or other portable structure more than thirty (30) feet in length, built before 1981, that is designed to move on the highway and designed or used as a dwelling, as manufactured.

**MOBILE HOME DWELLING:** a movable, detached dwelling unit, designed for long term occupancy (More than forty-five (45) days), built on a chassis at a factory, with or without a permanent foundation, and consisting of a complete package with major appliances, plumbing and electrical facilities prepared for appropriate connections. It is synonymous with trailer home.

**MOBILE HOME PARK:** means an area of land on which five (5) or more mobile homes are regularly accommodated with or without charge, including any buildings or other structure, fixture, or equipment that is used or intended to be used in providing the accommodation.

**MOBILE HOME SPACE:** means an area of land within a Mobile Home Park with a minimum of 2500 square feet for the placement of one mobile home, which is designed for the executive use of occupants. The minimum distance between any parts of a mobile home including any addition shall be ten (10) feet.

**MOTOR VEHICLE:** shall include automobiles, trucks, tractors, trailers, semi-trailers, motorcycles, scooters, buses, and farm implements whether self-propelled or designed to be pushed, pulled or carried by another motor vehicle.

**MUSEUM:** an establishment operated as a repository or a collection of nature, scientific, or literary or historical curiosities, or objects of interest or work of art, not including the regular sale or distribution of the objects collected

**NON-CONFORMING USE:** means a building, structure, or use of land existing at the time of enactment of this ordinance, which does not conform to the regulations of the district or zoning in which it is situated. A non-conforming use shall abate and cease to exist (180) one hundred and eighty days from the time that the use is changed or abandonment of a structure, whichever occurs first. (See 2-11 this Ordinance)

**NUISANCE:** shall mean the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or the thing to be or exist, which act, omission, condition or thing either:

- (a) injures or endangers the comfort, repose, health or safety of others;
- (b) unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage, or;
- (c) in any way renders other people insecure in life or the use of property or; essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (d) Any violation of the Miami County Zoning Ordinance, Miami County, Indiana.

**NURSERY SCHOOL:** means a place where five (5) or more children are kept for the purpose of providing supplemental parental care, including day nursery, day care home for children and kindergarten.

**NURSING HOME:** means an institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

**OCCUPANCY, CHANGE OF:** means the change or use of the building, structure, or land. (See Improvement Location Permit 2-3 this ordinance)

**OFFICIAL ZONING MAP:** means a graphic illustration of zoning boundaries and classifications drawn and approved as part of the Master Plan of the County of Miami, Indiana.

**OIL WELL:** means the drilling or extracting of petroleum minerals off a parcel of land for private or commercial use, and related storage and equipment.

**PACKAGE STORES:** means an establishment offering for sale primarily intoxicating beverages and accessory merchandise, and where no consumption of said intoxicating beverages is permitted on the premises.

**PARKING LOT:** means a parcel of land other than a street, devoted to parking spaces for motor vehicles.

**PARKING SPACE:** means an area enclosed or unenclosed sufficient in size to store one vehicle, not less than nine (9) feet wide and twenty (20) feet long.

**PERMANENT PERIMETER ENCLOSURE:** Shall mean a permanent perimeter structural system of concrete block completely enclosing the space between the floor joints of the home and the ground.

**PERMANENT FOUNDATION:** Shall mean any structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**PERSON:** includes a corporation, firm, partnership, association, organization, or any group that acts as a unit or legal entity.

**PET:** shall mean a domesticated animal kept for pleasure rather than utility

**PLANNED UNIT DEVELOPMENT:** a tract of land at least five (5) acres in area, under single, corporation, firm, partnership, or association ownership. Planned and developed as an integral unit in a single development operation or a definitely programmed series of development operation and according to an approved outline development plan and a preliminary site plan. (See plan unit development this ordinance).

**PLAT:** means a map or chart that shows a division or parcel of land that is intended to be filed or recorded.

**POOL, PRIVATE:** Any constructed pool or portable private pool. Used for swimming, wading, or recreation, over twenty-four (24) inches in depth of water with a top water surface exceeding 150 square feet and which is used for a pool in connection with a family dwelling unit and is available only to the family of the householder and his private guests.

**PRIME FARMLAND:** Shall mean land best suited for food, feed, forage, fiber, and oilseed crops, which produces the highest yields with minimal input of energy and economic resources, and farming it results in the least damage to the environment. Soil type and distance shall play a major role in defining prime farmland. Prime Farm shall be labeled as A1 district and shall have no other uses authorized except Agriculture use.

**PRIMARY BUILDING:** means a building in which the principal use of the lot on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof. With respect to residential use, it means the main dwelling. No more than one primary building shall be authorized on any lot.

**PRIMARY USE:** means the primary purpose or function that a lot serves or is intended to serve. No lot, parcel, or division of land shall have more than one primary use.

**PRIVATE GARAGE:** means a detached accessory building or a portion of the main building, for the housing of vehicles of the occupants of the dwelling, including carports.

**PRIVATE LANDFILL:** Shall mean an area or lot in which clean fill is dumped to raise the top of the ground such as low area or ravines. Clean fill shall mean bricks, block, concrete, stone, fill dirt. No hazardous material such as roofing, iron, steel, plastic, or other material that would contaminate the area. There shall be a (6) Six-inch topsoil cover over all fills. No fills shall be in any drainage area that would cause drainage problems to street, roads, or property.

**PRIVATE SANITARY WASTEWATER SYSTEM:** means a system designed by connecting pipes to a tank, distribution box and leach field for the purpose of carrying away sewage waste and approved by the Miami County Health Department.

**PRIVATE RECREATIONAL DEVELOPMENT:** Means a parcel of land where most of the area is devoted to rides for entertainment such as roller coaster, merry-go-rounds, water-slides or other similar uses.

**PROCESSING PLANT:** Means a building or area where animals such as Cattle, Hogs, Deer, Fowl or fur bearing animals are killed, skinned, for processing or packaging

**PROFESSIONAL OFFICE:** Means any building or portion thereof used or intended to be used, but not limited to an office for Lawyer, Architect, Engineer, Land Surveyor, Licensed Insurance Agent, Real Estate Broker, Accountant, Physicians, Surgeons, Dentists, and other similar professions.

**PUBLIC BUILDING:** Means any building held, used, or controlled for public purposes by any department or branch of the government, State, County or Municipal, or any building where the public is invited.

**PUBLIC GARAGE:** Means any garage operated for profit, for the purpose of parking vehicles.

**PUBLIC SANITARY WASTEWATER SYSTEM:** Means a system constructed, installed, maintained, operated, and owned by the City, County, Taxing District, Regional Sanitary District, Utilities, or Private under the jurisdiction of the Public Service Commission of Indiana, which carries Sewage for treatment.

**PUBLIC OWNED USE:** Means the use of any premise by the public Body, Board, Commission, or Authority, such as a Municipal, County, State or Federal Government, or any agency or Department thereof for a Governmental or Proprietary purpose. This shall also include Public Street, Alley, and Parks.

**PUBLIC UTILITIES:** shall mean Towers, Water tower, Substation, Microwave towers, Sewage treatment Plant, Electric Plants, Utilities Control Buildings, New Water, or Sewage Lines, and other similar uses. Shall not mean repair of existing lines or towers.

**RECREATIONAL VEHICLE (RV):** Means a vehicle primarily designed as temporary living quarters for recreational camping, that travels either with its own motor power or mounted on or towed by another powered vehicle. Recreational vehicle shall mean Boats, Campers, and ATV (All Terrain Vehicles) or other similar vehicle used for recreation. For the purpose of this ordinance, a vehicle used to transport racecars or other similar use shall not be defined as a recreational vehicle.

**RECREATIONAL VEHICLE CAMPSITE:** Means an area of land on which two or more recreational vehicles are regularly accommodated with or without charge, including any buildings or other structure, fixture, or equipment that is used or intended to be used in connection with providing accommodations day or overnight.

**RECREATION VEHICLE SALES LOT:** Means a lot arranged, designed, or used for the display of Recreation Vehicles for sale.

**RECREATION VEHICLE STORAGE AREA:** Means a place where two or more unoccupied recreational vehicles are regularly accommodated with charge:

**RENTAL PROPERTY:** Means a dwelling, building, or land that is not owned by the person that occupies the property but may be responsible to maintain the upkeep of the property.

**RESIDENTIAL DISTRICT:** Means an R-1, R-3 Residential or LR Lake Residential Districts.

**RESTAURANT:** Means a building structure in which food and drinks are prepared primarily for sale and consumption within such a structure , including incidental take out service (See definition of drive-in restaurant).

**RETAIL SALES AND SERVICES:** Means department stores, variety stores, drug and sundry store, restaurants, grocery stores, hardware store, furniture and floor covering store, stationary store, shoe sales or repair shops, leather and luggage shops, bakeries and other similar use that deal in retail sales or services.

**ROADSIDE STAND:** Means a temporary structure or vehicle used for the display of merchandise, goods, or articles, which are sold to the public. (See Miscellaneous Restriction 2-13-4 this Ordinance)

**ROADSIDE PRODUCE STAND:** means a temporary structure designed or used for the display of agriculture and related products produced on the premises and sold as a seasonal or temporary period of time not to exceed ninety (90) days in one-year period.

**RUMMAGE SALE:** Means the sale of used or new articles, not to exceed seven (7) days and no more than two sales in any one-year period. Including Garage, Porch, Yard, and other designated sales.

**SANITARY SEWER:** Means a pipe or conduit designed for carrying any combination of water carried wastes from residence, business, Commercial building, public use and industries, together with such ground, surface, and storm water as may be present, but which are not intentionally admitted.

**SANITARY FILL:** Means any zoned lot used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or other means and for whatever purpose of garbage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof, but not sewage or animal waste. (See classification restrictions).

**SANITARY TRANSFER STATION:** Means a building or enclosed area where discarded used property or garbage is brought in and transferred to other vehicles such as dumpster or hold bin for a period of time waiting to be disposed of in a safe manner.

**SATELLITE DISH:** Means a directional microwave antenna having a concave shape used for television or radio frequency.

**SCHOOL:** Means a place for systematic instruction in any branch or branches of knowledge.

**SCHOOL, TRADE OR BUSINESS:** Means a secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable, or nonprofit organization. A school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hairdressing, or drafting, or for teaching industrial or technical arts.

**SHOPPING CENTER:** Means a group of continuous retail stores, originally planned and developed as a single unit, having a total ground floor building area of not less than 50,000 square feet, with immediate adjoining off street parking facilities.

**SERVICE STATION:** Means any building, structure, or land used for the sale or offering for sale at retail of any automobile fuel, oils, or accessories including lubrication or washing of automobiles, and replacement for installation of minor parts and accessories.

**SIGN:** Means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, service, person, institution, or business.

**SIGN, TEMPORARY:** Means the same as a sign, except it is not on a permanent structure.

**SLAUGHTERHOUSE:** Means a commercial establishment where animals are butchered.

**SPECIAL EXCEPTION:** Means an authorized use that is designated as such by Table 1, as being permitted in the district concerned, if it meets special conditions, and upon application is specifically authorized by the Board of Zoning Appeals. The board may place added restrictions on the property for safety, health, or general welfare of the community.

**STOP WORK ORDER or STAY OF WORK:** Shall mean a lawful order given by the Administrator or official that has the duty to enforce this ordinance. "Stop Work" Shall mean any or all work that is in

progress will cease immediately and will not continue until released by the Administrator or official of the Plan Commission or Board of Zoning Appeals. Stay of work shall be in accordance with I.C. 36-7-4-1001 or I.C. 36-7-4-1002.

**STORAGE:** Means the keeping, maintaining or housing of goods, articles, equipment, or other valuables that can or will be used in the future.

**STREET FEEDER:** Means a street designed to facilitate the collection of traffic from Local Street and to provide circulation within the neighborhood area, and convenient ways to reach secondary streets.

**STREET, LOCAL:** Means a street designed primarily to provide access to abutting property.

**STREET, PRIMARY:** Means a street designed for high volume traffic.

**STREET, PUBLIC:** Means a street established for or dedicated to the public use.

**STREET (ROAD):** Means a right-of-way other than an alley, dedicated or otherwise legally established to public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate names.

**STREET, SECONDARY:** Means a street designed to facilitate the collection of traffic from feeder streets, and usually located on the neighborhood boundaries.

**STRUCTURE:** Means anything constructed or erected that requires location on or in the ground, or attachment to something having a location on or in the ground. A structure shall mean any structure that protrudes more than (2) two feet above ground level. Improvement Location Permits shall be required except items exempt in 2-3H of this Ordinance.

**STRUCTURAL CHANGE:** Means a change, or repair in a supporting member of a building, such as a bearing wall or partition, column, beam or girder, or in the exterior wall, or the roof.

**SUBDIVISION:** See subdivision ordinance definitions.

**SWIMMING POOL:** Means an above or in ground pool which holds water, used for private or commercial swimming or recreational purpose. (See Residential restriction 2-13f this ordinance)

**TAVERN:** includes but not limited to an establishment commonly known as bars, grills, cafes, taverns and nightclubs, and where intoxicating beverages are sold, and primarily consumed on the premises.

**TEMPORARY USE:** Means a use of land, building, or structure not intended to be of permanent duration.

**THEATER:** Means a structure used for dramatic, operatic, motion pictures or other performance, for admission to which entrance money is received.

**THEATER, ADULT MOTION PICTURES:** Means an enclosed building with a capacity for more than twenty-five (25) persons used for presenting material having as a con-(sis) presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", (as defined in this section), for observation by patrons therein.

**THEATER, ADULT MINI MOTION PICTURE:** Means an enclosed building with a capacity for less than twenty-five (25) persons used for presenting material having as a con-(sis) presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", (as defined in this section), for observation by patrons therein.

**TOURIST HOME:** Means a building in which not more than five (5) guest rooms are used to provide or offer overnight accommodation to transient guests for compensation.

**TOWER, RADIO, TV, PHONE, MICROWAVE:** Shall mean any structure that supports Microwave disk or antenna for communication services that is more than fifty feet in height.

**TRUCK TERMINAL:** Means an establishment where three (3) or more trucks for hire are stored or parked, along with service of fuel, fuel oil, minor or major repair.

**TRUCK SALES LOT:** Means a lot arranged, designed or used for truck sales over one ton in size where no service or repair is done.

**TRUCK SERVICE CENTER:** Means a business especially for the servicing of trucks, with incidental operations similar to those permitted for automobile service stations.

**USE:** Means the employment or occupation of a structure or land for a person's service, benefit, or enjoyment.

**VARIANCE:** Means a special authorization that is granted under section 2-8 to deviate from the ordinance.

**VARIANCE, AREA:** Means an authorization granted by the Board of Zoning Appeals involving matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density regulations and yard requirements, and shall follow the land.

**VARIANCE, USE:** Means an authorization granted by the Board of Zoning Appeals which permits a use of a building or land other than which is prescribed by the Zoning Ordinance. Use Variance shall not follow the Land

**VIDEO RENTAL SHOP:** means a business that rents or leases movies or movie equipment.

**VISION CLEARANCE:** Means a triangular space at an intersection, free from any kind of obstruction to vision between the height of three (3) and eight (8) feet above the established grade. Determined by a diagonal line connecting two points, measured twenty (20) feet equal distance from the street corner along each property line.

**WATERCOURSE:** Means a natural or artificial body of water flowing on or under the earth.

**WORK TRAILER:** Means a mobile trailer designed to move upon a highway, to be used as a temporary office, storage, or break room on a construction site while construction is being done.

**YARD, FRONT:** Means a yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lampposts, shrubs, and similar structures, the depth of which is the least distance between the nearest street right-of-way and the front line of the building. The front yard shall be determined by the location of the main entrance of the structure.

**YARD, REAR:** Means a yard that extends across the full width of a lot and is bounded on the rear by the rear lot line, and the depth of which is the least distance between the rear lot line and the rear of the principal building.

**YARD, SIDE:** Means a yard between the principal building and the adjacent side lot line, that extends from the front yard, or street right-of-way where there is no front yard, to the rear yard, and the width of which is the least distance between the side lot line and the adjacent side of the building.

**ZONING ADMINISTRATOR:** Means an officer, employee, or agent of the County of Miami, who has the authority to enforce this Ordinance for the County of Miami Plan Commission and the Board of Zoning Appeals.

**ZONING MAPS:** Means maps showing the County of Miami and its jurisdiction, marked exhibits, that shows districts or primary street routes or jurisdiction of the County of Miami.



## **2-1 DISTRICTS**

**THE FOLLOWING ZONING DISTRICTS ARE HEREBY ESTABLISHED FOR THE COUNTY OF MIAMI, INDIANA. FOR THE INTERPRETATION OF THIS ORDINANCE, THE ZONING DISTRICTS HAVE BEEN FORMULATED TO REALIZE THE GENERAL PURPOSE AS SET FORTH IN THE PREAMBLE OF THIS ORDINANCE. IN ADDITION, THE SPECIFIC DISTRICTS SHALL BE AS STATED.**

### **A-1 AGRICULTURE"**

**A-1 DISTRICT"** This district shall be classified as prime farmland. A-1 district is to preserve and protect the decreasing supply of prime farmland by controlling the indiscriminate infiltration of urban development into agriculture areas. These areas are general flat areas with less than 2 to 5 percent slope, no wooded areas and little to no urbanization has occurred or is likely to occur in the near future. These areas shall be maintained as primary uses such as growth of crops and the raising of livestock. No residential use shall be authorized except farm dwellings.

### **A-2 AGRICULTURE"**

**B-2 DISTRICT"** This district shall be classified as farmland with a general slope of more than 5 but less than 20 percent. These areas are mostly low yield and are more suitable for grazing or pasture. A-2 Districts would be suitable for low-density housing; however, residential uses should be discouraged.

### **A-3 AGRICULTURE"**

**C-3 DISTRICTS"** This District shall be classified as rough farmland with overgrown vegetation, wood area, and wetland, which may run from slight to moderate ground slope. These areas are designated for agriculture use in rural areas however, very small agriculture uses may occur. These areas may be more suited for development of residential or commercial uses.

### **R-1 RESIDENTIAL**

**D-1 DISTRICTS"** Means an area that is designated for low density residential housing consisting of single-family units with a lot sufficient to provide for individual water and sewage facilities, where centralized facilities "R-1" district. are not available. Only one dwelling per lot or parcel of land shall be allowed in an

### **R-3 RESIDENTIAL**

**E-3 DISTRICTS"** Means an area that is designated for duplex or multi-family housing; however, when public sewage is not available there shall be no more than twenty (20) units per acre.

### **B-1 COMMERCIAL"**

**F-1 DISTRICTS"** Means Commercial uses that have less than fifty customers per day. These areas are normally located in or adjoining a residential area. The uses shall not create any more traffic than the normal use of the area. There shall be no noise, odor, or other nuisance that would create an unnecessary hardship on the surrounding property. Pick-up or delivery shall be limited to less than one- ton vehicles . Off street parking shall be provided for employees and customers.

### **B-2 COMMERCIAL**

**B-2 DISTRICTS"** Means Commercial uses that are on a main artery or near residential districts. These are mainly small retail businesses providing a service for the convenience of the neighborhood. These businesses shall not create noise, odor, or other nuisance that would create an unnecessary hardship on the surrounding area. Off street parking shall be provided for employees.

## **B-3 COMMERCIAL**

**B-3 DISTRICTS**” Means Commercial uses located away from residential uses normally on a major highway that provides high volume merchandise, sales, or services. These areas are mainly major retail, repair, or service of merchandise, Small assembly businesses may be authorized in these areas but should be discouraged. Parking shall be in accordance with the parking requirement outlined in chapter 3-3.

## **I-1 INDUSTRIAL**

**C-1 DISTRICTS**” Means Industrial area used for manufacturing, assembling, wholesale or storage. These areas are normally located on the outskirts of a City or Town where little or no urban development has or will occur. These areas shall be clean, quiet, and free of hazardous or objectionable elements, operated entirely within enclosed structures. Storage areas shall be enclosed with six to eight-foot wood or chain link fences .

## **I-2 INDUSTRIAL**

**D- 2 DISTRICTS**” Means industrial areas used for major manufacturing, processing, warehousing, mining, or major research and testing. These areas are established for heavy industrial uses that require isolation from other districts. These areas shall be screened or fenced from other districts or shall have a minimum of two hundred (200) feet buffer from other districts.

## **FP FLOOD PLAIN**

**FP DISTRICT**” Means areas that are in the flood hazard areas outside floodways that could cause damage to structures due to high water. These districts shall comply with the floodplain ordinance as adopted by Miami County Ordinance (2-24-2003). These areas are designated as zone (A) on the Flood Hazard Zone maps.

## **FF FLOOD FRINGE**

**FF DISTRICT**” Means the areas outside of the floodway or flood plain that could be subject to high water damage. These areas are designated as Zoned (X) or higher areas on the Flood Hazard Zone Maps. No structure may be built in these areas unless the first floor is two feet above the flood hazard area.

## **PUD PLAN UNIT DEVELOPMENT**

**PUD DISTRICTS**” Means an area of five (5) acres or more under single ownership, corporation, firm, or partnership planned and developed as an integral unit in a single development which consist of Residential and Business, Business and Industrial, but shall not consist of Industrial and residential. (See Plan Unit Development this Ordinance). All requirements shall be met according to the guideline set forth in section (3-6) of this ordinance.

## **2-1-1 DISTRICTS IN GENERAL**

(A) The boundaries of the District established are shown on the Zoning Maps, which is part of this Ordinance. Districts shall only be changed by amending this Ordinance.

(B) When the exact boundaries of a district are uncertain, they shall be determined by use of the Zone Map.

(C) When a right-of-way is vacated; the districts adjoining each side are respectively extended to the center of the area so vacated

(D) If a district divides a lot frontage on a street, a restriction that applies to the front of the lot shall apply to the entire lot.

## **2-2 PRIMARY USES**

THE FOLLOWING TABLE SHALL BE USED TO DETERMINE WHEN A USE IS AUTHORIZED IN A DISTRICT:

- (1) IF THE USE IS MARKED WITH (X) THIS SHALL MEAN THE USE IS AUTHORIZED IN THAT DISTRICT.
- (2) A USE MARKED WITH (S) MEANS THAT A SPECIAL EXCEPTION IS REQUIRED FROM THE BOARD OF ZONING APPEALS.
- (3) A USE MARKED WITH (HO) SHALL BE AUTHORIZED AS A HOME OCCUPATION PROVIDED ALL REQUIREMENTS IN SECTION 3-1 ARE MET.
- (4) A USE MARKED (SR) MEANS THERE ARE SPECIAL REQUIREMENTS THAT MUST BE MET.
- (5) A USE MARKED WITH (\*) MEANS THERE ARE SPECIAL REQUIREMENTS SET BY DNR AND FLOODPLAIN ORDINANCE.
- (6) A USE NOT FOUND IN THE PRIMARY USE TABLE SHALL USE THE MOST SIMILAR USE AND HAVE THE SAME RESTRICTIONS AS THE SIMILAR USE.

