

**CHAPTER 03  
AGRICULTURAL AND ENVIRONMENTAL CONTROL DISTRICTS**

**Section 03.01 Intent**

- (a) **A Agriculture District:** The A, Agriculture District, is established to include agricultural operations such as crop production, raising of animals, equestrian facilities, tree farms and vineyards. This district is located in areas where little or no urbanization has occurred or is likely to occur in the near future, in accordance with the growth management recommendations of the County Comprehensive Plan.
- (b) **EC Environmental Control District:** The EC, Environmental Control District, is established to include: lowland areas lacking drainage, areas that are within the floodplain of rivers, creeks, drainage ditches or backwaters and are subject to inundation, and areas of rolling and rugged topography where conservation of soil, water and vegetation is desirable and is adaptable to broad scale conservation and/or recreational uses. This district also includes areas within close proximity to these natural features where low-impact development, such as agriculture, hobby farms and low-density rural residential, will ensure minimal impact.

**Section 03.02 Uses**

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

- P: Permitted Use:** Land and/or buildings in this District may be used for the purposes listed by right.
- S: Special Exception Use:** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Chapter 17 Special Exception Review Requirements and Procedures and Specific Requirements of Chapter 9 are met.
- : Not Permitted:** The use is not permitted in the district. Uses not listed in the table are also not permitted.

<b>Table 3.02 Schedule of Permitted Uses</b>			
Use	A	EC	Requirements
<b>Residential</b>			
Single-family detached dwellings	P	P	
Two-family dwellings	P	P	
Mobile home dwellings on individual lots	S	S	09.01(a)
Modular homes	P	P	
Accessory dwellings	S	S	09.01(b)
Low-impact home occupations	P	P	09.01(c)
Home occupations	S	S	09.01(c)
<b>Agriculture, Forestry, Fishing and Hunting</b>			
Bait sales	P	P	
Farm sales & service	S	-	
Farms-confinement feeding	S	-	09.02(b)
Farms-general	P	P	
Greenhouse, nursery, and floriculture production	P	P	09.02(a)
Keeping of livestock and other animals	P	P	09.02(c)
Kennels	P	P	
Liquid fertilizer storage	P	-	09.02(d)
Riding stables	P	P	09.02(e)
Roadside produce sales	P	P	
Sales barn for livestock resale	P	S	09.02(f)

**Table 3.02  
Schedule of Permitted Uses**

Use	A	EC	Requirements
Seasonal farm worker housing	S	S	
Seasonal hunting and/or fishing lodge	S	S	
Slaughterhouse, custom/commercial	S	-	09.02(g)
Warehouse, grain storage	S	S	
Wineries	S		09.02(h)
Wholesale produce terminal	P		
<b>Retail Trade</b>			
Dairies, retail	S	S	
Flower/garden shops	S	S	
Nursery, garden center, farm supply, lawn and garden equipment and supplies stores	P	-	09.02(a)
Meat markets	S	-	
Pet shops, supplies & grooming	P	-	
Wholesale businesses	S	-	
<b>Motor Vehicle Dealers, Parts and Service</b>			
Marina/sales/service/storage (watercraft only)	-	S	09.11(d)
<b>Lodging Accommodation</b>			
Boarding houses	P	P	
Tourist homes/bed & breakfast inns	P	P	09.05(a)
RV (recreational vehicle) parks and recreational camps	P	P	09.10(e)
<b>Other Services</b>			
Cemeteries/crematoriums	S	S	09.07(b)
Funeral homes and mortuaries	S	-	09.07(a)
Photographic studios	P	P	
<b>Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services</b>			
Radio/TV towers	S	-	
<b>Health Care and Social Assistance</b>			
Child care home	P	P	
Child day care centers	S	S	09.09(a)
Veterinary hospital, small animal	S	S	
<b>Arts, Entertainment, and Recreation</b>			
Art galleries/pottery making	S	S	
Boat access ramps	-	P	
Country clubs	S	S	
Golf courses	P	P	
Public camps	S	S	
Public parks	P	P	
Race tracks	S		
Shooting ranges, indoor	S	S	
Shooting ranges, outdoor	S	S	
Stadiums/coliseums/athletic fields	S	S	
Swimming pools, commercial	S	S	
Swimming pools, private	P	P	
<b>Religious, Civic, Social and Similar Organizations</b>			
Assembly halls, non-profit	S	S	
Charitable institutions	P	P	
Churches, temples and similar places of worship	S	S	09.11(a)
Conference centers and convention halls	S	S	
Lodges/private clubs	S	S	09.11(b)
<b>Educational Services</b>			
Elementary schools – public, private or parochial	S	S	09.12(a)
High schools and middle schools – public, private or parochial	S	S	09.12(a)
Libraries and museums	S	S	

**Table 3.02  
Schedule of Permitted Uses**

Use	A	EC	Requirements
Technical and vocational trade schools	S	-	
University or college building	S	S	
<b>Public Administration</b>			
Executive, legislative, and other general government buildings	P	P	
Justice and public safety	P	P	
Penal Institution (Correctional/Juvenile Facility)	S	S	09.13(a)
<b>Transportation and Warehousing</b>			
Airports/heliports	S		09.14(a)
Material/storage accessory to a permitted use	P	-	
Transmission lines, gas & oil	P	P	
<b>Utilities and Waste Disposal</b>			
Commercial composting facilities	S	-	
Sanitary landfills	S	-	09.15 (d)
Sewage and treatment facilities	S	S	09.15 (e)
Solar Energy Farm	S	-	See Chapter 09B
Utilities and essential public services that are necessary to serve uses in the district	P	P	
Utility exchange or substations	P	P	
Utility and essential public service buildings and storage yards	P	-	
Water treatment facilities	P	P	
Wind Energy Conversion Systems			See: Chapter 09A
Wireless communication facilities and services			See: 09.15(g)
<b>Construction</b>			
Asphalt and concrete plants	S	-	09.16(a)
Construction contractors offices and showrooms without storage yards	P	-	
Construction contractors including storage yards	P	-	09.16(a)
<b>Mining/mineral extraction</b>			
Mineral/soil extraction	S	-	09.17(a)
Oil and gas extraction	S	-	09.17(b)
Lake/pond -man-made	P	P	09.19
<b>Manufacturing</b>			
Food processing	S	-	
Furniture and related product manufacturing	S	-	
Leather and allied product manufacturing	S	-	
Wood product manufacturing	P	-	

### Section 03.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a means that does not comply with the following requirements. Existing lots of record that were in existence prior to the effective date of this Ordinance may be used subject to the nonconforming lot provisions of the Nonconforming Regulations of this Ordinance.

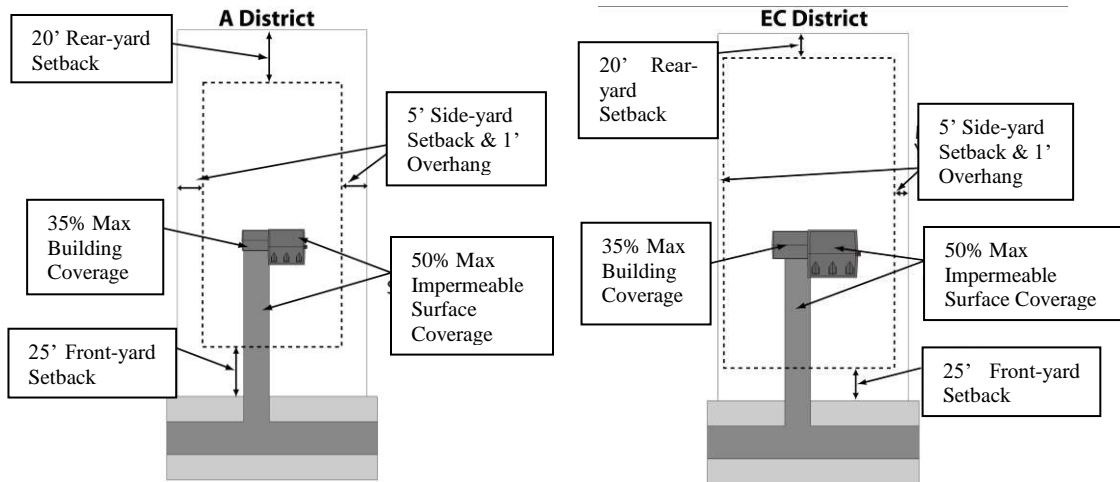
<b>Table 03.03 Lot Area And Width Requirements (c)</b>		
<b>Districts</b>	<b>Min. Lot Area (Acre/Sq. Ft.)(a)(b)</b>	<b>Min. Lot Width (Ft.)</b>
A Agriculture	1 acre	120 ft.
EC Environmental Control	1 acre	120 ft.

- (a) **Lot Area Calculation:** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake.
- (b) **Nonconforming Lots of Record:** New residential or commercial structures to be erected prior to the passage of Zoning Ordinance Amendment A-96-02, on lots of record which are smaller in area than the prescribed minimums of the table above, may be issued an Improvement Location Permit, if well and waste system approvals have been granted by the Steuben County Health Department.
- (c) **Subdivision of Land:** All divisions to land shall be subject to the requirements set forth in the Steuben County Subdivision Control Ordinance.

**Section 03.04 Building Dimensional Requirements**

All structures shall be subject to the dimensional regulations of the following table.

