

Newton County Ordinance No. 09-06-01
REGULATION OF WIND ENERGY CONVERSION SYSTEMS

An Ordinance Amending the “Zoning Code of Newton County” Ordinance 94-1

Whereas, Newton County has been identified as an Indiana County with the appropriate topographic, geographic, and climatic conditions to support large-scale wind energy conversion systems; and

Whereas, technological advances and market conditions have caused significant private investments in large-scale wind energy conversion systems in recent years in the Midwestern United States and other Indiana counties; and

Whereas, the County finds that the unregulated or under regulated wind energy conversion systems within the County could create significant visual, land use and other impacts; and

Whereas, the County finds that the placement of wind energy conversion systems should be regulated in order to protect the public health, safety and welfare, and to protect property values; and

Whereas, the County’s comprehensive planning process and associated regulations are designed to ensure that property is developed in a planned manner to preserve property values and to protect the welfare of the residents of the County; and

Whereas, the County desires to provide guidance to wind energy conversion systems providers; and

Whereas, the County finds that adoption of special exception requirements with specific development standards, with an administrative review of wind energy conversion systems special exception applications, will result in a reasonable process for obtaining land use special exceptions for wind energy conversion systems within the County; and

Whereas, the County has undertaken a deliberative public process to establish policy, standards and procedures related to the placement of wind energy conversion systems.

Now, therefore, be it ordained by the Board of County Commissioners of Newton County, Indiana:

The following changes and additions are hereby made to the Zoning ordinance for Newton County, 94-1, as amended:

SECTION 1 – DEFINITIONS

The following definitions are added to Section 2.00 of the Newton County Zoning Ordinance titled DEFINITION OF TERMS.

Applicant – means the entity or person who submits to the county an application for the placement or installation of any Wind Energy Conversion System or substation or thereafter operates or owns a Wind Energy Conversion System.

Application – means the forms and documents submitted to the County by an applicant seeking approval from the Board of Commissioners and/or the Plan Commission and/or the Board of Zoning Appeals and/or the Building Commissioner, which must include forms authorized by, and/or documents required by, the

Board of Commissioners and/or the Plan Commission and/or the Board of Zoning Appeals and/or the building Commissioner.

Building-Mounted Wind Energy Conversion System – means a building- Mounted Wind Energy Conversion System with a manufacturer’s rating of ten (10) kilowatts or less, and projects no more than fifteen (15) feet above the highest point of the roof.

Financial Assurance – means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

Large Wind Energy Conversion System – means a Wind Energy Conversion System with a manufacturer’s rating of more than fifty (50) kilowatts per wind tower, or a total height of more than one-hundred forty (140) feet, or a swept area of more than forty (40) feet.

Operator – means the entity responsible for the day-to-day operation and maintenance of a Wind Energy Conversion System, including any third party subcontractors.

Owner – means the entity or entities with an equity interest in the Wind Energy Conversion System(s), including their respective successors and assigns. Owner does not mean:

- i. The property owner from whom the land is leased for locating the Wind Energy Conversion System(s) [Unless the property owner has an equity interest in the Wind Energy Conversion System(s)]; or
- ii. Any entity or person holding a security interest in the Wind Energy Conversion System(s) solely to secure an extension of credit, or an entity or person foreclosing on such security interest providing that after foreclosure, such entity or person seeks to sell the Wind Energy Conversion System(s) within one year of such event.

Professional Engineer – means a qualified individual who is licensed as a professional engineer by the State of Indiana.

Primary Structure – means, for each property, the structure that one (1) or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Small Wind Energy Conversion System – means a Wind Energy Conversion System with a manufacturer’s rating of less than or equal to fifty (50) kilowatts per wind tower, and a total height of one-hundred forty (140) feet or less, and a swept area of forty (40) feet or less.

Substation – means the apparatus that connects the electrical collection system of the Wind Energy Conversion System(s) and increases the voltage for connection with the utility’s transmission lines.

Swept Area – means the diameter of the circle of all blades or rotors associated with a Wind Energy Conversion System.

Switching Station – means an apparatus/structure in the system of the Wind Energy Conversion System(s) similar to a substation, but not necessarily increasing voltage into the grid.

Wind Energy Conversion System – 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, tower, electrical components, tower foundation, transformer, and electrical cabling from the tower to the substation(s) , switching stations, meteorological towers, communications facilities, and other required facilities and equipment as related to the Wind Energy Conversion System project.

Wind Energy Conversion System Project – means the collection of Wind Energy Conversion System(s) and substations as specified in the approval application.

Wind Energy Conversion System Total Height – means the distance from the rotor blade at its highest point to the top surface of the Wind Energy Conversion System foundation.

Wind Energy Conversion System Tower – means the support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.

Wind Farm – means two (2) or more large Wind Energy Conversion Systems on a single property or aggregated properties.

SECTION 2 – Special Exception Wind Energy Conversion Systems

SECTION 5.00 of the Zoning Ordinance, titled Special Exceptions, is amended by adding the following to subsection (2), being a list of special exceptions with Agricultural Districts.

Large Wind Energy Conversion Systems, subject to the requirements of Section 5.6.

SECTION 3 –Wind Energy Conversion Systems

A new **SECTION 5.6**, titled, **Wind Energy Conversion Systems**, is added to the Zoning Ordinance to read as follows:

- A. This Section governs the placement or installation of Wind Energy Conversion Systems and substations that generate electricity to be sold to wholesale or retail markets. (Exception: Owners of property who propose to place or install a Wind Energy Conversion System with an aggregate generating capacity of three (3) megawatts (MW) or less on their own property shall obtain a variance from the Board of Zoning Appeals).
- B. Wind Energy Conversion Systems may be placed or installed and operated in all Newton County Townships.
- C. The Board of Zoning Appeals may grant a special exception for a Large Wind Energy Conversion System(s) in Agricultural Districts subject to the provisions of this section.
- D. The Board of Zoning Appeals may grant a variance of use for a Small Wind Energy Conversion System(s) in any zoning district.
- E. All applications for Wind Energy Conversion Systems must demonstrate the operation will be conducted in accordance with all applicable standards and/or requirements of the utility regulatory agencies of the State of Indiana and the United States of America, as may exist. Compliance with

such standards and/or regulations shall not constitute compliance with the special exception requirements herein.

- F. A proposed Wind Energy Conversion System application for special exception shall be filled with the Board of Zoning Appeals to include the following:
1. A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s), number and name plate generating capacity of each Wind Energy Conversion System; the maximum height of the tower(s) and a maximum diameter of the rotor(s); the general location of the project; and a description of the applicant, owner, and operator, including their respective business structures.
 2. The name(s), address(es), phone number(s) of the applicants, owner and operator, and all property owner(s) proposed for Wind Energy Conversion Systems on their properties.
 3. A topographic map of the project site and the surrounding area which shall encompass an area at least one quarter (1/4) mile radius from the proposed project site with contours on not more than five (5) foot intervals.
 4. A site plan at an appropriate scale showing [standard sheet of thirty-six (36) inches by twenty-four (24) inches and individual tower site not greater than once (1) inch equals twenty (20) feet] the proposed location of the wind energy facility (including planned locations of each tower, guy lines and anchor bases, if any; access roads, substations, electrical cabling, and ancillary equipment). In addition, the site plan shall show: primary structures, within one-quarter (1/4) of one mile of any Wind Energy Conversion Systems; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) times the Wind Energy Conversion Systems' tower height; and recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources.
 5. Location of all existing underground utility lines associated with the Wind Energy Conversion System site.
- G. In determining whether to approve the application for special exception, the BZA shall determine whether the application satisfies each of the six (6) criteria set forth herein, and make written findings thereof.
1. In accordance with the intent of this ordinance: The proposed Wind Energy Conversion System is in accordance with the intent of this ordinance.
 2. Will not reasonably interfere with the orderly land use and development plans: The proposed Wind Energy Conversion System will not unreasonably interfere with the orderly land use and development plans of Newton County and/or affected municipalities.
 3. Benefits to the public will exceed any burdens: The proposed Wind Energy Conversion System will benefit the public beyond any burdens.
 4. Not detrimental to the public health and safety: The proposed Wind Energy Conversion System will not be detrimental to the public health and safety.
 5. Not adverse to the environment, neighborhood, or community: The proposed Wind Energy Conversion System will not be hazardous or harmful to the environment or the community.

6. Complies with all required provisions of the zoning ordinance: The proposed Wind Energy Conversion System complies with all required provisions of the zoning ordinance, unless variances have been properly applied for and granted by the Newton County Board of Zoning Appeals.
- H. The special exception granted by the Board of Zoning Appeals for a Wind Energy Conversion System shall be valid for a period of one (1) year, after which the special exception shall terminate and be of no further force or effect if construction in earnest of the approved Wind Energy Conversion System has not commenced. The applicant shall be granted a one (1) year extension to two (2) years from the date of the BZA's approval if the applicant presents its request to the BZA and provides a report which shows the progress made on the Wind Energy Conversion System project. Thereafter, an additional extension shall be at the Board's discretion.
- I. The initial fee for the application for a special exception shall be payable at the time of submission of the application in the amount of \$20,000.00. Additional fees may be charged to offset costs associated with the review, analysis and reporting by County agencies and/or applicable professional consultancies retained by the County to analyze, evaluate and otherwise assess the application. Total fees for the application for a special exception shall not exceed \$100,000.00. Said additional application fees shall be payable within thirty (30) days following the identification of the additional fee amount by the County, which identification shall provide the amounts spent with reasonable detail. Failure to pay the additional amount shall constitute grounds for the Board of Zoning Appeals to consider revocation of the special exception if prior approved.
- J. The application for variance.
1. Contemporaneously with the application for a special exception, the applicant shall submit an application for development standards variance for any variances sought as part of the Wind Energy Conversion System project. A single application for variance may be submitted for all variances sought.
 2. In determining whether to approve the application for development standards variance, the Board shall determine whether the application satisfies each of the three (3) criteria set forth in the 900 Series of IC 36-7-4, and make written findings thereof.
 3. In determining whether to approve the application for use variance, the Board shall determine whether the application satisfies each of the five (5) criteria set forth in the 900 Series of IC 36-7-4 and make written findings thereof.
 4. The fee for any variances of development standards is included in the application fee.
 5. The fee for a variance of use for a Small Wind Energy Conversion System shall be payable at the time of submission of the application in the amount of \$150.00.
- K. The application for Improvement Location Permit.
1. The applicant shall apply to the Building Commissioner for an Improvement Location Permit. In addition to the information required on the Improvement Location Permit application, the applicant shall provide the following to the Building Commissioner prior to the issuance of an Improvement Location Permit:
 - a. The fee for an Improvement Location Permit for a Large Wind Energy Conversion System shall be payable at the time of submission of the application in the amount of \$1,700.00 per megawatt (MW) capacity, which will be prorated for fractional MW capacity.

- b. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed Wind Energy Conversion System(s).
 - c. Location of all underground utility lines associated with the Wind Energy Conversion System site.
 - d. Dimensional representation of the structural components of the tower construction including the base and footings.
 - e. Schematic of electrical systems associated with the Wind Energy Conversion system including all existing and proposed electrical connections.
 - f. Manufacturer's specifications and installation and operation instructions or specific Wind Energy Conversion System design information.
 - g. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by the International Code Council.
 - h. All turbines shall be new equipment commercially available. Used, experimental, or prototype equipment still in testing shall be approved by the Board as per the normal special exception process.
 - i. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Building Commissioner.
 - j. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board.
 - k. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
 - l. A revegetation plan for restoring areas temporarily disturbed during construction.
 - m. A fire protection plan for construction and operation of the facility.
 - n. The owner's and/or operator's emergency response representative's name, telephone number(s), business address and residence address shall be provided to the Building Commissioner. Said business address and residence address shall be located within thirty (30) miles of the proposed Wind Farm.
 - o. Any other item reasonably requested by the board.
2. A drainage plan for construction and operation must be developed and approved by the Newton County Drainage board.
 3. An erosion control plan must be developed in consultation with the Newton County Soil and Water Conservation District.
 4. Each Wind Energy Conversion System tower shall require an Improvement Location Permit. The fee for each Improvement Location Permit shall be \$1,700.00 per megawatt (MW) capacity, which will be prorated for fractional MW capacity.
- L. Design and Installation
1. Design Safety Certification.
 - a. Wind Energy Conversion Systems shall conform to applicable industry standards. Applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters laboratories, Det Norske Veritas, Germanishcher Lloyd wind Energie, or an equivalent third party.
 - b. Following the granting of location approval under this Zoning Code, a professional engineer shall certify, as part of the Improvement Location Permit application that is the foundation and tower design is within accepted professional standards, given local soil and climate conditions.

- c. Any Wind Energy Conversion System declared to be unsafe by the Newton County Building Commissioner by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, 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 procedures set forth in the County ordinances governing the removal of nuisances.
2. Controls and Brakes

All Wind Energy Conversion Systems shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
3. Electrical Components
 - a. All electrical components of the Wind Energy Conversion System shall conform to applicable local, state, and national codes, and relevant national and international standards.
 - b. Electrical Collection Cables.

All Wind Energy Conversion System electrical collection cables between each Wind Energy Conversion System shall be located underground unless they are located on public or utility rights-of-way or with prior approval of the Building Commissioner. All collection lines that are buried should be at 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 designate until the same reach the property line or a substation adjacent to the property line. Said electrical collection cables between each Wind Energy Conversion System and/or on-site substations may be located above ground where burial presents a technical or practical difficulty, such as a deep ravine or significant waterway. Once the technical or practical difficulty is traversed, burial shall be required per the standards noted above.
4. Color.
 - a. Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.
 - b. The applicant for the Wind Energy Conversion System shall comply with all applicable FAA requirements.
5. Warnings.
 - a. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 - b. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of the guy wires and along the guy wires up to a height of not less than fifteen (15) feet from the ground.
6. Climb Prevention. All Wind Energy Conversion System tower designs must include features to deter climbing or be protected by anti-climbing devices, such as:
 - a. Fences with locking portals at least six (6) feet high;
 - b. Anti-climbing devices fifteen (15) feet vertically from the base of the Wind Energy Conversion System tower; and
 - c. Locked Wind Energy Conversion System tower doors.
7. Blade Clearance.

The minimum distance between the ground and any protruding blade(s) utilized on a Wind Energy Conversion System shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

8. Noise and Vibration.

At no point within two-hundred (200) feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in the existing Newton County ordinances as it applies to Wind Energy Conversion Systems.

Octave Bands in Hertz (Hz) per ANSI	Maximum Permitted Sound Level (in Decibels [dB]) measured 200 feet from edge of any primary residence
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

A formal noise study or noise analysis shall not be required with the application for a special exception. Notwithstanding the forgoing sentence, the Building commissioner staff may require a noise analysis following the receipt of noise-related complaints. In the event the Building Commissioner staff requests a formal noise study or noise analysis, the owner or operator shall produce said study or analysis in accordance with the standards noted above within sixty (60) days.

9. Utility Interconnection.

The Wind Energy Conversion System, if connected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility’s then-current service regulations applicable to Wind Energy Conversion Systems.

10. Waste Management.

All solid waste, whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to, lubricating materials, shall be handled in a manner consistent with all local, state, and federal rules and regulations.

11. Lighting.

Except with respect to lighting required by the FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the wind farm facilities.

12. Compliance with Additional Regulations.

Nothing in this Section is intended to preempt other applicable state and federal laws and regulations.

M. Setbacks.

1. No Wind Energy Conversion System, or any of its components, shall be constructed in any county setback, dedicated County public easements, or dedicated County public right-of-way without prior written authorization from the County.
2. Setback distances. Distance shall be measured from the center of the foundation at the base of the tower.
 - a. Temporary and permanent meteorological towers and wind turbine towers associated with a Wind Energy Conversion System(s).
 - i. A setback distance of at least three hundred fifty (350) feet or once and one-tenth (1.1) times the height of the tower with the blade tip at its highest point, whichever is greatest, from any property line, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. New structures built adjacent to towers shall maintain these same minimum setback requirements. Participating landowners within the areas comprising the Wind Energy Conversion System may waive property line setbacks for towers with written approval from all landowners sharing such property line.
 - ii. The setback distance for towers with turbines with a rated capacity of one megawatt (1.0 MW) or less shall be at least one thousand (1,000) feet from any existing residence, occupied structure, place of public gathering (e.g. schools, churches, etc.) or platted subdivision boundary under the zoning jurisdiction of Newton County. An “occupied structure” means any structure which is occupied at least eight (8) hours per day for more than one-half (1/2) week on average. However, such towers may be placed as near as six hundred (600) feet from an occupied structure or residence with the prior written approval of the owner.
 - iii. The setback distance for meteorological towers, and wind turbine towers with a rated capacity greater than one megawatt (1.0 MW), shall be at least one thousand (1,000) feet from any existing residence, occupied structure, place of public gathering or platted subdivision boundary under the zoning jurisdiction of Newton County, and one thousand five hundred (1,500) feet from any platted community under the zoning jurisdiction of a municipality. Participating land owners within the boundary of the Wind Energy Conversion System may waive the residence setbacks to not less than three hundred fifty (350) feet or one and one-tenth (1.1) times the height of the tower with the blade tip at its highest point, whoever is greatest, from nay existing residence.
 - b. Temporary and permanent meteorological towers and wind turbine towers associated with a Small Wind Energy Conversion System
 - i. The setback distance shall be not less than the total height of the tower with the blade tip at its highest point from any property line, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Participating landowners within the area comprising the Wind Energy Conversion System may waive property line setbacks for towers with written approval from all landowners sharing such property line.
 - ii. The setback distance shall be not less than the total height of the tower with the blade tip at its highest point form any structure intended for residential occupancy. New structures for residential occupancy shall maintain these same minimum setback requirements.