**SEE TABLE ONE OF THIS ORDINANCE**

**TABLE 1  
AUTHORIZED USES**

PRIMARY USES DISTRICTS	TABLE 1 AUTHORIZED USES												
	A-1	A-2	A-3	R-1	R-3	B-1	B-2	B-3	I-1	I-2	PUD	FP	FF
<b>RESIDENTIAL</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
APARTMENT					X	X	X	X			X		
BED & BREAKFAST			S		S	X	X	X			X		
BOARDING HOUSE					X	X	X	X			X		
COMMUNITY HOUSE					X	X	X	X			X		
DWELLING DUPLEX			X		X	X	X	X			X		
DWELLING MULTI FAMILY					X	X	X	X			X		X*
DWELLING SINGLE FAMILY		X	X	X	X	X	X	X			X		X*
DWELLING FARM	X	X	X										
FRATERNITY HOUSE						X	X	X			X		
HALFWAY HOUSE						X	X	X			X		
HOTEL OR MOTEL								X			X		
MANUFACTURED HOME TYPE I		SR	SR	SR	SR	R P	R P	R P			SR		SR*
MANUFACTURED HOME TYPE II		X	X	X	X	X	X	X			X		X*
MANUFACTURED HOME TYPE III		X	X	X	X	X	X	X			X		X*
MOBILE HOME		SR	SR	SR	SR	SR	SR	SR			SR		SR*
NURSING HOME							X	X			X		
ORPHANAGE HOME							X	X					
SENIOR CITIZEN HOME							X	X			X		
SUBDIVISION RESIDENTIAL				X	X	X					X		X*
PLAN UNIT DEVELOPMENT		S	S	S	S	S	S	S	S	S	X	S*	S*
SPECIAL SERVICE RESIDENT					S	S	S						
<b>RETAIL BUSINESS</b>	<b>A-1</b>	<b>A-2</b>	<b>A3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
ADULT BOOK STORE								S	S	S			
AMUSEMENT CENTER							S	X	X				
ANTIQUe SHOP							S	X	X		X		
APPLIANCE SHOP							X	X	X				
BAIT & GUN SHOP								X	X		X		X*
BICYCLE SHOP							X	X	X		X		
BOAT SALES								X	X	X			X*
BOOK & STATIONERY						X	X	X	X		X		
CAMERA & PHOTO SHOP						X	X	X	X		X		
CARPET FLOOR SALES							X	X	X	X	X		
COMPUTER CENTER							X	X	X				
CLOTHING STORE							X	X			X		
DEPARTMENT STORE							X	X			X		
DRUG STORE						X	X	X			X		
APPLIANCE SHOP							X	X	X		X		
FIREWORKS								X	X	X			
FLORISTS SHOP			X			S	X	X			X		
FURNITURE STORE							X	X	X	X	X		
GIFT & NOVELTY SHOP						X	X	X	X		X		
HARDWARE SHOP							X	X	X		X		
JEWELRY SHOP						X	X	X	X		X		
LIQUOR STORE							X	X			X		
OFFICE SUPPLIES						X	X	X	X		X		
PAWN SHOP							X	X	X		X		
PAINT, WALLPAPER SHOP							X	X	X		X		
SHOE & LEATHER GOODS						X	X	X	X		X		

**TABLE 1  
AUTHORIZED USES**

<b>RETAIL BUSINESS CONT.</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
SPORTING GOODS							X	X	X		X		
VARIETY SHOP							X	X	X		X		
<b>FOOD</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
BAKERY SHOP						X	X	X	X		X		
CANDY, NUT & CONFECTION						X	X	X			X		
CATERING SERVICE						X	X	X			X		
COFFEE SHOP						X	X	X			X		
CONVENIENCE STORE						X	X	X			X		
DAIRY PRODUCTS						X	X	X			X		
DELICATESSEN						X	X	X			X		
DINNER THEATER								X			X		
DRIVE-IN-RESTAURANT							X	X			X		
GROCERY STORE OVER 5,000 Sq ft							X	X	X				
GROCERY STORE UNDER 5,000 Sq ft						X	X	X			X		
HEALTH FOOD STORE						X	X	X			X		
ICE CREAM SHOP						X	X	X			X		
MEAT & FISH SHOP						X	X	X			X		
RESTAURANT							X	X			X		
SUPERMARKET								X	X		X		
<b>ENTERTAINMENT</b>	<b>A-1</b>	<b>A-2</b>	<b>A3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
ARCHER RANGE								X	X	X	X		X*
BAR & LOUNGE								X	X		X		
BILLIARDS & POOL HALL								X	X		X		
BOWLING ALLEY								X	X		X		
CAMPGROUND		S	S					S	S			S*	S*
COUNTRY CLUBS		S	S					X			X		
DANCE HALL								X			X		
FAIRGROUND		S	S					S	S	S		S*	S*
GO KART TRACK									S	X			
GOLF COURSE		S	S					X	X	X	X	X*	X*
GOLF DRIVING RANGE		S	S					X	X	X	S	X*	X*
LODGE OR PRIVATE CLUB							X	X	X		X	S*	S*
MARINA								X	X			S*	S*
MINIATURE GOLF COURSE								X	X		X	X*	X*
MUSEUMS OR ART GALLERY						X	X	X	X		X		
PRIVATE RECREAT. DEVP.								S	S	S	S	X*	X*
RACE TRACK								S	S	S			
RECREATIONAL ENTERPRI.								S	S	S	S	X*	X*
SEASONAL LODGE								X			X	X*	X*
SHOOTING RANGE (INDOOR)								S	S	X		S*	S*
SHOOTING RANGE OUTDOOR		S	S					S	S	S		S*	S*
SKATING RINK								X	X		X		
STADIUM ATHLETIC FIELD		S	S					S	S	X			
SWIMMING POOL COM.						X	X	X	X		X	X*	X*
SWIMMING POOL PRIVATE	X	X	X	X	X	X	X	X	X	X	X	X*	X*
TENNIS COURT COMM.			X			X	X	X	X	X	X		
THEATER (INDOOR)							X	X	X		X		
<b>ENTERTAINMENT CONT</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>

**TABLE 1**  
**AUTHORIZED USES**

THEATER (OUTDOOR)							X	X	X			X		
TRAVEL TRAILER PARK								S	X	X	S	S*	S*	
<b>PERSONAL SERVICES</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>	
ACCOUNTING SERVICES		HO	HO	HO	HO	X	X	X	X	X	X			
AUCTIONEER OFFICE		HO	HO	HO	HO	X	X	X	X	X	X			
BANK OR FINANCE SERVICE						X	X	X	X	X	X			
BOOKKEEPING SERVICE		HO	HO	HO	HO	X	X	X	X	X	X			
BONDSMAN		HO	HO	HO	HO	X	X	X	X	X	X			
CHILD CARE CENTER						X	X	X						
DANCE STUDIOS						S	X	X	X		X			
EMPLOYMENT SERVICE						S	X	X	X	X	X			
HOME CHILD CARE		S	S	S	S	S	S	S						
INSURANCE OFFICE		HO	HO	HO	HO	X	X	X	X					
INTERIOR DECORATOR		HO	HO	HO	HO	S	X	X	X	X	X			
LAW OFFICE						X	X	X	X	X	X			
MUSIC LESSONS		HO	HO	HO	HO	X	X	X			X			
PHOTO STUDIOS						X	X	X	X		X			
PROFESSIONAL OFFICE		HO	HO	HO	HO	X	X	X	X	X	X			
STOCKBROKER OFFICE						X	X	X	X		X			
TRAVEL AGENCY						X	X	X	X					
<b>MISCELLANEOUS SERVICE</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>	
BARBER SHOP		HO	HO	HO	HO	X	X	X	X	X	X			
BEAUTY SHOP		HO	HO	HO	HO	X	X	X	X	X	X			
CAR RENTAL							X	X	X					
COIN OPERATED LAUNDRY						X	X	X	X		X			
DOG POUND			S					X	X	X				
ELECTRICAL REPAIR SHOP								X	X					
EQUIPMENT RENTAL								X	X	X				
FUNERAL PARLOR						X	X	X						
HEALTH SPA & TANNING						X	X	X	X		X			
KENNEL		S	S				S	S	X	X				
MORTUARY		X	X					X	X					
PET SHOP								X	X					
PRINT OR COPY SHOP							X	X	X	X				
SHOE REPAIR						X	X	X	X		X			
TENT SALE						SP	SP	SP	SP					
UPHOLSTERY SHOP								X	X	X				
WATCH OR JEWELRY REPAIR						X	X	X	X		X			
<b>MEDICAL SERVICES</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>	
AMBULANCE SERVICE		X	X	X	X	X	X	X	X	X	X			
BLOOD BANK							X	X	X		X			
CLINICS						X	X	X	X		X			
CONVALESCENT HOME					X	X	X	X			X			
DOCTORS OFFICE						X	X	X	X	X	X			
EYE CLINIC						X	X	X	X	X	X			
HOSPITAL						X	X	X	X		X			

**TABLE 1  
AUTHORIZED USES**

<b>MEDICAL SERVICE CONT</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
MEDICAL & DENTAL LAB						X	X	X	X	X	X		
VETERINARY CLINIC		S	S				S	X	X		X		
<b>GOVERNMENT SERVICES</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
HIGHWAY & STREET DEPT.									X	X			
LICENSE BRANCH						X	X	X	X				
GOVERNMENT BUILDINGS						X	X	X	X	X	X		
JAIL & PENAL INSTU.									S	S			
POLICE & FIRE DEPT.		X	X	X	X	X	X	X	X	X	X		
POSTAL SERVICES						X	X	X	X		X		
PUBLIC PARKS	X	X	X	X	X	X	X	X	X		X	X*	X*
PUBLIC UTILITIES	S	S	S	S	S	S	S	S	S	S			
<b>NON-PROFIT SERVICES</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
CHAMBER OF COMMERCE						X	X	X			X		
CHARITABLE ORGANIZATION						X	X	X	X		X		
CHURCH OR TEMPLE		X	X	X	X	X	X	X			X		
CIVIC OR SOCIAL CENTERS						X	X	X			X		
LABOR UNION HALL							X	X	X	X	X		
POLITICAL ORGANIZATION						X	X	X	X	X	X		
PRIVATE CLUBS							X	X	X	X	X		
RELIGIOUS ORGANIZATION		X	X	X	X	X	X	X			X		
YMCA & YWCA							X	X	X	X	X		
<b>EDUCATION SERVICES</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
ART & MUSIC SCHOOL							X	X			X		
COLLEGE								X			S		
DAY OR PRE SCHOOL		S	S	S	S	X	X	X			X		
ELEMENTARY SCHOOL		X	X	X	X	X	X	X					
HIGH SCHOOL		X	X	X	X	X	X	X					
JUNIOR COLLEGE							X	X			S		
TRADE OR BUSINESS SCHOOL								X	X	X	S		
<b>AGRICULTURE USES</b>	<b>A-1</b>	<b>A-2</b>	<b>A-3</b>	<b>R-1</b>	<b>R-3</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>	<b>PUD</b>	<b>FP</b>	<b>FF</b>
COMMERCIAL GREENHOUSE	X	X	X					X	X				
CONFINEMENT FEEDING	S**	S**	S**										
FARM GENERAL	X	X	X										
FARM EQUIPMENT SALE	X	X	X				S	S	X	X			
HAY, GRAIN & FEED STORE	X	X	X						X	X			
PLANT NURSERY	X	X	X						X	X			
ROADSIDE STAND AG. PRODUCT	X	X	X				SR	SR	SR				
SALE BARN (LIVESTOCK)	S	S	S						X	X			
ADVERTISING SIGN (BILLBOARDS)									X	X			
ANHYDROUS AMMONIA	S	S	S						S	S			

**TABLE 1**  
**AUTHORIZED USES**

INDUSTRIAL USES	A-1	A-2	A-3	R-1	R-3	B-1	B-2	B-3	I-1	I-2	PUD	FP	FF
ASPHALT PLANT										S			
ASSEMBLY PLANT									X	X			
AUTO BODY SHOP								S	X	X			
AUTO & PICKUP TRUCK SALES								X	X	X			
AUTO CAR WASH							X	X	X	X			
AUTO HOLD AREA								S	X	X			
AUTO PARTS STORE							X	X	X	X			
AUTO SALES LOT							X	X	X				
AUTO REPAIR SERVICE								X	X	X			
AUTO SALES & SERVICES								X	X	X			
CEMETERY OR CREMATORIES			X					X	X				
COLD STORAGE LOCKER								X	X	X			
COMMERCIAL PARKING LOT							X	X	X	X	X		
CONTRACTOR YARD							S	S	X	X			
EXPLOSIVES MANUF. & STORAGE										S			
FUEL & OIL DEALER									X	X			
ICE PLANT									X	X			
INDUSTRIAL PARK									X	X	X		
JUNK YARD									S	S			
LAUNDRY PLANT									X	X			
LINEN SUPPLY								X	X	X			
LIQUIFIED PETROLEUM STORAGE									X	X			
LUMBER YARD									X	X			
MANUFACTURING PLANT								X	X	X			
MINERAL EXTRACTION		S	S							S			
MOBILE HOME COURT				S	S	S	S	S					
MOTORCYCLE SALES & SERVICE							X	X	X	X			
OIL WELL	X	X	X						X	X			
PARKING GARAGE							X	X	X	X			
PLAN UNIT DEVELOPMENT		X	X	X	X	X	X	X	X	X	X	X*	X*
PRIVATE LAND FIELD		S	S							S			
READY MIX PLANT										S			
RECYCLING PLANT										S			
RECYCLING TRANSFER STATION										S			
SANITARY TRANSFER STATION										S			
SAW MILL		S	S						S	X			
SEWAGE DISPOSAL PLANT									S	S			
SHOPPING CENTER							X	X	X		X		
SLAUGHTER PLANT		S	S							X			
TOWERS		S	S						S	S			
TRACTOR -TRAILER SALES									X	X			
TRACTOR-TRAILER STORAGE									X	X			
TRUCK RENTAL								X	X	X			
TRUCK SALE & SERVICES								S	X	X			
TRUCK TERMINAL								S	S	X			
WAREHOUSE GRAIN STORAGE	X	X	X						S	X			
WAREHOUSE STORAGE								X	X	X			
WELDING SHOP			S						X	X			
WHOLESALE PRODUCE SALES			X					S	X	X			
WIRELESS COMMUNICATION FAC.		S	S						S	S			
WRECKER SERVICE								S	X	X			



## **2-3 IMPROVEMENT LOCATION PERMITS**

**(A)** No building or other structure shall be erected, moved, added to, or structurally altered unless the Miami County Plan Commission office has issued an Improvement Location Permit. No change in use of a building or land shall be made without an Improvement Location Permit issued by the Miami County Plan Commission Office. Improvement Location Permit shall be issued only upon finding that the proposed use complies with the requirements of this Ordinance or upon written order from the Board of Zoning Appeals granting a Variance, Appeal, or Special Exception.

**(B)** Whenever an Improvement Location Permit for a dwelling is issued the Administrator shall insure that the septic permit has been issued or the Health Officer has authorized an approved system before an Improvement Location Permit is issued.

**(C)** The application for an Improvement Location Permit shall be submitted to the Plan Commission Office and signed by the owner or applicant attesting to the accuracy of all information. Each application shall clearly state that the permit shall expire and be revoked if work has not begun within 30 Days or been substantially completed within one (1) year from date issued, unless an extension has been granted by the Plan Commission Office.

**(D)** An applicant applying for an Improvement Location Permit shall furnish the Plan Commission Office with the Following information:

1. Name, address, and phone number of applicant,
2. Legal description of property,
3. Existing and/or proposed use,
4. The location and size of all improvements, existing and proposed,
5. Location of all adjacent streets and alleys,
6. Estimated cost of improvement,
7. Plot plan showing the size and shape of lot to be built on,
8. Drainage plan for the area (if required).
9. Letter of authorization from owner or holder of contract,

**(E)** No improvement location permit shall be issued for any commercial use unless the State Administrative Building Council has approved all plans.

**(F)** As a condition of issuing an Improvement Location Permit, the Zoning Administrator may require the relocation of any structure or entrance or exit, if the requirement is necessary in the interest of safety, or public welfare of the community.

**(G)** Any person filing for an Improvement Location Permit shall be required to disclose the identity of his contractor (if requested). Such a person is eligible to receive a permit only if his contractor is eligible.

**(H)** All plans filed with the Plan Commission Office shall be public records and shall be maintained by the Plan Commission Office as permanent records.

**(I)** No Improvement Location Permit shall be required for the following use or structures:

1. Bird baths and birdhouses
2. Detached storage sheds 120 Square feet or less must have mobile home style tie downs
3. Curbs
4. Paving driveway,
5. Lamp post
6. Mailboxes on post (must meet special requirement as outlined in Section 2-13-4B,
7. Walks
8. Pole lines
9. Retaining walls less than three (3) feet in height,

10. Trees, shrubs, plants, and flowers provided that visibility is not obstructed,
11. Fences and hedges (not to exceed four (4) feet in height within the front yard and six (6) feet in height within the side and back yard. Fences shall not be closer than eighteen (18) inches from any sidewalk or alley).
12. Other similar uses.

**(J)** Any person filing for an Improvement Location Permit shall at the same time apply for a Certificate of Occupancy, which shall be certified by the Zoning Administrator upon completion before the structure is used or occupied.

**(K)** Any Persons that offer for sale products from a Vehicle, tent, booth, or other means shall have an Improvement Location Permit Issued from the Miami County Plan Commission Office for the duration of the sale. Permit fees will be outlined in the posted Fee Schedule. No permit shall be issued for more than Ninety days.

**(L)** Agriculture permits must be approved and issued by the Plan Commission.

#### **2-4 CERTIFICATE OF OCCUPANCY**

It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use of structure until a Certificate of Occupancy has been issued by the Zoning Administrator. The Certificate of Occupancy shall state that the proposed use of the building or land conforms to the requirements of this Ordinance and that the Zoning Administrator has inspected the property and attested to that fact.

No Certificate of Occupancy shall be issued until all work has been completed. No person shall occupy any dwelling without having an approved Sanitary Sewage System.

#### **2-5 TEMPORARY CERTIFICATE OF OCCUPANCY**

A Temporary Certificate of Occupancy may be issued by the Zoning Administrator for a period not to exceed six (6) months pending completion of modifications in order to comply with this Ordinance.

#### **2-6 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The Common Council of the County of Miami, Indiana shall by Ordinance, establish a schedule of fees, charges, and expenses and a collection procedure for Improvement Location Permits, Amendments, Appeals, Variances, Special Exceptions, Plan Unit Development and other matters pertaining to the administration and enforcement of this Ordinance requiring investigations, legal advertising, postage and other expenses. The schedule of fees shall be posted in the Office of the Zoning Administrator and may be amended or altered only by the Common Council of the County of Miami, Indiana. Until all applicable fees, charges, and expenses have been paid, no action shall be taken on any application or appeal.

**THE FOLLOWING FEES, CHARGES, AND EXPENSES ARE HEREBY ESTABLISHED:**

**IMPROVEMENT LOCATION PERMITS \$1.00 PER THOUSAND DOLLARS OF CONSTRUCTION WITH A MINIMUM CHARGE OF \$5.00 AND A MAXIMUM CHARGE OF \$100.00 DOLLARS.**

<b>CERTIFICATE OF OCCUPANCY</b>	<b>NO CHARGE</b>
<b>AGRICULTURE PERMITS</b>	<b>\$25.00</b>
<b>APPEAL OF ZONING ADMINISTRATOR'S DECISION</b>	<b>\$50.00</b>
<b>PETITION FOR AMENDMENT TO ZONING ORDINANCE OR MAPS</b>	<b>\$75.00</b>
<b>SPECIAL EXCEPTION</b>	<b>\$75.00</b>
<b>USE VARIANCE</b>	<b>\$75.00</b>
<b>AREA VARIANCE</b>	<b>\$75.00</b>
<b>PLAN UNIT DEVELOPMENT</b>	<b>\$150.00</b>
<b>MINOR SUBDIVISIONS</b>	<b>\$150.00</b>
<b>MAJOR SUBDIVISIONS</b>	<b>\$150.00 + \$50.00 PER LOT</b>

**2-7 SPECIAL EXCEPTIONS**

(A) The Board of Zoning Appeals may permit a Special Exception after a public hearing only in the specified districts indicated in Table One (1) of the primary uses. No permit for a Special Exception shall be granted unless the Board shall have first found that the public convenience and welfare will substantially be served and that the proposed use will not be unduly detrimental to the surrounding area. In the exercise of its approval, the Board may impose, such additional conditions regarding the location, character, and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the proposes of this Ordinance

(B) Upon approval for the Special Exception, the Zoning Administrator shall issue an Improvement Location Permit.

(C) Upon a finding by the Board that the Special Exception with additional special requirements may be issued, the Board shall order the Zoning Administrator to issue an Improvement Location Permit for the Special Exception, providing the applicant agrees in writing to such additional special requirements.

(D) A finding by the Board that the Special Exception is not consistent with the spirit, purpose, or intent of this Ordinance, may substantially or permanently injure the appropriate use of the neighboring property, or will not serve the public convenience or welfare, the Board shall disapprove the Special Exception.

(E) The Board may table the application for a Special Exception, and refer it to the Zoning Administrator or committee with a request for further information, review, and recommendations to the Board.

**2-7-1 SPECIAL EXCEPTION - EXISTING USES**

An existing use which is listed herein as a Special Exception and which is located in a district in which such Special Exception may be permitted, is a conforming use, however any expansion of such Special Exception involving the enlargement of the building structure, or the land area devoted to such use, shall be reviewed by the Zoning Administrator for compliance and may be subject to Board procedure described in this section.

**2-7-2 SPECIAL EXCEPTION - TIME LIMIT**

In the event that the applicant has failed to commence construction within six (6) months after such permit has been issued, or failed to proceed with construction, once commenced, in accordance with construction time table commonly prevailing in the construction industry, and subject to the Board's discretion as to the reasonableness of construction delays or fails to conform to the provisions of the development plan, and supporting data finally approved by the Board, and upon the basis of which such Improvement Location Permit for the Special Exception was issued. Said Board may upon its motion or upon the written petition of any aggrieved person at a public hearing, require the applicant to show cause why the Board's order should not be withdrawn and the Improvement Location Permit for the Special Exception be revoked.

### **2-7-3 SPECIAL EXCEPTION - APPROVAL**

A Special Exception shall be an authorized use in a district provided that all requirements can be met and the Board of Zoning Appeals finds that the use will not create an unnecessary hardship or nuisance on the surrounding property.

All requirements shall be completed prior to any operation of that use being started.

The uses may be permitted as a Special Exception in districts as outlined in Table One (1) of the Primary use Chart. The restrictions in Table Two (2) shall be considered the minimum requirements and the Board may make any other reasonable restrictions they feel is necessary to protect that district. If a use is not listed in Table Two (2) the Board must consider the use and restriction. The Board may place reasonable restrictions on the property to ensure that an unnecessary hardship or nuisance is not created on surrounding property.

In granting a Special Exception, the Board shall take into consideration the restrictions outlined in Table Two (2) along with other restrictions in a fair and unbiased decision.

- (1) The Special Exception will not create an unnecessary hardship on surrounding property.
- (2) The Special Exception will not devalue the surrounding property.
- (3) The Special Exception will not set a precedent for that district.

### **2-7-4 SPECIAL EXCEPTION REQUIREMENTS**

All parking requirements shall be in accordance with the parking requirements outlined in section 3-3 of this Ordinance.

All Special Exceptions shall conform to the following restrictions:

- (1) Lights shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. At no time shall any light be placed within ten (10) feet from any property line.
- (2) Parking areas shall be a minimum of (10) ten feet away from any other residential dwelling and shall be screened where light or noise will not interfere with the comfort of the adjacent property owner.
- (3) No unsafe, uncomfortable, or offensive vibrations, noise, visual effects, odors, or air pollutants that would cause an unnecessary hazard to health or general welfare of the surrounding area shall be allowed to radiate across lot lines.
- (4) Any use listed as a Special Exception in Table One (1) shall meet the requirements for Minimum Lot Size, Setbacks, Parking Requirements, Entrances, Exits, fencing, and screening in Table Two (2) of this ordinance.
- (5) No loading berth may be closer than fifty (50) feet from any residential dwelling.

(6) All areas, which are used for outside storage, shall be screened or fenced with no less than Six-foot woven fence or screen.

(8) No more than one entrance or exit shall be authorized with a use unless approved by the board.