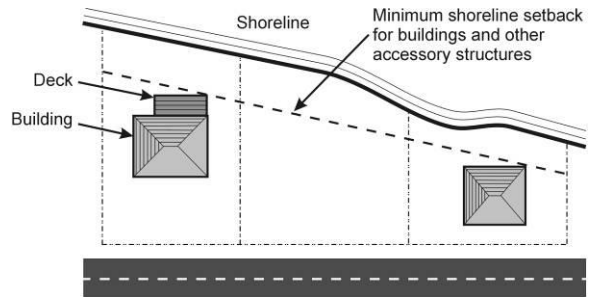
Districts	Min. Setbacks (a)(b)(c)(d)(e)(f)(h)					Max. Building Height (Feet)		Max. Lot Coverage (m)		Min. Ground Floor Area Per Dwelling	
	Front or Road-Yard (Ft.) (g)	Side Yards (i)		Rear Yard (Ft.)	Lake-front Yard (Ft.) (k)	Without Basement	With Basement	% Building Coverage	% Total Impermeable Surface	One-Story dwelling (Sq. Ft.)	Two or More Story Dwelling (Sq. Ft.)
		Smallest Side (Ft.)	Total of Both (Ft.)								
A Agriculture	25	5	10	20	50	27 ft.	35 ft.	35	50	784	600
EC Environmental Control	25	5	10	20	50	27 ft.	35 ft.	35	50	784	600



- (a) **Accessory Structures:** See Chapter 11 for setbacks applicable to accessory structures and decks.
- (b) **Projections Into Yards:** Accessory structures and architectural features may extend or project into required setbacks as provided for in Section 10.05.
- (c) **Wetlands:** A minimum setback of twenty-five (25) feet shall be maintained from all wetlands.
- (d) **Railroads:** A minimum setback of fifty (50) feet shall be maintained from all railroad rights-of-way.
- (e) **County-Regulated Drains:** A minimum setback of seventy-five (75) feet shall be maintained from center of tile or from top of adjacent bank for all County-regulated drains.
- (f) **Corner and Double Frontage Lots:** Corner lots shall provide the minimum front yard setback of the district from the primary entrance; and the minimum setback from other road-frontage shall be ten (10) feet. Where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way. Corner and double frontage residential lots shall only have driveway access from one road, which shall be the lesser traveled road as determined by the Plan Director.
- (g) **Setback from Road:** The road or front-yard setback shall be measured from the foundation of the building to the road right-of-way or private road easement.
- (h) **Setback from Alley:** A minimum setback of ten (10) feet shall be maintained from all alley right-of-ways.

- (i) **Setback from Side-yard:** The side-yard setback shall be measured from the foundation of the building to the property boundary line; and a one (1) foot overhang may project into the required yard setback.
- (j) **Setback from Lake Access Easement:** Where a lake-access easement runs along the side lot line, the side yard setback shall be measured from the easement.
- (k) **Lakefront Setback:** In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum shoreline setback. The minimum setback from the established shore line shall be determined as follows:

- (1) Where there are primary structures located on both adjacent lots, the shoreline setback shall be a straight line drawn between the two adjacent dwellings, including decks.
- (2) Where primary structures on adjacent lots are setback more than fifty (50) feet, then the minimum shoreline setback shall be fifty (50) feet.



In no instance shall the minimum required shoreline setback be less than 20 feet or more than 50 feet.

- (3) Where one (1) or both of the adjacent lots are vacant, then the minimum shoreline setback shall be fifty (50) feet.
  - (4) In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within twenty (20) feet of the high water line of any lake or stream.
  - (5) All site plans, sketch plans or surveys for waterfront property shall show the location of buildings on adjacent lots.
- (l) **Height Exceptions:** An agricultural structure may be erected or changed to any height necessary for its operations (providing Federal Aviation Authority permits are obtained if required).
  - (m) **Maximum Lot Coverage:** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:
    - (1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.
    - (2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas to the net lot area. Planked decks with spacing between the planks and permeable ground beneath the deck and patios or parking areas constructed of pervious material shall be calculated at a rate of 50% towards the impermeable surface coverage.

**CHAPTER 04  
RESIDENTIAL DISTRICTS**

**Section 04.01 Intent**

- (a) **R-1 Residence District:** The R-1, Residence-1 District, is established to include areas of low-density, single-family residences only. The intent is to create aesthetically pleasing residential environments and limit development in areas that are far removed from municipal services, in accordance with the County Comprehensive Plan.
- (b) **R-2 Residence District:** The R-2, Residence-2 District, is established to include areas of relatively high-density single, two-family and limited multiple-family residences in locations where the infrastructure is capable of supporting higher density development. The intent of the district is to allow for a more compact form of development near established communities and avoid inefficient sprawling development over most areas of the County.
- (b) **R-3 Residence District:** The R-3, Residence-3 District, is established to provide areas for multiple-family residences as well as higher-density, single-family residential. The intent of the district is to provide housing options other than single-family residential near established communities in locations where the infrastructure is capable of supporting higher-density development.
- (c) **LR Residence District:** The LR, Lake Residence District, is established to include residential neighborhoods in the proximity of bodies of water. These areas are characterized by environmental sensitivity and are subject to heavy recreational use. Uses in the LR District are limited to residential and certain water-related and recreational-related uses compatible with both the nearby development and the local, environmentally sensitive land. The regulations of this district are intended to ensure infill development is consistent with the character of established lakefront neighborhoods, is compatible with the size, scale, setback, and architectural character of surrounding homes, does not overbuild small lots and minimizes impacts to views.

**Section 04.02 Uses**

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

- P: Permitted Use:** Land and/or buildings in this District may be used for the purposes listed by right.
- S: Special Exception Use:** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Chapter 17 Special Exception Review Requirements and Procedures and Specific Requirements of Chapter 9 are met.
- : Not Permitted:** The use is not permitted in the district. Uses not listed in the table are also not permitted.

Use	R1	R2	R3	LR	Requirements
<b>Residential</b>					
Single family detached dwellings	P	P	P	P	
Single family attached dwellings	-	S	P	S	
Two-family dwellings	-	P	P	S	
Mobile home dwellings on individual lots	-	P	P	-	09.01(a)
Modular homes	P	P	P	P	
Multi-family dwellings	-	S	P	S	04.04(m)
Accessory dwellings	S	S	S	S	09.01(b)
Low-impact home occupations	P	P	P	P	09.01(c)

**Table 4.02**  
**Schedule of Permitted Uses**

Use	R1	R2	R3	LR	Requirements
Home occupations	S	S	S	S	09.01(c)
Fraternity, sorority, student housing cooperatives	-	P	P	-	
<b>Agriculture, Forestry, Fishing and Hunting</b>					
Bait sales	-	-	-	S	
Farms-general	P	P	P	S	
Keeping of livestock and other animals	P	P	P	-	09.02(c)
<b>Motor Vehicle Dealers, Parts and Service</b>					
Marina/sales/service/storage(watercraft only)	-	-	-	S	
<b>Lodging Accommodation</b>					
Boarding houses	-	S	S	-	
Tourist homes/bed & breakfast inns	S	S	S	S	09.05(a)
<b>Other Services</b>					
Funeral homes and mortuaries	-	S	S	-	09.07(a)
<b>Health Care and Social Assistance</b>					
Child care home	P	P	P	P	
Child day care centers	S	S	S	-	09.09(a)
Nursing homes, and senior assisted living	-	S	S	-	09.09(c)
<b>Arts, Entertainment, and Recreation</b>					
Boat access ramps	-	-	-	S	
Common use lake access lots	-	-	-	S	09.10(b)
Country clubs	S	S	S	S	
Golf courses	S	S	S	S	
Marinas and boat clubs	-	-	-	S	09.10(c)
Public parks	P	P	P	P	
Swimming pools, private	P	P	P	P	
<b>Religious, Civic, Social and Similar Organizations</b>					
Churches, temples and similar places of worship	P	P	P	P	09.11(a)
Lodges/private clubs	-	-	-	S	09.11(b)
<b>Educational Services</b>					
Elementary schools – public, private or parochial	P	P	P	P	09.12(a)
High Schools and middle schools– public, private or parochial	P	P	P	P	09.12(a)
Libraries and museums	P	P	P	P	
<b>Transportation and Warehousing</b>					
Storage, boat-inside	-	-	-	S	09.14(b)
Storage, boat-outside	-	-	-	S	09.14(b)
Transmission lines, gas & oil	S	S	S	-	
<b>Utilities and Waste Disposal</b>					
Utilities and essential public services that are necessary to serve uses in the district	P	P	P	P	
Utility exchange or substations	S	S	S	-	
Wind Energy Conversion Systems	See: Chapter 09A				
Wireless communication facilities and services	See: 09.15(g)				
<b>Mining/mineral extraction</b>					
Mineral/soil extraction	S	S	S	-	09.17(a)



**Section 04.03 Lot Area and Width Requirements**

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements. Lots of record that were in existence prior to the effective date of this Ordinance may be used subject to the provisions of the Nonconforming Lot Regulations of this Ordinance.