- c. Collector substations and switching stations: the setback distance for the fence which shall surround the collector substations and witching stations shall be at least one hundred (100) feet from the center of the adjacent public and/or access road, but shall be no closer than the edge of the road right-of-way.
- d. Operation and maintenance building: the setback distance shall be one hundred (100) feet from the center of any adjacent road(s) and twenty-five (25) feet from all property lines measured from the foundation wall of the building.
- e. Pad-mount transformers may be located within a utility easement, leased areas, or right-of-way, but are not required to be within those areas.
- f. Poles for above-ground electrical collection or transmission cables: the maximum distance of a pole base associated with above-ground electrical collection or transmission cables, if located within the public right-of-way, shall be five (5) feet from the right-of-way line, or as approved by the County or its designee.
- g. Setback standards from a property line shall not be required if the applicable property line is located within the overall wind farm boundary such that parcels of real estate located on either side of the property line are both located within the same wind farm.

N. Use of Roads/Services

An applicant, owner, operator, or their assigns proposing to use any County road(s), for the purpose of transporting Wind Energy Conversion Systems or substation parts and/or equipment for construction, operation, maintenance, or decommissioning of the Wind Energy Conversion System(s) or substation(s), shall prior to the construction or decommissioning:

- 1. Submit a written plan and agreement for use of roads and repair of drainage facilities, subject to the approval of the Newton County Board of Commissioners, and identifying all such public roads and services.
- 2. Roads.
 - a. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Newton County Highway Supervisor. The Supervisor shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
 - b. Any road damage caused by the construction of the Wind Energy Conversion System project equipment, the installation of same, or the removal of same, must be repaired to the satisfaction of the Newton County Highway Supervisor. The Supervisor may choose to require either remediation or road repair upon completion of the project 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 Supervisor to ensure the County that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.
 - c. Newly constructed Wind Energy Conversion System access road may not impede the flow of water.
 - d. Reasonable dust control measures will be required by the County during construction of the Wind Energy Conversion System.
- 3. Sewer and Water.

Any facility shall comply with existing septic and well regulation as required by the Newton county Health Department and the State of Indiana Department of Public Health.

4. Drainage Repair.

All damages to waterways, drainage ditches, field tiles, or any other drainage-related infrastructure caused by the construction or maintenance of the Wind Energy Conversion System must be completely repaired to near original condition, so not to impede the natural flow of water. All repairs must be complete within a reasonable amount of time, and completed to the satisfaction and approval of the Newton County Surveyor.

O. Operation.

1. Maintenance/Inspection

- a. The owner or operator of the Wind Energy Conversion System must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the owner or operator must furnish such operation and maintenance reports as the county reasonably requests.
- b. Any physical modification to the Wind Energy Conversion System that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification to be administratively approved by the Building Commissioner. Said Building Commissioner approval, or denial, may be appealed to Board of Zoning Appeals. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with the Building Commissioner to determine whether the physical modification requires recertification.
- c. The Building Commissioner staff, along with licensed third party professionals retained by the County for the specific purpose of conducting inspections of the Wind Energy Conversion System shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his/her agent, on the premises where a Wind Energy Conversion System has been constructed, to inspect all parts of said Wind Energy Conversion System installation and to require that repairs or alterations be made. The owner or operator of a Wind Energy Conversion System may retain a licensed third party professional engineer familiar with Wind Energy Conversion Systems to prepare and submit to the Building Commissioner staff a written report, which addresses the repairs or alterations requested, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the Building Commissioner staff that repairs or alterations are requested, or within a longer period of it mutually acceptable to both parties. The Building Commissioner staff and the owner or operator, or a third party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Building Commissioner shall be final, but may be appealed to the Board of Zoning Appeals.
- d. Inspections, at a fee reasonably representative of actual costs incurred by the County as determined from time to time by the Commission and paid by the applicant, may be made by the Building Commissioner, or by a qualified inspector for equipment of this type selected by the Building Commissioner, no more than once annually to certify the safety and maintenance of the Wind Energy Conversion System(s) and accessory structures.

2. Interference.

If, after construction of the Wind Energy Conversion System, the owner or operator receives a written complaint related to interference with local broadcast residential television,

telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to minimize the complaint.

3. Coordination with Local Fire Department.

- a. The applicant, owner, or operator shall submit to the local fire department a copy of the site plan.
- b. Upon request by the local fire department, the owner or operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
- c. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

4. Materials Handling, Storage, and Disposal.

- a. All solid wastes related to the construction, operation, and maintenance of the Wind Energy Conversion System(s) shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
- b. All hazardous materials or waste related to the construction, operation, and maintenance of the Wind Energy Conversion System shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.

P. Liability Insurance.

The owner or operator of the Wind Energy Conversion System(s) shall maintain a current general liability policy covering bodily injury and property damage and name the property owner(s) as an additional insured with limits of at least two million dollars (\$2,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate with a deductible of no more than one hundred thousand dollars (\$100,000) or operator can provide evidence of ability to self-insure.

Q. Decommissioning Plan.

Prior to receiving final location approval under this section, the County and the applicant, owner and/or operator must formulate a Decommissioning Plan to ensure that the Wind Energy Conversion System(s) project is properly decommissioned. The Decommissioning Plan shall include:

1. Assurance that the facilities are decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to decommissioning shall include removal of all physical materials pertaining to the project improvements, except for access roads at the request of the landowner, to a depth of _____ inches (____") beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of an Improvement Location Permit, the applicant shall provide a contractor cost estimate for demolition and removal of the Wind Energy Conversion System facility. Following acceptance and approval of the estimate by the Building Commissioner, the applicant shall be required to 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 tower to be constructed under that Improvement Location Permit. Said security shall be released when such tower is completely decommissioned as determined by the Building Commissioner. In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Building Commissioner representing that all easements for wind turbines 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 project.

2. The applicant's, owner's, or operator's failure to materially comply with any of the above provisions shall constitute a default under this section.
 3. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and operator, setting forth the alleged default(s). 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 default(s).
 4. If the County determines in its discretion that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern.
- R. Requirements of this ordinance may be waived by the Board upon application and after a public hearing.
- S. This ordinance shall not apply to Wind Energy Conversion System(s) owned by Newton County. Newton County-owned Wind Energy Conversion Systems shall be permitted in any zoning district.

SECTION 4 – Severability

If any section, subsection, or clause of this Ordinance shall be deemed unconstitutional or otherwise invalid, the validity with the remaining section, subsection, and clauses shall not be affected thereby.

SECTION 5 – Effective Date

This ordinance shall take effect upon passage.

Approved and adopted this 1st day of June, 2009.

BOARD OF COMMISSIONERS OF NEWTON COUNTY, INDIANA

ROXANNA HANFORD




RUSSELL COLLINS, JR.

JAMES PISTELLO

NEWTON COUNTY ZONING ORDINANCE 94-1

ORDINANCE RESOURCES QUICKLINKS:

SECTION 1: AUTHORITY AND PURPOSE [PAGE 3]

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SECTION 1.00 AUTHORITY AND PURPOSE

This Ordinance is adopted pursuant to the authority of the 600 SERIES IC 36-7-4, and all acts amendatory and supplemental thereto. This Ordinance is adopted for the following purposes:

- Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- Lessening or avoiding congestion in public ways;
- Promoting the public health, safety, comfort, morals, convenience, and general welfare;
- Otherwise accomplishing the purposes of Chapter 36-7 of the Indiana Code;
- Implementing the Comprehensive Plan of Newton County, Indiana.

In order to accomplish these purposes, this Ordinance does the following:

- Establishes districts for agricultural, commercial, industrial, residential, special or unrestricted uses and any subdivision or combination of these uses.

Regulates how real property is developed, maintained, and used, including the following:

- Requirements for the area of front, rear, and side yards, courts, other open spaces, and total lot area;
- Requirements for site conditions, signs, s, and non structural improvements, such as parking lots, ponds, fills, landscaping, and utilities;
- Provisions for the treatment of uses, structures, or -conditions that are in existence at the time this Ordinance takes effect;
- Restrictions on development in areas prone to flooding;
- Requirements to protect the historic and architectural heritage of the community;
- Requirements for structures, such as location, height, area, bulk, and floor space;
- Restrictions on the kind and intensity of uses;
- Performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;
- Standards for population density and traffic circulation;
- Other provisions that are necessary to implement the purposes of this Ordinance.
- In districts containing areas with special or unusual development problems or needs for compatibility, requires that the Plan Commission approve development plans for consistency with general development standards;
- Provides for planned unit development;
- Establishes in which districts the subdivision of land may occur.

SECTION 1.10 TERRITORIAL LIMITS

The provisions of this Ordinance shall apply to all lands, properties, buildings, and structures in the unincorporated portions of Newton County, Indiana, which are within the jurisdiction of the Newton County Plan Commission and included in the Newton County Comprehensive Plan.

SECTION 1.20 SUBDIVISION OF LAND

Subdivision of land may occur in any zoning district within the jurisdiction of the Plan Commission of Newton County.

SECTION 1.30 TITLE

This ordinance shall be known and may be cited as “The Newton County, Indiana, Zoning Ordinance.”

SECTION 2.00 DEFINITIONS OF TERMS

For the purpose of this Ordinance, certain words and terms are defined as follows:

Words used in the present tense include the future; the singular number includes the plural and the plural the singular. The word “building” includes the word “structure.” The word “shall” is mandatory.

Advertising Structure — See [Ordinance No.7](#)

Accessory Apartment - A separate, complete housekeeping unit that is substantially contained within the structure of a single-family dwelling but can be isolated from it.

Bed and Breakfast - A building in which rooms and the breakfast meal are regularly provided to transients for compensation.

Bed and Breakfast Homestay - A bed and breakfast operated in a private, owner-occupied residence with one to three guest rooms. The bed and breakfast use is subordinate and incidental - to the residential use of the building.

Bed and Breakfast Inn - A Bed and Breakfast operated primarily as a business having four (4) to twenty (20) guest rooms. While the building may contain the residence of the owner/operator, the residential use is subordinate and incidental to the use as a business. Such use may include a restaurant which caters to the public as well as the overnight guests.

Board - The Board of Zoning Appeals for Newton County, Indiana.

Boarding House - A building not available to transients, in which lodging and meals are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Building - Any roofed structure designed for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind, and includes any structure.

Building, Accessory – A subordinate building located on the same lot as the principal building which does not include any activity or use unrelated to the principal use or conducted for gain.

Building, Agricultural - A structure other than a dwelling utilized for the conduct of farming operations.

Building, Apartment - A building providing more than two rooms or suites of rooms designed as single-family dwellings and with each including culinary accommodations.

Building, Assessor: A subordinate building, exceeding 160 square feet in area, located on the same lot as the principal building which does not include any activity or use unrelated to the principal use or conducted for gain. An assessor building must be 70% constructed on the site.

Building, Principal- A building in which is conducted the main or principal use of the lot on which said building is situated.

Building Area - The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

Building Commissioner - The Newton County Building Commissioner

Building Height - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

Building Setback Line - The line, established by this Ordinance, beyond which the foundation line of a building shall not extend unless varied according to procedures in this Ordinance. Also called a "building line."

Business - An occupation, employment, or enterprise which occupies time, attention, labor and materials; or wherein merchandise is exhibited, sold, or where services are offered.

Camp, Public - An area of land used or designed to be used to accommodate two (2) or more camping parties, including cabins, tents, recreational vehicles, or other camping outfits, but not including a recreational vehicle park.

Child Care Center - A building, not a residence, where at least one child receives child care from a provider while unattended by a parent, legal guardian, or custodian, for regular compensation and for more than four hours but less than twenty-four hours in each often (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

Child Care Home (exempt) - The care of from one to five children in the primary residence of the care provided, specifically exempt from the licensing requirements of the State of Indiana under IC 12-17.2-2-8 (8) or IC 12-17.5-2-9 (8) shall be considered a home occupation as defined by this Ordinance.

Child Care Home - As defined by IC 12-7-2-28.6, means a residential structure in which at least six (6) but not more than sixteen (16) children, unrelated to the provider, receive child care from a provider. This term includes a Class I and a Class II child care home as defined by IC 12-7-2-33.7 and IC 12-7-2-33.8.

Commission - The Newton County Plan Commission, Newton County, Indiana.

Confined Feeding - The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings, where food is supplied to the animals by means other than grazing only.

Confined Feeding Operation - The confined feeding of one hundred (100) or more cattle, two hundred (200) or more swine, sheep, or goats, or ten thousand (10,000) or more poultry on a tract or contiguous tracts of land and/or any confinement feeding that exceeds the following number of animals per acre per year for the entire farm: three (3) or more head of cattle, twenty (20) or more head of swine, one thousand five hundred (1,500) or more head of poultry, ten (10) or more sheep or goats, four (4) or more head of horses or mules.

Confined Feeding Operator - The person in direct or responsible charge or control of one or more confined feeding operations.

Development - Any man-made change to improved or unimproved real estate including, but not limited to: buildings and other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

District - A zoning district established by this Ordinance.

Dwelling - Any structure, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Multi-Family - A dwelling consisting of three (3) or more dwelling units including condominiums.

Dwelling, Single-Family - A detached dwelling designed for or occupied by not more than one family, provided that such structure complies with the Indiana one- and two-family dwelling code, Mobile homes, travel trailers, and similar structures or vehicles are not considered to be single family dwellings.

Dwelling, Two-Family - A detached dwelling designed for or occupied by not more than two families.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for living, sleeping, cooking, and eating. The term shall include factory-built housing but not recreational vehicles.

Easement - An authorization or grant by a property owner to a specific person(s) or to the public to use land for specific purposes.

Educational Uses - public or private elementary or secondary schools, institutions of higher learning, boarding schools, and similar uses.

Essential Services - those land uses which are required in order for the community to provide adequate services to its citizens, including town halls, libraries, public utilities, sanitary landfills, incinerators, parking lots, fire and police stations, cemeteries, correctional institutions and similar uses. Any such use not operated by a unit of government or by a regulated utility shall not be included in this definition.

Factory-Built Housing - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, designed for long-term residential use. For the purposes of this Ordinance, factory-built housing consists of modular

Family - One or more individuals related by blood, marriage or adoption living together as a single housekeeping unit; or a group of not more than four persons who need not be related, living together in a single housekeeping unit.

Farm - An area of not less than 20 acres used for agricultural operations including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry or the processing of farm products produced on the farm by the resident owner or tenant, but not to include commercial or custom slaughtering.

Flood, Regulatory - [See Ordinance No. 93-8.](#)

Flood Plain - [See Ordinance No.93-8.](#)

Floor Area, Ground - The area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Health Care Use - means a medical, dental, psychological, psychiatric, or other similar clinic or hospital, whether public or private.

Home Occupation— An occupation conducted in a dwelling unit, provided that the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

Hotel, Motel, and Apartment Hotel — A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding house herein defined.

Junk Yard, Salvage Yard - Any land, structure, building, or combination of the same on which waste or discarded, used property other than organic matter is accumulated and/or stored and is or may be salvaged for re-use or resale. This definition includes but is not limited to is the accumulation or storage of unlicensed or inoperable motor vehicles, farm machinery or equipment, scrap metals, paper, rags, tires, and bottles.

Lot - A parcel of land occupied or suitable for occupancy by one principal building or use, together with its accessory building(s) and including the open space required under the regulations of this' Ordinance. A lot may be a single lot so recorded in the office of the County Recorder or it may include parts of, or a combination of such lots when adjacent to one another and used as one parcel. Open spaces necessary for compliance with these regulations for one building or use shall not be again counted as open spaces for any other building or use.

Lot, Corner - A lot located at the intersection of two or more streets or roads.

Lot, Interior - A lot with frontage on only one street.

Lot, Through - A lot having frontage on two non-intersecting streets or roads, as distinguished from a corner lot.

Lot Area - The area of any lot shall be determined exclusive of street, highway, alley, road, or other rights-of-way.

Lot Coverage - The ratio of the building area of all buildings on a lot to the lot area, expressed as a percentage.

Lot Depth - The mean horizontal distance between the front and rear lot lines.

Lot Frontage - The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street shall be construed frontage.

Lot Line

- a. **Front Lot Line** - The line separating the lot from the street for an interior lot or the line separating the lot from either street for corner or through lots.
- b. **Rear Lot Line** - The boundary of a lot which is the most distant from and is, or most nearly is, parallel to the front lot line. On a corner lot, the rear lot line shall be opposite the lot line along which the principal building faces.
- c. **Side Lot Line** - Any boundary of a lot which is not a front lot line or a rear lot line.