(9) Buildings within the following areas may be located no closer to exterior roads than distance, in feet, respectively prescribed below:

GOLF COURSE	50 FEET
INDUSTRIAL PARKS	75 FEET
MOBILE HOME PARKS AND TRAVEL TRAILER PARKS	50 FEET
OUTDOOR RECREATIONAL PARKS	75 FEET
CAMPGROUNDS	50 FEET
JUNK YARDS	100 FEET
FAIR GROUNDS	100 FEET

TABLE 2

	A	B
1		
2	Adult Book Store	A1,B1,C8,G3,H2,I1
3	Airport	A9,B8,C9,D4,E4,F2,G3,H3,I14
4	Amusement Center	A6,B5,C6,F5,G2,I14
5	Anhydrous Ammonia Sales or Storage	A5,B8,C8,D3,E3,F2,G1,H2,I14
6	Animal or Fowl Processing Plant	A5,B5,C7,D3,E3,F2,G1,H1,I6
7	Antique Shop	A1,B1,E1,G1,I14
8	Asphalt Plant	A5,B6,C7,D3,E3,F2,G1,H2,I14
9	Auto Race Track	A6,B3,C9,D3,E3,F5,G1,H2,I14
10	Bed and Breakfast	A1,B1,C1,E1,G1,I11
11	Billboard	A1,B4,C5,D3
12	Campground	A5,B4,C6,D2,F2,G1,H1,I10
13	Cemetery or Crematory	A4,B2,C5,D2,F1,G1
14	Community House	A1,B1,C2,I11
15	Contractor Storage Yard	A4,B5,C5,F2,G1,H1,I14
16	County Club or Golf Course	A7,B5,C2,F1,G1,I14
17	Day Care or Home Child Care	A1,B1,C2,F1,G1,I14
18	Explosives Manufacture Or Storage	A4,B7,C5,D3,E5,F2,G1,H1,I6
19	Fairground	A7,B6,C6,D2,E3,F2,G1,H1,I14
20	Farm Confinement Feed Over 10 Acres	A6,B7,C9,D3,E4,F2,G1,H3,I14,J1
21	Farm Confinement Feed Under 10 Acres	A1,B7,C9,D3,E4,F2,G1,H3,I14,J1
22	Farm Equipment Sales	A4,B5,C5,D2,E2,F2,G1,I6
23	Food Processing Plant	A4,B5,C6,D2,E2,G1,I6
24	Florists Shop	A1,B1,E1,G1,I14
25	Go Kart Track	A3,B5,C6,E2,F2,G1,I14
26	Golf Driving Range	A5,B6,C5,F2,G1,I14
27	Heliport	A5,B7,C7,D3,E3,F2,G1,H1,I14
28	Horse Race Track	A6,B6,C7,D3,E3,F2,G1,H1,I14
29	Industrial Park	A5,B4,C6,D2,E2,F2,G1,I6
30	Jail or Correctional Inst.	A5,B5,C8,E5,F3,G1,H1,I2
31	Junk Yard	A6,B6,C9,D3,E4,F5,G1,H2,I14
32	Kennel	A1,B5,C5,F2,G1,H1,I14
33	Lodge or Private Club	A3,B4,C4,H1,I1
34	Manufacturing Plant	A3,B5,C5,E2,F6,G1,H1,I6
35	Marina	A6,B7,C9,D3,E3,F2,G1,H1,I6
36	Mineral Extraction	A6,B7,C9,D3,E3,F2,G1,H1,I6
37	Mobile Home	A1,B1,G1,I10
38	Mobile Home Court	A4,B4,F2,G1,I10

**TABLE 2**  
**SPECIAL EXCEPTION**

	A	B
39	Nursing Home	A3,B1,C4,G1,I10
40	Oil Well	A5,B8,C9,E4,F2,G1,I14
41	Orphanage Home	A3,B1,C3,I14
42	Pet Shop	A1,B1,C4,F1,G1,I6
43	Plan Unit Development	A5,B2,G1,I3
44	Private Landfill	A3,B6,C6,F2,G1,I14
45	Private Recreational Development	A5,B5,C5,D2,E2,F2,G1,I14
46	Public Park	A1,B2,C3,F2,G1,I14
47	Public Utilities	A1,B4,C4,F2
48	Ready Mix Plant	A5,B5,C8,E4,F2,G1,I6
49	Recreational Enterprise	A5,B5,C6,E2,F2,G1,H1,I14
50	Recycling Plant	A3,B5,C7,E3,F2,G1,H1,I6
51	Seasonal Lodge	A1,B1,C4,F2,G1,I11
52	Sanitary Transfer Station	A3,B5,C6,E2,F2,G1,H1,I6
53	Sawmill	A5,B6,C7,D3,F2,G2,H1
54	Sewage Disposal Plant	A3,B5,C8,E4,F2,G1,I6
55	Shooting Range Indoor	A1,B1,C5,I2
56	Shooting Range Outdoor	A3,B5,C6,F2,G1,I2
57	Slaughter House	A4,B5,C6,E3,F2,G1,H1,I6
58	Special Service Resident	A1,B1,
59	Stadium, Athletic Field	A5,B4,C6,F1,G1,I14
60	Theater Outdoor	A3,B5,C6,F6,I14
61	Towers, All	A1,B9,C6,D1,F3,G1
62	Travel Trailer Park	A4,B5,C6,F2,G1,I10
63	Truck Sales and Service	A1,B4,C5,E2,F2,G1,I1
64	Truck Terminal	A3,B4,C5,E2,F2,G1,I14
65	Vehicle Hold Area	A4,B4,F2,F3,G1,I14
66	Veterinary Clinic	A 3,B ,C 6,I 1
67	Warehouse Storage Grain	A4,C5,C6,E3,G1,I6
68	Wireless Communication Facility	A4,B9,C7,D2,F2,G1,
69	Wholesale Produce Terminal	A1,B4,C4,G1,I6
70	Wrecker Service	A1,B1,C4,G1,I1

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**A. Minimum Lot Size**

1. #
2. 30,000 Sq. ft.
3. 1 Acre
4. 2 Acres
5. 5 Acres
6. 10 Acres
7. 15 Acres
8. 40 Acres
9. 80 Acres
10. 320 Acres

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**B. Minimum Setbacks**

	<b>Front</b>	<b>Rear</b>	<b>Side</b>
1.	#	#	#
2.	#	10	25
3.	#	20	20
4.	50	25	20
5.	100	50	50
6.	100	100	100
7.	150	25	20
8.	150	150	150
9.	300	300	300
10.	500	100	100
11.	1000	100	100

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**C. Minimum Setback from Residential Dwelling**

1. 10 Feet
2. 20 Feet
3. 50 Feet
4. 75 Feet
5. 100 Feet
6. 300 Feet
7. 500 Feet
8. 660 Feet
9. 1000 Feet
10. 1320 Feet

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**D. Minimum Distance From Residential District**

1. 50 Feet
2. 100 Feet
3. 500 Feet
4. 1000 feet



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**E. Minimum Distance From Loading Berth to Resident**

1. 75 Feet
2. 100 Feet
3. 500 Feet
4. 1000 Feet

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**F. Fence or Screening**

1. 4 Feet Wire Mesh
2. 6 Feet Wire Mesh
3. 8 Feet Wire Mesh
4. 4 Feet Solid Wall
5. 6 Feet Solid Wall
6. 8 Feet Solid Wall
7. Screen Hedging to Hide View

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**G. Maximum Number Entrances from any Street**

1. 1
2. 2
3. 3

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**H. Minimum Distance from Church, School or Town**

1. 500
2. 1000
3. 1320

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**I. Parking Spaces Required**

1. 1 Per 125 Sq. Ft. of Floor Space
2. 1 Per 200 Sq. Ft. of Floor Space
3. 1 Per 500 Sq. Ft. of Floor Space
4. 1 Per 1000 Sq. Ft. of Floor Space
5. 1 Per 5000 Sq. Ft. of Floor Space
6. 1 Per Employee Per Shift
7. 1 Per each 2 Employee
8. 1 Per each 3 Employee
9. 1 Per 4 Public Seats
10. 1 Per unit
11. 1 Per Sleeping unit
12. 1 Per 6 Seats
13. 1 Per active Member
14. Adequate for the use

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**J. Minimum Distance from Watercourses**

1. 300 Feet

## **2-8 VARIANCES**

**(A)** The Board of Zoning Appeals may authorize upon appeal in specific cases such Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. No non-conforming use or neighboring land, structures, or buildings in the same district and no permitted or non-conforming use of land, structure, or buildings in other districts shall be grounds for issuance of a Variance. Variances shall not be granted on the grounds of convenience of profit, but only where strict application of the provisions of this Ordinance would result in unnecessary hardship.

**(B)** A Variance from the terms of this Ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for the Variance is submitted to the Zoning Administrator and the Board of Zoning Appeals containing;

1. Name, Address, and Phone Number of applicant(s),
2. Legal description of the property,
3. Description of nature of Variance requested,
4. Public notice is given in accordance with subsection "D" of this section.

**(C)** A use Variance in accordance with I.C. 36-7-4-918.4 shall not be granted unless the Board makes specific findings of facts based directly on the particular evidence presented to it, which supports conclusion that all of the standards and conditions imposed by the following subsection have been met by the applicant(s);

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner;
3. The need for the Variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the Variance is sought; and
5. The approval does not interfere substantially with the comprehensive plan adopted under this Ordinance.
6. An area Variance needs only to meet the requirements of C1, C2, and C5 above.

**(D)** Before holding the public hearing, notice of such hearing shall be given in the local newspaper of general circulation of the County of Miami at least ten (10) days before the date of said hearing. The notice shall set forth the date, time, and location of the public hearing, and the nature of the proposed Appeal or Variance.

**(E)** The applicant shall pay the cost for all publication for an appeal or Variance;

**(F)** Before holding the public hearing written notice of such hearing shall be mailed to all adjoining property owners by first class mail at least five (5) days before the hearing. This notice shall contain the same information as required of the notice published in the local newspaper;

**(G)** Within ten (10) days after the public hearing, written notice shall be sent to the applicant stating that the Variance or Appeal has been approved, approved with supplementary conditions, or disapproved. If the Appeal or Variance is disapproved, the Board of Zoning Appeals shall state the reason for the denial.

**(H)** No Variance shall be granted in an R-1 or R-3 district allowing alcoholic beverages to be sold or served on any premise.

## **2-9 ENFORCEMENT PROCEDURES**

**(A)** The Zoning Administrator may place a Stop Work Order on any person, firm, or property that is in violation of the Subdivision or Zoning Ordinance. Any Person that is affected by this order may appeal the decision to the Board of Zoning Appeals within thirty days of this order however; the work stay shall remain until the Administrator or official releases the Stop Work Order.

**(B)** It is the intent of this ordinance that all questions of enforcement shall be first presented to the Zoning Administrator. Such questions shall be presented to the Board only on appeal from the decision of the Zoning Administrator, and that recourse from the decision of the Board shall be to the Courts as provided by law. Nothing in this Ordinance shall prevent any official of the County of Miami, Indiana from appealing a decision of the Board to the Courts as provided in Indiana Law. Any such appeal shall be made within thirty (30) days of the Board's written decision.

**(C)** Any person that starts construction without obtaining an Improvement Location Permit may be charged a late filing fee equal to permit fee not to exceed (\$100.00) one hundred dollars.

## **2-10 APPEALS**

**(A)** A decision of the Zoning Administrator enforcing this ordinance may be appealed to the Board of Zoning Appeals by any person who is adversely affected by the decision. When an appeal is taken to the Board, upon the denial of an application for an Improvement Location Permit, for a use not specifically stated or implied elsewhere in these regulations, and not listed, the Board shall refer the matter of the proposed use to the Plan Commission for consideration as an Amendment to this Ordinance;

**(B)** On an appeal under subsection (A), the Board may affirm the decision of the Zoning Administrator; the Board may reverse and place any conditions different from the decision of the Zoning Administrator as it is empowered to do according to law.

**(C)** Any decision of the Board may be appealed to the Circuit or Superior Court of Miami County within thirty (30) days from the date the decision or order of the Board of Zoning Appeals.

**(D)** Any final decision as defined by case law of the Plan Commission may be appealed to the Board of Zoning Appeals or directly to the Circuit or Superior Court of Miami County within thirty (30) days from the date of the Plan Commission decision.

### **2-10-1 APPEAL PROCEDURES**

**(A)** Any appeal of the Zoning administrator's decision shall be made in writing to the Board of Zoning Appeals within (30) thirty days from the date of the Administrator's decision.

**(B)** All appeals to the Board shall follow the guidelines listed in the following paragraphs 1 and 2

1. Be submitted in duplicate copies, stating reason of appeal,
2. Submit name, address, phone number, and legal description of the property.

## **2-11 NON-CONFORMING USE**

**(A)** A lawful use of a building or premises, existing at the time of passage of this Ordinance, may continue although such use does not conform to all the provisions of this Ordinance.

**(B)** A non-conforming use may be changed to any other use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a non-conforming use is changed to a conforming use that use shall not thereafter be changed to a non-conforming use.

(C) Any non-conforming use that is destroyed by fire or act of God of less than fifty (50) percent of the value of the structure, the structure shall not be restored except in accordance to this ordinance. Whenever a non-conforming structure is destroyed by fire or act of God of more than fifty (50) percent of the value of the structure, the structure shall be removed and the use discontinued. The insurance adjustment statement or Real Estate Appraisal shall determine the value of the structure.

(1) When a building or structure is beyond repair and the structure is to be removed, the owner shall have no more than sixty (60) days to remove the building and clean up the property.

(2) If the structure or building is found to be repairable all repairs shall be completed within one hundred eighty (180) days from issuance of permit.

(3) No building or structure destroyed by fire or act of God shall be occupied until a C of O has been issued.

(D) No building shall be erected upon any premise devoted to a non-conforming use, unless the use can conform to the regulation of this Ordinance.

(E) A non-conforming structure may be repaired provided no structure changes are made or unless the structure change would bring the structure into conformance with this Ordinance. The repairs shall not exceed one-half the value of the structure.

**2-11-1 AMORTIZATION OF NON-CONFORMING USES OR BUILDINGS**

(A) Whenever a non-conforming use has been discontinued for a period of six (6) months, such use shall not thereafter be re-established and used thereafter unless it shall be in conformance with this Ordinance.

(B) Any non-conforming billboard or advertising structure not attached to a building, lawfully existing upon the effective date of this Ordinance, shall be discontinued on or before five (5) years after the effective date of this Ordinance.

(C) All temporary billboards or advertising structures shall be removed within ninety (90) days from the effective date of this Ordinance.

**2-12 RESTRICTIONS**

**2-12-1 SETBACK REQUIREMENTS**

The regulations set by this Ordinance within each District shall be the minimum setback requirements and shall apply uniformly to each class or kind of structure or land use, unless otherwise specified in other parts of this Ordinance. See Figure 1.

<u>PRIMARY USE</u>	<u>PRIMARY STREET</u>	<u>SECONDARY STREET</u>	<u>LOCAL STREET</u>
FRONT YARD	50	35	25
REAR YARD	25	25	25
SIDE YARD	10	10	10
<b><u>ACCESSORY USE</u></b>			
FRONT YARD	50	35	25
REAR YARD	5	5	5
SIDE YARD	3	3	3

## **2-12-2 SETBACK: VISION CLEARANCE AT INTERSECTION**

(A) At the intersection of a corner lot, the triangular space determined by two lot lines at the corner and by a diagonal line connecting the two points on those lines that are twenty (20) feet respectively from the corner shall be free of any obstruction to vision between the height of three feet to eight (8) feet above the established grade (see Figure 3).

(B) No Lot located in a Subdivision or Town used as a residential or commercial use shall have grass or weed that exceeds (8) eight inches in height.

(C) No Driveway or entrance shall be placed on any County Road, Street, or State Highway that does not have a minimum of five hundred (500) feet visual clearance in both directions.

## **2-12-3 ACCESSORY BUILDINGS:**

No accessory building shall be erected in any required setback area, and no separate accessory building shall be erected within six (6) feet of any other building unless a one (1) hour firewall has been installed on both buildings and approved by the Plan Commission Office.

Accessory buildings, including pole buildings, may not be used as dwellings unless it meets Miami County Building Codes and is approved by the Plan Commission.

## **2-12-4 PRIMARY USE:**

When more than fifty (50) percent of the lots in a block are occupied by buildings, the minimum front yard setback shall be the average setback of those buildings.

## **2-12-5 THROUGH LOT**

A Through lot shall have a front yard setback on each abutting street (see Figure 4).

## **2-12-6 CORNER LOT**

A Corner Lot shall have one front setback, which shall be the street in which the address is provided; however, the side lot facing the other street shall have a minimum setback of 10 feet for all structures. If a structure is closer to the front lot line than the minimum setback, the side setback shall increase by one foot for each foot closer.

## **2-12-7 MEASUREMENT**

All setbacks shall be measured from the edge of the right-of-way.

## **2-12-8 SETBACK FENCES AND HEDGES:**

1. Fences and Hedges shall be at least eighteen (18) inches from sidewalks and alleys, all gates shall swing inward. It is recommended that fences are erected at least one (1) inch inside the side property line and posts are placed inside toward the property. It shall be the property owner's responsibility to assure they do not encroach on someone else's property. No fences shall be erected on the rights-of-way. No fence running along a street shall be higher than Four (4) feet in any residential area.

2. Solid wall fences and fences greater than six feet in height shall require approval from the Zoning Administrator to insure they do not interfere with the safety, or general welfare of the community.

## **2-12-9 LOT COVERAGE**

1. No Lot for residential use may exceed the following Lot coverage with buildings:

<b>DISTRICT</b>	<b>A1</b>	<b>R1</b>	<b>R3</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>
	30	60	60	70	70	70

2. No lot for commercial use may exceed the following lot coverage with buildings.

<b>DISTRICT</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>I1</b>	<b>I2</b>
	80	80	80	80	80

**2-12-10 GROUND FLOOR AREA**

No dwelling shall be established, erected, or changed so that its ground floor area, in square feet, is less than that prescribed in the following table:

**ONE STORY DWELLINGS**

SINGLE FAMILY	1000 sq. ft. per unit	ALL DISTRICTS
MOBILE HOMES	960 sq. ft. per unit	ALL DISTRICTS*
TWO FAMILY	800 sq. ft. per unit	ALL DISTRICTS
MULTI-FAMILY	700 sq. ft. per unit	ALL DISTRICTS

\* The Board of Zoning Appeals may grant a Special Exception for smaller size Mobile Homes in a district.

**TWO STORY DWELLINGS**

SINGLE FAMILY	1000 sq. ft. per unit	ALL DISTRICTS
TWO FAMILY	800 sq. ft. per unit	ALL DISTRICTS
MULTI-FAMILY	700 sq. ft. per unit	ALL DISTRICTS

**2-12-11 LOT FRONTAGE**

A building site that requires individual sewage system shall be a minimum of 150 feet by 200 feet with a minimum of 50 feet street or county road frontage.

Lots of record or individually held prior to the passage of this Ordinance may be smaller in width than the figure prescribed, however setbacks should be maintained.

**2-12-12 LOT SIZE**

No dwelling shall be erected on any lot that does not have the minimum square footage prescribe in the following table:

<b>KIND OF DWELLINGS</b>	<b>A1</b>	<b>R1</b>	<b>R3</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>
Single family with community sewage disposal system	18,000	15,000	15,000	15,000	15,000	15,000
Single family with individual sewage disposal system	30,000	30,000	30,000	30,000	30,000	30,000

Multi-Family with community sewage disposal system	25,000	25,000	25,000	25,000	25,000	25,000
Multi-Family with individual sewage disposal system	43,560	43,560	43,560	43,560	43,560	43,560

Lots of record or individually held prior to the passage of this Ordinance may be smaller in area than figure prescribed above provided they are approved by the Miami County Health Department.

**2-12-13 HEIGHT RESTRICTIONS**

Except as herein provided, no building or structure shall be erected, altered, enlarged, or reconstructed so that the height exceeds the following height limit within the district listed:

DISTRICT	MAXIMUM HEIGHT
A1, A2, A3, B3, I1, I2	100 FEET
R1, R3, B1, B2, PUD	50 FEET
FF, FP, FW	90 FEET

**2-12-14 EXCEPTIONS**

**(A)** In an R3 and B1 District, structures may be erected or changed to a height not greater than sixty-five (65) feet,

**(B)** In an I1, I2 and B3 District Television aerials, electrical transmission and communication poles, towers, steeples, flagpoles, chimneys, smokestacks, water towers, grain elevators, silos, and other similar structures may be erected to a height not to exceed two hundred and fifty (250) feet however for each foot above fifty (50) feet, side yard setbacks shall exceed one foot for each Five (5) feet in height and F A A lighting is installed above one hundred and fifty (150) feet.

**(C)** In A-1, A-2 and A-3 towers and other similar structures may be authorized to a height no greater than 250 feet provided that for every foot above 150 feet the side setback is extended by one foot for each five feet in height above 150 feet.

**(D)** No structure shall be erected that will interfere with FAA flight restriction.

## **2-13 RESTRICTIONS**

### **2-13-1 RESIDENTIAL DISTRICTS**

These districts have been created to preserve and enhance a safe, pleasant living environment and it is intended to provide a variety and mix of dwelling types. In order to maintain that environment, the following restrictions shall apply to all Residential Zone Districts including Mobile Home Parks:

**(A)** Automotive vehicles, including Campers and Motor Homes, of any kind or type without current license plates, nor dismantled Vehicle shall be parked or stored for more than seven (7) days on any residential Zoned property other than inside a completely enclosed building.

**(B)** Major Recreational Vehicles may be parked or stored on the side or rear lot in these districts provided that they do not violate any other part of this ordinance and no more than two (2) pieces of equipment are present. Further, no such equipment shall be used for living, sleeping, camping, or housekeeping while parked or stored on a Residential Lot. Recreation Vehicles shall not have water connected while stored or parked on any lot other than campground.

**(C)** Recreational vehicles may be parked in front or on the street for loading and unloading purposes for a period not to exceed twenty-four (24) hours, provided they do not interfere with the control of traffic, or present a traffic hazard.

**(D)** Fences, Walls, and Hedges may be permitted in any required yard or along the edge of any yard providing that street, alley, or driveway entrances are not shielded in such a way as to obstruct the view of a driver entering a public way from the street, alley, or driveway.

**(E)** No Farm Equipment or Construction Equipment shall be stored or maintained on any lot in a Residential District unless it is stored inside an enclosed building.

**(F)** Private Swimming Pools, above or in ground, may be authorized in a residential district, provided that minimum setbacks are met and they are completely enclosed by a sixty (60) inch high fence, wall or building and completely surrounding the entire pool area with a self-closing and latching gate or door, both capable of being locked or,

1. Deck with railing completely surrounding pool area that is no less than five (5) feet from ground level,
2. A Safety pool cover which shall;
  - a. Provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool; and
  - b. Be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the key; and
  - c. Be capable of supporting four hundred (400) pound load when cover is drawn closed; and
  - d. Is installed with stack, rollers, rails, guides, or other accessories necessary to accomplish 1-3 and bear an identification tag with name and manufacturer, installer and date.
3. No electrical wires running above the pool within ten (10) feet from any portion of the pool

**(G)** Firewood and building materials shall be stacked in a neat and orderly manner on the rear of the property and shall be maintained so that it does not cause a nuisance or health hazard to the neighborhood.

**(H)** No farm animals, rabbits, wild animals, or fowl, shall be kept, raised or maintained on any lot within the County Jurisdiction that is zoned Residential unless said lot is ten (10) acres or more in size. With ten (10) acres, the following requirements must be met:

1. For each one (1) acre over the minimum dwelling site requirement of 150 x 200 there may be no more than two (2) farm animals and fifty (50) fowl;
2. None of the above animals shall cause a nuisance or health hazard.

**(I)** No Person shall keep, raise, or maintain in any District more than three (3) dogs that is more than twelve (12) weeks old. The area shall be well maintained and shall not cause a health hazard or common nuisance to surrounding property.



**(J)** Rummage Sales shall be limited to Two (2) per calendar year, which does not extend more than seven (7) days per sale.

**(K)** Trash, Rubbish, and discarded used property shall not be kept, stored, or maintained on porches, patios, or on any lot in a Residential District. Any condition, which provides harborage for rats, mice, snakes, and other vermin, shall be a common nuisance.

**(L)** Vehicles shall not be parked or stored on or across sidewalks or alleys and no more than one (1) Vehicle may be displayed for Sale at a time on any lot. Such vehicles shall have current license plates and be in operable condition.

**(M)** The raising or keeping of bees shall be prohibited within the confines of Town limits or within five hundred (500) feet from any resident within the County Jurisdiction.