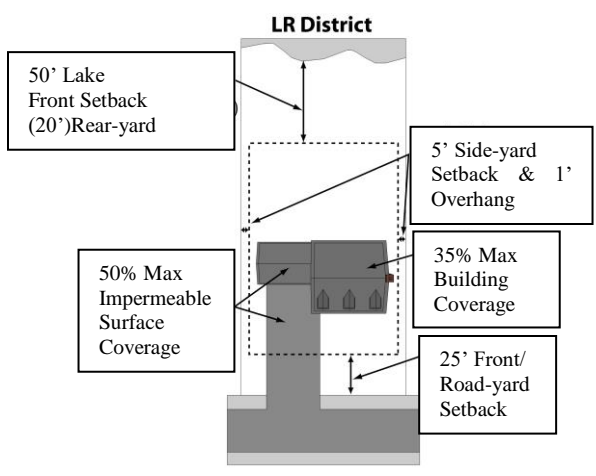
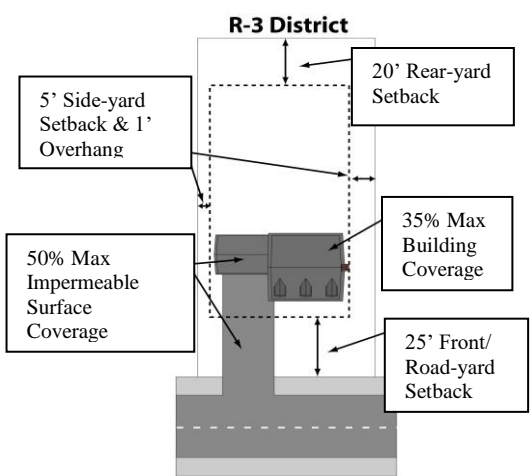
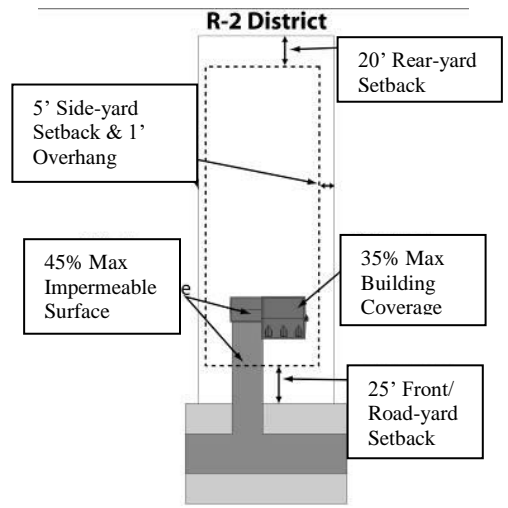
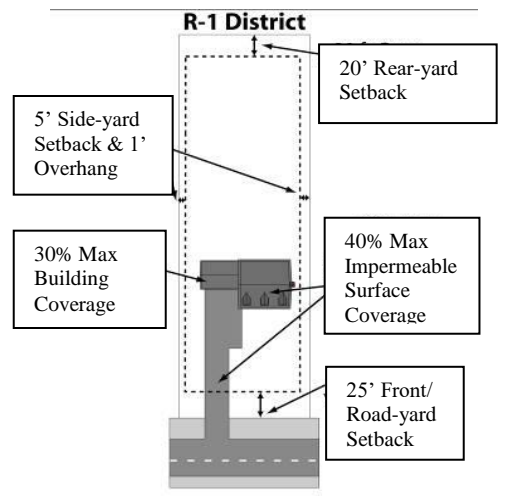
<b>Table 04.03 Lot Area And Width Requirements (e)</b>		
<b>Districts</b>	<b>Min. Lot Area (Acre/Sq. Ft.)(a)(b)</b>	<b>Min. Lot Width (Ft.)</b>
R-1 Residence		
Both on-site well and septic	1 acre	120 ft.
Either offsite water and/or offsite sewerage (c)	½ acre	100 ft.
R-2 Residence		
Both on-site well and septic	1 acre	110 ft.
Either offsite water or offsite sewerage (c)	½ acre	90 ft.
Both offsite water and offsite sewerage (c)	10,000 sq. ft.	70 ft.
Multiple family residential	1 acre (d)	100 ft.
R-3 Residence		
Either offsite water or offsite sewerage (c)	½ acre	90 ft.
Both offsite water and offsite sewerage (c)	10,000 sq. ft.	70 ft.
Multiple family residential	1 acre (d)	100 ft.
LR Lake Residence		
Both on-site well and septic	1 acre	100 ft.
Either offsite water or offsite sewerage (c)	½ acre	100 ft.
Both offsite water and offsite sewerage (c)	10,000 sq. ft.	70 ft.
Multiple family residential	1 acre (d)	100 ft.

- (a) **Lot Area Calculation:** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake.
- (b) **Nonconforming Lots of Record:** New residential structures to be erected prior to the passage of Zoning Ordinance Amendment A-96-02, on lots of record which are smaller in area than the prescribed minimums of the table above, may be issued an Improvement Location Permit, if well and waste system approvals have been granted by the Steuben County Health Department. Multiple nonconforming lots under single ownership are subject to Section 22.03.
- (c) **Water and Sewer:** Off-Site Water refers to a community well or municipal water system. Off-Site Sewerage refers to a cluster or municipal sewage system.
- (d) **Multiple Family Density:** For multiple family developments with on-site well or septic system, a maximum of two (2) dwelling units shall be permitted per acre. For multiple family developments that are served by both a public water and sewer system, a maximum of five (5) dwelling units shall be permitted per acre.
- (e) **Subdivision of Land:** All divisions to land shall be subject to the requirements set forth in the Steuben County Subdivision Control Ordinance.

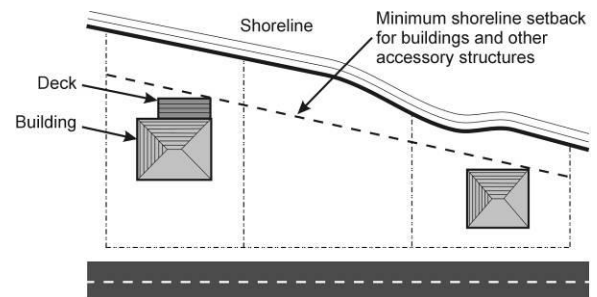
**Section 04.04 Building Dimensional Requirements**

All structure shall be subject to the dimensional regulations of the following table.

Districts	Min. Setbacks (a)(b)(c)(d)(e)(f)(h)(l)					Max. Building Height (Feet)		Max. Lot Coverage (l)		Min. Ground Floor Area Per Dwelling	
	Front or Road Yard (Ft.) (g)	Side Yards (j)		Rear Yard (Ft.)	Lake-front Yard (Ft.) (k)	Without Basement	With Basement	% Building Coverage	% Total Impermeable Surface	One-Story Dwelling (Sq. Ft.)	Two or More Story Dwelling (Sq. Ft.)
		Smallest Side (Ft.)	Total of Both (Ft.)								
R-1 Residence	25	5	10	20	50	27 ft.	35 ft.	30	40	960	840
R-2 Residence	25	5	10	20	50	27 ft.	35 ft.	35	45	784	600
R-3 Residence	25	5	10	20	50	27 ft.	35 ft.	35	50	784	600
LR Lake Residence	25	5	10	20	50	27 ft.	35 ft.	35	50	840	720



- (a) **Accessory Structures:** See Chapter 11 for setbacks applicable to accessory structures and decks.
- (b) **Projections Into Yards:** Accessory structures and architectural features may extend or project into required setbacks as provided for in Section 10.05.
- (c) **Wetlands:** A minimum setback of twenty-five (25) feet shall be maintained from all wetlands.
- (d) **Railroads:** A minimum setback of fifty (50) feet shall be maintained from all railroad rights-of-way.
- (e) **County-Regulated Drains:** A minimum setback of seventy-five (75) feet shall be maintained from center of tile or from top of adjacent bank for all County-regulated drains.
- (f) **Corner and Double Frontage Lots:** Corner lots shall provide the minimum front yard setback of the district from the primary entrance; and the minimum setback from other road-frontage shall be ten (10) feet. Where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way. Corner and double frontage residential lots shall only have driveway access from one road, which shall be the lesser traveled road as determined by the Plan Director.
- (g) **Setback from Road:** The road or front-yard setback shall be measured from the foundation of the building to the road right-of-way or private road easement.
- (h) **Setback from Alley:** A minimum setback of fifteen (15) feet shall be maintained from all alley right-of-ways.
- (i) **Setback from Lake Access Easement:** Where a lake-access easement runs along the side-lot line, the side yard setback shall be measured from the easement.
- (j) **Setback from Side-yard:** The side-yard setback shall be measured from the foundation of the building to the property boundary line; and a one (1) foot overhang may project into the required yard setback.
- (k) **Lakefront Setback:** In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within the minimum shoreline setback. The minimum setback from the established shore line shall be determined as follows:

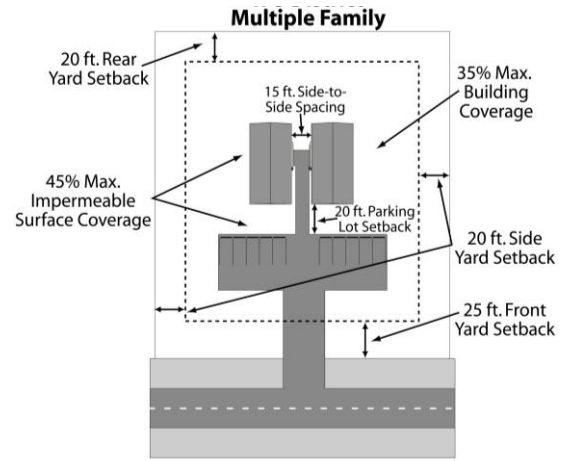


In no instance shall the minimum required shoreline setback be less than 20 feet or more than 50 feet.