Lot Width - The width of the largest rectangle which can be inscribed within the lot lines.

Manufactured Home - A unit as defined by IC 36-7-4, Sec. 1106. (a) (1). Specifically, "Manufactured home" means a dwelling unit, designed and built in a factory; which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 USC 5401 et seq.)." The term "manufactured home" is defined to include Type I Manufactured Homes, Mobile Homes and Modular Homes as herein defined.

Manufactured Home, Type I - A manufactured or modular home as previously defined, constructed after January 1, 1981, which shall:

1. Exceed twenty-three (23) feet in width and 950 square feet of occupied space in a double-section or larger multi-section unit (a 24' x 40' unit is considered minimum).
2. Be placed on a permanent foundation in conformance with the regulations in the One- and Two-Family Dwelling Code.
3. Utilize a permanent perimeter enclosure in accordance with the One-and Two Family Dwelling Code.
4. Be anchored to the ground in accordance with the One- and Two-Family Dwelling Code and to the manufacturers' specifications.

5. Have wheels, axles, and hitch mechanisms removed.
6. Have utilities connected in accordance to the One- and Two-Family Dwelling Code and manufacturer's specifications.
7. Have siding material of a type customarily used on site-constructed residences.
8. Have roofing material of a type customarily used on site-constructed residences

Manufactured Home Community - A parcel of land which is subdivided and contains individual lots which are leased or otherwise contracted for on which two (2) or more manufactured homes are harbored on temporary supports for the purpose of being occupied as principal residences.

Manufactured Home Subdivision - A parcel of land platted for subdivision according to all requirements of the Subdivision Control Ordinance, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes placed on a permanent foundation.

Mobile Home - A factory-built housing unit designed to be used as a year-round residential dwelling constructed after June 18, 1976, bearing the Indiana State Mobile Label certifying that the unit was designed, reviewed, constructed, and inspected to the Indiana mobile structures code.

Modular Home - Factory-built housing certified as meeting the state building code as applicable to modular or industrialized housing. The housing must have, located on the electric service panel door, the State Modular Label, indicating that the unit was designed, reviewed, constructed and inspected to the Indiana One- and Two- Family Dwelling Code for residential units or the Indiana Building Code for commercial units.

Nonconforming Use - A building, structure, or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district in which it is situated.

Open Air Sales Lot - A parcel of land which is used for the sale of goods displayed outside of enclosed buildings. These uses include but are not limited to sales of automobiles, boats, mobile homes, or recreational vehicles; lumber yards; nurseries; flea markets; and other similar uses. This definition does not include such sales areas which are incidental or customarily accessory to other, uses. These exceptions include but are not limited to the outside display of sample items of merchandise sold inside a retail building (such as a hardware store), seasonal outdoor sales of plants garden supplies in conjunction with a retail business such as a garden supply, discount or department store.

Open Space Uses - uses which involve little or no construction of buildings, or paving. , Examples include parks, golf courses, sanctuaries for birds or wildlife, campgrounds, and uses of similar intensity.

Parcel — A lot, or contiguous group of lots in single ownership or under single control, considered as a unit for purposes of development.

Personal Convenience Services - activities such as barber or beauty shops, dry cleaning, dressmaking or tailoring, shoe repair, home appliance repair, and similar uses.

Professional and Business Services - activities such as banking and associated services, financial institutions, real estate, management, tax consultant, engineer, accountant, photographer, lawyer, and medical services.

Recreational Vehicle - A temporary dwelling for travel, recreation and vacation use including, but not limited to:

1. **Travel Trailer** - A vehicle, identified by the manufacturer as a travel trailer, built on a chassis eight (8) feet or less in width, and thirty (30) feet or less in length, and designed to move on the highway.
2. **Pick-up Coach** - A structure designed to be mounted on a truck chassis or cut-down car.

3. **Motor Home** - A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle, or so altered.
4. **Camping Trailer**- a canvas, folding structure, built on a chassis with wheels and designed to move on the highway.

Recreational Vehicle Park - Any lot, parcel, or tract of land approved for the use and occupancy of two or more recreational vehicles.

Recreational Vehicle Site - An area of land within a Recreational Vehicle Park designed and approved for the placement of one recreational vehicle.

Research Uses -laboratories, product research, or similar uses.

Sanitary Landfill - A lot or any portion of a lot, which is used for the disposal of refuse, utilizing the method of confining the refuse to the smallest practical area, reducing it to, the smallest practical volume, and covering it with a layer of earth daily, or at more frequent intervals

Sign - See [Ordinance No.7.](#)

Site Plan - A plan meeting the requirements of this Ordinance, showing existing and proposed uses, structures, and other features of a parcel of land.

Special Exception - A specific use or structure which because of its unusual nature is allowed in a district as specified in this Ordinance only if granted by the Board of Zoning Appeals.

Street, Road - A general term denoting a public thoroughfare for vehicular traffic, including the entire area within the right-of-way.

Structure - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

Transfer Station - A parcel of land and its associated structures where solid wastes are brought for processing (shredding, compacting, or composting), recycling or reloading for transfer to a sanitary landfill.

Transient - A person occupying a room in a hotel, motel, or bed and breakfast for a period of one to seven days, as opposed to a resident.

Transportation Uses - uses directly related to any mode of vehicular or air transportation, including truck terminals, airports, railway or bus stations, and similar uses.

Use Variance - A variance, granted by the Board, to permit a use in a District in which it is otherwise prohibited. In granting a use variance, the Board may establish appropriate conditions and safeguards. A use variance authorized by the Board, with due process of law, becomes a lawful Nonconforming Use.

Variance - A device which grants a property owner relief from certain provisions of this Ordinance when, because of the particular physical surroundings, shape, or topographical conditions of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money.

Variance from the Development Standards - A device which grants a property owner relief from the Ordinance standards relating to height, bulk, area, and similar provisions, but not including a use variance.

Vehicle Sales Lot - An open space devoted to the display for sales purposes of new or used automobiles, trucks or motorcycles which are capable of self-propulsion and are equipped for safe highway travel and provided, further, that any repairing, repainting, or other reconditioning of such vehicles shall take place within a building.

Yard - An open space, other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the building including any roof overhang shall be used.

Yard, Front - A yard extending between the front line of the building and the front lot line. For the purposes of this Ordinance, a lot which has frontage on more than one street is considered to have more than one front yard, or one front yard on each street on which the lot has frontage.

Yard, Side - A yard between the principal building and the side lot line, extending from the front yard line to the rear yard line

ZONING DESIGNATIONS

*Zoning designation can be found by searching the property via address, parcel ID, tax ID, and/or other fields available at: <https://beacon.schneidercorp.com/Application.aspx?AppID=295&LayerID=3320&PageTypeID=2&PageID=2026>
 [SEC 3.10.]
 Locations of the Districts are also indicated on Zone Map copies on file in the Office of the County Auditor and the Office of the Building Commissioner.

<u>A</u>	<u>Agricultural District</u> (Section 4.10)
<u>R-1</u>	<u>Single Family Residential District</u> (Section 4.20)
<u>R-1A</u>	<u>Single Family Residential with Livestock Privilege</u> (Section 4.21)
<u>R-2</u>	<u>Multiple Family Residential District</u> (Section 4.22)
<u>RMH</u>	<u>Residential Manufactured Home District</u> (Section 4.30)
<u>RMHA</u>	<u>Residential Manufactured Home with Livestock Privilege</u> (Section 4.31)
<u>MXD</u>	<u>Mixed Use Development District</u> (Section 4.40)
<u>B-1</u>	<u>Local Business District</u> (Section 4.50)
<u>B-2</u>	<u>General Business District</u> (Section 4.51)
<u>I-1</u>	<u>Light Industrial District</u> (Section 4.60)
<u>I-2</u>	<u>Industrial District</u> (Section 4.61)
<u>PUD</u>	<u>Planned Unit Development</u> (Section 4.70)
<u>FP</u>	<u>Flood Plain</u> (Section 4.80)
<u>RDD</u>	<u>Rural Development District</u> (Section 4.90)

A – AGRICULTURE DISTRICT

1. Permitted Uses/Structures

- Dwelling, Single-Family
- Manufactured Home, Type I
- Farm
- Agricultural Buildings
- Home Occupations Complying with [Section 6.70](#)
- Roadside Stands for the retail sale of produce raised on the premises
- Wholesale greenhouses and plant nurseries
- Public and Parochial schools
- Public parks, playgrounds, recreation areas
- Churches and similar places of worship
- Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#)

2. Lot Size

- a. ^[SEC 6.10] A lot on which a dwelling is erected or changed may not be smaller in area per square feet than prescribed below:

TYPE OF DWELLING	Lot Area Per Dwelling Unit
Single-family with community sewage disposal system	43,560 sq. ft.
Single-family with individual sewage disposal system	43,560 sq. ft.

*A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance

3. Setback and Yard Lines

- a. ^[SEC 6.20 B] FRONT YARDS

(A) No building or structure shall be erected or altered so as to project beyond a line thirty-five (35) feet from any adjacent street or highway line, nor nearer than one hundred (100) feet distant from the center line of any adjacent State or Federal Highway, whichever is the greater distance from the highway line.

- b. SIDE YARDS

(A) Each lot shall have a side yard between the side lot line and the building line of the principal building as follows:

1. A minimum distance on each side of ten (10) feet.
2. A total distance on both sides of twenty (20) percent of the lot width, except that the total side yard widths on both sides need not be more than twenty (20) feet.

- c. REAR YARD

(A) No requirements, unless abutting an R-1 or R-2 District, in which case there shall be a rear yard of five (5) feet.

- d. PONDS, PITS, AND OTHER EXCAVATIONS

(A) A minimum distance of thirty-five (35) feet must be between the property lines (on each and every side) and any open excavation for pond construction, sand removal, gravel removal, or other purpose.

4. Building Area

- a. ^[SEC 6.30] No dwelling may be established, erected, or changed so that its ground floor area in square feet is less than **960 sq. ft. for Single-Family Dwellings**

5. LOT COVERAGE

- a. *No requirement*

6. BUILDING HEIGHT

- a. ^[SEC 6.50] The maximum heights of buildings shall be **30 feet for Single-Family Dwellings**.
- b. Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.) radio and television towers, and necessary mechanical accessories may exceed these height limitations.
- c. The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.

7. PARKING

- a. The provisions of [Section 6.60](#) shall apply.

R-1 – SINGLE-FAMILY RESIDENTIAL DISTRICT

1. Permitted Uses/Structures

- Dwelling, Single-Family
- Manufactured Home, Type I
- Accessory Building
- Churches and similar Places of Worship
- Home Occupations Complying with [Section 6.70](#)
- Outdoor Advertising as Permitted by Ordinance 7
- Public and Parochial Schools
- Parks, Playgrounds, Recreation Areas
- Roadside Stands for the Retail Sale of Produce Raised on the Premises
- Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#)
- Temporary Structures incidental to construction work, only for the period of such work

2. Lot Size

- a. ^[SEC 6.10] A lot on which a dwelling is erected or changed may not be smaller in area per square feet than prescribed below:

TYPE OF DWELLING	Lot Area Per Dwelling Unit
Single-family with community sewage disposal system	10,000 sq. ft.
Single-family with individual sewage disposal system	43,560 sq. ft.

*A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance

3. Setback and Yard Lines

- a. ^[SEC 6.20 B] **FRONT YARDS**

- i. There shall be a front yard, between the right-of-way line and the building line of not less than thirty-five (35) feet. In the cases where such property abuts a State or Federal Highway, the building line shall be located at least one hundred (100) feet from the centerline of such highway, but not less than thirty-five (35) feet from the right-of-way line except as hereinafter provided.
- ii. Where one or more lots are improved, the front depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. An unimproved lot adjoining on either side shall be considered as having a front yard as described above. In any case, the setback need not exceed the above stated limit.

In determining the relation of existing improvements located at a distance of more than one hundred (100) feet, measured center to center of structures, shall be disregarded as to its influence for setback determination and the setback line on that side of the proposed structure shall be considered the same as is required for undeveloped property.

- iii. When the lot is a corner lot, the depth of the front yard need not be more than the front yard depth of the adjoining lot, if improved, and in no case need it exceed the above described setback.
- iv. When the lot is a corner lot at the intersection of two streets on which there are lots fronting both streets within the block affected, there shall be a front yard on each street side of such corner lot conforming to the front yard depths as established above, except that the available building width of such lot need not be reduced to

less than thirty (30) feet. No accessory building on such lot shall project beyond the front yard line as established for either street.

b. SIDE YARDS

- i. Each lot shall have a side yard between the side lot line and the building line of the principal building as follows:
 1. A minimum distance on each side of ten (10) feet.
 2. A total distance on both sides of twenty (20) percent of the lot width, except that the total side yard widths on both sides need not be more than twenty (20) feet.

c. REAR YARD

- i. Each lot shall have a rear yard between the rear building line of the principal building and rear lot line of fifteen (15) percent of the lot depth, except that the rear yard depth need not be more than thirty (30) feet.
- ii. The rear yard may include permitted accessory buildings as provided by this Ordinance, but in no case shall such accessory buildings be less than three (3) feet from the rear lot line.

d. PONDS, PITS, AND OTHER EXCAVATIONS

- i. A minimum distance of thirty-five (35) feet must be between the property lines (on each and every side) and any open excavation for pond construction, sand removal, gravel removal, or other purpose.

4. Building Area

- a. ^[SEC 6.30] No dwelling may be established, erected, or changed so that its ground floor area in square feet is less than **960 sq. ft. for Single-Family Dwellings**
- b. In the R districts, no accessory structure may exceed the dimensions below:
 - i. On lots less than one acre in size, twenty-four (24) feet by twenty-eight (28) feet.
 - ii. On lots one acre or larger, forty (40) feet by thirty (30) feet.

5. LOT COVERAGE

- a. All buildings on any lot shall not cover more than 45% of the total lot area.
- b. All accessory buildings on any lot shall not cover more than 40% of the rear yard area.

6. BUILDING HEIGHT

- a. ^[SEC 6.50] The maximum heights of buildings shall be as follows:
 - i. **30 feet for Single-Family Dwellings.**
 - ii. **35 feet for Multifamily Dwellings**
 - iii. **15 feet for Accessory Buildings**
 - iv. **35 feet for Commercial Buildings**
 - v. **40 feet for Industrial Buildings**
- b. Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.) radio and television towers, and necessary mechanical accessories may exceed these height limitations.
- c. The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.

7. PARKING

- a. The provisions of [Section 6.60](#) shall apply.

R-1A – SINGLE-FAMILY RESIDENTIAL WITH LIVESTOCK PRIVILEGE

1. Permitted Uses/Structures [[All uses permitted in the R-1 District](#)]

- Dwelling, Single-Family
- Manufactured Home, Type I
- Accessory Building
- Churches and similar Places of Worship
- Home Occupations Complying with [Section 6.70](#)
- Outdoor Advertising as Permitted by Ordinance 7
- Public and Parochial Schools
- Parks, Playgrounds, Recreation Areas
- Roadside Stands for the Retail Sale of Produce Raised on the Premises
- Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#)
- Temporary Structures incidental to construction work, only for the period of such work

Privilege to keep livestock subject to the following:

- Hogs shall not be permitted
- The minimum lot size shall be one acre
- The width of the front yard in this district shall be not less than 100 ft.
- Livestock and poultry shall not be permitted in the front yard
- A building permit will be required for the construction of each accessory building
- The construction shall comply with the Indiana Building and Electric codes
- All livestock or poultry shall be confined to the owners' property
- A lawful fence shall be erected so as to confine the livestock or poultry to the owners' property
- For an existing R-1 subdivision, the land use may be changed to R-1A only by a petition signed by all owners of record of property in the subdivision

The following shall be the maximum number of livestock or poultry permitted per acre:

- A total of thirty-six (36) rabbits and/or poultry, or
- One horse, or one head of cattle, or
- Three sheep or goats

2. Lot Size

- a. ^[SEC 6.10] A lot on which a dwelling is erected or changed may not be smaller in area per square feet than prescribed below:

TYPE OF DWELLING	Lot Area Per Dwelling Unit
Single-family with community sewage disposal system	10,000 sq. ft.
Single-family with individual sewage disposal system	43,560 sq. ft.

*A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance

3. Setback and Yard Lines

a. ^[SEC 6.20 B] FRONT YARDS

- i. There shall be a front yard, between the right-of-way line and the building line of not less than thirty-five (35) feet. In the cases where such property abuts a State or Federal Highway, the building line shall be located at least one hundred (100) feet from the centerline of such highway, but not less than thirty-five (35) feet from the right-of-way line except as hereinafter provided.
- ii. Where one or more lots are improved, the front depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. An

unimproved lot adjoining on either side shall be considered as having a front yard as described above. In any case, the setback need not exceed the above stated limit.

In determining the relation of existing improvements located at a distance of more than one hundred (100) feet, measured center to center of structures, shall be disregarded as to its influence for setback determination and the setback line on that side of the proposed structure shall be considered the same as is required for undeveloped property.