**(N)** No accessory building may be used or occupied as a residential use unless authorized by the commission as an authorized use.

**(O)** No Commercial Vehicle larger than one (1) ton may be parked or stored in any Residential District unless off street parking is provided and the vehicle does not interfere with visual clearance.

**(P)** There shall be no major repair on any motor vehicle outside of an enclosed building in any residential district.

**(Q)** No vehicle, part of vehicle, semi-trailer, camper trailer, or mobile home shall be used for storage or accessory buildings on any lot or parcel of land.

**(R)** Trash dumpsters may not be placed on any lot or street for more than fourteen (14) days during construction unless approved by the Commission.

**(S)** Accessory buildings may be constructed before the primary building however; accessory buildings shall not be used as a dwelling unless approved by the Zoning Administrator.

**(T)** Single family dwellings shall not be converted into multi-family units unless approved by the Plan Commission office and plan has been submitted for the change of use.

## **2-13-2 COMMERCIAL DISTRICT**

In order to maintain a safe and economic community, the following restrictions shall apply to all Commercial Districts:

**(A)** No merchandise shall be displayed across sidewalks or protrude more than three feet from any building that would interfere with the pedestrians right-of-way. During community events such as circus days, heritage days, or other community events, merchandise may be displayed on sidewalks, however these merchandise shall not block the pedestrians right-of-way.

**(B)** Auto Repair Shop, Body Shop, and other similar Shops shall not store or maintain unlicensed or dismantled Vehicles on the premises more than seventy-two (72) hours unless said vehicle is stored inside an enclosed building or has an approved fenced-in storage lot.

**(C)** Discarded used property, rubbish, or trash shall be placed in dumpsters or waste containers, which shall be disposed of at least once a week.

**(D)** Semi-trailers shall not be used as storage building for merchandise for more than seventy-two-(72) hours on any commercial lot.

(E) Temporary buildings shall not be used for commercial businesses unless authorized by the Zoning Administrator.

(F) Banners, streamers, or sales flags shall not be located on any site below the height of eight (8) feet and when banners, streamers, or flags become distorted or in need of repair, they shall be removed.

(G) Waste such as oil, grease, motor oil, anti-freeze, and other similar products shall be stored in proper containers so they may be disposed of in a safe and proper manner not less than once a month.

(H) Mobile Homes shall not be used for commercial use unless approved by the State Fire & Building Safety Commission.

(I) Semi-trailers shall not be used as billboards or advertisements on commercial lot.

### **2-13-3 AGRICULTURE DISTRICTS**

(A) Vehicles such as Semi-trailers, Mobile Homes, Vans, and Campers shall not be used for storage buildings that are not for an Agricultural purpose, on any parcel of land unless approved by the Plan Commission.

(B) Agriculture Building shall not require an Improvement Location Permit; however, setback requirements shall be the same as any other setback requirement and an Agriculture Permit from the Zoning Administrator's Office will be issued.

(C) Property that is zoned Agriculture with two (2) acres or more may have farm animals or fowl provided none of the above animals shall cause a nuisance or health hazard.

(D) Confinement Feeding operation that has less than ten (10) acres shall have a Special Exception approved by the Board of Zoning Appeals and shall meet the guidelines set forth in tables 2 and 3 of this ordinance. Confinement Feeding Operation that has more than ten (10) acres shall meet the guidelines set forth in Table 2 and 3 but shall not require Board's approval.

(E) Automotive vehicles, including campers and motor homes, of any kind or type without current license plates, nor dismantled vehicles shall not be parked or stored for more than seven (7) days on any property zoned Agriculture other than inside a completely enclosed building.

### **2-13-4 MISCELLANEOUS RESTRICTIONS**

(A) These restrictions shall apply in all zoned Districts and shall be considered a common Nuisance:

- (1) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground
- (2) Dense smoke, noxious fumes, gas, soot, or cinders, in unreasonable quantities
- (3) The obstruction of any public street, road, or sidewalk;
- (4) the obstruction of any dedicated easement or right-of-way;
- (5) The alteration of the flow of stormwater to detriment of surrounding property;
- (6) the discharge of any liquid onto the property of another person including but not limited to the discharge of any water as the result of the draining of a swimming pool or the operation of a sump pump, water source heat pump, etc.
- (7) Semi-trailers shall not be used for billboards or advertisements in any Agriculture area.
- (8) No fences are to be erected in any portion of any road right-of-way.

(9) Any portion of Manure Storage Structures must be a minimum distance of 300 feet from any watercourse.

(10) Private Swimming Pools, above or in ground, may be authorized in a residential district, provided that minimum setbacks are met and they are completely enclosed by a sixty (60) inch high fence, wall or building and completely surrounding the entire pool area with a self-closing and latching gate or door, both capable of being locked or,

1. Deck with railing completely surrounding pool area that is no less than five (5) feet from ground level,

2. A Safety pool cover, which shall;

a. Provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool; and

b. Be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the key; and

c. Be capable of supporting four hundred (400) pound load when cover is drawn closed; and

d. Is installed with stack, rollers, rails, guides, or other accessories necessary to accomplish 1-3 and bear an identification tag with name and manufacturer, installer and date.

3. No electrical wires running above the pool within ten (10) feet from any portion of the pool .

(11) Trash, Rubbish, and discarded used property shall not be kept, stored, or maintained on porches, patios, or on any lot . Any condition, which provides harborage for rats, mice, snakes, and other vermin, shall be a common nuisance.

(12) Noxious weeds and other rank vegetation, including, but not limited to grass, weeds or other vegetation, living or dead, which exceeds eight (8) inches in height above ground level, in all zoned districts or in such district where property is not used for agriculture or grazing land shall be considered a common nuisance. The failure by any property owner to cut grass, weeds, or other vegetation, living or dead, on his property shall be evidence that said property owner is maintaining a nuisance and shall be subject to fines and other charges as outlined under the weed control ordinance.

(13) No person shall produce any noise that can be heard beyond the lot line, which causes a common nuisance to the surrounding neighborhood, (i.e. barking dog, vehicle engines, grinding, heavy machine, music, or similar uses).

## **(B) MAIL BOXES**

Mailboxes shall be approved by and comply with the requirements of the United States Postal Service (USPS). Mailbox posts shall not be larger than a 4" x 4" (nominal) treated wood post or 2" (nominal) standard galvanized pipe. Alternate mailbox assemblies as approved by the Federal Highway Administration will be permitted and must be installed in conformance with the manufacturer's recommendations. (Refer to Indiana Department of Transportation Standard Specifications Section 611, Mailbox Assembly, and Standard Drawings 611-MBAS-01 through 611-MABS-04.)

## **2-14 INDUSTRIAL AND COMMERCIAL DISTRICTS RESTRICTIONS**

### **2-14-1 SMOKE**

(A) No Light Industrial or Commercial use may emit more than ten (10) smoke units per hour, per stack or smoke in excess of Ringelmann No.2. However, once during any twenty-four (24) hour period, for soot blowing, process purging, and fire cleaning, each stack may emit an additional ten (10) smoke units, and during that time it may emit smoke up to and including Ringelmann No.3.

(B) No Heavy Industrial use may emit more than thirty (30) smoke units per hour, per stack or smoke excess of Ringelmann No. 2, however once during any six (6) hour period, for soot blowing, process purging, and fire cleaning, each stack may be permitted an additional ten (10) smoke units, and during that time it may emit smoke up to and including Ringelmann No. 3.

(C) In this section, their term: "Ringelmann Numbers" means the number of the area on the Ringelmann chart that most nearly matches the light-absorbing capacity of smoke. The Ringelmann chart is described in the U.S. Bureau of Mines Information Circular 6888 or amendments, on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 0 and Ringelmann No. 1 shall be considered as no smoke.

**(D)** " Smoke unit" means the number obtained when the smoke density in ringelmann number is multiplied by the time of emission in minutes. For the purpose of the calculation, a ringelmann density reading shall be made at least once a minute during which it is observed. The products so computed shall then be added to give the total number of smoke units observed during the entire observation period.

#### **2-14-2 ODOR**

No light, heavy industrial, or commercial use may release an offensive odor that is detectable at the lot line.

#### **2-14-3 TOXIC MATERIAL**

For a Light or heavy Industrial use, the emission of toxic or noxious materials may not produce any concentration at a residential or business district boundary line exceeding the percentage of the threshold limit values set forth by the Federal Emergency Management Agency.

#### **2-14-4 GLARE AND HEAT**

No light, heavy industrial, or commercial use may cause heat at the lot line so intense as to cause a public nuisance or hazard. No such use may cause illumination at or beyond any residential district boundary in excess of 0.1-foot candle.

As used in this section the term " Foot Candle" means a unit of illumination at all points that are one (1) foot from a uniform point source of one (1) candlepower.

#### **2-14-5 VIBRATION**

No light, heavy industrial, or commercial use may cause continuous earth-born vibration that can be measured at the lot line boundary.

#### **2-14-6 NOISE**

No light, heavy industrial, or commercial use may produce a sound pressure level that can be detected beyond the boundary lot line that would create a nuisance for the surrounding area. Noise may be detected by using a sound level meter to measure decibels.

#### **2-14-7 FIRE HAZARD**

Solid substances ranging from dry active burning to intense burning may be stored, used, or manufactured only within completely enclosed walls and protected throughout by an automatic fire extinguishing system.

The storage, utilization, or manufacture of flammable liquids or materials which produce flammable vapors or gases shall be permitted in accordance with the rules and regulations of the State Fire Marshal's Office, stating that the plans and specifications for Light and Heavy Industrial Use complies with the rules and regulations of the State Fire Marshal. These rules and regulations shall accompany the application for an Improvement Location Permit.

As used in this Ordinance the term "Free Burning" shall mean a rate of combustion described by a substance that burns activity and easily supports combustion, and " Intense Burning" shall mean a rate of combustion described by a substance that burns with a high degree of activity and is consumed rapidly.

## **2-14-8 DETONATION MATERIAL**

No activity involving the storage, use, or manufacture of materials that decompose by detonation may be carried on, except in accordance with the rules and regulation issued by the State Fire Marshal and State Administrative Building Council. These materials include primary explosives such as Lead Azide, Lead Styphnate, Fulminates, and Tetracene, High explosives such as TNT, RDX, HMX, PETN and PICRIC ACID, Propellants and their components, such as Nitrocellulose, Black Powder, Boron Hydrides, Hydrazine, and its derivatives, Pyrotechnics and Fireworks, such as Magnesium Powder, Potassium Chlorate, and Potassium Nitrate, Blasting Explosives such as Dynamite and Nitroglycerin, unstable organic compounds such as Acetylides, Tetrazoles, and Ozonides, Strong Oxidizing Agents such as Liquid Oxygen, Perchlorates, Chlorates, and Hydrogen Peroxide in concentrations greater than thirty (35) percent, and Nuclear Fuels, Fissionable Material and products and reactor elements such as Uranium 235 and Plutonium 239.

Restriction that applies to Industrial Uses shall apply to General Business Uses when used for manufacturing.

## **2-14-9 STORAGE AREAS**

All storage areas shall be enclosed with a minimum of six- (6) foot fences surrounding the entire storage areas. The Zoning Administrator may require a solid wall fence in an area that is close to a residential area or would cause a common nuisance in any District.

## **2-15 ADVERTISING SIGNS**

### **2-15-1 PERMANENT SIGNS: BUSINESS DISTRICTS**

In order to present a uniform standard, create a more attractive and economically vital business climate, enhance and protect the physical appearance of the community, reduce the incidence of signs or advertising distractions which may contribute to traffic accidents, the following restrictions shall apply to all advertising signs:

**(A)** Advertising Signs shall be located upon the premises in which the business is located and shall not encroach on any other property

**(B)** Advertising signs attached flat with a building shall not be less than four (4) feet from the ground level. These signs shall not protrude more than eight (8) inches from the wall. Signs that are attached to a building that protrude over sidewalks shall be at a height no less than eight (8) feet.

**(C)** On premises Advertising Signs on permanent poles eight (8) feet above ground level shall not protrude with any portion of the sign closer than five feet from the right-of-way line. Signs on permanent poles that are less than eight (8) feet shall not be closer than five (5) feet from the inside of the sidewalk and shall not interfere with vehicle traffic vision.

**(D)** No sign shall have flashing lights or be illuminated where they will cause distraction to vehicular traffic or interfere with vision.

**(E)** No on premises freestanding sign shall have more than two (2) faces per sign and no other sign may be attached to a freestanding sign.

**(F)** Whenever a business is terminated, advertising signs shall be removed from said premises.

**(G)** No on premises advertising sign shall be larger than 200 sq. feet in size

## **2-15-2 TEMPORARY SIGNS:**

(A) Temporary signs may be placed on a property for special events not to exceed seven (7) days; however, no temporary sign may be placed on a property more than six (6) times in one calendar year.

(B) Temporary signs may not be placed on any portion of sidewalks, street right-of-way, or alley.

(C) Temporary signs may be placed in residential areas for a period not to exceed three (3) days, provided they do not advertise a business operation and an Improvement Location Permit has been issued.

(D) All temporary signs that are presently in place shall have thirty (30) days to remove signs from premises from the date of this Ordinance.

(E) No person, firm, or business shall place more than one (1) temporary sign on any lot unless said lot has more than one hundred fifty (150) feet road frontage. The minimum distance between each sign shall be one hundred (100) feet with a maximum of three temporary signs.

(F) Semi-trailers shall not be used for advertisement on any parcel of land within the County.

## **2-15-3 HOME OCCUPATION OR VARIANCE**

(A) Whenever an authorized home occupation or variance has been granted in a residential area, a two (2) foot by two (2) foot signs shall be authorized advertising that business. The sign shall be mounted on a four (4) inch square post not to exceed five feet in height, located no closer than three (3) feet from the front property line. No illuminating advertising sign or other devices shall be authorized.

## **2-15-4 SIGN; GENERAL**

All advertising signs shall have an Improvement Location Permit except the following:

- (1) Directional Sign.
- (2) Political signs 3 feet by 3 feet
- (3) Public service signs.
- (4) Real Estate Sign 3 feet by 3 feet
- (5) Real Estate Development Signs 4 feet by 4 feet

## **2-15-5 SIGN UPKEEP**

It shall be the responsibility of the property owner to maintain any sign placed on premises. If a sign becomes distorted or becomes inactive for a period of ninety (90) days the owner of the sign or the owner of the property, upon which the sign is located, shall upon written notice from the Zoning Administrator, remove said sign.

Any person may be required to remove or relocate an advertising sign within sixty (60) days after the Zoning Administrator has been notified that the land on which the sign is located, has been rezoned to residential or within fifty feet of a residential dwelling.

## **2-15-6 ADVERTISING SIGNS OFF PREMISES**

**DEFINITION:** an off-premise sign is a sign, which communicates the availability of goods, services, and ideas not necessarily available on the premises on which the sign is located.

## **2-15-7 RESTRICTIONS**

All signs, which are placed off premises, shall conform to the following restrictions:

(A) No advertising sign shall be located within fifty (50) feet of any residential dwelling.

- (B) There shall be a signed contract from the property owner along with an agreement stating maintenance upkeep for assigned responsibility.
- (C) No portion of an advertising sign shall be closer than ten (10) feet from the right-of-way line.
- (D) There shall be no more than four facings per sign and no such sign shall have more than six hundred (600) square feet per facing.
- (E) No billboard or advertising sign shall be within five hundred (500) feet of another advertising sign on either side of the street measured in linear feet along the right-of-way line.
- (F) No Advertising sign shall exceed more than seventy-five (75) feet in height from the ground level.
- (G) Upon notification from the Zoning Administrator that the sign is in poor condition or in need of maintenance the advertising sign shall be removed within fifteen days from receipt of notice.
- (H) Off premise signs shall be authorized in B3 and Industrial zoned areas provided that the use is not being used as a residential use.
- (I) A permanently attached or affixed sign legally existing prior to the adoption of this ordinance but no longer conforming to this ordinance shall be considered a non-conforming use. It shall not be replaced except in conformance with this ordinance.

**2-15-8 RESTRICTION COMMUNICATION TOWERS:**

**PURPOSE:** This ordinance creates the framework for wireless communications regulations, so that wireless communications facilities can be sited in a manner, which provides comprehensive service to the community, which protects the community from clutter and design, which is compatible with existing and future land use. To encourage facilities to be located in areas least disruptive to residential areas, improve the appearance of the community, safeguard and enhance property values, protect public and private investment in buildings and open spaces.

**LOCATION:** Wireless Communication Towers shall be authorized in A-2 agriculture, A-3 agriculture, General Business, Light and Heavy Industrial areas, and shall require a Special Exception from the Board of Zoning Appeals.

**EXISTING TOWERS:** Any tower, which is legally established on the effective date of this Ordinance, may be used for wireless communication facilities, as long as the height is not increased, nor the location of the tower is changed.

**HEIGHT RESTRICTION:** No tower may be at a height greater than 250 feet in A-2 or A-3 zoned district. No tower shall be at a height greater than 200 feet in Light or Heavy Industrial zoned District and no tower shall be at a height greater than 150 feet in a General Business zoned District.

**DISTANCE:** Wireless Communication facilities tower may not be located within one (1) mile from any other wireless communication tower, nor within 500 hundred feet of any residential dwelling. No tower shall be within 300 feet of any state or county road, measured from the right-of-way line.

**PROVISIONS FOR MORE THAN ONE USER:** Sufficient land shall be secured by the initial WCF tower provider, to reserve adequate area for more than one equipment structure. All towers shall be designed and constructed so that more than one wireless Communication Company may attach equipment to the tower. When applying for an Improvement Location Permit the owner of the tower shall provide assurance that the tower is available for use by other wireless communication providers.

**GUY ANCHORAGES:** Any guy anchorages shall not be located less than 10 feet from the property line in which the tower is located.

**MAINTENANCE:** Where multiple users of a site are involved, the owner of the site shall be responsible for the installation and maintenance of landscaping and upkeep of the site.

**SIGN PROHIBITED:** No lettering, symbols, images, trademarks, signs, or advertising of any kind shall be placed on, or affixed to, any part of the tower or structure, other than as required by Federal Aviation Administration, by Federal Communication Commission or other agency regulations, or as required to protect public health and safety.

**EQUIPMENT STRUCTURE FOR WIRELESS COMMUNICATION TOWER:** Equipment structure shall be located in compliance with the specific accessory structure requirement for the district in which the site is located; however, no equipment structure shall be larger than 300 square feet in area, with a maximum height of 15 feet.

**SPECIAL EXCEPTION:** Where wireless communication towers are permitted by Special Exception, an application for the wireless communication facility must be filed with the Board of Zoning Appeals. A public hearing and notice to adjoining property owners are required in accordance with the rules of procedure of the Board.

**The Board may grant the Special Exception, only if the following conditions are met:**

- (1) The grant will not be injurious to the public health, safety, morals, convenience, or general welfare.
- (2) The grant will not materially and substantially interfere with the lawful use and enjoyment of adjoining property and the surrounding community.
- (3) The grant will assure that the design of the wireless communication tower is compatible with the surrounding area.
- (4) The grant is consistent with the 1996 Telecommunication Act.
- (5) The grant is consistent with the statement of purpose set forth in this ordinance and does not interfere with the comprehensive plan of the county.

**IMPROVEMENT LOCATION PERMIT:** If the Board of Zoning Appeals grants the Special Exception, the following items shall be furnished to the Administrator.

- (1) Site plans of the area drawn to scale.
- (2) A description of the Wireless Communication Tower and its design.
- (3) Documentation, establishing the structural integrity of the Tower.
- (4) A statement that the Tower meets the standards of the American National Standards Institute.
- (5) A statement regarding the availability of another Wireless Communication Facility provider to use the tower as required in section above.
- (6) Proof of Ownership of the proposed site, or property owner's consent to use the site for Wireless Communication Facility.
- (7) FAA release.
- (8) Site location of all towers within ½ mile of this location.

**DEFINITIONS:**

- (1) **ACCESSORY:** A subordinate structure, building, or use that is customarily associated with the primary use, for the purpose of this ordinance shall mean Tower.
- (2) **ANTENNA:** A device used to collect or broadcast electromagnetic waves, including both directional antennas, such as panels and microwave dishes.
- (3) **SIGN:** Any structure, fixture, placard, announcement, declaration, or device used to advertise



or promote any business, product, goods, activity, services, or any interest.

**(4). TOWER:** A structure designed and intended to support one or more antennas . This term includes lattice-type structure, either guyed or self-supporting, and monopoles, which are self- supporting pole type structures, tapering from base to top and supporting a fixture designed to hold one or more antennae.

**TOWER REMOVAL:** Any tower, which ceases to be used for a period of one (1) year, shall be removed. Before obtaining an Improvement Location Permit for a Tower an applicant which is not also the owner of the property must provide recordable evidence of a written agreement between the Wireless Communication Facility operator and the property owner that the WCF operator has agreed to remove the tower as required and further granting a right of access of the tower to the Miami County Plan Commission to enforce the cause to remove the tower. All past users of the tower and the owner of the property upon which the tower is located shall be jointly and severally liable for the cost incurred by Miami County Plan Commission in accomplishing the removal.

## CHAPTER 3

### 3-1 HOME OCCUPATION

Home Occupations shall be categorized as follows:

**CLASS "A"** Home Offices which do not involve supplies or client business visits to the premises or the use of equipment or processes on the premises of the home occupation which may adversely affect nearby dwelling units or properties through noise, vibrations, odors, fumes, fire hazard, light glare, electrical or radio wave interference. CLASS "A" shall be allowed in all Residential and Agriculture Districts.

**CLASS "B"** Home Occupation, which includes limited supplies and clients and will not cause an adverse effect on the surrounding properties or dwellings within the district. Examples of CLASS "B" Home Occupation shall be one chair beauty shop, music lessons, ceramics classes, professional office, phone services, and similar occupation. Home occupation shall not be allowed in apartment buildings unless approved in a designed area.

#### 3-1-1 RESTRICTIONS

The following restriction shall apply to all Home Occupations and shall be approved by the Zoning Administrator and an Improvement Location Permit shall be issued authorizing such use.

**(A)** The Home Occupation shall be conducted by the people who are residents of the dwelling only.

**(B)** The Home Occupation shall be clearly incidental and subordinate to the residential use, and shall under no circumstance change the Residential Character of the dwelling.

**(C)** The floor area devoted to the Home Occupation shall not exceed twenty-five (25) percent of the floor area of the dwelling unit. However, up to three hundred (300) Square feet in an attached or detached garage of the dwelling or an accessory building may be used for the home occupation in lieu of floor space within the dwelling unit. Home Occupation shall not be authorized in apartments or Mobile Homes.

**(D)** There shall be no changes in the outside appearance of the premises other than one (1) non-illuminated sign, not to exceed four square feet. The Sign may be mounted flat against the wall of the building or mounted on a four (4) inch by four (4) inch post located on the premises.

**(E)** All display of products and storage of materials or supplies used in the Home Occupation shall be done in enclosed building and space limitations of paragraph (C) above.

**(F)** No vehicular traffic shall be generated by the Home Occupation in greater volumes than would normally be expected in a Residential neighborhood and any need for parking generated by the conduct of the Home Occupation shall be met off the street and, on the premises, but, other than the front yard.

**(G)** The Home Occupation shall not adversely affect the habitability or value of the surrounding properties nor alter the essential residential character of the neighborhood.

**(H)** Any violation of these regulations may result in an automatic revocation of any Home Occupation permit, in addition to any other remedy for such violations provided in this Ordinance or by Law.

**(I)** The issuance of a permit to engage in a Home Occupation in accordance with this ordinance shall not be deemed a change of Zoning nor Official expression of opinion as to the proper Zoning for the particular property.

### **3-2 HOME WORKSHOP**

The following restrictions shall apply to Home Workshops:

- (1) Home workshop shall not be conducted between the hours of 10:00 P.M. at night to 7:30 A.M in the morning.
- (2) No outside storage of material shall be permitted for home workshop operations.
- (3) Products produced from the home workshop shall not be displayed for sale at the location of the home workshop.