- (1) Where there are primary structures located on both adjacent lots, the shoreline setback shall be a straight line drawn between the two adjacent dwellings, including decks.
- (2) Where primary structures on adjacent lots are setback more than fifty (50) feet, then the minimum shoreline setback shall be fifty (50) feet.
- (3) Where one (1) or both of the adjacent lots are vacant, then the next lots shall be used. Where two (2) lots in both directions are vacant, then the minimum shoreline setback shall be fifty (50) feet.
- (4) In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within twenty (20) feet of the high water line of any lake or stream.
- (5) All site plans, sketch plans or surveys for waterfront property shall show the location of buildings on adjacent lots.
- (6) For lots that are located at the end of a point or peninsula, a straight line between adjacent dwellings shall not be used. Instead, the setbacks shall be measured in terms of the closest distance between the building and the shoreline. The building at the end of a point or peninsula shall be setback from the shoreline a distance equal to the average setback of the two (2) closest lots.

- (l) **Maximum Lot Coverage:** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:
- (1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.
  - (2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas to the net lot area. Planked decks with spacing between the planks and permeable ground beneath the deck and patios or parking areas constructed of pervious material shall be calculated at a rate of 50% towards the impermeable surface coverage.
- (m) **Multiple-family residential setbacks:** All multiple family residential buildings shall provide the following setbacks:

<b>From outside perimeter of site or lot:</b>	
Front yard setback	25 ft
Each side yard setback	20 ft
Rear yard setback	20 ft
Parking lot setback all sides	20 ft
<b>Internal setbacks between units within the site:</b>	
Setback from a private road or parking lot	20 ft
Side to side spacing between two buildings	15 ft
Front or rear spacing between two buildings*	40 ft
* Spacing required between buildings where one or both of the building walls facing are a front or rear wall (i.e. front to front, front to rear, rear to rear or front/rear to side).	



**CHAPTER 05  
MANUFACTURED HOME DISTRICT**

**Section 05.01 Intent**

(a) **MH Manufactured Home District:** The MH, Manufactured Home District, is established for occupancy by manufactured homes. The intent is to provide an affordable housing alternative where appropriate and consistent with the general character of the surrounding area. The requirements of this district are necessary to ensure adequate infrastructure to support the relatively higher density found in manufactured home parks and to ensure adequate accesses for transportation and emergency vehicle access.

**Section 05.02 Uses**

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

- P: Permitted Use:** Land and/or buildings in this District may be used for the purposes listed by right.
- S: Special Exception Use:** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Chapter 17 Special Exception Review Requirements and Procedures and Specific Requirements of Chapter 9 are met.
- : Not Permitted:** The use is not permitted in the district. Uses not listed in the table are also not permitted.

<b>Table 5.02 Schedule of Permitted Uses</b>		
Use	MH	Requirements
<b>Residential</b>		
Single-family detached dwellings	P	
Manufactured home dwellings	P	09.01(a)
Manufactured home parks	P	05.03
Modular homes	P	
Low-impact home occupations	P	09.01(c)
Home occupations	S	09.01(c)
<b>Retail Trade</b>		
Manufactured home sales	S	
<b>Other Services</b>		
Laundromats	P	
<b>Health Care and Social Assistance</b>		
Child care home	P	
<b>Arts, Entertainment, and Recreation</b>		
RV (recreational vehicle) parks and recreational camps	S	09.10(e)
Swimming pools, private	P	
<b>Religious, Civic, Social and Similar Organizations</b>		
Churches, temples and similar places of worship	P	09.11(a)

Use	MH	Requirements
<b>Educational Services</b>		
Elementary schools – public, private or parochial	P	09.12(a)
<b>Transportation and Warehousing</b>		
Transmission lines, gas & oil	P	
<b>Utilities and Waste Disposal</b>		
Utilities and essential public services that are necessary to serve uses in the district	P	
Utility exchange or substations	S	
Wind Energy Conversion Systems		See: Chapter 9A
Wireless communication facilities and services		See: 09.15(g)

### Section 05.03 Manufactured Home Parks

- (a) **Permitted Uses:** Manufactured Home Parks are permitted in the Manufactured Home Districts as indicated in Table 5.02 with the following requirement standards.
- (b) **Requirement Standards:**
- (1) All Manufactured Home Parks must comply with the Acts of the Indiana General Assembly, 1955, Chapter 321, as amended, and with the Indiana State Board of Health Regulation HSE21, Mobile Home Parks, as amended.
  - (2) New manufactured home parks and new additions to existing manufactured home parks shall provide full foundations that meet or exceed manufacturer's specifications for under each home.
  - (3) **Minimum Areas:**
    - a. **Parks:** Minimum of five (5) acres for first twenty (20) lots, then five thousand (5000) square feet per lot thereafter
    - b. **Lot:** five thousand (5000) square feet
  - (4) **Yards and Distance between Structures:**
    - a. The minimum distance between a manufactured home and the park boundary or public road right-of-way shall be fifteen (15) feet.
    - b. The minimum distance between a manufactured home and the private road edge of pavement shall be eight (8) feet, and between the home and the side and rear lot lines shall be five (5) feet.
    - c. The minimum distance between a manufactured home and any other building shall be ten (10) feet.
  - (5) **Streets:**
    - a. Streets shall be at least thirty (30) feet wide for two-way traffic with no parking on the street.
    - b. Closed ends of dead-end streets shall be provided with adequate vehicular turning space. The turning circles shall be at least forty (40) feet in diameter.
    - c. Streets must be constructed so that they properly drain, are dust free, and are all-weather.
  - (6) **Driveways:** Driveways serving a single manufactured home must be a minimum of twenty (20) feet long and ten (10) feet wide.

(7) **Parking Spaces:**

- a. Car 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 at least two (2) car spaces for each Manufactured home lot plus an additional car space for each four (4) lots to provide for guest parking, and for deliveries and service vehicles.
- b. At least two (2) required car parking spaces shall be located on each lot. Any remaining car parking spaces may be located in adjacent parking bays.
- c. **Minimum Size:** Nine (9) feet in width by eighteen (18) feet in length for each car.
- e. **Pavement:** Shall be paved with concrete or asphalt.

(8) **Laundry Facilities and Community Building:** May be constructed provided that they meet with all State Board of Health and Steuben County Board of Health requirements, and permits are issued where required.

(9) **Sanitary Facilities:** All Manufactured Home Parks must have sewage treatment facilities which meet the requirements of the Steuben County Board of Health, the Indiana Department of Environmental Management, and the U.S. Environmental Protection Agency, where applicable. All necessary permits must be issued by said Board before the Plan Director may issue an improvement location permit.

(10) All Manufactured Homes shall comply with the Building Codes of Steuben County and the State of Indiana, as amended.

(11) Drainage must be approved by County Surveyor and/or Drainage Board.

(12) Approval of the appropriate utility companies, such as gas, electric, telephone, etc. must be received.

(13) **Storm Shelter:** All manufactured home parks shall provide a safe place of shelter for park residents or a plan for the evacuation of park residents to a safe place of shelter within a reasonable distance of the park for use by park residents in time of severe weather, including tornados and high winds. The shelter or evacuation plan must be approved by the Board of Zoning Appeals.

(14) **Fire Hydrants of Dry Hydrants:** Hydrants should be located at intersections and intermediate points between intersections as recommended by the State Insurance Office and the local fire department. Generally, hydrant spacing may range from three hundred fifty (350) to six hundred (600) feet, depending on the area being served.

(15) **Warning Siren:** Where a manufactured home park is proposed in an area of the County that is a large distance from any existing warning sirens, the developer shall install a new warning siren in or adjacent to the manufactured home park to give future residents warning in the event of a tornado or other emergencies.

(c) **Approvals:**

(1) Before an Improvement Location Permit can be issued for a new Manufactured Home Park or an addition to an existing Manufactured Home Park, a performance bond, meeting the requirements of Section 20.06, must be secured in the amount needed to complete the project as per the requirements of the Zoning Ordinance of Steuben County, Indiana and any additional requirements placed upon the project by the Board of Zoning Appeals. Improvement Location Permits for additions to existing Manufactured Home Parks will not be issued until the existing Manufactured Home Park has been issued a Certificate of Compliance.

(2) **Fees:** Fees for a manufactured home park for shall be paid at the time of filing of the application and shall be in an amount as set forth by resolution of the County Board of Commissioners.



**Section 05.04 Lot Area and Width Requirements**

All lots outside of a designated Manufactured Home Park shall meet the following minimum area and width requirements. No new lots shall be created or altered in a manner that does not comply with the following requirements. Lots of record in existence prior to the effective date of this ordinance may be used subject to the Nonconforming Lot Regulations of this Ordinance.

Table 05.04 Lot Area And Width Requirements (d)		
Districts	Min. Lot Area (Acre/Sq. Ft.)(a)(b)	Min. Lot Width (Ft.)
MH Manufactured Home Residence		
Both on-site well and septic	1 acre	100 ft.
Either offsite water or offsite sewerage (c)	½ acre	100 ft.
Both offsite water and offsite sewerage (c)	10,000 sq. ft.	70 ft.

- (a) **Lot Area Calculation:** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake.
- (b) **Nonconforming Lots of Record:** New residential or commercial structures to be erected on lots of record prior to the passage of Zoning Ordinance Amendment A-96-02, which are smaller in area than the prescribed minimums of the table above, may be issued an Improvement Location Permit if well and waste system approvals have been granted by the Steuben County Health Department.
- (c) **Water and Sewer:** Off-Site Water refers to a community well or municipal water system. Off-Site Sewerage refers to a cluster or municipal sewage system.
- (d) **Subdivision of Land:** All divisions to land shall be subject to the requirements set forth in the Steuben County Subdivision Control Ordinance.

**Section 05.05 Building Dimensional Requirements**

All structures not located in an approved mobile home park shall be subject to the dimensional regulations of the following table.