- iii. When the lot is a corner lot, the depth of the front yard need not be more than the front yard depth of the adjoining lot, if improved, and in no case need it exceed the above described setback.
- iv. When the lot is a corner lot at the intersection of two streets on which there are lots fronting both streets within the block affected, there shall be a front yard on each street side of such corner lot conforming to the front yard depths as established above, except that the available building width of such lot need not be reduced to less than thirty (30) feet. No accessory building on such lot shall project beyond the front yard line as established for either street.

b. SIDE YARDS

- i. Each lot shall have a side yard between the side lot line and the building line of the principal building as follows:
 - 1. A minimum distance on each side of ten (10) feet.
 - 2. A total distance on both sides of twenty (20) percent of the lot width, except that the total side yard widths on both sides need not be more than twenty (20) feet.

c. REAR YARD

- i. Each lot shall have a rear yard between the rear building line of the principal building and rear lot line of fifteen (15) percent of the lot depth, except that the rear yard depth need not be more than thirty (30) feet.
- ii. The rear yard may include permitted accessory buildings as provided by this Ordinance, but in no case shall such accessory buildings be less than three (3) feet from the rear lot line.

d. PONDS, PITS, AND OTHER EXCAVATIONS

- i. A minimum distance of thirty-five (35) feet must be between the property lines (on each and every side) and any open excavation for pond construction, sand removal, gravel removal, or other purpose.

4. Building Area

- a. ^[SEC 6.30] No dwelling may be established, erected, or changed so that its ground floor area in square feet is less than **960 sq. ft. for Single-Family Dwellings**
- b. In the R districts, no accessory structure may exceed the dimensions below:
 - i. On lots less than one acre in size, twenty-four (24) feet by twenty-eight (28) feet.
 - ii. On lots one acre or larger, forty (40) feet by thirty (30) feet.

5. LOT COVERAGE

- a. All buildings on any lot shall not cover more than 45% of the total lot area.
- b. All accessory buildings on any lot shall not cover more than 40% of the rear yard area.

6. BUILDING HEIGHT

- a. ^[SEC 6.50] The maximum heights of buildings shall be as follows:
 - i. **30 feet for Single-Family Dwellings.**

- ii. **35 feet for Multifamily Dwellings**
 - iii. **15 feet for Accessory Buildings**
 - iv. **35 feet for Commercial Buildings**
 - v. **40 feet for Industrial Buildings**
 - b. Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.) radio and television towers, and necessary mechanical accessories may exceed these height limitations.
 - c. The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.
7. PARKING
- a. The provisions of [Section 6.60](#) shall apply.

R-2– MULTIPLE FAMILY RESIDENTIAL DISTRICT

1. Permitted Uses/Structures [[All uses permitted in the R-1 Single-Family Residential District](#)]

- Dwelling, Two-Family
- Dwelling, Multiple-Family
- Apartments, row housing, townhouses, and condominiums
- The renting of not to exceed two sleeping rooms with a total occupancy of not to exceed four (4) persons for whom board may be furnished, but with the prohibition of separate culinary accommodations for such tenants.
- Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#).

2. Lot Size

- a. ^[SEC 6.10] A lot on which a dwelling is erected or changed may not be smaller in area per square feet than prescribed below:

TYPE OF DWELLING	Lot Area Per Dwelling Unit
Single-Family with Community Sewage System	8,000
Single-Family with Individual Sewage System	15,000
Two-Family with Community Sewage System	6,000
Two-Family with Individual Sewage System	8,000
Multi-Family with Community Sewage System**	3,000

*A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance

**This figure applies to the first two dwelling units; add 1,500 sq ft for each additional unit

3. Setback and Yard Lines

a. ^[SEC 6.20 B] FRONT YARDS

- i. There shall be a front yard, between the right-of-way line and the building line of not less than thirty-five (35) feet. In the cases where such property abuts a State or Federal Highway, the building line shall be located at least one hundred (100) feet from the centerline of such highway, but not less than thirty-five (35) feet from the right-of-way line except as hereinafter provided.
- ii. Where one or more lots are improved, the front depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. An unimproved lot adjoining on either side shall be considered as having a front yard as described above. In any case, the setback need not exceed the above stated limit.

In determining the relation of existing improvements located at a distance of more than one hundred (100) feet, measured center to center of structures, shall be disregarded as to its influence for setback determination and the setback line on that side of the proposed structure shall be considered the same as is required for undeveloped property.

- iii. When the lot is a corner lot, the depth of the front yard need not be more than the front yard depth of the adjoining lot, if improved, and in no case need it exceed the above described setback.
- iv. When the lot is a corner lot at the intersection of two streets on which there are lots fronting both streets within the block affected, there shall be a front yard on each street side of such corner lot conforming to the front yard depths as established above, except that the available building width of such lot need not be reduced to less than thirty (30) feet. No accessory building on such lot shall project beyond the front yard line as established for either street.

b. SIDE YARDS

- i. Each lot shall have a side yard between the side lot line and the building line of the principal building as follows:
 1. A minimum distance on each side of ten (10) feet.
 2. A total distance on both sides of twenty (20) percent of the lot width, except that the total side yard widths on both sides need not be more than twenty (20) feet.

c. REAR YARD

- i. Each lot shall have a rear yard between the rear building line of the principal building and rear lot line of fifteen (15) percent of the lot depth, except that the rear yard depth need not be more than thirty (30) feet.
- ii. The rear yard may include permitted accessory buildings as provided by this Ordinance, but in no case shall such accessory buildings be less than three (3) feet from the rear lot line.

d. PONDS, PITS, AND OTHER EXCAVATIONS

- i. A minimum distance of thirty-five (35) feet must be between the property lines (on each and every side) and any open excavation for pond construction, sand removal, gravel removal, or other purpose.

4. Building Area

- a. ^[SEC 6.30] No dwelling may be established, erected, or changed so that its ground floor area in square feet is less than that prescribed below:
 - i. **960 sq ft for Single-Family Dwelling**
 - ii. **960 sq ft for Two-Family Dwelling**
 - iii. **720 sq ft for Multi-Family Dwelling**
- b. In the R districts, no accessory structure may exceed the dimensions below:
 - i. On lots less than one acre in size, twenty-four (24) feet by twenty-eight (28) feet.
 - ii. On lots one acre or larger, forty (40) feet by thirty (30) feet.

5. LOT COVERAGE

- a. All buildings on any lot shall not cover more than 45% of the total lot area.
- b. All accessory buildings on any lot shall not cover more than 40% of the rear yard area.

6. BUILDING HEIGHT

- a. ^[SEC 6.50] The maximum heights of buildings shall be as follows:
 - i. **30 feet for Single-Family Dwellings.**
 - ii. **35 feet for Multifamily Dwellings**
 - iii. **15 feet for Accessory Buildings**
 - iv. **35 feet for Commercial Buildings**
 - v. **40 feet for Industrial Buildings**
- b. Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.) radio and television towers, and necessary mechanical accessories may exceed these height limitations.
- c. The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.

7. PARKING

- a. The provisions of [Section 6.60](#) shall apply.

RMH- RESIDENTIAL MANUFACTURED HOME DISTRICT

1. Special Requirements
 - a. No area of less than twenty (20) acres shall be zoned RMH.
2. Permitted Uses/Structures
 - Dwelling, Single-Family
 - Manufactured, Modular, or Mobile Home as previously defined herein subject to the requirements of [Section 7.00](#) of this Ordinance
 - Manufactured Home Residential Subdivision of at least 10 lots, properly planned, approved, and recorded in accordance with the terms of Ordinance #90-7, the Newton County Subdivision Control Ordinance.
 - Manufactured Home Community, subject to the requirements to [Section 7.00](#) and [7.10](#) of this Ordinance
 - Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#).
3. Lot Size
 - a. ^[SEC 6.10] A lot on which a dwelling is erected or changed may not be smaller in area per square feet than prescribed below:

TYPE OF DWELLING	Lot Area Per Dwelling Unit
Single-Family with Community Sewage System	10,000
Single-Family with Individual Sewage System	15,000
Two-Family with Community Sewage System	6,000
Two-Family with Individual Sewage System	12,000
Multi-Family with Community Sewage System**	3,000

*A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance

**This figure applies to the first two dwelling units; add 1,500 sq ft for each additional unit

4. Setback and Yard Lines
 - a. ^[SEC 6.20 B] FRONT YARDS
 - i. There shall be a front yard, between the right-of-way line and the building line of not less than thirty-five (35) feet. In the cases where such property abuts a State or Federal Highway, the building line shall be located at least one hundred (100) feet from the centerline of such highway, but not less than thirty-five (35) feet from the right-of-way line except as hereinafter provided.
 - ii. Where one or more lots are improved, the front depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. An unimproved lot adjoining on either side shall be considered as having a front yard as described above. In any case, the setback need not exceed the above stated limit.

In determining the relation of existing improvements located at a distance of more than one hundred (100) feet, measured center to center of structures, shall be disregarded as to its influence for setback determination and the setback line on that side of the proposed structure shall be considered the same as is required for undeveloped property.
 - iii. When the lot is a corner lot, the depth of the front yard need not be more than the front yard depth of the adjoining lot, if improved, and in no case need it exceed the above described setback.
 - iv. When the lot is a corner lot at the intersection of two streets on which there are lots fronting both streets within the block affected, there shall be a front yard on each street side of such corner lot conforming to the front yard depths as established

above, except that the available building width of such lot need not be reduced to less than thirty (30) feet. No accessory building on such lot shall project beyond the front yard line as established for either street.

b. SIDE YARDS

- i. Each lot shall have a side yard between the side lot line and the building line of the principal building of ten (10) feet, unless abutting and R-1 or R-2 District, in which case the side yard shall be fifteen (15) feet and include a screen planting.

c. REAR YARD

- i. Each lot shall have a rear yard between the rear building line of the principal building and the rear lot line of ten (10) feet, unless abutting an R-1 or R-2 District, in which case the rear yard shall be fifteen (15) feet from the rear line and include a screen planting.

d. PONDS, PITS, AND OTHER EXCAVATIONS

- i. A minimum distance of thirty-five (35) feet must be between the property lines (on each and every side) and any open excavation for pond construction, sand removal, gravel removal, or other purpose.

5. Building Area

- a. ^[SEC 6.30] No dwelling may be established, erected, or changed so that its ground floor area in square feet is less than that prescribed below:
 - i. **720 sq ft for Single-Family Dwelling (single story)**
 - ii. **720 sq ft for Two-Family Dwelling (single story)**
 - iii. **720 sq ft for Multi-Family Dwelling (single story)**
 - iv. **720 sq ft for Manufactured Home (single story)**
 - v. **960 sq ft for Single-Family Dwelling (more than one story)**
 - vi. **960 sq ft for Two-Family Dwelling (more than one story)**
 - vii. **720 sq ft for Multi-Family Dwelling (more than one story)**
- b. In the R districts, no accessory structure may exceed the dimensions below:
 - i. On lots less than one acre in size, twenty-four (24) feet by twenty-eight (28) feet.
 - ii. On lots one acre or larger, forty (40) feet by thirty (30) feet.

6. LOT COVERAGE

- a. All buildings on any lot shall not cover more than 35% of the total lot area.

7. BUILDING HEIGHT

- a. ^[SEC 6.50] The maximum heights of buildings shall be as follows:
 - i. **30 feet for Single-Family Dwellings.**
 - ii. **35 feet for Multifamily Dwellings**
 - iii. **15 feet for Accessory Buildings**
 - iv. **35 feet for Commercial Buildings**
 - v. **40 feet for Industrial Buildings**
- b. Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.) radio and television towers, and necessary mechanical accessories may exceed these height limitations.
- c. The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.

8. PARKING

- a. The provisions of [Section 6.60](#) shall apply.

RMHA- RESIDENTIAL MANUFACTURED HOME DISTRICT WITH LIVESTOCK PRIVILEGE

1. Uses Permitted
 - a. [All uses permitted in the RMH District](#)
 - b. [Privilege to keep livestock subject to all conditions applying to the R-1A District](#)
-

MXD – MIXED USE DEVELOPMENT DISTRICT

This district is intended to provide for a mixture of dense, small-scale urban uses in the community core. This district includes the central business area, as well as a mixture of uses in the older, more densely developed portions of Newton County. Because of the need for compatibility in this district, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

1. Permitted Uses/Structures

- Single-Family Dwelling
- Two-Family Dwelling
- Multi-Family Dwelling
- Church
- Health Care Use
- Home Occupations Complying with [Section 6.70](#)
- Retail Sales Establishment
- Personal Convenience Services
- Professional and Business Services
- Restaurant
- Day Care Center
- Bed and Breakfast Inn
- Hotel, Motel, Apartment Hotel
- *Open Space Uses
- *Transportation Uses
- *Research Uses
- Educational Uses
- *Essential Services
- Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#).
- Uses accessory (as defined in [Section 2.00](#)) to these uses are permitted on the same lot with the principal uses, including accessory apartments.

2. Minimum Standards

- a. The minimum lot area is 5,000 sq ft, and the minimum frontage on a public street is 40 feet.
- b. For one- or two-family dwellings, the minimum front setback shall be 10 feet. No front setback is required for other uses.
- c. Side and rear yard setbacks for any residential structure shall be at least 5 feet. For other structures, no setback is required
- d. Off-street parking shall be provided in accordance with [Section 6.60](#).
- e. Minimum standards for all uses on an approved development plan shall be as shows on the plan, which shall be prepared in accordance with [Section 8.00](#).

B-1 – LOCAL BUSINESS DISTRICT

The Local Business District is designed to meet the day-to-day convenience shopping and service needs of persons living in nearby residential areas. Uses allowed in this district will, in general, be a less dense use than those allowed in the General Business District.

1. Permitted Uses/Structures
 - Automobile service stations, but not including major repair or body work
 - Day care centers
 - General retail outlets for consumer goods and services
 - Groceries, supermarkets and restaurants
 - Open space uses
 - Outdoor advertising as permitted by Ordinance #7
 - Professional and business services
 - Residence, by owner or operator within place of business
 - Self-service laundries
 - Theaters, other than outdoor theaters
2. LOT SIZE
 - a. [The provisions of Section 6.10 shall apply](#)
3. SETBACK AND YARD LINES
 - a. [The provisions of Section 6.20 shall apply](#)
4. BUILDING AREA
 - a. [The provisions of Section 6.30 shall apply](#)
5. LOT COVERAGE
 - a. *No restrictions, with the exception of setback*
6. BUILDING HEIGHT
 - a. [The provisions of Section 6.50 shall apply](#)
7. PARKING
 - a. [The provisions of Section 6.60 shall apply](#)

B-2 – GENERAL BUSINESS DISTRICT

1. Permitted Uses/Structures
 - [\[All uses permitted in the B-1 District\]](#)
 - Bed and Breakfast Inn
 - Dry Cleaning Establishments
 - Lumber and Building Material sales Yards
 - Transportation Uses
 - Hotels and Motels
 - Shopping Centers
 - Vehicle Parking Lots for Temporary Storage
 - Vehicle Show Rooms and Sales Lots
 - General Business Uses not specifically stated or implied elsewhere in this section
 - Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#)
2. LOT SIZE
 - a. [The provisions of Section 6.10 shall apply](#)
3. SETBACK AND YARD LINES
 - a. [The provisions of Section 6.20 shall apply](#)
4. BUILDING AREA
 - a. [The provisions of Section 6.30 shall apply](#)
5. LOT COVERAGE
 - a. *No restrictions, with the exception of setback*
6. BUILDING HEIGHT
 - a. [The provisions of Section 6.50 shall apply](#)
7. PARKING
 - a. [The provisions of Section 6.60 shall apply](#)

I-1 – LIGHT INDUSTRIAL DISTRICT

Manufacturing, fabricating, processing, extraction, repairing, dismantling, or storage of equipment, raw materials, manufactured products conducted entirely within enclosed buildings.

Where adjacent to Residential or Business Districts, screening of storage, parking and loading areas is required.

1. Permitted Uses/Structures

- Enclosed industrial uses including processing, refining, repairing of goods, materials, or products
- Engineering or Research Laboratories
- Vocational or Industrial Training Facilities
- Data Processing or Analysis
- Enclosed Warehousing, Packaging, Storage, or Distribution Facilities
- General Offices Associated with Industrial Use
- Office Complexes
- Printing or Publishing
- Utility Installations or Facilities
- Such Special Exception Uses as may hereafter be permitted in this District under the provisions of [Section 5.00](#).