### **3-3 PARKING**

#### **3-3-1 MINIMUM REQUIREMENTS**

The following off-street parking spaces shall be provided and satisfactorily maintained by the owner, for each building, which is hereafter erected, or at the time any structure is enlarged or increased in capacity or at the time the use of the property is hereafter changed, off street parking spaces shall be provided as follows:

- (A) Each Automobile Parking Space shall be not less than nine (9) feet by twenty (20) feet in area.
- (B) For any place of assembly without fixed seats at least one (1) parking space for each one hundred and thirty (130) square feet of gross floor area thereof.
- (C) For any Auditorium, Gymnasium, Stadium, Church, or Theater, or any similar place of assembly, at least one (1) parking space for each four (4) seats based on maximum seating capacity, including fixed or movable seats.
- (D) For any Automatic Car Wash, three (3) parking spaces for each wash lane.
- (E) For Banks, Finance Institutions, Office Buildings, Professional Buildings, Library, Museum, Welfare institution, or similar use at least one (1) parking space for each two hundred (200) Square feet of gross floor area thereof.
- (F) Funeral Homes shall have a Minimum of thirty Parking spaces.
- (G) For Barbershop or Beauty shop at least two (2) parking spaces per Barber or Beautician using the shop.
- (H) For Bowling Alley, at least four (4) parking spaces for each bowling lane.
- (I) For Shopping Center, Department Store, Supermarket, at least one (1) parking space for each two hundred (200) square feet of gross floor area thereof.
- (J) For Commercial Retail Stores with less than ten thousand (10,000) square feet of gross floor area, one (1) parking space for each one hundred (100) square feet of gross floor area thereof.
- (K) For any Eating or Drinking Establishment or other similar use where customers are seated and served within a building, one parking space for each one hundred (100) square feet of gross floor area plus Ten additional spaces.
- (L) For Furniture Store, Household Appliance Store, or Mechanical Trades Display Store, and other similar uses, at least one parking space for each eight hundred (800) square feet of gross floor area thereof.

- (M)** For High School, College, Trade School, Business School, and other similar uses, one (1) parking space for each seven- (7) students enrolled.
- (N)** For Hospital, Sanitarium, Sanatorium, Convalescent Home, or other similar use, one (1) parking space for each three (3) beds.
- (O)** For Hotel, Motel, Boarding House, Dormitory, Fraternity House, or other similar use one (1) parking space per sleeping room.
- (P)** For Launderette, Laundromat, Self-service Laundry, Washateria or other similar use one (1) parking per three washing machines.
- (Q)** For any Manufacturing, Processing, Warehousing, Storage, or other similar Industrial or Commercial establishment not specifically set out in the subsections, one (1) parking space per three (3) employees, plus sufficient spaces to park all company owned or leased motor vehicles, semi-tractors and trailers.
- (R)** For Medical Clinic or similar use at least three (3) parking spaces per doctor or dentist using the facility, plus one (1) parking space per two (2) employees.
- (S)** For Mobile Home Court at least two (2) parking spaces per mobile home space.
- (T)** For each Single-Family dwelling two (2) parking spaces per dwelling.
- (U)** For Apartments and other similar uses two (2) parking spaces per unit.
- (V)** For mixed uses in the same building or structure, the total requirement for off street parking shall be the sum of the requirements of the various uses, one use shall not be considered as providing required parking facilities for the other unless approved by the Zoning Administrator.
- (W)** For Government Building such as Post Office, Courthouse, Personal Services there shall be one parking space for each employee plus a minimum of ten (10) spaces for customers
- (X)** All parking spaces provided pursuant to this Ordinance shall be on the same lot with the building or use, except that the Board, after a public hearing, may permit the parking spaces to be on any lot within three hundred (300) feet of the building.
- (Y)** The distance to any parking space area as herein required shall be measured between the nearest point of the off-street parking facilities and the nearest point of the building of said parking facilities it is to serve.
- (Z)** All parking facilities shall have accessibility from a public Street or Alley.

### **3-3-2 LOADING AND UNLOADING ZONES**

- (A)** All Commercial or Business uses shall provide and maintain Loading and Unloading zones for receiving and shipping of material and merchandise.
- (B)** Loading and Unloading spaces shall be a minimum of twelve (12) feet by fifty (50) feet with fourteen (14) feet clearance in height. Loading and unloading zones may not be part of the requirement for off street parking.
- (C)** In the event the Loading and Unloading is within one Hundred (100) feet of a residential district or within twenty-five feet of a residence, the loading zone shall be screened.
- (D)** Loading and Unloading may be permitted in the downtown area provided traffic is not obscured more than five (5) minutes and no traffic hazards exist.

### **3-3-3 PARKING AREA IMPROVEMENTS**

(A) All land hereafter that is placed in use for off-street parking and all driveways thereto shall be paved or surfaced with materials and in a manner, which meets such minimum specifications prescribed by the County of Miami Engineer's Office.

(B) All land used for off-street parking shall not use any part of the street, alley, or sidewalk for parking.

(C) Any light used to illuminate land used for off-street parking shall be installed and maintained so as to reflect the light away from residential areas and streets .

(D) Residential uses shall require at least one-off street parking space per unit.

### **3-4 MOBILE HOMES AND MANUFACTURED HOMES**

#### **3-4-1 PERMANENT OCCUPANCY (A2, A3, R-1, R-3, B1, B2, & B3) DISTRICTS**

(A) All Mobile Homes or Manufactured Homes that are placed on a lot other than a mobile home court shall be constructed after January 1, 1981 and conform to the following restrictions:

- (1) Shall have at least nine hundred (960) square feet of occupied space as manufactured;
- (2) Shall be placed on a permanent underfloor foundation. This foundation shall be in accordance with manufacturer's installation instructions and foundation design details.
- (3) The home shall be securely anchored which shall consist of a minimum of six (6) tiedowns
- (4) Shall have wheels removed and tow-in-hitch shall be skirted or removed
- (5) Shall meet the same setback requirements as other residential uses within that district
- (6) Any one adversely affected by these conditions may appeal to the Board of Zoning Appeals through the proper procedure as outlined in Section 2-10-1 of this Ordinance.
- (7) Any addition to Mobile Homes or Manufactured Homes shall be as manufactured or built according to the one- and two-family housing code.

#### **3-4-2 (B) TEMPORARY OCCUPANCY (ANY DISTRICT)**

(1) A mobile home, travel trailer, work trailer, or storage van may be utilized as a contractor's office, watch-man's shelter, or tool or equipment storage on a site and only during the period of construction project. This shall not be used as living or sleeping quarters.

(2) A mobile home may be placed on a lot while construction of a dwelling is in progress if approved by the Zoning Administrator; however, the mobile home shall be removed within thirty (30) days from completion of the dwelling or within eight (8) months, whichever is the least.

(3) Temporary mobile homes may be smaller than permanent occupancy but no less than five hundred (500) square feet of occupied space as manufactured. All requirements of this Ordinance and other Ordinances of the County with respect to setbacks, lot coverage, waters, and sanitary disposal shall be met.

(4) Permanent foundation shall not be required for temporary mobile homes however; there shall be a minimum of six (6) tie downs installed.

### **3-5 MOBILE HOME COURTS**

(A) When a Special Exception is granted by the Plan Commission for a Mobile Home Court the following shall apply:

- (1) All plans shall be approved by the State Building and Fire Commission;

- (2) There shall be a minimum of ten (10) feet separation between all mobile homes, including patios, porches, or storage sheds;
- (3) Each mobile home lot shall have a minimum of twenty-five hundred (2500) square feet per lot;
- (4) Each unit shall have two (2) Parking spaces;
- (5) All streets shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic, satisfactory surface and ground water drainage, and uniformly graded and compacted;
- (6) All entrances and other collector streets within the court shall be thirty-six (36) feet with street parking and eighteen (18) feet with off street parking.
- (7) The Mobile Home court shall be provided with a complete sanitary sewer system, which shall connect with an existing approved sanitary sewer outlet or shall be provided with a state approved system;
- (8) No Mobile Home within a Mobile Home Court shall have less than six hundred (600) square feet of occupied space;
- (9) No Mobile Home may be placed on any lot within the mobile home court until all construction has been completed and a Certificate of Occupancy has been issued;
- (10) Mobile Home courts shall be restricted to the same requirements as other residential area restrictions with the exception to Mobile Home size.
- (11) All buildings within a Mobile Home Court other than the Mobile Home shall have an Improvement Location Permit. This shall include unattached garages, storage buildings larger than eighty (80) square feet, and maintenance buildings.

**3-6 PLAN UNIT DEVELOPMENT ORDINANCE**

The purpose of this section is to provide for regulations regarding uses of land. A Plan Unit Development shall be considered a Zoning District when approved and all Maps shall reflect this area as such. This ordinance shall be adopted as part of the Zoning Ordinance in accordance with I.C. 36 -7-4-1504 through I.C. 36-7-4-1513.

**3-6-1 (A) GENERAL**

It shall be the policy of the County of Miami to promote progressive development of land and construction thereon by encouraging Planned Unit Developments. A PUD shall meet the same requirements as subdivisions with the exception that this is a mixture of resident and business within the same area. Building within the PDU shall be constructed in accordance with the one- and two-family dwelling code, the Uniform Building Code and Indiana Fire Prevention and Building Safety Code.

**3-6-2 (B) A PLAN UNIT DEVELOPMENT SHALL CONFORM TO THE FOLLOWING:**

- (1) A minimum parcel area of five (5) acres is required for a Plan Unit Development.
- (2) There shall be at least ten (10) percent of the land area in the development provided for open space, which is not covered by buildings, parking spaces, driveways, or streets. No more than fifty (50) percent of this open space shall be covered by water.
- (3) All utilities, including communication, and electric systems, shall be placed underground within the limits of the development.

(4) The design and designation of Private Street shall be subject to the approval of the Plan Commission. All streets dedicated for public uses shall be constructed in accordance with specification as outlined in the Miami County Subdivision Control Ordinance and shall meet the minimum requirement for County specs.

(5) There shall be established a Homeowners' Association and its By-laws and other similar deed restrictions, which provide for the control and maintenance of all common areas, recreation facilities or open space and shall meet with the approval of the Plan Commission.

(6) The Development Plan shall include a Sanitary Sewer System connected to a Public sewer system, if available within a reasonable distance of five hundred (500) feet from the project. If public facilities are not available, a private facility may be authorized if approved by the County Board of Health

(7) The Development Plan may provide for a mixture of residential and commercial uses or commercial and industrial uses; however, the Development shall not have a mixture of Residential and Industrial uses.

(8) Whenever possible the Development shall utilize landscaping and existing woodlands as buffers to screen lighting, parking areas, loading and unloading areas, and other features within the development and adjoining districts.

(9) The Development Plan shall include a common water supply and distribution system, either public or private, which shall meet the approval of both the Plan Commission and the Local Board of Health, and shall be built at no expense to the local Government.

(10) All building designs and location shall be subject to approval by the Plan Commission. No building may be located within twenty (20) feet of another building unless approved by the Commission.

(11) If any open space or recreational facility is to be used solely by the residents of the project, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.

(12) The Plan Commission may waive certain conditions of the Plan Unit Development, such as setbacks, underground electric's, height, lighting, sign, and other requirements that would not interfere with health, safety or convenience of the development of the surrounding area.

### **3-6-3 (C) PROCEDURES FOR FILING A PLAN UNIT DEVELOPMENT**

(1) The applicant shall submit three (3) copies of preliminary site plans to the Plan Commission, which shall include but not limited to the following information:

- (a) Name(s), address (s), and telephone number of all owners.
- (b) Legal description of the property.
- (c) Zoning Classification of all property surrounding the development. Each primary use of building within the development shall be classified as commercial, industrial, or residential.
- (d) Adjoining property owners, including names and addresses.

(2) Site plan shall show the following information;

- (a) Contours at vertical intervals of two (2) feet.
- (b) Street, rights-of-way and easements: Location, widths and purposes.
- (c) Setback lines. All front setbacks shall be no less than thirty (30) feet from the right-of-way. Rear setbacks shall be no less than ten (10) feet from the rear property line.
- (d) Building lines.
- (e) Building coverage
- (f) Tract boundary lines showing dimensions, bearings, angles, monuments, and references survey

markers. All markers and monuments shall be the same as subdivision points.

- (g) Buildings, recreation areas, landscaping, and parking areas.
- (h) Name and address of developer, engineer, or surveyor who prepared the plan.
- (i) Outdoor lighting.
- (j) Height, scale, material and style of improvement
- (k) Signs
- (l) North point dates and scale.
- (m) Signature block for Plan Commission, Developer, and Engineer.
- (n) Location Map; in upper left corner.
- (o) All drainage and utilities.
- (p) Other requirements considered appropriate by the Commission
- (q) Other features or conditions, which affect the P.U.D. favorably or adversely.

### **3-6-4 (D) APPROVAL OF PLAN UNIT DEVELOPMENT**

(1) Upon compliance with subsection A, B, and C, the Zoning Administrator shall note, in writing, on the preliminary plans his unofficial agreement or disagreement. The Zoning Administrator may make recommendations to relocate buildings, streets, or entrances.

(2) Upon compliance with subsection A, B, and C the Zoning Administrator shall submit the plan to the Plan commission.

(3) The applicant shall file with the Plan Commission no later than fifteen (15) days prior to the Plan Commission Meeting.

(4) The Applicant shall give notice to the local Newspaper as outlined in I.C. 5-3-1-2 and I.C. 5-3-1-4 at least ten (10) days before the meeting. The cost shall be incurred by the Applicant.

(5) The applicant shall submit three (3) copies of the development plan along with any other supporting documents to the Commission. The Commission shall carefully consider the plans and recommendations of the Zoning Administrator. The Plan Commission may approve, disapprove, or amend the development plan.

(6) If the Plan Commission approves the plan, the Chairman and Secretary shall sign the plan and no changes shall be made unless approved by the Commission.

(7) If the Commission disapproves the P.U. D., the Applicant may not resubmit the plan for a period of three (3) months unless the Commission votes unanimously to rehear the case.

(8) If the Commission makes recommended changes, the plans may not be signed until all changes have been made.

### **3-6-5 (E) FINAL APPROVAL**

(1) Once preliminary approval has been granted by the Plan Commission, final approval may be granted by a hearing committee consisting of the following members provided no changes have been made that were not approved by the Commission.

- (a) President of the Plan Commission
- (b) Zoning Administrator
- (c) County Surveyor
- (d) Two members of the Plan Commission other than the president.
- (e) One member of the legislative body (County Commissioners)

(2) Preliminary approval by the Commission expires upon the expiration of a three (3) year period immediately following that approval, unless all parts of the phase have been platted and recorded.



(3) Three copies of Final Approval plans shall be submitted to the Commission on twenty-four (24) by thirty (30), five (5) mils, Single Mat Mylar print.

(4) The P.D.U. may be submitted in phases; however, the Plat Committee must approve each phase.

(5) An appeal of the decision of the Plat Committee hearing shall be to the Commission.

(6) Should changes be made from Preliminary Approval to the Final Approval a public hearing shall be required for Secondary Approval.

(7) After Final Approval has been granted all plans shall be recorded in the Recorder's Office and no changes may be made without the approval of the Commission.

### **3-8 VIOLATION**

#### **3-8-1 REMEDIES AND PENALTIES**

(A) Whenever the Zoning Administrator determines that any person, firm, corporation, or Municipal Corporation is violating or believed to have violated the County Zoning Ordinance, a cease and desist order shall be served a notice by Certified Mail of said nuisance.

- (1) The location of the nuisance;
- (2) The description of what constitutes the nuisance;
- (3) A statement of acts necessary to abate the nuisance

(B) Within ten (10) Days from receipt of notice, such offender shall correct said nuisance or show what steps have been or will be taken to correct said nuisance.

(C) If no action has been taken within ten (10) days from receipt of notice, the Zoning Administrator or the Miami County Sheriff's Department may issue a fine each ten day as follow;

First offence	\$100.00
Second offence	\$ 25.00
Third offence	\$ 50.00
Each consecutive offence	\$100.00

(D) The County Plan Commission Attorney shall request to the Courts all Attorney fees and a fine of not less than one hundred (100) dollars and not more than five thousand (5,000) dollars a day (each twenty four (24) hours) for each day the violation exists after the first ten (10) days, subject to the provision of I.C.36-1-3-8 or acts amended thereof.

(E) Any person or corporation, whether as principal, agent, employee, or otherwise, who violates any provisions of this ordinance, shall be subject to the fines and fees as outlined in I.C. 36-1-3-8 or acts amended thereof.

(F) The erection, construction, enlargement, conversion, moving, or maintenance of any building which is continued, operated, or maintained, contrary to any of the provisions of this ordinance, is hereby declared to be in violation of this ordinance and unlawful. The Commission or enforcement officer may institute a suit for injunction in the Miami County Circuit or Superior Court of the County to restrain any person from violating the provisions of this Ordinance. The Commission or Enforcement Officer may also institute a suit for mandatory injunction directing any person, firm, or corporation to remove a structure erected or located in violation of the provision of this ordinance.

(G) Whenever a person is in violation of any part of the Zoning Ordinance or Subdivision Control Ordinance and Court action is required and the Commission or Enforcement Officer is successful in its suit, the respondent shall pay the cost of such action, including reasonable Attorney fees to be allowed by the Court. Such action may also be instituted by any property owner who may be especially damaged by any violation of this Ordinance.

(H) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(I) If a Building Contractor receives notice of violating the Zoning or Subdivision Ordinance three times in a three hundred and sixty-five-day period, he shall be ineligible to receive an Improvement Location Permit for one (1) year from the date of the third violation. A Contractor may appeal the decision made by the Zoning Administrator to the Board of Zoning Appeals within thirty days from receipt of any notice as outlined in section 2-10-1 of this Ordinance.

(J) Any person starting construction or Change of Use without an Improvement Location Permit may be charged a late filing fee of one hundred (\$100.00) dollars plus permit fees.

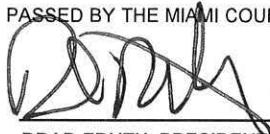
**CHAPTER 4:**

**4-1 RESTRICTION**

THIS ORDINANCE SHALL NOT BE DEEMED TO RESTRICT IN ANY WAY THE AUTHORITY GIVEN BY THE LAW OF THE STATE OF INDIANA TO SIMILAR BOARDS FORMED FOR SIMILAR PURPOSES.

**4-2 EFFECTIVE DATE:**

PASSED BY THE MIAMI COUNTY PLAN COMMISSION THIS 3RD DAY OF NOVEMBER, 2021.

  
\_\_\_\_\_  
BRAD FRUTH, PRESIDENT

\_\_\_\_\_  
SCARLETT GRAVES, SECRETARY

November 15, 2021 EFFECTIVE DATE

THIS ORDINANCE SHALL BE IN EFFECT FROM AND AFTER ITS PASSAGE. PASSED BY THE COUNTY COMMISSIONERS OF MIAMI COUNTY, INDIANA THIS

15th DAY OF November, 2021

**MIAMI COUNTY COMMISSIONERS:**

  
\_\_\_\_\_  
ALAN HUNT, CHAIRMAN

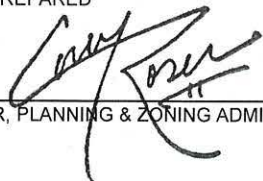
  
\_\_\_\_\_  
FRED MUSSELMAN, VICE-CHAIRMAN

  
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BRENDA G. WEAVER, COMMISSIONER

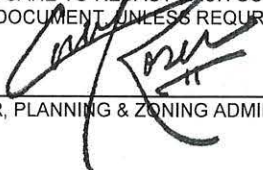
**ATTESTED:**

  
\_\_\_\_\_  
MARY BROWN, MIAMI COUNTY AUDITOR

**THIS DOCUMENT PREPARED**

BY:   
\_\_\_\_\_  
COREY ROSER, PLANNING & ZONING ADMINISTRATOR

"I AFFIRM, UNDER THE PENALTIES FOR PERJUR THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW"