Table 05.05 Building Dimensional Requirements											
Districts	Min. Setbacks (a)(b)(c)(d)(e)(f)(h)					Max. Building Height		Max. Lot Coverage (l)		Min. Ground Floor Area Per Dwelling	
	Front or Road Yard (Ft.) (g)	Side Yards (Each) (Ft.) (i)	Rear Yard (Ft.)	Lake-front Yard (Ft.) (k)		Stories	Feet	% Building Coverage	% Total Impermeable Surface	One-Story dwelling (Sq. Ft.)	Two or More Story Dwelling (Sq. Ft.)
MH Manufactured Home Residence	25	5	20	50		2	27	35	45	784	600

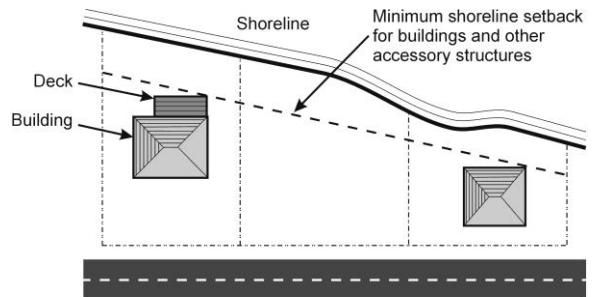
- (a) **Accessory Structures:** See Chapter 11 for setbacks applicable to accessory structures and decks.
- (b) **Projections Into Yards:** Accessory structures and architectural features may extend or project into required setbacks as provided for in Section 10.05.
- (c) **Wetlands:** A minimum setback of twenty-five (25) feet shall be maintained from all wetlands.



- (d) **Railroads:** A minimum setback of fifty (50) feet shall be maintained from all railroad rights-of-way.
- (e) **County-Regulated Drains:** A minimum setback of seventy-five (75) feet shall be maintained from center of tile or from top of adjacent bank for all County-regulated drains.
- (f) **Corner and Double Frontage Lots:** Corner lots shall provide the minimum front yard setback of the district from the primary entrance; and the minimum setback from other road-frontage shall be ten (10) feet. Where a double-frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way. Corner and double frontage residential lots shall only have driveway access from one road, which shall be the lesser traveled road as determined by the Plan Director.
- (g) **Setback from Road:** The road or front-yard setback shall be measured from the foundation of the building to the road right-of-way or private road easement.
- (h) **Setback from Alley:** A minimum setback of eight (8) feet shall be maintained from all alley right-of-ways.
- (i) **Setback from Side-yard:** The side-yard setback shall be measured from the foundation of the building to the property boundary line; and a one (1) foot overhang may project into the required yard setback.
- (j) **Setback from Lake-Access Easement:** Where a lake-access easement runs along the side-lot line, the side yard setback shall be measured from the easement.

(k) **Lakefront Setback:** The minimum setback from the established shore line shall be determined as follows:

- (1) Where there are primary structures located on both adjacent lots, the building shall not be located closer to the shoreline than a straight line drawn between the two adjacent dwellings. Decks and other above ground accessory structures shall not be located closer to the shoreline than a straight line drawn between the decks other above ground accessory structures of the adjacent dwellings.



In no instance shall the minimum required shoreline setback be less than 20 feet or more than 50 feet.

- (2) In no instance shall any structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios be permitted within twenty (20) feet of the high water line of any lake or stream.
- (3) Where primary structures on adjacent lots are setback more than fifty (50) feet, then the minimum shoreline setback shall be fifty (50) feet.
- (4) Where one (1) or both of the adjacent lots are vacant, then the minimum shoreline setback shall be fifty (50) feet.
- (5) All site plans, sketch plans or surveys for waterfront property shall show the location of buildings on adjacent lots.
- (6) For lots that are located at the end of a point or peninsula, a straight line between adjacent dwellings shall not be used. Instead, the setbacks shall be measured in terms of the closest distance between the building and the shoreline. The building at the end of a point or peninsula shall be setback from the shoreline a distance equal to the average setback of the two (2) closest lots.

- (1) **Maximum Lot Coverage:** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:
- (1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.
  - (2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas to the net lot area. Planked decks with spacing between the planks and permeable ground beneath the deck and patios or parking areas constructed of pervious material shall be calculated at a rate of 50% towards the impermeable surface coverage.

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**CHAPTER 06**  
**RESERVED FOR FUTURE USE**

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**CHAPTER 07  
BUSINESS DISTRICTS**

**Section 07.01 Intent**

- (a) **LB Local Business District:** The LB, Local Business District, is established to provide locations close to residential areas and appropriate to meeting their shopping and service needs. The intent is to create a mixed-use village with low-impact commercial uses in close proximity to residential uses, creating a walkable hamlet characteristic of a rural, small town. This district is also intended for small-scale commercial services in and near lakefront communities to provide convenient services to the residents of these neighborhoods, while ensuring minimal impact on nearby residences and the lake resources.
- (b) **GB General Business District:** The GB, General Business District, is established to include areas that are appropriate to a full range of businesses and services, and should be located on collector or arterial highways as specified by the Comprehensive Plan. This district is intended for larger-scale commercial uses, such as shopping centers, entertainment, restaurants, auto-services and offices intended to serve the overall County.
- (c) **AB Accommodation Business District:** The AB, Accommodation Business District, is established to include: (1) Areas close to the Interstate System, Federal and State Highways (2) Areas appropriate to the shopping and service needs of motorists on these major roadways. This district is intended for restaurants, auto-services, hotels and related businesses for motorists and the County in general.

**Section 07.02 Uses**

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

- P: Permitted Use:** Land and/or buildings in this District may be used for the purposes listed by right.
- S: Special Exception Use:** Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Chapter 17 Special Exception Review Requirements and Procedures and Specific Requirements of Chapter 9 are met.
- : Not Permitted:** The use is not permitted in the district. Uses not listed in the table are also not permitted.

<b>Table 7.02 Schedule of Permitted Uses</b>				
Use	LB	GB	AB	Requirements
<b>Residential</b>				
Multi-family dwellings	S	S	-	04.04(l)
Low-impact home occupations	P	P	P	09.01(c)
Home occupations	P	P	-	09.01(c)
Fraternity, sorority, student housing cooperatives	P	P	-	
<b>Agriculture, Forestry, Fishing and Hunting</b>				
Bait sales	P	P	S	
Farm sales & service	P	P	-	
Greenhouse, nursery, and floriculture production	P	P	-	09.02(a)
Kennels	P	P	-	
Roadside produce sales	P	P	S	

<b>Table 7.02 Schedule of Permitted Uses</b>				
Use	LB	GB	AB	Requirements
<b>Retail Trade</b>				
Retail and general merchandise stores 60,000 square feet or less	P	P	P	
Retail stores and shopping centers over 60,000 square feet	S	S	S	09.03(a)
Dairies, retail	P	P	S	
Dressmaking shops	P	P	P	
Fireworks sales, wholesale & retail	-	S	S	
Flower/garden shops	P	P	-	
Grocery stores/supermarkets	P	P	S	
Home improvement and building material stores	-	P	-	
Nursery, lawn and garden, farm supply, equipment and supplies stores	P	P	P	
Manufactured home sales	-	P	S	
Meat markets	P	P	S	
Pet shops, supplies & grooming	P	P	-	
Warehouse clubs	-	S	-	
Wholesale businesses	S	P	P	
Video-retail	P	P	P	
Drive-thru window accessory to any of the above permitted retail uses	S	P	S	09.03(b)
<b>Motor Vehicle Dealers, Parts and Service</b>				
Automobile rental	P	P	P	
Automobile storage disabled vehicles (indoors)	-	S	-	09.04(a)
Automotive parts, accessories, and tire stores	S	P	P	
Minor automotive repair and maintenance	S	P	P	09.04(b)
Major automotive repair and bodywork	-	S	-	09.04(b)
Auto-new/used salesrooms and /or open storage	-	S	S	
Automobile wash, full service and self service	S	P	P	09.04(c)
Service stations	S	S	S	09.04(d)
Tractor and farm equipment dealers	-	S	S	
Marina/sales/service/storage	P	P	S	09.10(c), 09.14(b)
Motorcycle, boat, and recreational vehicle dealers	-	S	S	
<b>Lodging Accommodation</b>				
Boarding houses	P	P	-	
Hotels/motels	S	P	P	
Tourist homes/bed & breakfast inns	P	P	-	09.05(a)
<b>Food Services</b>				
Banquet hall	S	P	P	
Carryout restaurants	P	P	P	
Caterers	P	P	P	
Delicatessens	P	P	P	
Night clubs	S	S	S	
Sit-down restaurants	P	P	P	
Restaurants, drive-in and drive-thru	-	S	S	09.06(a)
Taverns	S	P	P	
<b>Other Services</b>				
Barber/beauty shops	P	P	P	
Funeral homes and mortuaries	S	-	S	09.07(a)