2. LOT SIZE

- a. [The provisions of Section 6.10 shall apply](#)

3. SETBACK AND YARD LINES

- a. [The provisions of Section 6.20 shall apply](#)

4. BUILDING AREA

- a. [The provisions of Section 6.30 shall apply](#)

5. LOT COVERAGE

- a. *No restrictions, with the exception of setback*

6. BUILDING HEIGHT

- a. [The provisions of Section 6.50 shall apply](#)

7. PARKING

- a. [The provisions of Section 6.60 shall apply](#)

I-2 HEAVY INDUSTRIAL DISTRICT

1. Permitted Uses/Structures
 - [\[All uses permitted in the B-2 General Business District\]](#)
 - [\[All uses permitted in the I-1 Light Industrial District\]](#)
 - Mass transportation facilities including rail yards, layover areas for transit vehicles
 - All other uses of a manufacturing or fabricating nature except those uses hereinafter listed in [Section 5.00](#) of this Ordinance, which may be permitted only by Special Exception
2. LOT SIZE
 - a. [The provisions of Section 6.10 shall apply](#)
3. SETBACK AND YARD LINES
 - a. [The provisions of Section 6.20 shall apply](#)
4. BUILDING AREA
 - a. [The provisions of Section 6.30 shall apply](#)
5. LOT COVERAGE
 - a. *No restrictions, with the exception of setback*
6. BUILDING HEIGHT
 - a. [The provisions of Section 6.50 shall apply](#)
7. PARKING
 - a. [The provisions of Section 6.60 shall apply](#)

PUD- PLANNED UNIT DEVELOPMENT REGULATIONS

- (1) No permit shall be issued for the construction, erection, or moving in of any building or structure, nor the use of any land in the PUD District until a Planned Unit Development plan has been approved by the Commission.
- (2) PUD Plan: Method of Adoption
- (A) The plan for a PUD District may be adopted simultaneously with or by separate proceeding after the establishment of the District. Action for adoption of a PUD Plan shall be commenced by the submission of the PUD plan drawn on a reproducible material to the Building Commissioner. The PUD Plan shall include a plot plan of the proposed development drawn to scale showing:
1. Boundaries of the property, topography, and a proposed grading plan;
 2. Width, location, and named of surrounding streets;
 3. Location, dimensions, and uses of all existing buildings and structures on adjacent property within one hundred (100) feet of the boundary line of the subject property.
 4. Location, dimensions, ground floor area, and the uses of all existing and proposed buildings and structures on the subject property;
 5. Proposed landscaping;
 6. Parking areas, including the size and number of spaces and the internal circulation pattern;
 7. Signs, including location, size and height;
 8. Pedestrian, vehicular, and service ingress and egress;
 9. Location, height, and material of walls and fences; and
 10. Other specific uses of the property.

In addition, the following statistical information shall be provided:

1. Acreage or square footage of the property;
 2. Height, ground floor area and total floor area of each building;
 3. Number of dwelling units in each building; and
 4. Lot area coverage expressed as a percentage of the total area of the property.
- (B) Upon receipt of a PUD Plan, the Building Commissioner will schedule the Plan for consideration by Commission within forty-five (45) days of the receipt of the plan. At a legally scheduled meeting, the Commission shall consider said Plan and approve, conditionally approve, or disapprove the plan. The PUD Plan as approved or conditionally approved shall be retained as a permanent record of the Commission. A conditional approval may specify the limits of within which the dimensions shown on the PUD Plan may vary.
- (C) The Commission's action shall be final.
- (D) Revised PUD Plans may be submitted and processed in the same manner as the original PUD Plan. When approved, such revised plan shall automatically supersede and previously approved plan.

FP – FLOOD PLAIN DISTRICT

All lands within the jurisdiction of the Newton County Plan Commission which are shown on the Flood Boundary Maps and/or the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency for the National Flood Insurance Program as being in a flood plain are hereby declared to be located in the FP District and are subject to the provisions of [Ordinance #93-8](#) as amended.

RDD – RURAL DEVELOPMENT DISTRICT

This district is intended to accommodate a variety of uses which may be proposed in Newton County. This district is intended to provide for uses not otherwise permitted under the terms of this Ordinance. An applicant may request this district designation and may propose in this district any use.

- (1) Any application for the Rural Development District shall contain all applicable items listed below:
 - Proposed name of development;
 - Name, address, and telephone number of the developer;
 - Name, address, and telephone number of the owner;
 - Description of the location of the property;
 - Map, including date, scale, north arrow, approximate location, size(maximum height and floor area), capacity, and use of all buildings and structures existing or to be placed in the development;
 - The use or uses proposed for the property;
 - Nature and intensity of the operations involved in or conducted in connection with the development;
 - Land use intensity factors (i.e., dwelling units/acre, floor area ratio, lot coverage);
 - Any other information the Plan Commission deems necessary for an adequate evaluation of the request.
- (2) Development plans submitted under this section require primary and secondary approval by the Plan Commission.
- (3) After receipt of an application for primary approval of a development plan, the Plan Commission shall consider it at a public meeting. At this meeting, the Commission shall review the proposal and make a determination as to what information and studies are necessary for the county to make a decision regarding the consistency of the proposal to the Newton County Comprehensive Plan. The Commission shall notify the applicant in writing of the date of the meeting. This meeting may be continued as the Commission deems necessary. Once the Commission determines what information is necessary to evaluate the proposal, it shall investigate the sources of information and the costs of providing needed studies.

The Commission shall notify the applicant as to the costs of these studies and the time required to produce them. If the applicant decides to proceed with the proposal, the applicant shall deposit with the county funds sufficient to carry out all needed studies. The Plan Commission shall arrange for the studies to be completed. Any funds remaining on deposit after completion of the studies shall be returned to the applicant. If the studies exceed the county's cost estimates, the county shall be responsible for paying these costs.

The Commission shall then hold a public hearing on the proposed project and shall give notice by publication in accordance with IC 5-3-1, and provide for due notice to interested parties at least 10 days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice. After the hearing, the Commission shall make a recommendation to the County Commissioners as to whether the property should be rezoned to Rural Development District for the proposed project. In making its recommendation, the Commission shall consider the following:

- Adequacy of the transportation network to accommodate the proposed use.
- Adequacy of the infrastructure to accommodate the proposed use, including water supply, sanitary sewers, storm drainage, electricity, and gas.
- Adequacy of other public services, including police and fire protection, waste disposal and other services.

- Environmental impacts of the proposed use, including air quality, water quality, noise, and odors.
 - Visual impacts of the proposed use.
 - Economic impacts of the proposed use, including the growth potential, company stability, number of jobs, salary ranges, available local labor force, and expected effects on existing businesses and future business development.
 - Costs and benefits to the community. These can include a wide range of considerations including the degree to which any adverse impacts of the use can be mitigated, anticipated tax revenues, and amenities and improvements to the community.
 - General compatibility of the proposed use with its surroundings.
 - Consistency of the proposal with the county's adopted goals and policies.
- (4) If the County Commissioners rezone the property, the Developer must submit a development plan for secondary approval. The Plan Commission may approve or deny an application for secondary approval of a development plan. In approving a development plan, the Commission may impose such conditions as it deems necessary to carry out the intent and purpose of this Ordinance. If the Commission denies an application, it shall provide the applicant with the written reasons for the rejection. Any application for secondary approval shall contain all of the following items as applicable to the proposal:
- Site layout of the development, including the location, size, arrangement, and capacity of
 - the area to be used for vehicular access (including driveway widths, designs, and curb radii), parking spaces, loading and unloading;
 - Names of public ways giving access to the development, and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces;
 - Layout, names, and widths of proposed public ways; widths of alleys, lanes, walkways platted public ways, railroads, parks, utility easements, and other public open spaces paths, and easements;
 - Description of the use of adjacent property and drawing showing the relationship of surrounding properties to the development plan area;
 - Location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site screening activities; including a description of the types, numbers, and sizes of landscape materials to be used;
 - Number, types, sizes, locations, heights and designs of any proposed signs;
 - Storm drainage plan, including topographic features, appropriate contour intervals, directions of stormwater runoff;
 - Sewage disposal plan
 - Water supply system
 - Locations and sources of all other utilities, with appropriate easements (i.e., electricity, gas, telephone)
 - Layout of proposed lots with dimensions.
- (5) In reviewing a development plan, the Plan Commission shall give consideration to any of the following factors which are relevant to the application:
- General compatibility of the proposed development and uses therein with adjacent and nearby properties;
 - Safe and convenient ingress and egress to the property and the proposed location of structures in relation to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency;
 - Off-street parking and loading areas in relation to surrounding properties;
 - Adequacy and availability of utilities;
 - Adequacy and suitability of landscaping, screening, and buffering;
 - Appearance and compatibility of any proposed signs;
 - Suitability and compatibility of lot sizes and layouts;

- Appearance, size, height, intensity, and compatibility of buildings and structures in relation to the surrounding area;
 - Any other factors which the Plan Commission deems applicable to the specific proposal.
- (6) A development plan may be approved by the Plan Commission only if the commission makes a determination that all of the following criteria are met:
- The use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the surrounding area, or to the community as a whole;
 - The public convenience and welfare will be substantially served;
 - That the proposal is consistent with the goals and policies established in the Comprehensive Plan of Newton County.
- (7) No improvement location permit or building permit shall be issued and no site development or construction may commence in relation to a development plan until such plan has been recorded in the office of the Newton County Recorder.
- (8) No change shall be made on any approved development plan without permission of the Plan Commission. The Plan Commission may permit minor changes without notice or hearing. Any change which the Commission deems substantial shall require the same procedure as the initial approval.
- (9) Any development plan which has not been substantially put into effect five year after the date of secondary approval shall be null and void, unless an extension is authorized by the Plan Commission.

SECTION 5.00 SPECIAL EXCEPTIONS

Within the various Districts established by this Ordinance, certain uses may be permitted and buildings or premises may be used and buildings may be erected which are arranged, intended or designated for the following uses, but only after the Board of Zoning Appeals, as hereinafter created by this Ordinance, shall determine, through public hearing, after proper notice, that such uses will substantially serve the public convenience and welfare and will not be injurious to the appropriate use of neighboring property.

In permitting such Special Exception Uses, the Board may establish appropriate conditions and safeguards as part of such permission. Under such conditions the Board may grant the following uses only in the Districts so indicated.

(1) In all Districts:

- Cemetery or Crematory
- Manufactured or Mobile Homes for temporary occupancy as provided for in [Section 7.00 \(2\)](#)
- Telephone exchange, electric substation, or similar public utility.

(2) In the Agricultural District:

- Confined feeding operation, subject to the requirements of [Section 5.20](#)
- Airports
- Bed and Breakfast Inns
- Commercial grain storage, grain elevators, feed mills
- Fertilizer, farm chemical and farm supply dealers
- Itinerant work camps
- Manufactured home for residential occupancy of a full-time farm worker on the farm where employed
- Public Camp Grounds
- Recreational Vehicle Park
- Large Wind Energy Conversion Systems, subject to the requirements of Section 5.6.

(3) In A, B, and I Districts:

- Manufactured or mobile homes for non-residential occupancy
- Outdoor theaters
- Open-air sales lots
- Private social or fraternal lodges
- Manufactured home for residential occupancy for the protection and security of the business. Applications shall be made by the owner of the property where the home is to be placed.
- Penal institutions, sanitariums, or mental health facilities

(4) In the A and I Districts:

- Disposal plants or transfer stations
- Soil excavation for the purpose of removal from the premises
- Junk yard, salvage yard, or auto wrecking yards
- Stockyards and slaughter houses
- Communication towers

(5) In the I-2 District

- Manufacturing, industrial, or storage operations which are noxious or offensive by reason of emission of odor, dust, smoke, gas, noise, or vibration beyond the boundaries of the property, including, but not limited to:
 - Petroleum refining
 - Cement, lime, gypsum, or plaster of Paris manufacture
 - Manufacturing of pesticides, corrosives, or other hazardous or noxious chemicals
 - Smelting of copper, tin, zinc, or iron ore
 - Manufacture or storage of explosives
 - Distillation of bones and glue manufacturing
 - Reduction of dead animals or offal
 - Sanitary landfill

(6) In the A, R-1, R-1A, and R-2 Districts

- Bed and breakfast homestay complying with [Section 6.70](#)

(7) In the MXD District:

- Automobile repair shop
- Automobile service station
- Commercial Garage

SECTION 5.10 BOARD OF ZONING APPEALS CONSIDERATIONS

(1) The Board of Zoning Appeals shall hear and decide only such special exceptions as the Board is specifically authorized to permit by this Ordinance. The Board shall decide such questions as are involved in determining whether special exceptions should be granted and shall apply such conditions and safeguards as are necessary and appropriate under this Ordinance, or to deny conditional uses when incompatible or inconsistent with the purpose and intent of this Ordinance. Before any special exception shall be granted, the Board shall make written findings certifying

compliance with any specific regulations governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:

- (A) There will be adequate ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other' emergency.
 - (B) There will be conveniently located adequate off-street parking and loading areas. Special consideration shall be given to the location and use of these areas in relation to surrounding properties and reasonable assurance shall be provided that, the use of these areas will not create noise, glare, ,or other adverse effects on adjoining and nearby properties.
 - (C) Adequate refuse disposal and service areas will be provided. Special consideration shall be given to the location and use of these areas in relation to surrounding properties.
 - (D) Adequate utilities will be available to serve the use.
 - (E) Adequate screening and buffering will be provided to mitigate any adverse effects of the use on surrounding properties.
 - (F) Any signs or lighting permitted in conjunction with the use shall be appropriate to the location and in harmony with the general character of the properties in the area. Special consideration shall be given to the size, design, and location of these in relation to surrounding properties and reasonable assurance shall be provided that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties.
 - (G) Setback distances provide adequate open space and separation from adjoining land uses.
- (2) Before granting any special exception, the Board shall make a written finding that such use will be in general compatibility with adjoining properties and will be consistent with the spirit and intent of this Ordinance.
- (3) A case which has been withdrawn by the petitioner shall not be again placed on the docket for consideration within a period of six (6) months after the date of the withdrawal.
- (4) A case which has been dismissed or denied by the Board shall not be again placed on the docket for consideration within a period of six (6) months after the date of the dismissal or denial.

SECTION 5.20 CONFINED FEEDING OPERATIONS

- (1) The Board of Zoning Appeals may grant a special exception for a confined feeding operation in a zoning district in which such special exception is permitted, subject to the provisions of this section.
- (2) An application for the special exception shall contain the following:
- Name, address, and telephone number of the owner;
 - Name, address, and telephone number of the operator;

- Description of the location of the property;
- Map including date; scale; north arrow; approximate location, size (maximum height and floor area), capacity, and use of all buildings and structures (including pens) proposed to be used for the operation;
- Plan for waste treatment and disposal and copies of any required approvals for such systems
- Any other information the Board may require in order to decide whether to grant the special exception, including but not limited to topography, soil types, drainage courses, and identification of the receiving stream.

- (3) After receiving the application, the Board shall give notice and hold a public hearing in accordance with IC 36-7-4-900. The Board shall determine by rule who are interested parties and how notice is to be given to them.
- (4) In permitting a confined feeding special exception, the Board may establish appropriate conditions and safeguards. The Board is empowered to appoint a committee of three to five persons, knowledgeable in management of confined feeding operations, to investigate and recommend approval of a confined feeding operation or to evaluate complaints. A review may be held and the approval rescinded if, after a public hearing, the Board finds that the confined feeding operation is causing a violation of IC 13-1-3 as amended or any regulation of Newton County or any condition of approval by the Board.
- (5) Any person or persons believing that such permitted confined feeding operation in Newton County is being operated in violation of any law of the State of Indiana, rule or regulation as to confined feeding, or that the operation is endangering public health or safety, or is contrary to the public welfare, or is injurious to the appropriate use of neighboring property, or in violation of the Ordinances of Newton County, upon payment of a filing fee of one hundred dollars (\$100.00) to the Auditor of Newton County, may file a verified complaint with the secretary of the Newton County Plan Commission setting forth a designation or description of the lands involved, the lands in which complainants have an interest, the above matters of which they have complaint, together with such supplementary maps, schedules and other information as they may desire. Upon receipt of a verified complaint, the Board shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten (10) days before the date of the hearing in a newspaper of general circulation in the County. The Board shall determine by rule who are interested parties and how notice is to be given to them.

- (6) Expansion of approved confined feeding operations or remodeling of buildings in an approved confined feeding operation may be granted in the following manner:
- (A) The Building Commissioner may issue a building permit for the proposed new or remodeled building, provided that such building is consistent with the plan for the operation approved by the Board.
 - (B) The Building Commissioner may request that the Board hold a public hearing on the proposed additions. Such hearing shall be conducted in the same manner as set forth in this section for a new operation.

(7) SETBACKS

Unless otherwise permitted by the Board, confined feeding operations shall be subject to the following minimum setback requirements:

- (A) No building or shed designed to house or contain livestock may be constructed so as to project beyond a line which is thirty-five (35) feet from any adjacent street or highway line, nor nearer than one hundred (100) feet to the center line of any adjacent state or federal highway.
- (B) No structure or confined lot designed for the confined feeding of livestock may be constructed within five hundred (500) feet of any existing residence other than that of the operator, nor within one thousand three hundred twenty (1,320) feet of any area zoned residential or any existing church, business, school, recreational area, or public building.
- (C) No family residence other than that of the operator may be constructed within five hundred (500) feet of an existing or approved proposed confined feeding operation.
- (D) No area may be zoned residential nor any church, business, school, recreational area, or public building constructed within one thousand three hundred twenty feet (1,320) of an existing or approved proposed confined feeding operation. These setbacks may be reduced by the Board only upon a finding that the strict application of these requirements would constitute an unnecessary hardship if applied to the property and that the varying of these setbacks will not adversely affect neighboring property. These setbacks may be increased by the Board upon a finding that these requirements are insufficient to protect neighboring property from adverse effects. In reducing or increasing the setback requirements, the Board may require recorded written commitments regarding such setbacks.