NAME:   
\_\_\_\_\_  
COREY ROSER, PLANNING & ZONING ADMINISTRATOR

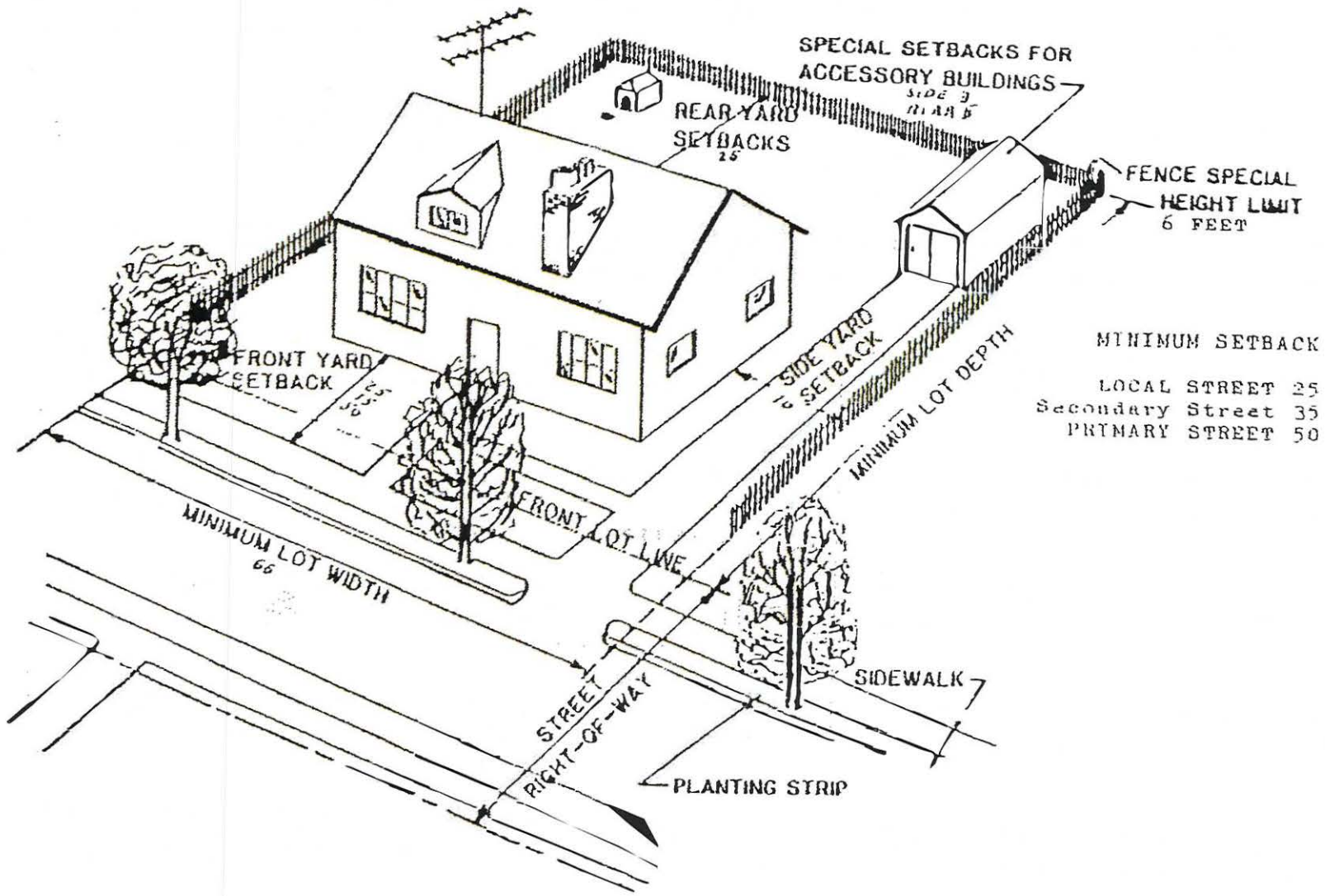


Figure 1  
YARD AREA AND STREET IMPROVEMENTS

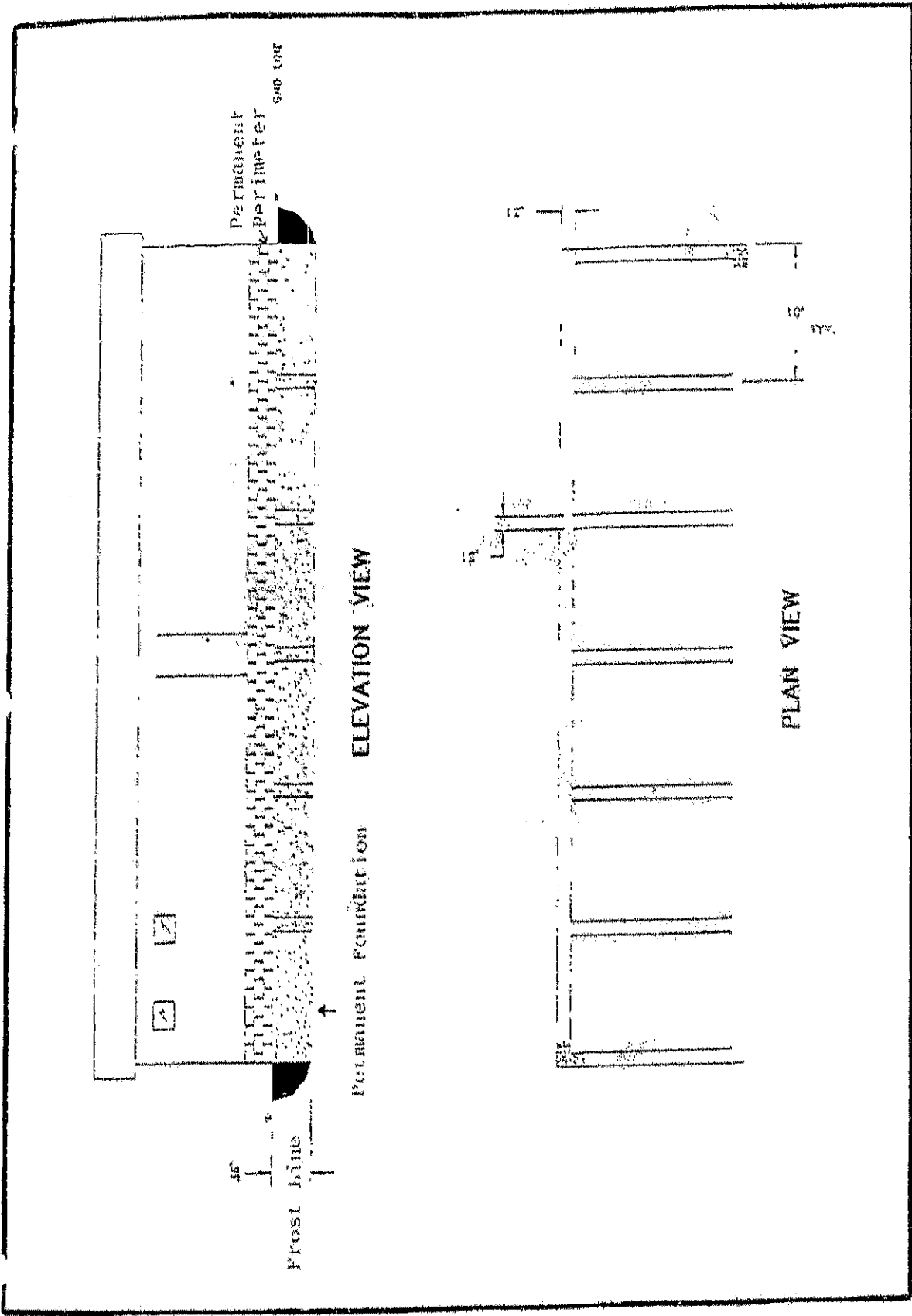
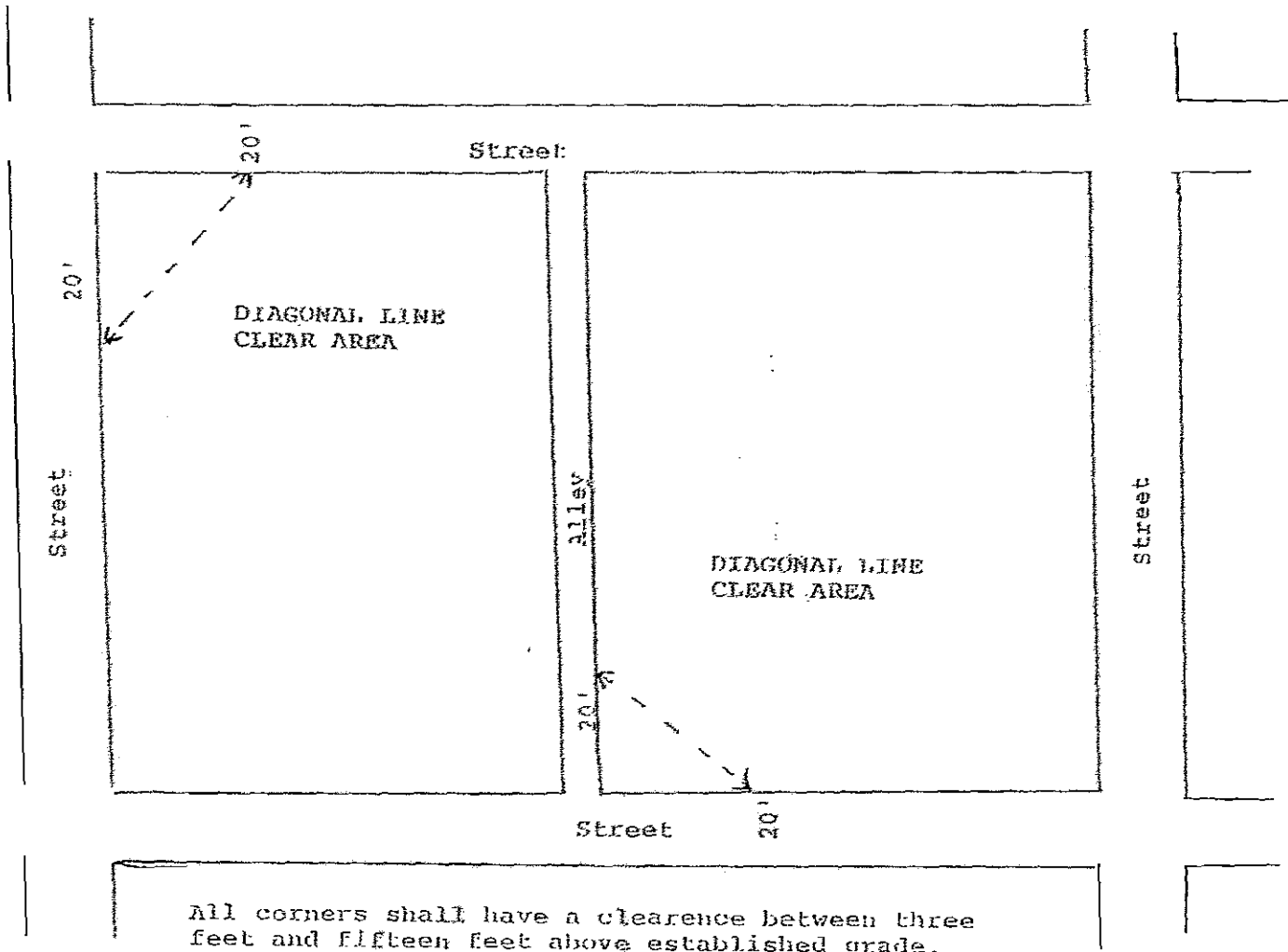
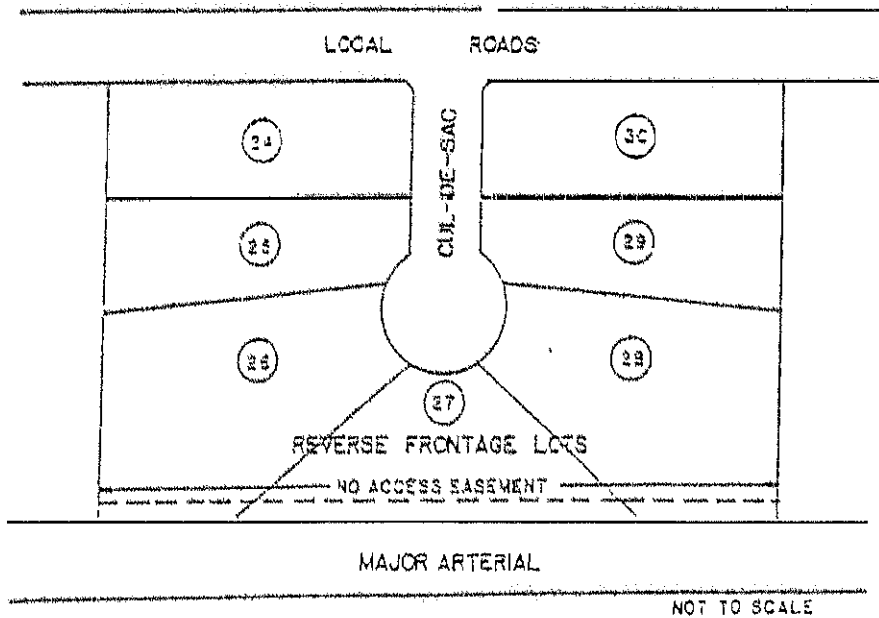
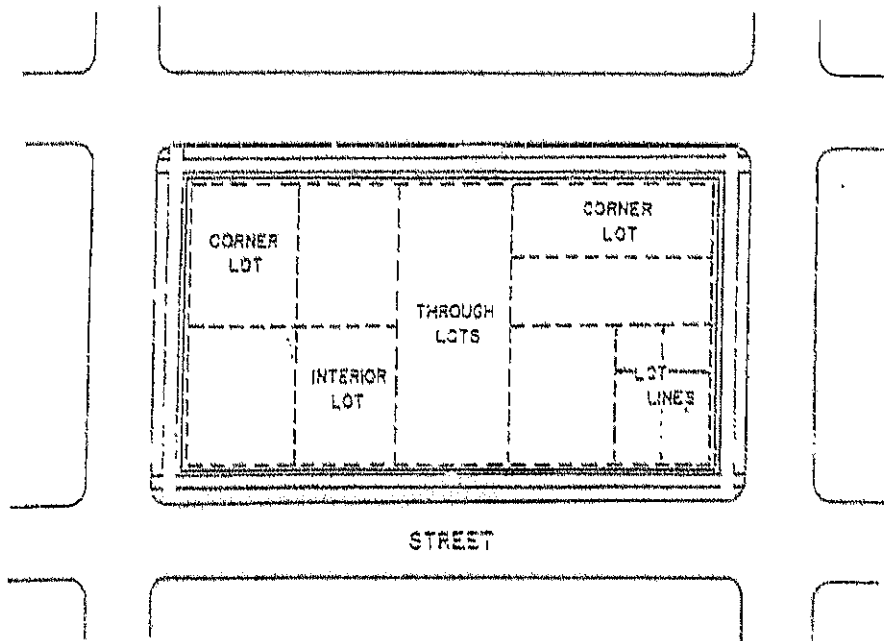


Figure 2

Figure 3





NOT TO SCALE

FIGURE 4 LOT AND FRONTAGE EXAMPLES

**BEFORE THE BOARD OF COMMISSIONERS OF MIAMI COUNTY, INDIANA**

**ORDINANCE NO. 10-18-2021**

**AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 01-19-2021A  
REGULATING SOLAR ENERGY SYSTEMS**

On January 19, 2021, the Board of Commissioners of Miami County, Indiana, adopted Ordinance No. 01-19-2021A, which set forth uniform and comprehensive standards for the installation and operation of Personal Solar Energy Systems and Solar Farm Energy Systems.

Since adoption of Ordinance No. 01-19-2021A, it has been determined that certain additions and corrections are required, and this Ordinance makes those additions and corrections.

On October 6, 2021, the Miami County Plan Commission conducted a public hearing following notice as required by law, and subsequently voted to recommend to the Board of Commissioners that it adopt this Ordinance.

IT IS THEREFORE ORDAINED BY THE MIAMI COUNTY BOARD OF COMMISSIONERS THAT ORDINANCE NO. 01-19-2021A IS NOW AMENDED AND RESTATED AS FOLLOWS:

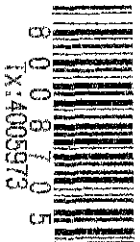
**SECTION 1. PURPOSE AND INTENT.** The purpose of this Ordinance is to provide a regulatory scheme for the construction, operation, modification, and removal of Solar Energy Systems.

**SECTION 2. DEFINITIONS.** Words contained in this Ordinance shall have the same meaning as those defined in the Miami County Zoning Ordinance. In addition to those definitions, the definitions in this Section 2 shall apply to this Ordinance. Words not specifically defined in this Section 2 or in the Zoning Ordinance shall have the meanings attributed to them by common English usage and context.

2.1. **“Applicant”** means the entity or person who submits to the Zoning Administrator an application for an Improvement Location Permit in order to construct a Personal Solar Energy System or a Solar Farm Energy System.

2.2. **“Operator”** means the entity or person responsible for the day-to-day operation and maintenance of a Solar Energy System, including any third-party subcontractors.

2.3. **“Owner”** means the person, persons, entity, or entities with an equity interest in a Solar Energy System, including their respective successors and assigns. Owner does not mean the property owner from whom land is leased on which a Solar Energy System is constructed (unless the property owner has an equity interest in the System), any person holding a security interest in a Solar Energy System solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the Solar Energy System within one year of such event.



2.4. **“Personal Solar Energy System”** (“PSES”) means any device or combination of devices or elements which rely upon direct sunlight as an energy source including, but not limited to, any substance or device which collects sunlight for generating electricity for use primarily on-site. However, the energy excess output may be delivered to a power grid to offset the cost of energy on-site.

2.5. **“Primary Structure”** means, for each Solar Energy System, the structure that one or more entities or persons occupy the majority of time for either business or personal reasons, including, but not limited to, dwellings, commercial buildings, hospitals, and day care facilities. “Primary Structure” excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

2.6. **“Solar Farm Energy System”** (“SFES”) means a commercial facility that converts sunlight to electricity, whether by photovoltaics concentrating solar thermal devices, or various experimental technologies for on-site or off-site use with the primary purpose of selling wholesale or retail generated electricity.

2.7. **“Structure Mount Solar Energy System”** means a Solar Energy System in which solar panels are mounted on the side of or on top of a structure (such as a roof) as either a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optical angle.

**SECTION 3. PROVISIONS APPLICABLE TO PERSONAL SOLAR ENERGY SYSTEMS.** The following provisions of this Ordinance shall apply only to Personal Solar Energy Systems:

3.1. A PSES is permitted in all zoning Districts, as defined in the Zoning Ordinance, and shall be considered an Accessory Use to a principal permitted use.

3.2. Ground Mounted PSES Height. Shall not be greater than ten feet (10') at the maximum tilt of the solar panel(s) in any zoning district.

3.3. Setbacks for Ground Mounted PSES. The PSES shall maintain perimeter setbacks including side and rear yard setbacks of ten feet (10') from the property line to the edge of the nearest PSES above-ground equipment. No PSES shall be permitted to be located in the required front yard setback unless it is located at least one hundred feet (100') feet from the edge of all street rights-of-way.

3.4. Structure Mounted PSES Height. The PSES shall not be greater than the allowable height of any structure within the zoning district in which the PSES is to be constructed. The panels shall be installed per manufacturer's specifications and have a visible disconnect accessible at ground level.

3.5. Approved Solar Components. Electric solar energy system components must have an UC, LLC (formerly known as Underwriters Laboratories), or an International Electrotechnical Commission Underwriters Laboratories (“IEC”) listing or approved equivalent.

3.6. Building Codes. All county and state codes shall be followed.



3.7. Glare. The PSES shall be designed and located in order to prevent glare toward any inhabited buildings or adjacent properties as well as adjacent highways or rights-of-way.

3.8. Permitting. Before an Improvement Location Permit is issued, an application shall be submitted to the Zoning Administrator containing the following:

- 3.8.1. The name and address of the Applicant;
- 3.8.2. The name and address of the Owner of the property where the PSES is to be constructed;
- 3.8.3. The common street address and legal description of the property where the PSES is to be located;
- 3.8.4. Evidence that the local electric utility has been informed of the customer's intent to install a PSES; and
- 3.8.5. A site or construction plan showing:
  - 3.8.5.1. The location of all property lines; all structures; septic field (if ground mounted system); setback lines;
  - 3.8.5.2. The proposed location of all solar panels and associated equipment; and
  - 3.8.5.3. The proposed location of the electrical disconnect for the PSES.

3.9. Not fewer than ten (10) days before the System becomes operational, the Owner or Operator shall provide the Plan Commission with written evidence that the local fire department in whose jurisdiction the System is situated has been notified that the System has been constructed and is about to become operational.

**SECTION 4. PROVISIONS APPLICABLE TO SOLAR FARM ENERGY SYSTEMS.** Sections 5 through 20 of this Ordinance shall apply only to SFES, which shall be permitted in the following zoning Districts: A-1, A-2 and A-3.

**SECTION 5. APPROVALS REQUIRED.** Prior to construction of an SFES, the Applicant shall be required to obtain the following:

- 5.1. Approval of a Development Plan (see Section 6) for the System from the Zoning Administrator;
- 5.2. Approval from the Miami County Board of Zoning Appeals of any required variances or special exceptions anticipated for the System; and
- 5.3. An Improvement Location Permit associated with the System from the Zoning Administrator.

- 5.4. A ruling from the IEMT Coordinator.
  - 5.4.1. The Zoning Administrator will transmit a copy of any application submitted hereunder to the Grissom Air Reserve Base Installation Encroachment Management Team (IEMT) Coordinator for a written determination of whether the proposed System will create an obstruction, interference, hazard, or adverse impact on military training routes, flight paths, or other operational areas or will interfere with military surveillance radar or communications equipment used by the Department of Defense. The written decision of the IEMT Coordinator must include an explanation of its determination, including any background analyses or findings.
  - 5.4.2. Failure of the IEMT Coordinator to provide a written response to the Zoning Administrator within seven (7) business days of the Coordinator's receipt of a copy of an application submitted under this Ordinance, may be deemed an indication the proposed development does not create an obstruction, interference, hazard, or adverse impact. A written determination or a request for additional time within seven (7) business days meets the requirements of this paragraph.
  - 5.4.3. The determination of the IEMT Coordinator, or confirmation that no timely determination was received, will be provided to an official, board, commission, or other agency making recommendations or making a final decision under this Ordinance, prior to a final recommendation or final decision being rendered.
  - 5.4.4. Upon written request by the IEMT Coordinator, the Zoning Administrator may make a decision regarding an application submitted under this Ordinance, following completion of and a final decision under 10 U.S.C. 183a review, "Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions," if such is required.
  - 5.4.5. The Zoning Administrator will consider the input of the IEMT Coordinator prior to giving approval to any development proposed under this Ordinance for which the IEMT Coordinator makes a determination in writing which will create an obstruction, interference, hazard, or adverse impact on military training routes, flight paths, or other operational areas, or will interfere with military surveillance radar or communications equipment used by the Department of Defense.
- 5.5. All plans, agreements, and/or approvals described in Sections 7 through 15 herein; and
- 5.6. Any other information reasonably required by the Zoning Administrator.

## **SECTION 6. DEVELOPMENT PLAN.**

6.1. The applicant shall file with the Zoning Administrator an application for Development Plan review. The Development Plan review process is not intended to provide an alternative to rezoning, variance, special exception, platting, or other established procedures; but rather to allow for the administrative review of site conditions and plans for consistency with applicable requirements prior to the issuance of Improvement Location Permits. The application shall include but not be limited to the following:

- 6.1.1. The name and address of the Applicant;
- 6.1.2. The name and address of the owner of the property where the SFES is to be constructed;
- 6.1.3. The common street address and legal description of the property where the SFES is to be located;
- 6.1.4. Evidence that the local electric utility has been informed of the customer's intent to install a SFES; and
- 6.1.5. A site or construction plan showing:
- 6.1.6. The location of all property lines; all structures; septic field (if ground mounted system); setback lines;
- 6.1.7. The proposed location of all solar panels and associated equipment; and
- 6.1.8. The proposed location of the electrical disconnect for the SFES.
- 6.1.9. A general description of the System including its approximate generating capacity;
- 6.1.10. The type of SFES to be used and the potential equipment manufacturer;
- 6.1.11. The approximate number of panels to be installed; and
- 6.1.12. The names, addresses, phone numbers and/or contact information for all property owners with the SFES proposed on their properties.

6.2. Any revisions to an approved Development Plan shall require Zoning Administrator approval prior to the issuance of any Improvement Location Permit. The proposed revisions along with all required supporting information shall be submitted to the Zoning Administrator for review to assure that the revisions are in compliance with the Ordinance.

**SECTION 7. SITE PLAN.** A site plan must be submitted by the Applicant at a scale approved by the Zoning Administrator showing the location of:

- 7.1. the proposed SFES, including substations, and any battery storage equipment;
- 7.2. property lines, setbacks, and existing easements, including identification of adjoining properties;
- 7.3. all primary structures within one-quarter (¼) mile of the site;
- 7.4. all public roads;
- 7.5. all wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines.
- 7.6. all proposed solar panels, showing number of panels and spacing
- 7.7. all proposed fencing;
- 7.8. all current or anticipated above ground and underground utility lines associated with the site;
- 7.9. all current or anticipated electrical cabling, ancillary equipment and transmission lines;
- 7.10. all field tile, if known, and all County regulated drains;
- 7.11. all existing and/or abandoned wells and septic fields; and
- 7.12. all floodplains, with elevations.

**SECTION 8. ECONOMIC DEVELOPMENT AGREEMENT.** For any System seeking tax abatement or other economic considerations for the System from a governmental entity, the applicant shall submit an Economic Development Agreement approved by the County Commissioners. The Economic Development Agreement must be developed in consultation with the Miami County Economic Development Authority (MCEDA) and the County Council. The Economic Development Agreement shall include, as applicable, estimated property taxes, estimated tax abatement benefits, the anticipated number of new employees, any estimated economic development payments, any estimated lease payments, and an estimate of the overall cost and tax revenue impact on the County, as well as the estimated current economic impact of the System area in its current use.

**SECTION 9. DRAINAGE PLAN.** A drainage plan approved by the Miami County Drainage Board that includes, but is not necessarily limited to, potential damage to crops, field tiles, ditches, and/or County regulated drains

**SECTION 10. EROSION CONTROL APPROVAL.** Evidence of compliance with Indiana Department of Environmental Management Rule 5 requirements.

**SECTION 11. HEALTH DEPARTMENT APPROVAL.** Evidence of compliance with state and local septic and well regulations.

**SECTION 12. REQUIREMENTS FOR ADDITIONAL INFORMATION.** The following are required:

12.1. An emergency/fire safety plan, which must be approved by the local fire departments in whose jurisdiction the System is situated;

12.2. A warranty that specialized emergency/fire training necessary will be provided at the Operator's expense;

12.3. A warranty that Knox boxes and keys shall be provided at locked entrances for emergency personnel access; and

12.4. A list of names and phone numbers for the electric utility provider and the site operator, along with the System's 911 address and/or tax parcel number.

**SECTION 13. SFES FENCING AND LANDSCAPING PLAN.** A fencing and landscaping plan must be approved by the Zoning Administrator that complies with the following requirements:

13.1. All SFES systems equipment, panels and structures shall be fully enclosed and secured by a fence with a minimum height of six feet (6');

13.2. Any high voltage substation shall be inside a fence of a height of at least eight feet (8') with at least two (2) strands of barbed wire at the top, to which there shall be attached visible "High Voltage" warning signs; and

13.3. Ground cover shall be planted sufficient to prevent soil erosion.

13.4. **Screening and Buffering.** All SFES facilities that are located within five hundred feet (500') of any Dwelling, residential dwelling, church, school, child day care, or bed and breakfast establishments (excluding those located on parcels of participating landowners) shall be screened and buffered by installed vegetative plantings where existing natural vegetation does not provide screening, subject to the following requirements:

13.4.1. The vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four feet (4') in height and/or shrubs that at planting shall be a minimum of two feet (2') in height. The evergreen trees shall be spaced no more than fifteen feet (15') apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than thirty feet (30') apart on center, and shrubs shall be spaced no more than seven feet (7') apart on center.