**Table 7.02  
Schedule of Permitted Uses**

Use	LB	GB	AB	Requirements
Cemeteries/crematoriums	P	P	-	09.07(b)
Dry cleaning establishments	P	P	P	
Laundromats	P	P	P	
Photographic studios	P	P	P	
Shoe repair shops	P	P	P	
Tailoring	P	P	P	
Tanning salons	P	P	P	
<b>Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services</b>				
Banks with no more than 3 drive-thru teller lanes	P	P	P	09.08(a)
Banks with more than 3 drive-thru teller lanes	S	S	S	09.08(a)
Computer systems design and related services	P	P	P	
Laboratories for testing & research, excluding the raising of animals for research & excluding testing of fissionable material	-	S	-	
Business offices for professions such as advertising, accounting, bookkeeping, architecture, engineering, legal services and other administrative services	P	P	P	
Publishing industries	-	S	-	
Real estate, insurance and investment brokers	P	P	P	
Telecommunications, radio/TV station or studios	P	P	-	
<b>Health Care and Social Assistance</b>				
Adult day care centers	P	P	S	
Child day care centers	P	P	P	09.09(a)
Hospitals	-	P	P	09.09(b)
Nursing homes, and senior assisted living	P	P	P	09.09(c)
Offices and clinics of physicians and dentist	P	P	P	
Veterinary hospital, small animal	P	P	-	
<b>Arts, Entertainment, and Recreation</b>				
Amusement arcade	P	P	-	
Art galleries/pottery making	P	P	P	
Billiard halls	P	P	-	
Boat access ramps	P	P	-	
Bowling alleys	P	P	-	
Country clubs	S	S	-	
Dance –academies	P	P	-	
Fitness centers	P	P	P	
Golf courses	P	P	P	
Ice skating or roller rink	P	P	P	
Marinas and boat clubs	S	S	S	09.10(c)
Public camps	-	-	S	09.10(e)
Commercial outdoor recreation facilities (such as batting cages, driving ranges and put-put golf)	S	S	S	09.10(d)
Shooting ranges, indoor	-	P	-	
Stadiums/coliseums/athletic fields	-	S	-	
Swimming pools, commercial	P	P	-	
Swimming pools, private	P	P	P	
Tennis club, paddle-ball club, racquetball club and other similar uses	P	P	P	
Theaters-indoor	S	S	-	



Use	LB	GB	AB	Requirements
<b>Religious, Civic, Social and Similar Organizations</b>				
Assembly halls, non-profit	-	P	-	
Charitable institutions	P	P	-	
Churches, temples and similar places of worship	P	P	P	09.11(a)
Conference centers and convention halls	-	P	-	
Lodges/private clubs	S	S	S	09.11(b)
<b>Educational Services</b>				
Elementary, middle and high schools – public, private or parochial	P	P	P	09.12(a)
Libraries and museums	P	P	P	
Technical and vocational trade schools	-	P	-	
University or college building	S	P	P	
<b>Public Administration</b>				
Executive, legislative, and other general government buildings	P	P	P	
Justice and public safety	P	P	P	
Post offices	P	P	P	
<b>Transportation and Warehousing</b>				
Railroad passenger stations, bus depots or other passenger terminal facilities	P	P	P	
Garages for public parking	S	P	P	
Material/storage accessory to a permitted use	P	P	P	
Mini-storage/ self storage warehouses including mini storage buildings and storage garages – leased or condominium	-	S	-	09.14(c)
Parking areas/public	P	P	P	
Storage, boat-inside	S	S	-	09.14(b)
Storage, boat-outside	S	S	S	09.14(b)
Transfer stations	-	S	-	
Transmission lines, gas & oil	P	P	P	
<b>Utilities and Waste Disposal</b>				
Sewage and treatment facilities	-	S	-	09.15(e)
Utilities and essential public services that are necessary to serve uses in the district	P	P	P	
Utility exchange or substations	P	P	-	
Water treatment facilities	-	P	-	
Wind Energy Conversion Systems	See: Cha pter 09A			
Wireless communication facilities and services	See: 09.15(g)			
<b>Construction</b>				
Construction contractors offices and showrooms without storage yards	S	P	-	
<b>Mining/mineral extraction</b>				
Mineral/soil extraction	S	S	S	09.17(a)

### Section 07.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a means that does not comply with the following requirements. Lots of record in existence prior to the effective date of this ordinance may be used subject to the provisions of the Nonconforming Lot Regulations of this Ordinance.

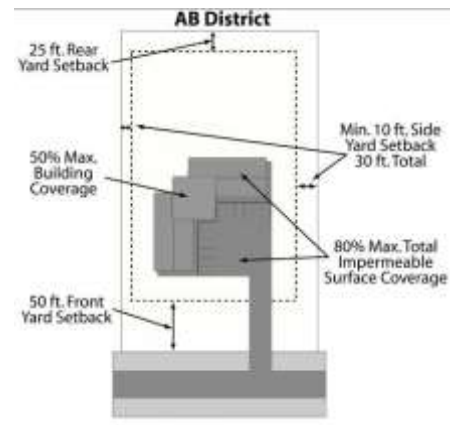
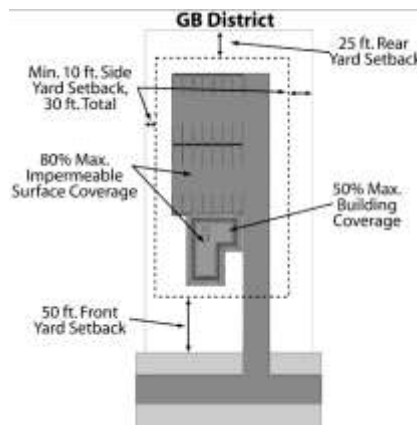
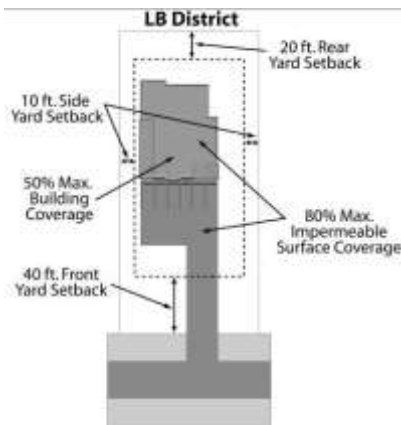
<b>Table 07.03 Lot Area And Width Requirements (c)(d)</b>		
<b>Districts</b>	<b>Min. Lot Area (Acre/Sq. Ft.)(a)(b)</b>	<b>Min. Lot Width (Ft.)</b>
LB Local Business	½ acre	100 ft.
GB General Business	1 acre	150 ft.
AB Accommodation Business	1 ½ acre	200 ft.

- (a) **Lot Area Calculation:** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake.
- (b) **Nonconforming Lots of Record:** New residential or commercial structures to be erected on lots of record prior to the passage of Zoning Ordinance Amendment A-96-02, which are smaller in area than the prescribed minimums of the table above, may be issued an Improvement Location Permit if well and waste system approvals have been granted by the Steuben County Health Department.
- (c) **Lot Size Reduction:** The lot area and lot width may be reduced below the amounts indicated in Table 07.03 where driveway spacing requirements of Section 13.04(b) can be met and the lot has a recorded easement for a shared driveway, and service drive connecting the lot to all adjacent lots zoned or master planned for business use, meeting the requirements of Section 13.04(d).
- (d) **Subdivision of Land:** All divisions to land shall be subject to the requirements set forth in the Steuben County Subdivision Control Ordinance.

**Section 07.04 Building Dimensional Requirements**

All buildings shall be subject to the dimensional regulations of the following table.

Table 07.04 Building Dimensional Requirements									
Districts	Min. Setbacks (a)(b)(c)(d)(e)					Max. Building Height ( )		Max. Lot Coverage (h)	
	Front or Roadside (Ft.) (f)	Side Yards (g)		Rear (Ft.)	Lake-front (Ft.)	Stories	Feet	% Building Coverage	% Total Impermeable Surface
		Smallest Side (Each) (Ft.)	Total of Both (Ft.)						
LB Local Business	40	10	20	20	50	3	40	50	80
GB General Business	50	10	30	25	50	3	40	50	80
AB Accommodation Business	50	10	30	25	50	3	40	50	80



- (a) **Accessory Structures:** See Chapter 11 for setbacks applicable to accessory structures and decks.
- (b) **Wetlands and Streams:** A minimum setback of twenty-five (25) feet shall be maintained from all wetlands and streams.
- (c) **Railroads:** A minimum setback of fifty (50) feet shall be maintained from all railroad rights-of-way.
- (d) **County-Regulated Drains:** A minimum setback of seventy-five (75) feet shall be maintained from center of tile or from top of adjacent bank for all County-regulated drains.
- (e) **Corner and Double Frontage Lots:** Where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.
- (f) **Setback from Road:** The front yard setback shall be measured from the road right of way or private road easement.
- (g) **Side Yard:** The side yard setbacks may be reduced to zero (0) from a side yard that adjoins another lot that is zoned as a business district, provided that the side wall is a fire rated wall with no windows and circulation to rear loading areas is provided on the other side of the building or other means such as access easements with adjacent property.

- (h) **Maximum Lot Coverage:** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:
- (1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.
  - (2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pools, pavement, parking, loading and storage areas to the net lot area. Planked decks with spacing between the planks and permeable ground beneath the deck and patios or parking areas constructed of pervious material shall be calculated at a rate of 50% towards the impermeable surface coverage.

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## CHAPTER 08 INDUSTRIAL DISTRICTS

### Section 08.01 Intent

- (a) **I-1 Light Industrial District:** The I-1, Light Industrial District, is established to encourage the development and expansion of manufacturing and wholesale business establishments which are clean, quiet, and free of hazardous or objectionable elements, operate entirely within enclosed structures, and generate little industrial traffic. This district is intended to create a higher quality business park setting with low impact industrial, flex space, warehousing and office uses.
- (b) **I-2 General Industrial District:** The I-2, General Industrial District, is established to encourage the development and expansion of major industrial operations which utilize both enclosed and unclosed space for storage, fabricating, and manufacturing.