SECTION 6.00

The following development standards shall apply to all land and structures in each applicable District.

SECTION 6.10 LOT SIZE

- (1) A lot on which a dwelling is erected or changed may not be smaller in area in square feet per dwelling unit than that prescribed in [Table 1](#).

**TABLE 1
LOT AREA IN SQUARE FEET PER DWELLING UNIT ***

TYPE OF DWELLING	A	R-1	R-2	RMH
Single-family with community sewage disposal system	43,560	10,000	8,000	10,000
Single-family with individual sewage disposal system	43,560	43,560	15,000	15,000
Two-family with community sewage disposal system			6,000	6,000
Two-family with individual sewage disposal system			8,000	12,000
Multi-family with community sewage disposal system**			3,000	3,000

* A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance

** This figure applies to the first two dwelling units; add 1,500 sq ft for each additional unit

- (2) For each dwelling unit, there shall be a required lot frontage of not less than sixty (60) feet.

SECTION 6.20 SETBACK AND YARD LINES

(8) FRONT YARDS

(H) In the R-1, R-2, RMH, B and I Districts:

1. There shall be a front yard, between the right-of-way line and the building line of not less than thirty-five (35) feet. In the cases where such property abuts a State or Federal Highway, the building line shall be located at least one hundred (100) feet from the centerline of such highway, but not less than thirty-five (35) feet from the right-of-way line except as hereinafter provided.
2. Where one or more lots are improved, the front depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. An unimproved lot adjoining on either side shall be considered as having a front yard as described above. In any case, the setback need not exceed the above stated limit.

In determining the relation of existing improvements located at a distance of more than one hundred (100) feet, measured center to center of structures, shall be disregarded as to its influence for setback determination and the setback line on that side of the proposed structure shall be considered the same as is required for undeveloped property

3. When the lot is a corner lot, the depth of the front yard need not be more than the front yard depth of the adjoining lot, if improved, and in no case need it exceed the above described setback.
4. When the lot is a corner lot at the intersection of two streets on which there are lots fronting both streets within the block affected, there shall be a front yard on each street

side of such corner lot conforming to the front yard depths as established above, except that the available building width of such lot need not be reduced to less than thirty (30) feet. No accessory building on such lot shall project beyond the front yard line as established for either street.

(I) In the A District:

1. No building or structure shall be erected or altered so as to project beyond a line thirty-five (35) feet from any adjacent street or highway line, nor nearer than one hundred (100) feet distant from the center line of any adjacent State or Federal Highway, whichever is the greater distance from the highway line.

(9) SIDE YARDS

(A) In the A, R-1, and R-2 Districts:

Each lot shall have a side yard between the side lot line and the building line of the principal building as follows:

1. A minimum distance on each side of ten (10) feet.
2. A total distance on both sides of twenty (20) percent of the lot width, except that the total side yard widths on both sides need not be more than twenty (20) feet.

(B) In the RMH District:

Each lot shall have a side yard between the side lot line and the building line of the principal building of ten (10) feet, unless abutting an R-1 or R-2 District, in which case the side yard shall be fifteen (15) feet and include a screen planting.

(C) In the B and I Districts:

Where such districts abut an A, R-1, or R-2 District, no structure or building shall be erected less than five (5) feet from the line of such Districts.

(10) REAR YARD

(A) In the R-1 and R-2 Districts

1. Each lot shall have a rear yard between the rear building line of the principal building and rear lot line of fifteen (15) percent of the lot depth, except that the rear yard depth need not be more than thirty (30) feet.
2. The rear yard may include permitted accessory buildings as provided by this Ordinance, but in no case shall such accessory buildings be less than three (3) feet from the rear lot line.

(B) In the RMH District:

1. Each lot shall have a rear yard between the rear building line of the principal building and the rear lot line of ten (10) feet, unless abutting an R-1 or R-2 District, in which case the rear yard shall be fifteen (15) feet from the rear line and include a screen planting.

(C) In the A, B, and I Districts:

1. No requirements, unless abutting an R-1 or R-2 District, in which case there shall be a rear yard of five (5) feet.

(11) PONDS, PITS, AND OTHER EXCAVATIONS

A minimum distance of thirty-five (35) feet must be between the property lines (on each and every side) and any open excavation for pond construction, sand removal, gravel removal, or other purpose.

SECTION 6.30 BUILDING AREA

- (1) No dwelling may be established, erected, or changed so that its ground floor area, in square feet, is less than that prescribed in the following [table](#).

TABLE 2
GROUND FLOOR AREA IN SQUARE FEET PER DWELLING

TYPE OF DWELLING	A	R-1	R-2	RMH
(A) One-story Dwellings				720
(1) Single-Family	960	960	960	720
(2) Two-Family			960	720
(3) Multi-Family			720	720
(4) Manufactured Home				720
(B) More than One Story				
(1) Single-Family			960	960
(2) Two-Family			960	960
(3) Multi-Family			720	960

(2) No non-residential structure may exceed the area below:

MXD	B-1	B-2	I-1	I-2
5,000 sq ft per floor	1,500 sq ft	40,000 sq ft	20,000 sq ft	60,000 sq ft

(3) In the R Districts, no accessory structure may exceed the dimensions below:

- (A) On lots less than one acre in size, twenty-four (24) feet by twenty-eight (28) feet.
- (B) On lots one acre or larger, forty (40) feet by thirty (30) feet.

SECTION 6.40 LOT COVERAGE

(1) All buildings on any lot shall not cover more than the following percentages of the total lot area:

DISTRICT	R-1	R-2	RMH
PERCENT OF COVERAGE	45	45	35

(2) All accessory buildings on any lot shall not cover more than the following percentages of the rear yard area:

DISTRICT	R-1	R-2
PERCENT OF COVERAGE	40	40

SECTION 6.50 BUILDING HEIGHT

(1) The maximum heights of buildings shall be as follows:

Single- or Two-Family Dwelling	30 ft
Multi-Family Dwelling	35 ft
Accessory Building	15 ft
Commercial Building	35 ft
Industrial Building	40 ft

(2) Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.), radio and television towers, and necessary mechanical appurtenances may exceed these height limitations.

(3) The heights of any buildings shown on an approved development plan or PUD site plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.

SECTION 6.60 PARKING

- (1) In the MXD district, no building shall be erected or altered and no land use changed or initiated after the effective date of this Ordinance unless adequate off-street parking and loading space is provided for the residents, tenants, personnel, and patrons of such building or use. The regulations contained in this section are minimum requirements; if in the judgment of the Plan Commission, additional spaces are required in order to accomplish the purposes of this Ordinance, such additional spaces may be required. Parking and load spaces shall comply with the requirements of this section.
- (2) In the MXD District, the Plan Commission may permit the use of on-street parking and/or off-site parking to satisfy the requirements of this Section.
- (3) No use lawfully established prior to the effective date of this Ordinance shall be required to provide and maintain the parking and loading requirements of this Ordinance, but such use shall comply with the following:
 - (A) Parking or loading facilities in existence on the effective date of this Ordinance shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirement of this Ordinance.
 - (B) When the intensity of use of any building, structure, or premises shall be increased by any means, parking and loading facilities shall be provided as required by this Ordinance.
- (4) Off-street parking spaces and lots shall comply with the following design standards, as a minimum:
 - (A) Parking areas shall be paved with an asphaltic concrete or equivalent hard surface with spaces indicated by pavement markings.
 - (B) The minimum dimensions of each automobile parking space shall be 9 feet in width and 18 feet in length.
 - (C) Except on lots occupied by single- or two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least 12 feet wide or such additional width and design in accordance with the following table, so as to provide safe and efficient means of vehicular access. Such aisle or driveway shall be unobstructed and shall allow for the passage of emergency vehicles at all times.

PARKING ANGLE	 AISLE WIDTH
45 degrees	14 ft
60 degrees	18 ft
90 degrees	24 ft

***Angle shall be measured between the center line of the parking space and the center line of the aisle.**

- (D) Parking areas shall be maintained in good condition free of weeds, trash, and debris.
- (E) Driveway entrances or exits for off-street parking other than those required for a single- or two-family dwelling or home occupation shall be no closer than 25 feet to an adjoining residential property line or 10 feet to an adjoining nonresidential property line. Shared driveways for two or more properties are encouraged, and these may be placed on or along property lines. No driveway shall exceed 30 feet in width at the edge of street pavements, except that two adjacent driveways of 30 feet in width each may be used as a single entrance-exit driveway, provided such driveway is clearly marked to indicate the direction of traffic flow.

- (F) Parking areas shall be graded and properly drained in such a manner as to prevent free flow of water onto adjacent property, including street right-of-way. Stormwater generated by parking areas shall flow into an approved drainage system or be contained on site.
 - (G) Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded, and directed upon the parking areas in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare, unshaded bulbs be used for parking lot illumination.
- (5) Required off-street parking shall be located on the same premises as the use with which the parking is associated, unless a special exception for off-site parking is granted by the Board of Zoning Appeals in accordance with [Section 5](#) of this Ordinance.
- (6) In interpreting the provisions of this section, the following rules shall apply:
- (A) Parking spaces shall not be considered provided pursuant to this section unless they are readily available without charge.
 - (B) In the case of mixed uses or multiple uses on a single parcel, the required parking spaces shall be the sum of the required parking spaces for the various uses computed separately, and such spaces for one use shall not be considered as providing parking for any other use.
 - (C) Where parking space requirements are based upon the number of employees, the number of employees shall mean the total number on the largest shift. For uses where working shifts are immediately consecutive, 20% additional spaces shall be provided to accommodate overlap.
 - (D) Gross floor areas shall mean the total horizontal area of all floors of the building. Net floor area shall mean the total horizontal floor area of all floors of the building devoted to the use or uses for which parking is required, excluding any area devoted entirely and permanently to storage purposes, paring and loading facilities, restrooms, utilities, or elevator shafts.
 - (E) If the unit or measurement is any fraction of the unit specified in relation to the number of spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one space.
 - (F) For uses not specified in this section, or in any other case where the requirement is not clear, the Plan Commission or its designee shall determine the number required, based upon the requirements for similar uses or other research indicating the number needed.
- (7) All commercial and industrial uses shall have adequate off-street loading facilities in accordance with the following requirements:
- (A) All commercial and industrial uses shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
 - (B) Uses and buildings with a gross floor area of less than 5,000 square feet shall have adequate receiving facilities so as not to obstruct the free movement of pedestrians and vehicles over sidewalks, streets, driveways, aisles, and alleys.
 - (C) Uses and buildings with a gross floor area of 5,000 square feet or more shall provide off-street loading spaces in accordance with the following table:

<u>Use Description</u>	<u>Floor Area (sq. ft.)</u>	<u>Number of Spaces</u>
Manufacturing, Distribution, Wholesaling, Storage, and Similar Uses	5,000 - 25,000	1
	25,001 - 60,000	2
	60,001 - 100,000	3
	Each 50,000 above 100,000	1
Office Buildings, Hotels and Motels, Retail Sales, Hospitals, Institutions, and Similar Uses	5,000 - 60,000	1
	60,001 - 100,000	2
	Each 50,000 above 100,000	1

(D) Loading facilities shall be located at the rear or side of the building.

(8) The following tables indicate the minimum number of off-street parking spaces to be provided:

<u>Residential Uses</u>	<u>Number of Spaces</u>
1-Family Dwelling	2 Spaces
2-Family Dwelling	4 Spaces
Multifamily Dwellings	1.5 Spaces Per Dwelling Unit
Boarding Houses, Bed-and-Breakfast Use	1 Space Per Sleeping Room
Retirement Home, Elderly Housing	1 Space Per 2 Units
Mobile Home	2 Spaces

<u>Government, Communications, and Utilities Uses</u>	<u>Number of Spaces</u>
Libraries, Museums, Art Galleries	1 space per 600 sq. ft. of gross floor area, plus 1 space per 2 employees
Post Office	1 space per 500 sq. ft. of gross floor area, plus 1 space per 2 employees, plus 1 space per 3 Post Office vehicles
Fire Station, Sewage Treatment Plant, Weigh Station, Radio or TV Station, Public Utilities	1 space per 2 employees
Air, Rail, and Motor Freight Terminals	1 space per 2 employees, plus 1 space per vehicle maintained

<u>Medical and Professional Uses</u>	<u>Number of Spaces</u>
Sanitariums, Convalescence Homes, Children's Homes, Hospitals, In-Patient Clinics	1 space per 3 beds, plus 1 space per employee
Medical Office, Out-Patient Clinic	1 space per 100 sq. ft. of net floor area
Other Professional Office	1 space per 200 sq. ft. of gross floor area

Commercial Uses	Number of Spaces
Retail Stores (Except those otherwise specified in this section)	1 space per 200 sq ft. of gross floor area
Convenience Stores, Supermarkets, Specialty Markets, Farm Markets	1 space per 100 sq. ft of gross floor area
Furniture and Appliance Stores	1 space per 800 sq ft. of net floor area, plus 1 space per 2 employees
Carry-Out or Fast Food Restaurants	1 space per 60 sq ft. of net floor area plus 1 space per employee
Eating and Drinking Establishments	1 space per 3 seats plus 1 space per employee
Banks, Dry Cleaners, Laundries, and Similar Service Businesses	1 space per 250 sq ft of net floor area
Banks with Drive-Up Windows	10 standing spaces per drive-up window
Dry Cleaning, Laundries, and Similar Service Businesses with Drive-Up Windows	3 standing spaces per drive-up window
Laundromats	1 space per 2 washing machines
Automobile Service Stations and Repair Shops	1 space per employee, plus 2 spaces per service stall, plus 3 standing spaces per side/pump island
Automobile Sales or Implement Sales	1 space per 200 sq ft of floor area in display room, plus 1 space per 1500 sq ft of outdoor display area
Barber Shops and Beauty Salons	2 spaces per chair, plus 1 space per employee
Mortuaries or Funeral Homes	1 space per 50 sq ft of floor area in slumber rooms, parlors, or funeral service rooms
Hotels and Motels	1 space per unit, plus 1 space per employee
Roadside Stand	4 spaces
Stables for Boarding Horses	1 space per 3 stalls
Nurseries and Greenhouses with Retail Sales	1 space per 200 sq ft of gross floor area
Kennels for Boarding of Animals	1 space per 5 pens
Day Care Center	1 space per 3 children of total capacity, plus 1 space per employee

Recreation & Amusement Uses	Number of Spaces
Auditoriums, Theaters, Sports Arenas, Other Spectator Establishments	1 space per 4 seats, plus 1 space per employee
Public Assembly Area without Fixed Seats	1 space per 100 sq ft of floor area
Bowling Alleys	5 spaces per lane
Golf Courses	10 spaces per hole, plus one space per employee
Tennis Courts	3 spaces per court, plus one space per employee
Swimming Pool	1 space per 100 sq ft of water area
Skating Rink	1 space per 500 sq ft of gross floor area
Athletic Fields, Parks	At least 10% of the total land area shall be devoted to parking
Amusement Game Complex	1 space per game machine

Industrial, Warehousing, & Wholesale Uses	Number of Spaces
Manufacturing Plants or Other Industrial Use	1 space per 1-1/2 employees
Contractor's Yards or Plant Storage Yards	1 space per 2 employees
Warehouses	1 space per 800 sq ft of gross floor area
Wholesale Establishments Not Catering to the General Public	1 space per 1-1/2 employees, plus 5 visitor spaces, plus 1 space per 5 vehicles maintained

Miscellaneous Uses	Number of Spaces
Church	1 space per 3 seats in the main sanctuary
Clubs, Lodges, Community Centers	1 space per 300 sq ft of gross floor area

SECTION 6.70 OTHER DEVELOPMENT STANDARDS

- (1) Home Occupations: There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of home occupations, other than one sign not to exceed two (2) square feet in area, non-illuminated, and mounted flush with the front wall of the principal building. The nature of the occupation shall be such that no traffic shall be generated in greater volume than would normally be expected in a residential neighborhood, and where no person is employed other than a member or household employee of the immediate family residing on the premises.
- (2) Bed and Breakfast Homestay: The exterior of the building may be modified only if such changes are compatible with the character of the neighborhood. The only meal to be provided shall be breakfast which may be served only to guests taking lodging in the facility. The establishment may be identified by a single, unlighted sign not to exceed two (2) square feet in area.

SECTION 7.00 MANUFACTURED HOMES

The following requirements pertain to all factory-built housing in Newton County:

(1) PERMANENT OCCUPANCY

Type I Manufactured Homes are permitted uses in A, R-1, R-1A and R-2 Districts. Manufactured Home Communities are permitted uses in the RMH and RMHA Districts subject to the restrictions and requirements of [Section 7.10](#).

(2) TEMPORARY OCCUPANCY**(A) EMERGENCY OCCUPANCY**

In the event of natural disaster or fire resulting in the destruction of a single-family dwelling, the Board may, upon petition, grant a Special Exception for the temporary placement of a manufactured home or a mobile home on the property during reconstruction of the dwelling. Such Special Exception may be granted for a period of time not to exceed six (6) months.