13.4.2. All unhealthy (sixty percent (60%) dead or greater) and dead plant material shall be replaced by the SFES owner or operator within one (1) year, or the next appropriate planting period, whichever occurs first.

13.4.3. Vegetative buffer plant material shall be initially installed between March 15 and November 15 and no later than the one (1) year anniversary of the SFES commencing operation.

**SECTION 14. SFES ROAD USE AGREEMENT.** Prior to the use of any county road for the purpose of transporting parts and/or equipment for construction, operation, or maintenance of the SFES or substation, the Applicant, Owner and/or Operator must provide proof of a signed Road Use Agreement between the County Board of Commissioners and the Applicant, Owner and/or Operator. The Road Use Agreement must include, but not be limited to the following:

14.1. Any road damage caused by the construction of the SFES equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Miami County Engineer. The County Engineer may choose to require either remediation of road damage upon completion of the System or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a professional engineer may be required by the County Engineer to ensure the County that future repairs are completed to the satisfaction of the County. The cost of bonding is to be paid by the Applicant, Owner, and/or Operator.

14.2. Newly constructed SFES access roads may not impede the flow of water and shall comply with the Miami County Drainage Ordinance and Drainage Plan Agreement.

14.3. No part of the SFES including, but not limited to above ground transmission lines and poles or below ground transmission lines shall be constructed and/or placed in any County road right-of-way or dedicated easement without prior written approval from the County Board of Commissioners

**SECTION 15. SFES DECOMMISSIONING PLAN AGREEMENT.** Prior to receiving construction approval for the SFES, the Applicant, Owner, and/or Operator must provide proof of a signed Decommissioning Plan Agreement between the County Board of Commissioners and the Applicant, Owner and/or Operator. The Decommissioning Plan is to ensure that the SFES facilities are properly decommissioned upon the end of the System life or facility abandonment (presumed to occur if the System is not producing electricity for twelve (12) consecutive months). The Decommissioning Plan shall include but not be limited to the following:

15.1. Assurance that the facilities are properly decommissioned upon the end of the System life or facility abandonment. The Applicant, Owner and/or Operator's obligations with respect to decommissioning shall include removal of all physical material pertaining to the System improvements to a depth of forty-eight inches (48") beneath the soil surface, and restoration of the area occupied by the System improvements to the same or better condition that existed immediately before construction of such improvements. Prior to issuance of a Improvement Location Permit, the Applicant, Owner and/or Operator shall provide a contractor cost estimate for demolition and removal of the SFES facility and will provide financial assurance, taking into consideration any salvage value, in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the County, the cost of decommissioning the solar field(s) under the building permit, which security shall be released when said solar field(s) is properly decommissioned as determined by the Zoning Administrator. The amount of financial assurance shall be reviewed every five (5) years by the Zoning Administrator, and adjusted as directed by the Zoning Administrator to make certain it remains adequate to satisfy the intent and purpose of this Section 15. To facilitate this review, upon request from the Zoning Administrator, the Applicant, Owner and/or Operator shall provide an updated contractor

cost estimate for demolition and removal of the SFES facility. In the event of abandonment by the Owner and/or Operator, the Applicant will provide an affidavit to the Zoning Administrator representing that all easements for the solar field(s) 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 twelve (12) months of expiration or earlier termination of the System.

15.2. The failure of the Applicant, Owner, and/or Operator to comply with, or to make reasonable progress in getting into compliance with, any of the above provisions shall constitute a violation of this Ordinance.

15.3. Prior to implementation of the existing County procedures for the resolution of each violation, the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged violation. Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged violation.

**SECTION 16. SFES SETBACKS.** The minimum setback distances for SFES shall be as follows:

<u>Distance from</u>	<u>Minimum Setback Distance</u>
Property line, measured from the nearest edge of the equipment to the property line	150 feet from any property line of an adjoining property owner unless waived in writing by that property owner
Road right-of-way, measured from the edge of the equipment to the edge of the right-of-way	100 feet from the right-of-way (ROW) for a public road
Access driveways to the property line	All access driveways must be 50 feet from any non-participating landowner property line
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the edge of the SFES to the nearest point of the wetland in question	As determined by a permit obtained from the U.S. Army Corps of Engineers

16.1. Any new primary structure built adjacent to a SFES shall maintain the same minimum setback requirements.

16.2. No part of a SFES shall be constructed in any setback, dedicated Easement, or County road right-of-way without prior written authorization from the County Board of Commissioners.

**SECTION 17. SFES DESIGN & INSTALLATION STANDARDS.**

17.1. Manufacturers' Specifications & Certifications. The Applicant shall provide standard manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles and racks.

Specifications for the actual equipment to be used in the SFES shall be required before an Improvement Location Permit is issued. All SFESs shall conform to applicable industry standards, including those from the Underwriter's Laboratories (UL) and Federal Aviation Administration (FAA).

17.2. Equipment Type. All equipment shall be new equipment commercially available. Used, experimental or prototype equipment still in testing shall require approval by the Miami County Board of Zoning Appeals as per the normal special exception process.

17.3. Electrical Components, Cabling, and Wiring. All electrical components of the SFES shall conform to applicable local, state, and federal codes, and relevant federal and international standards. All SFES electrical collection cables shall be located underground unless they are located on public or utility rights-of-way or with prior approval from the County Board of Commissioners.

17.4. Underground Work. All underground work outside of the solar field shall comply with the following:

- 17.4.1. All underground cabling shall be buried no less than sixty inches (60") deep;
- 17.4.2. All underground cabling shall have warning mesh at thirty-six inches (36") deep; and
- 17.4.3. All underground cabling shall be marked at road crossings, creeks, river beds, and property lines with a metal or fiberglass post at least five feet (5') in height with a cement base.

17.5. Utility Interconnections. All utility interconnections must comply with all applicable local, state and federal codes rules and regulations.

17.6. Safety & Warnings. All SFESs shall provide the following at all locked entrances:

- 17.6.1. A visible "High Voltage" warning sign;
- 17.6.2. Names and phone numbers for the electric utility provider;
- 17.6.3. Names and phone numbers for the Operator;
- 17.6.4. The System's 911 address and GPS coordinates; and
- 17.6.5. A Knox box with keys as needed.

17.7. Lighting. If lighting is provided at the System, lighting shall be shielded and downcast such that the light does not spill on to the adjacent parcel and/or dwelling and/or primary structure.

17.8. Outdoor Storage. Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the Solar Farm shall be allowed.



17.9. Damage and Repairs. All damages including, but not limited to roads, waterways, drainage ditches, field tiles, and/or any other infrastructures caused by the construction or maintenance of the SFES, must be completely repaired. The repair may include the option to repair as originally found, re-routing, or installing new tile so as not to impede the flow of water. Re-routing must be approved by the Miami County Surveyor's office. All repairs must be completed within a reasonable amount of time as agreed upon between the County Board of Commissioners, and the Applicant, Owner and/or Operator.

17.10. Waste Handling and Disposal. All solid waste whether generated from supplies, equipment, parts, packaging, operation and/or maintenance of the facility, including but not limited to old parts and equipment, shall be removed from the site promptly and disposed of in accordance with all local, state and federal, laws. All hazardous materials and/or waste related to the construction, operation and/or maintenance of the facility, including but not limited to lubrication materials, shall be handled, stored, transported and disposed of in accordance with all local, state and federal laws.

**SECTION 18. UNDERGROUND WORK AFTER CONSTRUCTION.** To help ensure the safety of the public, no underground work, including but not limited to farm drainage, gas lines, and/or any other such work, shall be performed on land within the SFES area without an employee of the SFES operation on site. This includes but is not limited to, property owners, sub- contractors, utility workers and/or County employees.

**SECTION 19. SFES OPERATION, MAINTENANCE AND INSPECTIONS.**

19.1. Maintenance. Any physical modification to the SFES that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modifications (other than a like-kind replacement), the Owner and/or Operator shall confer with the County Building Inspector to determine whether the physical modification requires re-certification.

19.2. Interference and Glare. If, after construction of the SFES, the Owner and/or Operator receives a written complaint related to interference with any local broadcast residential television, telecommunication, communication, microwave transmissions and/or glare, the Owner and/or Operator shall take reasonable steps to respond to minimize the complaint.

19.3. Inspections. The Zoning Administrator or a Building Inspector, and/or licensed third party professional retained by the County for the specific purpose of conducting inspections of the SFES shall have the right, at any reasonable time and with sufficient prior notice, to accompany the Owner and/or Operator and/or his agent, on the premises where a SFES has been constructed, to inspect all parts of said SFES installation and to require that repairs or alterations be made. The Owner and/or Operator of a SFES may retain a licensed third-party professional engineer familiar with systems to prepare and submit to the Zoning Administrator or a Building Inspector a plan that addresses the repairs or alterations requested. Alternative options and/or suggestions for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, must be submitted within thirty (30) days after receiving notice from the Zoning Administrator or a Building Inspector. A longer period of time mutually acceptable to both parties may be accepted. The Zoning Administrator or Building Inspector will consider any such written report and determine

whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the Zoning Administrator or Building Inspector and the Owner and/or Operator, or a third-party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Zoning Administrator shall be final. Any fees for inspections made by a third-party professional inspector and/or engineer retained by the County shall be paid by the Owner and/or Operator.

19.4. Declaration of a Public Nuisance. Any SFES thereof declared to be unsafe by the Zoning Administrator by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment will be declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan Agreement described in Section 15. Nothing in this Ordinance is intended to preempt any other applicable local, state, or federal laws and regulations.

**SECTION 20. LIABILITY INSURANCE.** At all times, the Owner or Operator of any SFES shall maintain a general liability policy covering bodily injury and property damage and a certificate of liability insurance will be required, providing Miami County with additional insured status, with dollar amount limits of at least \$2 million per occurrence and \$5 million in aggregate, which limit may be satisfied by a combination of general liability/umbrella/excess liability policies. A certificate of insurance shall be provided by the insurer to the Zoning Administrator upon each renewal of said policy. The insurers shall issue Zoning Administrator a notice of cancellation to the certificate holder if a policy is terminated or cancelled, at least thirty (30) days prior to the effective termination or cancellation date.

**SECTION 21. INDEMNIFICATION.** The Applicant, Owner, and Operator of any Solar Energy System shall defend, indemnify, and hold harmless the County and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liability whatsoever, including attorney's fees, without limitation, arising out of acts or omissions of the Applicant, Owner and/or Operator associated with the construction and/or operation of the PSES or SFES.

**SECTION 22. ZONING ADMINISTRATOR REVIEW.** The Zoning Administrator shall review all applications. If the application complies with all of the provisions of this Ordinance, the Zoning Administrator may issue an Improvement Location Permit.

**SECTION 23. CHANGE IN OWNERSHIP.** It is the responsibility of the Owner and/or Operator listed in the application to inform the Zoning Administrator of all changes in ownership and/or operation during the life of the Solar Energy System, including the sale or transfer of ownership and/or operation.

**SECTION 24. REQUIREMENTS FOR IMPROVEMENT LOCATION PERMIT AND FEES.** Prior to any construction associated with any Solar Energy System, the Applicant, Owner and/or Operator shall pay the required fees in full as prescribed by the Miami County fee schedule.


**SECTION 25. VARIANCES.** The Miami County Board of Zoning Appeals, upon application and after public hearing, may grant a variance from any requirement of this Ordinance.

**SECTION 26. ENFORCEMENT AND VIOLATIONS.**

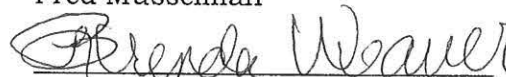
26.1. This Ordinance may be enforced by following the enforcement procedures contained in the Zoning Ordinance.

26.2. In addition to all other remedies that are available under the Zoning Ordinance or Indiana law, any person who violates this Ordinance or fails to comply with any of its provisions may be fined by the Zoning Administrator the sum of up to One Hundred Dollars (\$100.00) per day for each day that such violation or failure continues unabated.

Adopted by the Miami County Board of Commissioners this 18<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
Alan Hunt, Chairman

  
\_\_\_\_\_  
Fred Musselman

  
\_\_\_\_\_  
Brenda G. Weaver

Attest:

  
\_\_\_\_\_  
Mary Brown, Miami County Auditor

THIS DOCUMENT PREPARED

By:   
\_\_\_\_\_

"I AFFIRM, UNDER THE PENALTIES FOR PERJURY  
THAT I HAVE TAKEN REASONABLE CARE TO  
REDACT EACH SOCIAL SECURITY NUMBER IN  
THIS DOCUMENT, UNLESS REQUIRED BY LAW."

NAME:   
\_\_\_\_\_

**BEFORE THE MIAMI COUNTY BOARD OF COMMISSIONERS**

**ORDINANCE NO. 12-20-2021**

**AN ORDINANCE AMENDING SECTION 16 OF ORDINANCE NO. 10-18-2021,  
 AN ORDINANCE REGULATING SOLAR ENERGY SYSTEMS**

The Board of Commissioners adopted Ordinance No. 10-18-21, an ordinance regulating solar energy systems, on October 18, 2021, and requested that the Plan Commission review the setback requirements contained in Section 16 of that ordinance, and determine whether the setbacks should be changed.

The Plan Commission reviewed Section 16, determined that the setbacks should be changed, and held a public hearing as required by law to hear comments on the proposed changes.

Following that public hearing, the Plan Commission recommended that the setbacks be changed as reflected herein, and certified that recommendation to the Board of Commissioners.

The Board of Commissioners concurs with the recommendation of the Plan Commission.

IT IS ORDAINED by the Miami County Board of Commissioners that Section 16 of Ordinance No. 10-18-2021 is now amended to read as follows:

**SECTION 16. SFES SETBACKS.** The minimum setback distances for SFES shall be as follows:

<u>Distance from</u>	<u>Minimum Setback Distance</u>
The property line of an adjoining property of 10 or fewer acres	Measured from the edge of the equipment nearest the adjoining property line, 150 feet from the property line, and 200 feet from the foundation of a Primary Structure located on the adjoining property  Setbacks may be waived by owners of adjoining properties

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The property line of an adjoining property of more than 10 acres	Measured from the edge of the equipment nearest the adjoining property line, 25 feet from the adjoining property line, and 200 feet from the foundation of a Primary Structure located on the adjoining property  Setbacks may be waived by owners of adjoining properties
Road right-of-way, measured from the edge of the equipment to the edge of the right-of-way	100 feet from the right-of-way (ROW) for a public road
Access driveways to the property line	All access driveways must be 50 feet from any non-participating landowner property line
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the edge of the SFES to the nearest point of the wetland in question	As determined by a permit obtained from the U.S. Army Corps of Engineers

16.1. Any new primary structure built adjacent to a SFES shall maintain the same minimum setback requirements.

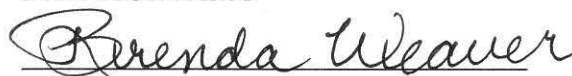
16.2. No part of a SFES shall be constructed in any setback, dedicated Easement, or County road right-of-way without prior written authorization from the County Board of Commissioners.

Adopted this 20th day of December, 2021.

**MIAMI COUNTY BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
Alan Hunt, Chairman

  
\_\_\_\_\_  
Fred Musselman

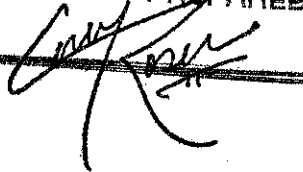
  
\_\_\_\_\_  
Brenda Weaver

Attest:

  
\_\_\_\_\_  
Mary Brown, Miami County Auditor

"I AFFIRM, UNDER THE PENALTIES FOR PERJURY,  
THAT I HAVE TAKEN REASONABLE CARE TO  
REDACT EACH SOCIAL SECURITY NUMBER IN  
THIS DOCUMENT, UNLESS REQUIRED BY LAW."

NAME:   
\_\_\_\_\_

THIS DOCUMENT PREPARED  
By:   
\_\_\_\_\_

**BEFORE THE MIAMI COUNTY BOARD OF COMMISSIONERS**

**ORDINANCE NO. 8-16-2021 B**

**AN ORDINANCE AMENDING REGULATIONS  
FOR WIND ENERGY CONVERSION SYSTEMS AND METEOROLOGICAL TOWERS**

On January 19, 2021, the Board of Commissioners adopted Ordinance No. 01-19-2021 B, an Ordinance establishing regulations for Wind Energy Conversion Systems.

The Miami County Plan Commission has since determined that certain changes and corrections to that Ordinance are appropriate and this ordinance makes those changes and corrections.

IT IS THEREFORE ORDAINED BY THE BOARD OF COMMISSIONERS OF MIAMI COUNTY, INDIANA, AS FOLLOWS:

**SECTION 1. PURPOSE AND INTENT**

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Conversion Systems and Meteorological Towers.

**SECTION 2. DEFINITIONS**

Words contained in this Ordinance shall have the same meaning as those defined in the Miami County Zoning Ordinance. In addition to those definitions, the definitions in this Section 2 shall apply to this Ordinance. Words not specifically defined in this Section 2 shall have the meanings attributed to them by common English usage and context.

**2.1. “Applicant”** means the person or entity that submits to the Zoning Administrator an application for an Improvement Location Permit in order to construct a Wind Energy Conversion System or a Meteorological Tower.

**2.2. “Classified Forest and Wildlands”** means an area of at least ten (10) contiguous acres of forest or non-forest wildlife habitat where the owner thereof has agreed to be a good steward of the land and its natural resources.

**2.3. “Meteorological Tower”** means a tower that is erected primarily to measure wind speed and direction plus other data, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar entities that monitor weather conditions.

**2.4. “Meteorological Tower, Operational Support”** means a tower that is erected primarily to measure wind speed and direction plus other data in support of an operating Wind Energy Conversion System, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar entities that monitor weather conditions.



**2.5. “Non-participating Landowner”** means a person(s) or entity who has not entered into an agreement with a Wind Energy Conversion System company, entity or person(s) for the purpose of (i) developing a Wind Energy Conversion System on or near such person(s) or entity's land and/or (ii) receiving the economic benefits expected to accrue from the operation of such a System.

**2.6. “Operator”** means the person or entity that is responsible for the day-to-day operation and maintenance of a Wind Energy Conversion System or a Meteorological Tower, including any third-party sub-contractors.

**2.7. Participating Landowner** means a person or entity who has entered into an agreement with a Wind Energy Conversion System company, entity or person(s) for the purpose of (i) developing a Wind Energy Conversion System on or near such person(s) or entity's land and/or (ii) receiving the economic benefits expected to accrue from the operation of such a System.

**2.8. “Reservoir”** means an artificial lake where water is collected and kept in quantity.

**2.9. “River”** means a natural stream of water of usually considerable volume.

**2.10. “Substation”** means a structure containing apparatus that connects the below or above ground electrical collection lines of the Wind Energy Conversion System to the electric utility grid, with or without increasing the voltage.

**2.11. “Wind Energy Conversion System” or “WECS”** means all necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower, substation, Meteorological Towers, communications facilities and other required facilities and equipment, as related to the WECS Project, including the following:

**2.11.1. Commercial WECS.** A Wind Energy Conversion System constructed on the property of another by a company or corporation or other entity, whose general intent is to capture wind energy and place it on the electrical grid for resale to a public utility.

**2.11.2. Micro WECS.** A very small Wind Energy Conversion System designed to provide electric power to a home or other local site for use by the owner.

**2.11.3 Non-commercial WECS.** A Wind Energy Conversion System that is generally smaller than a Commercial WECS and the primary purpose is to collect wind energy for the purpose of supplying energy to the owners, such as a business, school or factory.

**2.12. “WECS Project”** means the development, construction, and/or operation of a WECS.



**2.13. “WECS Tower”** means the support structure to which the nacelle and rotor are attached, a free standing or guyed structure that supports a wind turbine generator.

**2.14. “Wetlands”** means areas characterized by a dominance of wetland vegetation where the soil is saturated during a portion of the growing season or the surface is flooded during some part of most years. Wetlands generally include swamps, marshes, bogs, and similar areas.

### **SECTION 3. PERMIT REQUIREMENTS**

**3.1.** No WECS or Meteorological Tower may be constructed within Miami County without first obtaining an Improvement Location Permit.

**3.2.** No WECS or Meteorological Tower may be owned or operated within Miami County without having fully complied with the provisions of this Ordinance.

### **SECTION 4. ALLOWABLE LOCATIONS FOR WECS AND METEOROLOGICAL TOWERS**

**4.1. Permitted Districts.** Commercial, Non-commercial, Micro WECS, and Meteorological Towers are permitted in the following Districts:

**4.1.1. Commercial WECS**

Permitted in A-1, A-2, and A-3

Special Exception required for B-1, B-2, B-3, and I-1

Prohibited in all other areas

**4.1.2. Non-commercial WECS (equal or less than 200 feet in height)**

Permitted in A-1, A-2, and A-3

Special Exception required for B-1, B-2, B-3, I-1 and I-2

Prohibited in all other areas

**4.1.3. Non-commercial WECS (greater than 200 ft. in height)**

Special Exception required for A-1, A-2, A-3, B-1, B-2, B-3, I-1, I-2

Prohibited in all other areas

**4.1.4. Micro WECS**

Permitted in A-1, A-2, A-3, I-1, I-2

Special Exception required for B-2, B-3

**4.1.5. Meteorological Tower**

Permitted in A-1, A-2, A-3

Special Exception required for B-2, B-3, I-1, I-2

**SECTION 5. SET BACK REQUIREMENTS FOR WECS AND METEOROLOGICAL TOWERS**

**5.1. Minimum setback distances for Commercial WECS Towers.**

<u>Distance from a</u>	<u>Minimum Setback Distance:</u>
Property line, measured from the center of the base of the WECS Tower to the property line	<p>Two thousand (2,000) feet</p> <p>(i) The setback requirement is waived if the affected adjoining landowners sharing the common property line are Participating Landowners and a fully executed and recorded agreement is secured by the Participating Landowners.</p> <p>(ii) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected adjoining Non-Participating Landowner.</p>
Dwelling, measured from the center of the base of the WECS Tower to the nearest corner of the structure	Two thousand (2,000) feet
Public road right-of-way, measured from the center of the base of the WECS Tower to the edge of the right-of-way	Two thousand (2,000) feet
Other rights-of-way, such as railroads and public utility easements, measured from the center of the base of the WECS Tower to the edge of the right-of-way	Two thousand (2,000) feet
Public conservation lands, measured from the center of the base of the WECS Tower to the nearest point of public conservation land in question	Two thousand (2,000) feet

Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the base of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the U.S. Army Corps of Engineers in the case of Wetlands and from the proper permitting authority in the case of Classified Forest and Wildlands
Classified Forest and Wildlands as defined by Indiana Department of Natural Resources, Division of Forestry; measured from the center of the base of the WECS Tower to the nearest point of the Classified Forest and Wildlands	
All Rivers and Reservoirs, measured from the center of the base of the WECS Tower to the shoreline	One-half mile
Incorporated limits of a municipality or platted community, measured from the center of the base of the WECS Tower to the corporate limits	Two Thousand (2,000) Feet
Above-ground electric transmission line, measured from the center of the base of the WECS Tower to the transmission line	1.1 times the total height (where the blade tip is at its highest point)

**5.2. Commercial WECS Power Collection and Transmission System.**

**5.2.1. WECS Substation.** For all substations, setbacks from property lines may not be waived unless a fully executed and recorded written waiver agreement is secured from the affected adjoining non-participating landowner.

**5.2.2. Poles.** For all poles carrying overhead wiring connecting Commercial WECS Towers to a Substation for connection to a utility's electric transmission line, there are no setback requirements from property lines as long as the poles are located within a recorded easement for such purpose.