### Section 08.02 Uses

Use and development of land and buildings shall only be for the following specified uses, unless otherwise provided for in this Ordinance. Uses are grouped into major categories and only those uses listed under each category are permitted. Land and/or buildings in the districts indicated at the top of the Table may be used for the purposes denoted by the following abbreviations:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

S: Special Exception Use: Land and/or buildings in this District may be used for this purpose by obtaining Special Exception approval when all applicable standards cited in Chapter 17 Special Exception Review Requirements and Procedures and Specific Requirements of Chapter 9 are met.

-: Not Permitted: The use is not permitted in the district. Uses not listed in the table are also not permitted.

Use	I1	I2	Requirements
<b>Residential</b>			
Low-impact home occupations	P	P	09.01(c)
<b>Agriculture, Forestry, Fishing and Hunting</b>			
Greenhouse, nursery, and floriculture production	P	P	09.02(a)
Kennels	-	P	
Liquid fertilizer storage	-	S	09.02(d)
Slaughterhouse, custom/commercial	-	S	09.02(g)
Wholesale produce terminal	P	P	
<b>Retail Trade</b>			
Appliance service	P	P	
Home improvement and building material stores	S	S	
Dairies, retail	P	P	
Nursery, garden center, farm supply, lawn and garden equipment and supplies stores	P	P	
Manufactured home sales	S	S	
<b>Motor Vehicle Dealers, Parts and Service</b>			
Auto rental	P	P	
Auto storage disabled vehicles (indoors)	P	P	09.04(a)
Auto storage disabled vehicles (outdoors)	S	S	09.04(a)
Automotive parts, accessories, and tire stores	P	P	
Minor automotive repair and maintenance	P	P	09.04(b)
Major automotive repair and bodywork	P	P	09.04(b)

**Table 8.02  
Schedule of Permitted Uses**

Use	I1	I2	Requirements
Service stations	S	S	09.04(d)
Motorcycle, boat, and recreational vehicle dealers	S	-	
Tractor and farm equipment dealers	S	S	
Truck sales	S	S	
Truck and moving van rental	S	S	
Truck stops and truck repair services	-	S	09.04(d)
<b>Food Services</b>			
Carryout restaurants	S	S	09.06(b)
Caterers	S	S	
Sit-down restaurants	S	S	09.06(b)
Taverns	S	S	09.06(b)
<b>Other Services</b>			
Dry cleaning establishments	P	P	
Laundromats	P	P	
<b>Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services</b>			
Banks with no more than 3 drive-thru teller lanes	P	P	09.08(a)
Banks with more than 3 drive-thru teller lanes	S	S	09.08(a)
Computer systems design and related services	P	P	
Laboratories for testing & research, excluding the raising of animals for research & excluding testing of fissionable material	P	P	
Business offices for professions such as advertising, accounting, bookkeeping, architecture, engineering, legal services and other administrative services	P	P	
Publishing industries	P	P	
Radio/TV station or studios	P	-	
Radio/TV towers	S	S	
Real estate, insurance and investment brokers	P	P	
Telecommunications	P	P	
<b>Health Care and Social Assistance</b>			
Child day care centers	S	S	09.09(a)
<b>Arts, Entertainment, and Recreation</b>			
Adult regulated uses	S	-	09.10(a)
Fitness centers	S	S	
Ice skating or roller rink	P	P	
Race tracks	-	S	
Shooting ranges, indoor	-	S	
<b>Religious, Civic, Social and Similar Organizations</b>			
Assembly halls, non-profit	P	P	
Charitable institutions	P	P	
Conference centers and convention halls	P	P	
Lodges/private clubs	S	S	09.11(b)
<b>Educational Services</b>			
Technical and vocational trade schools	P	P	
<b>Public Administration</b>			
Executive, legislative, and other general government buildings	P	P	
Penal Institution (Correctional/Juvenile Facility)	S	S	09.13(a)
Post offices	S	S	
<b>Transportation and Warehousing</b>			
Airports/heliports	S	S	09.14(a)
Railroad passenger stations, bus depots or other passenger terminal facilities	P	P	
Garages for public parking	-	P	
Outdoor material storage accessory to a permitted use	S	S	

**Table 8.02  
Schedule of Permitted Uses**

Use	I1	I2	Requirements
Mini-storage/self storage warehouses including mini storage buildings and storage garages– leased or condominium	P	P	09.14(c)
Parking areas/public	P	P	
Storage, boat-inside	P	P	
Storage, boat-outside	S	S	
Terminals, truck freight	-	P	09.14(d)
Transfer stations	S	S	
Transmission lines, gas & oil	P	P	
Warehouses for commercial and industrial uses	P	P	
<b>Utilities and Waste Disposal</b>			
Commercial composting facilities	-	S	
Garbage Disposal Plant	-	S	09.15(a)
Junk yards	-	S	09.15(b)
Power generation	S	S	
Recycling Facility (Indoors)	-	S	09.15(c)
Sanitary Land Fill or Incinerator	-	S	09.15(d)
Sewage treatment facilities	S	S	09.15(e)
Solid Waste Transfer Station	-	S	09.15(f)
Utilities and essential public services that are necessary to serve uses in the district	P	P	
Utility and essential public service buildings and storage yards	P	P	
Utility exchange or substations	P	P	
Water treatment facilities	P	P	
Wind Energy Conversion Systems	See: Chapter 09A		
Wireless communication facilities and services	See: 09.15(g)		
<b>Construction</b>			
Asphalt and concrete plants	S	S	09.16(a)
Construction contractors offices and showrooms without storage yards	P	P	
Construction contractors including storage yards	S	S	09.16(a)
<b>Mining/mineral extraction</b>			
Mineral/soil extraction	S	S	
Oil and gas extraction	S	S	
<b>Manufacturing</b>			
Manufacturing of products from previously refined materials within an enclosed building including the following: apparel manufacturing, beverage bottling, computer and electronic equipment manufacturing, fabricated metal product manufacturing such as forging and stamping, food processing, furniture and related product manufacturing, leather and allied product manufacturing, machinery manufacturing, nonmetallic mineral product manufacturing, plastics and rubber products manufacturing, textile product mills, transportation equipment manufacturing and wood product manufacturing	P	P	
Bottled gas storage and distribution	S	S	09.18(a)
Chemical manufacturing	S	S	
Explosives storage/manufacturing	S	S	
Paper manufacturing	S	S	
Petroleum, coal and other fuel products manufacturing, refinement, storage and distribution	-	S	09.18(b)
Primary metal manufacturing such as foundries	S	S	
Printing and related support activities	P	P	



### Section 08.03 Lot Area and Width Requirements

All lots shall meet the following minimum area and width requirements. No new lots shall be created or altered in a means that does not comply with the following requirements. Existing lots of record that were in existence prior to the effective date of this ordinance may be used subject to the nonconforming lot provisions of the Nonconforming Regulations of this Ordinance.

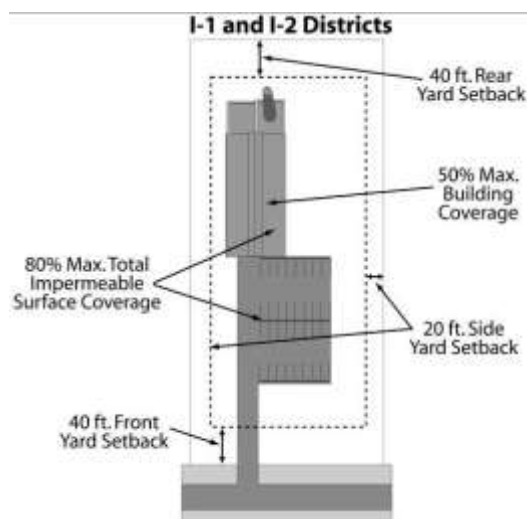
<b>Table 08.03</b>		
<b>Lot Area And Width Requirements (c)</b>		
<b>Districts</b>	<b>Min. Lot Area (Acre/Sq. Ft.)(a)(b)</b>	<b>Min. Lot Width (Ft.)</b>
I-1 Light Industry	2 acre	200 ft.
I-2 General Industry	2acre	200 ft.

- (a) **Lot Area Calculation:** Lot area is calculated based upon the net area of the lot, measured in the horizontal plane, exclusive of any area that is part of a public road right-of-way, private road easement or submerged land beneath the ordinary high water mark of a lake.
- (b) **Nonconforming Lots of Record:** New residential or commercial structures to be erected on lots of record prior to the passage of Zoning Ordinance Amendment A-96-02, which are smaller in area than the prescribed minimums of the table above, may be issued an Improvement Location Permit if well and waste system approvals have been granted by the Steuben County Health Department.
- (c) **Subdivision of Land:** All divisions to land shall be subject to the requirements set forth in the Subdivision Regulations of Steuben County.

**Section 08.04 Building Dimensional Requirements**

All buildings shall be subject to the dimensional regulations of the following table.

Table 08.04 Building Dimensional Requirements								
Districts	Min. Setbacks (a)(b)(c)(e)(f)				Max. Building Height		Max. Lot Coverage (g)	
	Front or Roadside (Ft.) (d)	Side Yards (Each) (Ft.)		Rear (Ft.)	Stories	Feet	% Building Coverage	% Total Impermeable Surface
I-1 Light Industry	50	20		50	-	80	50	80
I-2 General Industry	50	20		50	-	80	50	80



- (a) **Wetlands:** A minimum setback of twenty-five (25) feet shall be maintained from all wetlands.
- (b) **County-Regulated Drains, Lakes and Streams:** A minimum setback of seventy-five (75) feet shall be maintained from center of tile or from top of adjacent bank for all County-regulated drains and the shoreline of any lake or stream.
- (c) **Corner and Double Frontage Lots:** Where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way.
- (d) **Setback from Road:** The front yard setback shall be measured from the road right-of-way or private road easement.
- (e) **Setback from Residential:** All parking lots shall be setback a minimum of twenty five (25) feet from any adjacent residential lot line. All loading areas and outdoor storage shall be setback a minimum of one hundred (100) feet from any adjacent residential lot line.
- (f) **Loading and Storage:** All truck loading and storage shall be in the rear yard or side yard and shall not be located within the front yard. All outdoor storage areas shall be completely screened with an obscuring wall or fence, not less than six (6) feet high, so as to obscure all view from any adjacent residential, office or commercial district or from any public street.