(B) MEDICAL OCCUPANCY

Where an emergency arises due to serious illness or need of special care due to severe physical handicap of an immediate member of the family, and proper care of such person cannot be furnished within the residence of such a family, the head of such household may petition the Board of Zoning Appeals for a Special Exception as provided under [Section 5.00 \(1\)](#) of this Ordinance. Petitioner must satisfy the facts regarding the illness or disability must be certified by a competent physician. The Board may grant temporary occupancy of a manufactured home for the period of such emergency, but not to exceed one year. No such petition shall be granted for reasons of inconvenience, nor of a saving in expense. The provisions of [Section 6.4\(1\)](#) shall apply. If such Special Exception is granted, the Board shall retain jurisdiction and may conduct further hearings and make any appropriate amendments of its orders at any time, upon notice to the parties, but without requirement of public notice.

(3) NON-RESIDENTIAL OCCUPANCY

Manufactured homes, mobile homes, trailers, or vans may be utilized as contract's offices, watchman's shelters, or tool or equipment storage only on the site and during the period of construction of improvement projects by permit from the Building Commissioner. All requirements of this and other ordinances of the County with respect to water supply and sanitary waste disposal will be met, and a letter from the county Health Officer so stating must accompany the application for an Improvement Location Permit for this use.

(4) NON-CONFORMING HOMES

A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal non-conforming use prior to the adoption of this Ordinance, shall continue to be a legal non-conforming use. If the non-conforming use is discontinued, the land thereafter must be used in conformity with all provisions of this Ordinance.

(5) STRUCTURAL ALTERATION

Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Building Commissioner.

SECTION 7.10 MANUFACTURED HOME COMMUNITIES: PROPERTY DEVELOPMENT STANDARDS

All provisions of the Newton County Subdivision Control Ordinance shall apply to Manufactured Home Communities unless superseded by this section.

(1) **SIZE**

A manufactured home community shall be a minimum of five (5) acres in size.

(2) **LOT SIZE**

The provisions of [Section 6.10](#) shall apply.

(3) **SETBACK AND YARD LINES**

(A) Manufactured homes on opposing sides of the street shall be placed a minimum of sixty (60) feet apart.

(B) Manufactured homes shall be placed a minimum of eight (8) feet from a street pavement, a common parking area, a common walk, or other common area.

(C) The distance between a manufactured home and the boundary of the manufactured home community shall be:

1. Fifteen (15) feet when the adjoining land is used for residential purposes or a residential or feeder street.
2. Thirty (30) feet when adjoining an arterial street or land used for any purpose other than residential.

(4) **STREETS**

(A) **PRIVATE STREETS**

Provisions must be made in every manufactured home community for a private road in front of each manufactured home lot. The streets shall be of the all-weather type, with a right-of-way not less than forty (40) feet in width, properly drained and graded and where such streets come in contact with any public road or highway, a driveway culvert of heavy reinforced concrete sewer pipe with cemented joints or continuous aluminum, iron, or steel pipe shall be installed to provide drainage. The cost of such pipe shall be defrayed by the developer of the community and the installation shall be approved by the County Highway Engineer or the County Surveyor. All streets within the community must be accessible to traffic at all times and shall be maintained in first-class condition by the operator of the manufactured home community.

(B) **APPROVAL**

Streets and alleys shall be completed to grade as shown on plans, profiles and cross-sections prepared by the developer and approved by the Board of County Commissioners. Prior to construction, preliminary plans for all streets and roads shall be presented to the board of County Commissioners for approval and recommendations regarding compliance or non-compliance with Ordinance No. 90-7.

(C) **IMPROVEMENT SPECIFICATIONS**

Streets shall be improved in accordance with the procedures required in Ordinance 90-7.

(D) **MINIMUM RADII OF CURVATURE OF CENTER LINES**

Where a deflection angel of more than ten (10) degrees in the alignment of a street occurs, a curve shall be introduced, providing a minimum radius of two hundred (200) feet.

(5) DRIVEWAYS

- (A) Driveways shall be provided on the sites where necessary for convenience to service entrances of buildings, to deliver and collection points for refuse and other material, and elsewhere as needed.
- (B) Driveways serving a single facility, single manufactured home lot, or where used as a walk shall be minimum width of fourteen (14) feet.

(6) PARKING SPACES

- (A) Off-street parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of two parking spaces for each manufactured home lot.
- (B) Parking spaces shall be located for convenient access to each lot. Insofar as is practical, one space shall be located on each lot and the remainder located in adjacent parking areas.

(7) WALKS

- (A) Individual walks from streets, driveways, or parking spaces to individual manufactured homes shall be provided.
- (B) Common sidewalks shall be provided in locations where pedestrian traffic is concentrated such as at the community entrance, office and other important facilities

(8) RECREATION FACILITIES

- (A) Recreation areas and facilities, such as playgrounds, swimming pools, and community buildings may be provided to meet the anticipated needs of the residents
- (B) Not less than five (5) percent of the gross site area shall be devoted to designed and developed recreational facilities, The minimum dimension of a recreation area shall be 50 feet each way, and the area shall not be less than 10,000 square feet

(9) COMMUNITY FACILITIES

Essential community facilities and services such as schools, recreation areas, police and fire protection shall be accessible to the residents or provisions shall be made assuring these facilities and services. Mailboxes shall be furnished by the operator in accordance with postal regulations.

(10) WATER SUPPLY

The developer shall provide the manufactured home community with a complete water main supply system, which shall be connected to an existing approved municipal or community water system, except that when such municipal or community water system is not available, the developer shall provide one of the following:

- (A) A complete community water supply system to be provided in accordance with the minimum requirements of the Indiana State Board of Health.
- (B) Individual water supply to each lot in accordance with the minimum requirements of the Indiana State Board of Health and with the provisions of Newton County Ordinance 90-3.

The plans for installation of the water main supply shall be provided by the developer and approved by the Indiana State Board of Health. Upon completion of the water supply installation, the plans for such system as constructed shall be filed with the Commission.

(11) SEWER SYSTEM

- (A) The manufactured home community shall be provided with a complete sanitary sewer system, which shall connect with an existing sanitary sewer outlet or shall be provided with a separate treatment plant, to be provided by the developer in accordance with the minimum requirements of the Indiana State Board of Health.
- (B) The plans for the installation of a sanitary sewer system shall be provided by the developer and approved by the Indiana State Board of Health. Upon completion of the sanitary sewer installation, the plans for such system shall be filed with the Commission.

SECTION 8.00 DEVELOPMENT PLANS

- (1) Development plans require primary and secondary approval by the Plan Commission. Any development plan submitted for primary approval shall include the following as applicable to the project:
- Proposed name of the development
 - Name and address of the developer
 - Name and address of the owner
 - Description of the location of the property
 - Map, including:
 - Date
 - Scale
 - North Arrow
 - Approximate Location
 - Size (Maximum height and floor area)
 - Capacity
 - Use of all buildings and structures existing or to be placed in the development
 - Nature and intensity of the operations involved in or conducted in connection with the development
 - Site layout of the development, including:
 - Location
 - Size
 - Arrangement
 - Capacity of the area to be used for vehicular access (including driveway widths, designs, and curb radii)
 - Parking spaces, loading and unloading
 - Names of public ways giving access to the development, and location, width and names of platted public ways, railroads, parks, utility easements, and other public open spaces
 - Layout names, and widths of proposed public ways;
 - Widths of alleys, lanes, walkways, paths, and easements
 - Description of the use of adjacent property and drawing showing the relationship of surrounding properties to the development plan area
 - Location, size, and arrangement of areas to be devoted to planting lawns, trees, and other landscape materials to be used
 - Number, types, sizes, locations, heights, and designs of any proposed signs
 - Storm drainage plan, including topographic features, appropriate contour intervals, directions of stormwater runoff
 - Sewage disposal plan
 - Water supply system
 - Locations and sources of all other utilities, with appropriate easements (i.e., electricity, gas, telephone)
 - Layout of proposed lots with approximate dimensions
 - Land use intensity factors (i.e., dwelling units per acre, floor area ratio, lot coverage)
- (2) After receipt of an application for primary approval of a development plan. The Plan Commission shall schedule a public hearing on the proposal. The Commission shall notify the applicant in writing of the date of the hearing, give notice by publication in accordance with IC 5-3-1, and provide for due notice to interested parties at least 10 days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.
- (3) The Plan Commission may approve or deny an application for primary approval of a development plan. In approving a development plan, the Commission may impose such conditions as it deems necessary to carry out the intent and purpose of this Ordinance. If the Commission denies an application, it shall provide the applicant with the written reasons for the rejection.

- (4) In reviewing a development plan, the Plan Commission shall give consideration to any of the following factors which are relevant to the application:
- General compatibility of the proposed development and uses therein with adjacent and nearby properties
 - Safe and convenient ingress and egress to the property and the proposed location of structures in relation to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency
 - Off-street parking and loading areas in relation to surrounding properties
 - Adequacy and availability of utilities
 - Adequacy and suitability of landscaping, screening, and buffering
 - Appearance and compatibility of any proposed signs
 - Suitability and compatibility of lot sizes and layouts
 - Appearance, size, height, intensity, and compatibility of buildings and structures in relation to the surrounding area
 - Any other factors which the Plan Commission deems applicable to the specific proposal
- (5) A development plan may be approved by the Plan Commission only if the commission makes a determination that all of the following criteria are met:
- Use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the surrounding areas, or to the community as a whole
 - The public convenience and welfare will be substantially served
 - That the proposal is consistent with the goals and policies established in the Comprehensive Plan of Newton County
- (6) The Plan Commission may grant secondary approval to a development plan if it finds that all conditions of primary approval have been met. The Commission may, by rule, delegate secondary approval to a committee or person, whose denial may be appealed to the full Plan Commission. No notice or hearing is required for secondary approval.
- (7) No improvement location permit or building permit shall be issued and no site development or construction may commence in relation to a development plan until such plan has been recorded in the office of the Newton County Recorder.
- (8) No change shall be made on any approved development plan without permission of the Plan Commission. The Plan Commission may permit minor changes without notice or hearing. Any change which the Commission deems substantial shall require the same procedure as the initial approval.
- (9) Any development plan which has not been substantially put into effect five years after the date of secondary approval shall be null and void, unless an extension is authorized by the Plan Commission.

SECTION 9.00 WATER SUPPLY AND WASTE DISPOSAL

The above listed uses of lands, properties, premises, structures and buildings are, by this Ordinance, permitted only if the applicant provides written evidence that the proposed method of water supply and the disposal of sanitary wastes is in compliance with the requirements of the County Health Officer and the currently approved standards of the Indiana State Board of Health and/or the Indiana Stream Pollution Control Board.

SECTION 10.00 GENERAL PROVISIONS

(1) INTERPRETATION

The provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience, and general welfare. The Newton County Plan Commission has given consideration to the existing and future probable use of land in the territory affected by this Ordinance, and to the Comprehensive Plan.

(2) NON-INTERFERENCE WITH GREATER RESTRICTIONS OTHERWISE IMPOSED

It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, nor any ordinances, rules regulations or permits previously adopted or issued and which are not in conflict with any of the provisions of this Ordinance, except that, where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such ordinance, rules, regulations or permits, the provisions of this Ordinance shall prevail.

SECTION 10.10 AGRICULTURAL ACREAGE

Agricultural property may be subdivided only under the terms of the Subdivision Control Ordinance of Newton County.

SECTION 10.20 IMPROVEMENT LOCATION PERMITS

Within the unincorporated portions of Newton County, Indiana, no structure, improvement, or use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvements or use and its location conform with the Comprehensive Plan and Ordinances of Newton County and an Improvement Location Permit for such structure, improvement or use has been issued.

The Building Commissioner shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement or use of land and its location conform in all respects to the provisions of this Ordinance.

SECTION 10.30 PERMITS ISSUED

The Building commissioner shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement or use of land and its location conform in all respects to the provisions of this Ordinance.

SECTION 10.40 APPLICATION FOR IMPROVEMENT LOCATION PERMIT

Every application for an Improvement Location Permit shall be accompanied by a site plan, drawn to scale, showing the location of the structure, improvement, or use of the land to be altered, changed, placed, erected, or located; the dimensions of the lot to be improved; existing and proposed streets and alleys adjoining or within the lot; and the manner in which the location is to be improved. No fee shall be charged for an Improvement Location Permit applied for coincident with an application for a Building Permit; application for an Improvement Location Permit, only, shall be accompanied by a fee of one (1) dollar.

SECTION 10.50 APPEALS

Each decision of the Plan Commission is subject to review by certiorari. Each person aggrieved by a decision of the Commission may present, within 30 days to the Circuit or Superior Court of Newton County, a verified petition setting forth that the decision is illegal in whole or in part and: specifying the grounds of the illegality.

SECTION 11.00 ADMINISTRATION AND ORGANIZATION

SECTION 11.10 NEWTON COUNTY BOARD OF ZONING APPEALS: ESTABLISHMENT AND ORGANIZATION

The Newton County Board of Zoning Appeals as established under the authority of Chapter 174, Acts of 1947 and continued by IC-36-7-4-901(h) is governed by the rules and regulations of the Board and the regulations as provided in the 900 SERIES of IC-36-7-4, as added by Acts 1981, P.L. 309, Sec. 23 which are hereby incorporated and made a part of this Ordinance.

The guidelines for the filing of petitions and appeals before the Board shall be in accordance with the policies and regulations set forth by said Board, copies of which are on file in the Office of the Building Commissioner.

SECTION 11.20 BOARD OF ZONING APPEALS: HEARINGS

Upon application for:

- 1) Special Exception
- 2) Development Standards Variance, or
- 3) Use Variance

from zoning ordinance; or upon appeal of a decision of the Building Commissioner, the Board shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten (10) days before the date of the hearing in a newspaper of general circulation in the county. Interested parties shall be notified by the Board in accordance with state law and the rules of the Board.

A more detailed description of the hearings is contained in the 900 Series of IC 36-7-4 and is hereby made part of this Ordinance.

SECTION 11.30 ENFORCEMENT

- (1) Any person may, by suit in the Circuit Court and/or Superior Court of Newton County, enjoin the violation of this Ordinance
- (2) The Commission or the Board may, by mandatory injunction in the circuit and/or Superior Court of Newton County, require the removal of a structure erected in violation of this Ordinance.
- (3) A use that violates this Ordinance shall be treated as if it were a common nuisance, and it may be abated in the same manners as such a nuisance.
- (4) Any person or corporation, whether principal, agent, employee, or otherwise, who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than ten (10) dollars and not more than three hundred (300) dollars for each offense. Each day of existence of any violation may be deemed a separate offense.

The erection, construction, enlargement, conversion, moving or maintenance of any building or structure, and the use of any land or building continued, operated or maintained contrary to any of the provisions of this Ordinance, is hereby declared to be a violation of this Ordinance and unlawful. Buildings erected, raised, or converted, or {and or premises used, in violation of any provisions of this Ordinance, are hereby declared to be common nuisances, and the owner of the building, land or premises shall be liable for maintaining a common nuisance.

SECTION 11.40 REMEDIES AND ENFORCEMENT

Action on the violation of any provision of this Ordinance and the rights of injunction against such violation shall be as provided by the 1000 SERIES IC-36-7-4 and all acts amendatory thereto.

SECTION 12.00 MISCELLANEOUS**SECTION 12.10 SEVERABILITY**

If a part of this Ordinance is invalid, all valid parts that are severable from the invalid part, remain in effect. If a part of this Ordinance is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

SECTION 12.20 REPEALER

Ordinance #90-6, "The Newton County, Indiana, Zoning Ordinance" adopted June 4, 1990, and Ordinance #5, "Confined Feeding," adopted April 3, 1978, are hereby repealed. All Ordinances or parts thereof that are in conflict with the terms and conditions of this Ordinance are hereby repealed, provided, however, that it is not the intent of this Ordinance nor should it be the result of this Ordinance that any usage of land existing at the time or prior to the enactment of this Ordinance which was illegal or unlawful under former Zoning Ordinances or regulations should become legal or lawful under the terms of this Ordinance.

So Enacted This 18th Day of July, 1994

BOARD OF COMMISSIONERS OF NEWTON COUNTY, INDIANA

RUSSELL COLLINS, JR.

LORRIE LAFFOON

JAMES E. POSTELLO

PATRICIA L. CARLSON

Newton County Auditor

ORDINANCE 7: ORDINANCE REGULATING OUTDOOR ADVERTISING

A. GENERAL REQUIREMENTS

No sign or advertising structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision of operators of motor vehicles, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words “Stop,” “Danger” or any other word or phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic. Signs shall comply with all structural and electrical codes. No sign or advertising structure over four square feet in area shall be erected in Newton County prior to the issuance of a sign permit by the Building Commissioner.

The fees prescribed in this Division must be paid to the Auditor of Newton County for each sign installation for which a Building Permit is required by this Division and must be paid before any such permit is issued as herein provided.