**5.3. Minimum setback distances for Non-Commercial and Micro WECS Towers.**

<u>Distance from a</u>	<u>Minimum Setback Distance</u>
Property line, measured from the center of the base of the WECS Tower to the property line	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed
Dwelling, measured from the center of the WECS Tower to the nearest corner of the structure	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point)
Public road right-of-way, measured from the center of the base of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed
Other rights-of-way, such as railroads and public utility easements, measured from the center of the base of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed
Public conservation lands, measured from the center of the base of the WECS Tower to the nearest point of public conservation land in question	Seven hundred and fifty (750) feet
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the base of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the U.S. Army Corps of Engineers
All Rivers and Reservoirs measured from the center of the base of the WECS Tower to the shoreline	One-half mile
Above-ground electric transmission line, measured from the center of the base of the WECS Tower to the transmission line	1.1 times the total height (where the blade tip is at its highest point)

**5.4. Horizontal extension for Non-commercial and Micro WECS.** The furthest horizontal extension (including guy wires) shall not extend into a required setback as prescribed or be closer than twelve (12) feet to any primary structure or public right-of-way easement for any above ground telephone, electric transmission or distribution lines.

**5.5. Minimum setback distances for all Meteorological Towers.**

<u>Distance from:</u>	<u>Minimum Setback Distance</u>
Property line, measured from the center of the base of the Meteorological Tower to the property line	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback. (i) The setback requirement is waived if the affected adjoining landowners sharing a common property line are Participating Landowners
Dwelling, measured from the center of the base of the Meteorological Tower to the nearest corner of the structure	1.1 times the total height of the Meteorological Tower.
Public road right-of-way, measured from the center of the base of the Meteorological Tower to the edge of the right-of-way	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback <sup>4</sup>
Other rights-of-way, such as railroads and public utility easements, measured from the center of the base of the Meteorological Tower to the edge of the right-of-way	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback

**5.6. Horizontal extension for all Meteorological Towers.** The furthest horizontal extension (including guy wires) shall not extend into a required setback as prescribed or be closer than twelve (12) feet to any primary structure or public right-of-way easement for any above ground telephone, electric transmission or distribution lines.

**SECTION 6. SAFETY, DESIGN, INSTALLATION, AND CONSTRUCTION STANDARDS APPLICABLE TO ALL WECS AND METEOROLOGICAL TOWERS**

**6.1 Height Restrictions.**

**6.1.1. Non-commercial WECS or Meteorological Towers.** Any Non-commercial WECS Towers or Meteorological Towers greater than two hundred (200) feet in height shall require a variance approval.

**6.1.2. Commercial WECS or Operational Support Meteorological Towers.** For Commercial WECS Towers and Operational Support Meteorological Towers there are no limitations on height, except those height limitations imposed by Federal Aviation Administration rules and regulations.

**6.1.3. Micro WECS.** No Micro WECS shall exceed sixty (60) feet in height.

## **6.2. Equipment Type.**

**6.2.1.** Turbines. All turbines shall be constructed of commercially available equipment.

**6.2.2.** Meteorological Towers. All Meteorological Towers shall be guyed.

**6.2.3.** Experimental or prototype equipment. Experimental or prototype equipment still in testing which does not fully comply with industry standards, may be approved by the Miami County Board of Zoning Appeals per the variance process established by the Zoning Ordinance.

**6.3. Industry Standards and other Ordinances.** All WECS shall conform to applicable industry standards, as well as all local, state, and federal ordinances. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyd Energie, or an equivalent third party.

## **6.4. Controls and Brakes.**

**6.4.1. Braking System.** All WECS Towers must be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including pitch, tip, and other similar systems) and mechanical brakes. Stall ordinance shall not be considered a sufficient braking system for over speed protection.

**6.4.2. Operation mode.** All mechanical brakes shall be operated in a fail-safe mode.

## **6.5. Electrical Components.**

**6.5.1. Standards.** All electrical components of all WECS shall conform to applicable local, state, and federal codes, and any relevant federal and international standards.

**6.5.2. Collection cables.** All electrical collection cables between each WECS Tower shall be located underground whenever possible.

**6.5.3. Transmission lines.** All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

**6.6. Color and finish.** In addition to all applicable Federal Aviation Administration requirements, the following shall also apply:

**6.6.1. Wind turbines and towers.** All wind turbines and towers that are part of a WECS shall be white or grey.

**6.6.2.** Blades. All blades shall be white or grey, or may be black to facilitate deicing.

**6.6.3.** Finishes. Finishes shall be matte or non-reflective.

**6.6.4.** Exceptions. Exception may be made for Meteorological Towers, where concerns exist relative to aerial spray applicators.

**6.7. Signage.** All signs pertaining to a WECS Project must comply with existing Miami County Zoning requirements with the following stipulations:

**6.7.1. Size area.** No sign shall exceed sixteen (16) square feet in surface area, and shall not exceed eight (8) feet in height

**6.7.2. Manufacturer's or owner's company name and/or logo.** The manufacturers or owner's company name and/or logo may be placed upon the compartment containing the electrical equipment.

**6.7.3. Development signs.** An identification sign relating to the WECS Project development may be located on each side of the total WECS Project area, provided that there are no more than four (4) signs located on any one WECS Project site.

**6.7.4. Other signs and logos.** No other advertising signs or logos shall be placed or painted on any structure or facility that is part of a WECS Project.

## **6.8. Warnings**

**6.8.1. Commercial WECS.** The following notices shall be posted for all Commercial WECS:

**6.8.1.1.** A sign or signs shall be posted on the pad-mounted transformer and the substation(s) warning of high voltage.

**6.8.1.2.** Private roads providing access to Commercial WECS shall have posted an Emergency 911 address road sign.

**6.8.1.3.** A sign shall be posted on the WECS tower listing an emergency telephone number.

**6.8.2. Guy wires and anchor points.** For all guyed towers, one of the following warning mechanisms shall be used for each anchor point:

**6.8.2.1.** Visible or reflective objects. Visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above ground.

**6.8.2.2.** Visible Fencing. Visible fencing not less than four (4) feet in height installed around anchor points of guy wires.

**6.8.3. Non-commercial WECS and Micro WECS Towers.** The following notices shall be clearly visible on all Non-commercial WECS and Micro WECS Towers and accessory facilities:

**6.8.3.1.** Multiple "No Trespassing" signs shall be attached to the perimeter fence;

**6.8.3.2.** "Danger" signs shall be posted at the height of five (5) feet on each WECS Tower and accessory structure;

**6.8.3.3.** A sign shall be posted on the each WECS Tower showing an emergency telephone number, and the manual electrical and/or over speed shutdown disconnect switch(es) shall be clearly labeled; and

**6.8.4. Meteorological Towers.** Meteorological Towers shall contain all warning signs required by the Federal Aviation Administration.

**6.9. Climb Prevention.** All Commercial WECS Tower designs shall include features to deter climbing or be protected by anti-climbing devices such as fences with locking portals at least six (6) feet in height, anti-climbing devices fifteen (15) feet vertically from the base of the WECS Tower, and/or locked WECS Tower doors.

**6.10. Blade Clearance.** The minimum distance between the ground and any protruding blade(s) utilized on all Commercial WECS Towers shall be twenty-five feet (25') as measured at the lowest point of the arc of the blades. The minimum distance between the ground and any protruding blade(s) utilized on all Non-commercial or Micro WECS Towers shall be a minimum of fifteen feet (15'), as measured at the lowest point of the arc of the blades provided the rotor blade does not exceed twenty feet (20') in diameter. In either instance, the minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.



## **6.11. Lighting.**

**6.11.1. Intensity and frequency.** All lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the Federal Aviation Administration permits and regulations.

**6.11.2. Shielding.** Except with respect to lighting required by the Federal Aviation Administration, lighting may require shielding so that no glare extends substantially beyond any WECS Tower.

**6.12. Guy wire anchors.** No guy wire anchors shall be allowed within any required public road right-of-way setback

**6.13. Utility interconnection.** The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable ordinances of the electrical utility, as amended from time to time.

**6.14. Feeder Lines.** Feeder lines installed as part of any WECS shall not be considered an essential service, to wit: all communications and feeder lines installed as part of any WECS shall be buried underground whenever possible.

**6.15. Other appurtenances.** No appurtenances other than those associated with the WECS construction, operations, maintenance, decommissioning/removal, and permit requirements shall be connected to any WECS Tower except with the express written permission of the Miami County Board of Zoning Appeals.

## **SECTION 7. PERMIT APPLICATION PROCEDURES**

**7.1. Application.** All applications for an Improvement Location Permit shall be filed utilizing forms provided by the Zoning Administrator, and must contain copies of all agreements between the Applicants, Landowners, Developers, and Operators.

**7.2. Applications for All Wind Energy Conversion Systems.** Applications for all WECS shall include the following:

**7.2.1. Contact information of participants.** The name(s), address(es), and phone number(s) of the Applicant(s), Landowners, Developers, and Operators, as well as a description of their respective business structure.

**7.2.2. Legal description.** The legal description and common street address showing the location of the System.

**7.2.3. Project description.** A description of the proposed System, including to the extent possible, information on each turbine proposed, including number of turbines, type, name plate generating capacity, tower height, rotor diameter, total height, anchor base, the means of interconnecting with the electrical grid, the potential equipment manufacturer(s), and, all related accessory structures.

**7.2.4. Site layout plan.** A site layout plan, drawn at an appropriate scale, showing distances pertaining to all applicable setback requirements and certified by a registered land surveyor.

**7.2.5. Engineering certification.** For all WECS, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the improvement location permit application, that the foundation and tower design of the WECS are within accepted professional standards, given local soil and climate conditions. An engineering analysis of the WECS Tower showing compliance with the applicable ordinances and certified by a licensed professional engineer shall also be submitted. The analysis shall be accompanied by standard drawings of the wind turbine structure, including the tower, base and footings.

**7.2.6. Proof of correspondence and cooperation with wildlife agencies.** For the purpose of preventing harm to migratory birds and in compliance with the Migratory Birds Treaty Act, the applicant shall provide written documentation that he or she is in direct correspondence and cooperation with the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources, and any other item reasonably requested by the Zoning Administrator.

**7.2.7. Ruling Required from IEMT Coordinator.**

**7.2.7.1.** Prior to consideration for approval under this Ordinance, Miami County will transmit a copy of applications submitted hereunder to the Grissom Air Reserve Base Installation Encroachment Management Team (IEMT) Coordinator for a written determination of whether the proposed project will create an obstruction, interference, hazard, or adverse impact on military training routes, flight paths, or other operational areas or will interfere with military surveillance radar or communications equipment used by the Department of Defense. The written decision of the IEMT Coordinator must include an explanation of its determination, including any background analyses or findings.

**7.2.7.2.** Failure of the IEMT Coordinator to provide a written response to Miami County staff within seven (7) business days of the Coordinator's receipt of the County's transmittal of a copy of an application submitted under this Ordinance, may be deemed an indication the proposed development does not create an obstruction, interference, hazard, or adverse impact. A written determination or a request for additional time within 7 business days meets the requirements of this paragraph.

**7.2.7.3.** The determination of the IEMT Coordinator, or confirmation that no timely determination was received, will be provided to an official, board, commission, or other agency making recommendations or making a final decision under this Ordinance, prior to a final recommendation or final decision being rendered.

**7.2.7.4.** Upon written request of the IEMT Coordinator, the County may make a final decision regarding an application submitted under this Ordinance, following completion of and a final decision under 10 U.S.C. 183a review, "Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions," if such is required.

**7.2.7.5.** The County will consider the input of the IEMT Coordinator prior to giving a final approval to any development proposed under this Ordinance for which the IEMT Coordinator makes a determination in writing will create an obstruction, interference, hazard, or adverse impact on military training routes, flight paths, or other operational areas or will interfere with military surveillance radar or communications equipment used by the Department of Defense.

**7.2.8. Decommissioning plan.** A decommissioning plan as prescribed in Section 9 of this Ordinance

**7.2.9. Economic development, drainage, and road use and maintenance agreements.**

**7.2.9.1** An Economic Development Agreement, a Drainage Agreement, and a Road Use and Maintenance Agreement, all fully executed and approved by the County Commissioners.

**7.2.9.2.** For any project seeking tax abatement or other economic considerations for the project from a governmental entity, the applicant shall submit an Economic Development Agreement approved by the County Commissioners. The Economic Development Agreement must be developed in consultation with the Miami County Economic Development Authority (MCEDA) and the County Council. The

Economic Development Agreement shall include, as applicable, estimated property taxes, estimated tax abatement benefits, any estimated economic development payments, any estimated lease payments, and an estimate of the overall cost and tax revenue impact on the County, as well as the estimated current economic impact of the project area in its current use.

**7.2.9.3.** The Drainage Agreement must address crop and field tile damages that could potentially be caused during construction and for a reasonable period after construction.

**7.2.10. Erosion control plan.** An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS), and a storm water quality management plan.

**7.2.11. Utility plan.** A utility plan drawn to the same scale as the site layout plan illustrating the location of all on-site underground utility lines.

**7.2.12. Avoidance and mitigation of damages to public infrastructure.** In addition to complying with the Road Use and Maintenance Agreement, an applicant, owner, or operator proposing to use any county road(s), for the purpose of transporting any component of System or Tower shall comply with the following pre-construction requirements:

**7.2.12.1. Identification of roads and services.** Identify all roads and services, to the extent that any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it shall be approved by the Miami County Highway Superintendent.

**7.2.12.2. Pre-construction survey.** The applicant shall conduct a pre-construction baseline survey acceptable to the Miami County Highway Superintendent to determine existing road conditions for assessing potential future damage. The survey shall include photographs, or video, or a combination thereof, and a written agreement to document the condition of the public roadway.

**7.2.13. Fire prevention and emergency response plan and requirements.** A plan approved by the chief of the fire department having jurisdiction over the WECS that describes the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other responders in the event of fire or emergency.

**7.3. Applications for Non-Commercial WECS.** Applications for Non-Commercial WECS shall also include the following:

**7.3.1. Demonstration of energy need.** The primary purpose of the production of energy from a Non-Commercial WECS shall be to serve the energy needs of that tract. Applicants must demonstrate how much energy is needed and how the proposed size and number of the WECS Towers fulfill this need. Net-metering may be allowed, but shall not be the primary intent of the WECS.

**7.3.2. Statement of Federal Aviation Administration compliance.** A statement of compliance with all applicable Federal Aviation Administration rules and ordinances, including any necessary approvals for installations within close proximity to an airport.

**7.3.3. Utility notification.** No non-commercial WECS shall be installed until evidence has been given that the local utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

**7.3.4. Compliance with National Electrical Code.** A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

**7.4. Applications for Commercial WECS.**  
In addition to the application requirements listed in Section 7, applications for Commercial WECS shall also include the following information:

**7.4.1. A preliminary site layout plan.** A preliminary site layout plan with distances drawn to an appropriate scale illustrating the following:

- 7.4.1.1** Property lines, including identification of adjoining properties;
- 7.4.1.2.** The latitude and longitude of each individual WECS Tower, along with individual identification of each WECS Tower;
- 7.4.1.3.** Dimensional representation of the structural components of the WECS Tower construction including the base and footings;
- 7.4.1.4.** WECS access roads;

- 7.4.1.5. Substations;
- 7.4.1.6. Electrical Cabling;
- 7.4.1.7. Ancillary equipment;
- 7.4.1.8. Primary structures within one-quarter (1/4) mile of all proposed WECS Towers;
- 7.4.1.9. Distances meeting set-back requirements;
- 7.4.1.10. Location of all public roads which abut, or traverse the proposed site;
- 7.4.1.11. The location of all above-ground utility lines within a distance of two (2) times the height of any proposed WECS structure;
- 7.4.1.12. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archaeology of the Indiana Department of Natural Resources, within one (1) mile of a proposed WECS Tower;
- 7.4.1.13. The location of any wetlands based upon the delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within one (1) mile of a proposed WECS Tower; and
- 7.4.1.14. Topographic Map. A USGS topographical map, or map with similar data, of the property and the surrounding area, including any other WECS Tower within a ten (10) rotor distance, but no less than a one quarter (1/4) mile radius from the proposed project site, with contours of not more than five (5) foot intervals.

7.4.2. Noise profile.

7.4.3. Location of all known WECS Towers within one (1) mile of the proposed WECS Tower, including a description of the potential impacts on said WECS Tower and wind resources on adjacent properties.

**7.5. Applications for all Meteorological Towers.** Applications for all Meteorological Towers shall also include the following information:

**7.5.1.** A copy of the agreement where the landowner has authorized the placement of a Meteorological Tower on their property.

**7.5.2.** A preliminary site layout plan with distances drawn to appropriate scale including the following:

- 7.5.2.1.** Property lines, including identification of adjoining properties;
- 7.5.2.2.** The latitude and longitude of each individual Meteorological Tower;
- 7.5.2.3.** Dimensional representation of the structural components of the tower construction, including base and footings;
- 7.5.2.4.** Ancillary equipment;
- 7.5.2.5.** Required setback lines;
- 7.5.2.6.** Location of all public roads which abut or traverse the proposed site;
- 7.5.2.7.** The location of all above-ground utility lines within a distance of 2 times the height of any proposed tower;
- 7.5.2.8.** The location of all underground utility lines; and
- 7.5.2.9.** Any other items reasonably requested by the Zoning Administrator.

## **SECTION 8. POST-CONSTRUCTION OPERATION AND MAINTENANCE REQUIREMENTS**

**8.1. Physical modifications.** In general, any modification to any WECS or Meteorological Tower that alters the mechanical load, mechanical load path, or major electrical components shall require an Improvement Location Permit.

**8.2. Interference.** The Landowner and/or Operator shall mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals. If, after the Landowner or Operator receives a written complaint related to interference with the broadcast of residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate the interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant. If an agreement to remedy a known interference is not reached within ninety (90) days, appropriate action will be taken, which may result in requiring the WECS to become inactive.

**8.3. Maintenance records.** At least annually, the Operator will provide to the Zoning Administrator a letter certifying that all required and periodic maintenance has been performed during a particular calendar year and that the WECS is operating safely and efficiently. Should the Zoning Administrator not receive such annual certification, the Administrator will send a notice to the Operator requesting the certification letter within thirty (30) days. If after the thirty (30) days, the Zoning Administrator has not received the required maintenance certification, then the Zoning Administrator may hire, at the Operator's expense, a qualified inspector to perform an inspection of the WECS System.

**8.4. Declaration of public nuisance.** Any WECS or Meteorological Tower declared to be unsafe by the Miami County Zoning Administrator by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the approved Decommissioning Plan, and shall, in addition be subject to the provisions of Section 13 of this Ordinance.

**8.5. Materials handling, storage, and disposal.**

**8.5.1. Solid wastes.** All solid wastes whether generated from supplies, equipment, parts, packaging, operation, or maintenance, including old parts and equipment related to the construction, operation and/or maintenance shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

**8.5.2. Hazardous materials.** All hazardous materials or waste related to the construction, operation and/or maintenance shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.

**8.6. Noise.** The noise level of Non-commercial WECS shall be no greater than sixty (60) decibels measured from the property lines of any adjoining property owned by a Non-participating Landowner. This level may only be exceeded during short-term events such as utility outages and/or severe wind storms. All other noise and vibration levels shall be in compliance with all county, state, and federal ordinances.

**8.7. Shadow Flicker.** A shadow flicker is the effect of the sun (low on the horizon) shining through the rotating blades of a wind turbine, casting a moving shadow. At no time shall a wind turbine's tower, nacelle, or blades create a shadow flicker on any adjoining property owned by a Non-participating Landowner.

**8.8. Sewer and water.** All sewer and water facilities and structures shall comply with all local, state, and federal laws, ordinances and regulations.

**8.9. Drainage.** All facilities and structures shall comply with all local, state, and federal laws, ordinances, and regulations, and the drainage agreement described in Section 7.2.9.



**8.10. Road repairs.** Any road damage caused by the construction of project equipment, the installation of the same, or the removal of the same, shall be repaired as per the Road Use and Maintenance Agreement approved by the County Commissioners described in Section 7.2.9.

**8.11. As-built plans requirement.** Upon completion of all construction, documents showing the exact measurements of the location of utilities and structures erected shall therefore be recorded in the office of the Recorder of Miami County. The Applicant shall submit a copy of the final construction plans (as-built plans) to the Zoning Administrator with the exact measurements thereon shown. The Zoning Administrator, after being satisfied that the measurements are substantially the same as indicated on the originally approved final plan(s), shall approve, date and sign said construction plans for the project, which the Applicant shall then record.

**8.12. Change of ownership.** It is the responsibility of the Owner and Operator to inform the Zoning Administrator of all changes in ownership and/or operation during the life of the WECS or Meteorological Tower, so that the Zoning Administrator is assured that new Owner and/or Operator will be in compliance with all provisions of this Ordinance., including but not limited to those obligations contained in Sections 8, 9, and 10, and those described in any and all plans and agreements submitted in support of applications filed hereunder.

## **SECTION 9. DECOMMISSIONING PLAN**

A decommissioning plan shall estimate the anticipated means and cost of removing a WECS at the end of its serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned, and shall include the following:

**9.1. Cost estimates.** The Applicant shall provide a cost estimate for demolition and removal of the WECS prepared by a competent party, such as a professional engineer, a contractor capable of decommissioning, or a person with suitable experience or experience with decommissioning WECS.

**9.2. Financial assurance.** Applicant will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit, or other security acceptable to the County, for the cost of decommissioning each WECS Tower and related improvements constructed under the permit. Said security will be released when each WECS Tower is properly decommissioned as determined by Miami County.

## **SECTION 10. DISCONTINUTATION AND ABANDONMENT**

**10.1. Presumption.** All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to, and approved by, the Zoning Administrator outlining the steps and schedule for returning the WECS to service.

**10.2. Removal.** An Applicant's obligations shall include, above and below ground, removal of all physical material pertaining to the project improvements to no

less than a depth of ten feet (10') below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the WECS or WECS Project, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements. Removal obligations shall be completed by the owner at the owner's expense.

**10.3. Costs incurred by the County.** If the County removes a WECS Tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By obtaining an Improvement Location Permit, the Landowner grants a license to Miami County to enter the property to remove a WECS Tower and appurtenant facilities pursuant to the terms of an approved decommissioning plan.

### **SECTION 11. LIABILITY INSURANCE**

At all times, the Owner or Operator of any WECS or Meteorological Tower shall maintain a general liability policy covering bodily injury and property damage and a certificate of liability insurance will be required, naming Miami County as an additional insured, with dollar amount limits of at least \$2 million per occurrence and \$5 million in the aggregate. A certificate of insurance and copy of the policy and any renewal policies shall be provided by the insurer to the Zoning Administrator upon each renewal and/or change to said policy.

### **SECTION 12. CONFLICT WITH OTHER REGULATIONS**

Nothing in this Ordinance is intended to preempt other applicable state and federal laws or ordinances, including compliance with all Federal Aviation Administration rules and regulations, and shall comply with the notification requirements of the Federal Aviation Administration. Nor is anything contained herein intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute or other provision of law. In the event that any provision of this Ordinance imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that are more restrictive or that impose higher standards shall govern.

### **SECTION 13. ENFORCEMENT AND VIOLATIONS**

**13.1.** This Ordinance may be enforced by following the enforcement procedures contained in the Miami County Zoning Ordinance.

**13.2.** In addition to all other remedies that are available under the Miami County Zoning Ordinance or Indiana law, any person who violates this Ordinance or fails to comply with any of its provisions may be fined by the Zoning Administrator the sum or up to One Hundred Dollars (\$100.00) per day for each day that such violation continues unabated.

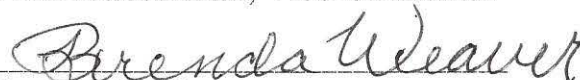
### **SECTION 14. REPEAL OF PRIOR ORDINANCE AND EFFECTIVE DATE**

This Ordinance shall become effective upon publication of notice of its adoption as required by law, at which time Ordinance No. 01-19-2021 B shall be repealed.

Adopted by the Miami County Board of Commissioners this 16th day  
of August, 2021.

  
\_\_\_\_\_  
Alan Hunt, Chairman

  
\_\_\_\_\_  
Fred Musselman, Vice-Chairman

  
\_\_\_\_\_  
Brenda G. Weaver

Attest:

  
\_\_\_\_\_  
Mary Brown, Miami County Auditor