- For each sign erected, installed, affixed, structurally altered, relocated, or created by painting, the Building Permit and Initial Use Permit fee shall be \$20. The Initial Use Permit shall be valid for a period of two years from the date of issuance.
- For each sign erected, installed, affixed, structurally altered, relocated or created by painting, without first obtaining a Building Permit, the fee shall be twice the amount specified above.
- A biennial inspection will be made by the Building Official. The fee for this inspection shall be \$10.
- All signs, together with all of their supports, braces, guys, connections and anchors, shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a safe, clean, sanitary, and inoffensive condition, and shall be kept free and clear of all obnoxious substances, rubbish, and weeds. Any crazing, fading, chipping, peeling, flaking of paint or plastic, and any mechanical or structural defect, shall be corrected before a sign use permit is issued.
- Any sign or structure, not complying with the conditions of the Newton County Sign Ordinance, or any sign or structure not in use or abandoned, will be removed after notification of the owner of the sign or structure. The owner will have 30 days to remove the sign after notification. The owner of the property will be held responsible for the cost of the removal of the sign or structure.

B. OFFSITE SIGNS

Off site signs or structures shall comply with Public Law #30, an Act to amend IC 8-12. Also Section 131 of title 23, United States Code, as amended, commonly referred to as Title 1 of the Highway Beautification Act of 1965, as amended.

C. ON SITE SIGNS

Single-Family Residential, R-2, and RMH Districts:

Signs and other commercial advertising shall be permitted in this District only as herein provided.

Name plates shall be permitted, subject to the following conditions:

- Name plates shall not exceed two square feet in area
- Name plates shall display only the name of the premises upon which they are displayed, the name of the owner or lessee of said premises, and the address of said premises, and the nature of the home occupation engaged in on said premises.

For rent and for sale signs shall be permitted:

- Not more than two such signs, not exceeding four square feet in area, shall be permitted on any lot or parcel.

Subdivision signs – on site.

Temporary real estate signs and advertising real property which has been subdivided for purposes of sale or lease shall be permitted, subject to the following conditions:

- The construction of any sign shall be in strict compliance with the provisions of this Ordinance and all other laws of the County. The sign shall remain only as long as some portion of the property advertised for sale remains unsold, or for a period of two years, whichever period is shorter. Subject to review and approval by the Commission, said time may be extended for one year. Not more than two such extensions may be granted.
- The signs shall be located on the premises which they advertise.
- No sign shall exceed four hundred eight square feet in area.
- Not more than two such signs shall be permitted in any subdivision under twenty acres in size. In subdivisions involving more than twenty acres, an additional sign shall be permitted for each additional ten acres.
- Identification signs containing the tract name are permitted provided there shall be not more than one sign for each three lots. Said signs shall not exceed four square feet in area.
- Said signs shall be removed after the developer concludes the initial sale of the lots or homes to their initial owners.

D. SUBDIVISION SIGNS – OFF-SITE TEMPORARY REAL ESTATE DIRECTIONAL SIGNS:

Temporary real estate directional signs, directing prospective purchasers to a subdivision having lots or houses for sale, may be erected and maintained provided said signs do not create hazardous traffic conditions. Such signs shall be subject to the following standards:

- The sign shall not exceed one hundred sixty square feet in area.
- The sign shall be set back not less than eight feet from the front property line.
- The sign shall be not less than six and not more than eighteen feet above the crown of the nearest adjacent road or the higher of the two crowns of two adjacent roads.

- Temporary open house signs shall be permitted for a period of forty-eight hours, provided that the sign shall be limited to a double faced sign not more than two by two feet in size.

E. SIGNS FOR INSTITUTIONAL USES, INCLUDING CHURCHES, HOSPITALS, REST HOMES, AND PRIVATE CLUBS AND SIMILAR USES SHALL BE PERMITTED, SUBJECT TO THE FOLLOWING REGULATIONS:

One free standing sign for each main use per frontage:

- The sign shall contain only the name and the address of the building, its occupants, and the service rendered.
- The sign shall not exceed thirty-two square feet in area, exclusive of architectural features. The sign’s structure shall not exceed twelve feet in height.
- Signs shall be set back fifteen feet from public right-of-ways; however, this setback may be reduced to ten feet subject to approval of the Board. In no case shall signs be located within required rear and interior side yards.

One sign attached to the face of the main building shall comply with the following regulations:

- The sign shall contain only the name of the building and its occupants.
- Letter or numeral heights shall not exceed one foot.
- The sign shall not exceed ten square feet in area.

F. BUSINESS AND MANUFACTURING DISTRICTS: ON SITE SIGNS

The following signs shall be permitted:

- Signs indicating the name and nature of the occupancy or the name and address of the building or the name and address of the owner. These signs shall be attached to the building in which the occupancy is located.
- For rent and for sale signs posted on the subject lot or building by the owner or his authorized agent, said signs not to exceed six square feet in area and there shall not be more than two such signs for any one lot, building, or occupancy.
- Directional signs related to the location of buildings or activities on the property on which the signs are located. Each directional sign shall not exceed six square feet in area.
- One free standing sign, provided the sign shall contain thereon only the name of the buildings, occupants, or groups thereof and the sign shall not exceed one hundred square feet in area. Mobile signs shall be permitted for 30 days. An appeal may be made for a period longer than one year. A review may be asked for at the end of one year. The Board may approve for an additional year.

The following regulations shall apply to signs for each occupancy:

- A sign may not exceed one square foot in area for each front foot of the structure or portion of the structure wherein the pertaining use is conducted, or one half square foot of sign for each front foot

of the lot upon which the structure is located. The total sign area per commercial use may not exceed one hundred square feet for each building frontage.

- The minimum area for occupancy need not be less than forty square feet.
- The building frontage to be used in calculating the permitted sign area shall include frontage whereon a public entrance to the occupancy is located. Separate calculations may be made for front, side, and rear entrances and separate signs may be erected on each of these building frontages.
- In cases where the building has a rear parking lot, signs may be located on the side or rear of the building and shall be developed to the same standards as are required in the front of said store, provided, however, said stores shall not be lighted in such manner as to be disturbing to the abutting residential district.
- Lights used to illuminate signs shall be so installed as to concentrate the illumination on the sign and so as to minimize glare upon a public street or adjacent property.
- Signs may be placed on the roof of buildings, but may not exceed the permitted building height in the District.
- For signs within fifty feet of a property line which is the boundary between this District and a residential District, all the provisions of the residential Districts shall apply.

G. SPECIAL EXCEPTIONS

Within the various Districts established by this Ordinance, certain signs may be permitted, but only after the Board of Appeals, as hereinafter created by this Ordinance, shall determine, through public hearing after proper public notice, that such uses will substantially serve the public convenience and welfare and will not be injurious to the appropriate use of neighboring property. In permitting such special Exception uses, the Board may establish appropriate conditions and safeguards as part of such permission.

[INDIANA MODEL]
NEWTON COUNTY ORDINANCE FOR
FLOOD HAZARD AREAS
ORDINANCE 93-8
AMENDED

Be it ordained by the county Commissioners of Newton County, Indiana, as follows:

SECTION 1. STATUTORY AUTHORIZATION

The Indiana Legislature granted the power to local units of government (IC 36-7-4) to control land use within their jurisdictions in order to accomplish the following.

SECTION 2. STATEMENT OF PURPOSE

The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Newton County Commissioners hereby adopts the following floodplain management regulations in order to accomplish the following:

- a. To prevent unwise developments from increasing flood or drainage hazards to others;
- b. To protect new buildings and major improvements to buildings from flood damage;
- c. To protect human life and health from the hazards of flooding;
- d. To lessen the burden on taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- e. To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- f. To make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

SECTION 3. DEFINITIONS.

For the purpose of this ordinance, the following definitions are adopted:

Building – see “**Structure**”

Development –any man-made change to improved or unimproved real estate including but not limited to:

- a. Construction, reconstruction, or placement of a building or any addition to a building;
- b. Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
- c. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- d. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.
- e. Mining, dredging, filling, grading, excavation, or drilling operations;
- f. Construction and/or reconstruction of bridges or culverts;
- g. Storage of materials; or
- h. Any other activity that might change the direction, height, or velocity of flood or surface waters.

Existing Manufactured Home Park or Subdivision – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Expansion to an Existing Manufactured Home Park or Subdivision – means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FBFM – Flood Boundary and Floodway Map

FEMA - Federal Emergency Management Agency

FHBM – Flood Hazard Boundary Map

FIRM – Flood Insurance Rate Map

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

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

Flood Protection Grade (FPG) – The elevation of the regulatory flood plus two feet at any given location in the **Specialized Flood Hazard Area (SFHA)**.

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

Floodway Fringe – those portions of the floodplain lying outside the floodway.

Letter of Map Amendment (LOMA) – An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) – An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations and elevations.

Lowest Floor – Means the following:

1. The top of the lowest floor of a building;
2. The top of the basement floor;
3. The top of the garage floor, if the garage is the lowest level of the building;
4. The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

5. The top of the floor level of any enclosure below and elevated building where the walls of the enclosure provide any resistance to the flow of flood waters, unless:
 - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 - b. Such enclosed space shall be usable for the parking of vehicles and building access.

Manufactured Home – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

New Manufactured Home Park or Subdivision – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

Recreational Vehicle – means a vehicle which is:

- (1) Built on a single chassis
- (2) 400 square feet or less when measured at the largest horizontal projections
- (3) Designed to be self-propelled or permanently towable by light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use

Regulatory Flood – means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana elevation at any location is as defined in [Section 5](#) of this ordinance. The “Regulatory Flood” is also known by the term “Base Flood.”

Special Flood Hazard Area (SFHA) – means those lands within the jurisdictions of the County that are subject to inundation by the regulatory flood. The SFHAs of the County are generally identified as such on the Flood Insurance Rate Map of the county prepared by the Federal Emergency Management Agency and dated September 1, 1986.

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

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

SECTION 4. DUTIES OF THE ADMINISTRATOR.

The Building Commissioner shall implement this ordinance and hereafter be referred to as the Floodplain Administrator. The Floodplain Administrator for the County is appointed to review all development and subdivision proposals to ensure compliance with the ordinance, including, but not limited to, the following duties:

- a. Ensure that all development activities within the SFHAs of the jurisdiction of the County meet the requirements of this ordinance.
- b. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- c. Ensure that construction authorization has been granted by the Indiana natural Resources Commission for all development projects subject to [Section 7](#) of this ordinance, and maintain a record of such authorization (either a copy of actual permit, letter of recommendation, or floodplain analysis and regulatory assessment).
- d. Maintain a record of the “as-built” elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during, and after construction.
- e. Maintain a record of the engineer’s certificate and the as-built floodproofed elevation of all buildings subject to [Section 8](#) of this ordinance.
- f. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.
- g. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessment, federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance.
- h. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

SECTION 5. REGULATORY FLOOD ELEVATION

This ordinance’s protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- a. The regulatory flood elevation and floodway limits for the SFHAs, which are delineated as “Zone A” on the Flood Insurance Rate Map of the County dated September 1, 1986, shall be according to the best data available as provided by the Department of Natural Resources.

SECTION 6. IMPROVEMENT LOCATION PERMIT

- a. No person, firm, corporation, or governmental body not exempted by state law shall commence any “development” in the SFHA without first obtaining an Improvement Location Permit from the Floodplain Administrator. The Floodplain administrator shall not issue an Improvement Location Permit if the proposed “development” does not meet the requirements of this ordinance.

The application for an improvement location permit shall be accompanied by the following:

1. A description of the proposed development.
2. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
3. A legal description of the property site.
4. A site development plan showing existing and proposed development locations and existing and proposed land grades.

5. Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case, the conversion formula should be included.
- b. Upon receipt of an application for an Improvement Location Permit, the Floodplain Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.
 1. If the site is in an identified floodway the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Floodplain Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Floodplain Administrator may issue the local Improvement Location Permit, provided the provisions contained in [Sections 7 and 8](#) of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

2. If the site is located in an identified floodway fringe, then the Floodplain Administrator may issue the local Improvement Location Permit provided the provisions contained in [Sections 7 and 8](#) of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).
3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in the floodway or a floodplain analysis and regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit or floodplain analysis and regulatory assessment approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in [Sections 7 and 8](#) of this ordinance have been met.

4. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100-year elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Improvement Location Permit, provided the provisions contained in [Sections 7 and 8](#) of this ordinance have been met.

SECTION 7. PREVENTING INCREASED DAMAGES

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- a. Within the floodway identified in the Floodway Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis as provided in [Section 6.b.4.](#), the following standards shall apply:
 1. No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and
 2. For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that FEMA revise the regulatory flood data.
- b. Within all SFHAs identified as A Zones (No 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:
 1. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
- c. Public Health Standards in all SFHAs
 1. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous toxic materials below the Flood Protection Grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of [Section 8](#) of this Ordinance.
 2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

SECTION 8. PROTECTING BUILDINGS

In addition to the damage prevention requirements of [Section 7](#), all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- a. This building protection requirement applies to the following situations:
 1. Construction or placement of any new building having a floor area greater than 400 square feet;
 2. Structural alterations made to:
 - a. An existing (previously unaltered) building, the cost of which equals or exceeds 50% of the value of the pre-altered building (excluding the value of the land);
 - b. Any previously altered building;
 3. Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;
 4. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

5. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- b. This building protection requirement may be met by one of the following methods. The Floodplain Administrator shall maintain a record of compliance with these building protection standards as required by [Section 4](#) of this Ordinance.
 1. A residential or nonresidential building may be constructed on a permanent landfill in accordance with the following:
 - a. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test Method.
 - b. The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
 - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e. The top of the lowest floor, including basements (see definition of lowest floor in [Section 3. Definitions](#)), shall be at or above the FPG.
 2. A residential or nonresidential building may be elevated in accordance with the following:
 - a. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - (1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such opening shall be no higher than one (1) foot above grade.
 - (2) Any enclosure below the elevated floor is used for storage of vehicles and building access.
 - b. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.
 - c. All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
 3. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:
 - a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
 - (1) Outside a manufactured home park or subdivision
 - (2) In a new manufactured home park or subdivision
 - (3) In an expansion to an existing manufactured home park or subdivision; or
 - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.

- b. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- 4. Recreational vehicles placed on a site shall either:
 - a. Be on the site for less than 180 consecutive days, and;
 - b. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - c. Meet the requirements for “manufactured homes” in [paragraph 3](#) of this section.
- 5. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
 - a. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
 - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

SECTION 9. OTHER DEVELOPMENT REQUIREMENTS

- a. The floodplain Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Floodplain Administrator finds the subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:
 - 1. It is consistent with the need to minimize flood damages;
 - 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - 3. Adequate drainage is provided so as to reduce exposure to flood hazards;
 - 4. Onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- b. Developers shall record the 100 year flood elevation on all subdivision plats containing lands ([identified elsewhere in this ordinance](#)) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
- c. All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community’s FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the appropriate community emergency management authorities.

SECTION 10. VARIANCES.

- a. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:
 - 1. There exists a good and sufficient cause of the requested variance;

2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant, and,

3. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

b. The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards and conditions:

1. No variance or exception for a residential use within a floodway subject to [Section 7 \(a\) or \(b\)](#) of this ordinance may be granted.
2. Any variance or exceptions granted in a floodway subject to [Section 7 \(a\) or \(b\)](#) of this ordinance will require a permit from the DNR.
3. Variances or exceptions to the Building Protection Standards of [Section 8](#) may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
4. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and,
6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and the property and could require payment of increased flood insurance premiums.

SECTION 11. DISCLAIMER OF LIABILITY

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

SECTION 12. VIOLATIONS

Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the County. All violations shall be punishable by a fine not exceeding \$300.00.

- a. A separate offense shall be deemed to occur for each day the violation continues to exist.
- b. The Newton County Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- c. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

SECTION 13. ABROGATION AND GREATER RESTRICTIONS.

This ordinance repeals and replaces other ordinances adopted by the Newton County Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Newton County Commissioners shall assure that all National Flood Insurance Program regulations (44 CFR 60_ as well as Indiana laws and regulations regarding floodplain issues (312 IAC 10, IC 14-28-1 and IC 14-28-3) are met.

SECTION 14. SEPARABILITY.

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION 15. EFFECTIVE DATE

This ordinance shall take effect upon its passage by the Newton County Commissioners. Passed and enacted by the Board of Commissioners of Newton County, Indiana on the 15th Day of March, 2003.

BOARD OF COMMISSIONERS,
 NEWTON COUNTY, INDIANA
RUSSELL COLLINS, JR.
JAMES PISTELLO

ATTEST: PATRICIA L. CARLSON

**ZONING ORDINANCE
 AMENDMENT**

**ZONING ORDINANCE 94-1 IS HEREBY AMENDED TO ADD:
 VIOLATIONS BY BUILDING CONTRACTOR:**

After a Building Contractor violates a building permit, zoning, or subdivision ordinance three (3) times in a calendar year, the contractor is ineligible to receive an improvement location or building permit for one (1) year, beginning on the date of the third (3rd) violation. Whenever a person, for whom the structure is to be build, applies for a permit, he must disclose under the penalties for perjury, the identity of his contractor; such a person is eligible to receive a permit only if his contractor is eligible.

THIS AMENDMENT BEING DULY ENACTED this 20th day of November 1995, shall become effective immediately upon its enactment.

NEWTON COUNTY BOARD OF COUNTY COMMISSIONERS
 RUSSELL COLLINS
 LORRIE LAFFOON
 JAMES ELIJAH
 ATTESTED BY
 MARCIA L. SCOTT, NEWTON COUNTY AUDITOR