- (g) **Maximum Lot Coverage:** The maximum lot coverage for buildings and impermeable surface shall be measured as follows:
- (1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.
  - (2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, decks, pavement, parking, loading and storage areas to the net lot area. Planked decks with spacing between the planks and permeable ground beneath the deck and patios or parking areas constructed of pervious material shall be calculated at a rate of 50% towards the impermeable surface coverage.

## CHAPTER 09 USE REGULATIONS

### Section 09.01 Residential

The following requirements shall be complied with for the specified use:

(a) **Manufactured Homes Located Outside of an Approved Manufactured Home Park**

- (1) **Permanent Occupancy.** Single Section Manufactured Homes, (aka: mobile homes) shall only be permitted in R-2, R-3, and MH Zoning Districts by right and in A, and EC Zoning Districts with Special Exception Approval provided:
- a. All manufactured homes shall comply with the Minimum Requirements of the "Steuben County Unsafe Building Ordinance" and the Indiana Fire and Building Services Commission.
  - b. The actual minimum square footage of manufactured homes permitted is seven hundred eighty four (784) square feet. If a manufactured home is less than seven hundred eighty four (784) square feet, but greater than five hundred fifty two (552) actual square feet, it may be occupied if it meets the minimum requirements of the Unsafe Building Ordinance. No conventionally built ("stick-built") additions may be included in the minimum square footage requirement.
  - c. All manufactured homes shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frostline. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.
  - d. All manufactured homes shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
  - e. All manufactured homes shall have a roof with a minimum 4:12 pitch and minimum eight (8) inch eave, and with a drainage system that will collect and concentrate the discharge of storm water or snow away from the sides of the dwelling. The roof shall have wood shake, asphalt or other acceptable shingles.
  - f. All manufactured homes shall be oriented on the lot to be consistent with the configuration of dwelling units on adjacent properties and in the surrounding residential neighborhood.
  - g. All manufactured homes shall be oriented toward the public right-of-way such that the facade that faces the street is manifestly designed as a front façade containing a door, windows and other architectural features customary of the front facade of a residence. There shall be a minimum of two (2) exterior doors with one (1) facing the street. All entrances shall be provided with steps, a stoop or porch that is permanently attached, on a frost depth foundation, either to the perimeter wall.
  - h. All manufactured homes shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
  - i. The Board of Zoning Appeals shall review the proposed manufactured home. The Board of Zoning Appeals shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the County at large.

- j. Prior to the issuance of an Improvement Location Permit, the owner shall obtain:
  1. A Mobile Home Moving Permit issued by the appropriate County Treasurer.
  2. A Letter of Non-Objection or Well and Septic Permits from the County Health Department.
  3. And any other required technical releases required by the Office of the Plan Commission.
- (2) **Temporary Occupancy.** Outside of mobile home parks, the Plan Director may grant a permit for temporary occupancy of a mobile home for a period of not more than one (1) year provided all the following are met:
  - a. The mobile home is to be located on the same property with an existing residence; or is to be located on property on which a permanent residence is to be constructed within one (1) year.
  - b. The mobile home is served by the same water supply and sewage facilities serving the existing residence; or is served by the same water supply and sewage facilities that are intended to serve the permanent residence to be constructed.
  - c. The mobile home shall remain on its wheels and not be placed on a permanent foundation.
  - d. All applicable setbacks are observed.
  - e. Occupancy of the mobile home is restricted to relatives or employees (employed on the premises of the property of the owner), or restricted to the property owner who intends to construct or have constructed a permanent residence on the site.
  - f. A performance guarantee sufficient to cover the cost of removing the mobile home shall be provided in accordance with Section 20.06.
- (3) No mobile home shall be placed on a lot in a camp ground or recreational vehicle park without first obtaining a special exception from the Board of Zoning Appeals.
- (4) Recreational vehicles may only be located on a lot outside of a recreational vehicle park if granted a special exception by the Board of Zoning Appeals.
- (5) In compliance with Steuben County Ordinance No. 658, concerning Public Environmental Nuisances, if the owner of and uninhabitable/abandoned manufactured home does not dispose of the home within thirty (30) days after receipt of a Notice to Abate, the Steuben County Plan Director can contract to have it removed. The cost of removal, disposal and an administrative fee equal to twenty five percent (25%) of the cost of removal and disposal, shall be charged to the owner of the real estate where the mobile home is located. The owner of the real estate shall be the title holder of the real estate as listed in the records of the Steuben County Auditor.
- (6) The placement of ALL manufactured homes, including the sites within mobile home parks, shall require the issuance of an Improvement Location Permit.
- (7) **Non-Residential Occupancy**
  - a. No manufactured home or converted conveyance shall be used for any non-residential purpose, unless a Special Exception is granted by the Board of Zoning Appeals.
  - b. Mobile homes, trailers or vans may be utilized as contractors' offices, watchmen's shelters, or tool and equipment storage only on the site and only during the period of construction or improvement projects.

**(b) Accessory Dwelling Units**

- (1) One (1) accessory dwelling unit may be created on a lot containing an existing single family dwelling through the following methods:
  - a. Converting existing living area, attic, basement or garage;
  - b. Adding floor area to the principal building; or
  - c. Constructing a detached accessory dwelling unit on a site with an existing dwelling.
- (2) The size of the accessory dwelling unit may be no more than thirty three percent (33%) of the living area of the principal dwelling or eight hundred (800) square feet, whichever is more.
- (3) The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the principal dwelling.
- (4) The roof pitch must be the same as the predominant roof pitch of the principal dwelling. The eaves must project from the building walls the same distance as the eaves on the principal dwelling;
- (5) Trim must be the same in type, size, and location as the trim used on the principal dwelling.
- (6) Windows must match those in the principal dwelling in proportion (relationship of width to height) and orientation (horizontal or vertical).
- (7) All Health Department requirements for water and sanitary sewage disposal shall be met.
- (8) When an accessory dwelling is located within the principal dwelling, only one (1) entrance may be located on the facade of the building facing the street, unless the building contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.
- (9) Detached accessory dwelling units must be setback at least fifty (50) feet from the front lot line or ten (10) feet behind the main house and must meet the side and rear yard setbacks of the district.

**(c) Home Occupations**

- (1) All Home Occupations shall comply with the following standards:
  - a. The use of the dwelling and property for the home occupation shall be clearly incidental and subordinate to its use for residential purposes.
  - b. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one (1) sign, not exceeding three (3) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
  - c. No traffic shall be generated in greater volumes than would normally be expected in a residential neighborhood, and any need for parking for a home occupation shall be met off the street and outside of the required front yard.
  - d. No equipment or process shall be used that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

- (2) Low-Impact Home Occupation shall comply with the following additional standards:
  - a. No more than twenty-five (25) percent of the floor area of the dwelling shall be used.
  - b. All business should be conducted entirely within the primary structure.
  - c. All employees must be members of the family residing on the property.
  - d. There shall be no on-site sales to or visits by customers.
- (3) All other Home Occupations shall comply with the following additional standards:
  - a. No more than thirty-three (33) percent of the floor area of the dwelling shall be used.
  - b. An accessory structure may be used.
  - c. The business may employ up to two (2) people who are not members of the family residing on the property.
  - d. There shall be no more than four (4) customer visit to the property per day. Those visits must be between 8:00am and 7:00pm.
  - e. The special exception approval shall be for the specific individual and use and shall not run with the land.

**Section 09.02 Agriculture, Forestry, Fishing and Hunting**

The following requirements shall be complied with for the specified use:

**(a) Commercial Greenhouse**

- (1) The minimum front yard setback shall be one hundred (100) feet.
- (2) The minimum side and rear yard setback shall be forty (40) feet.
- (3) A minimum buffer/setback of fifty (50) feet shall be provided between the parking lot, and loading area and any adjacent residential district.

**(b) Confined Feeding**

- (1) The minimum lot area shall be forty (40) acres.
- (2) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.
- (3) A minimum setback of one thousand (1,000) feet shall be provided from any adjacent residential district in existence at the time of establishing or expansion to the confined feeding use.

**(c) Keeping of Livestock and Other Animals**

- (1) The keeping of animals other than domesticated pets is only permitted as provided for in the following table. These provisions do not apply to farms in all districts, unplatted parcels of at least two (2) acres in the A-Agricultural District, confined feeding operations approved under (b) above and livestock operations that were in existence at the time of adoption of this Ordinance.

Animal	Minimum Lot Area for First Animal	Lot Area for Each Additional Animal
Chickens, turkeys or rabbits	1 acre	0.05 acre
Sheep or goats	2 acres	0.25 acre
Swine	3 acres	0.5 acre
Horses, ponies, mules, burros, llamas and alpaca	3 acres	1 acre
Cattle, bison, ostriches or elk	3 acres	1 acre

- (2) All grazing areas shall be fenced. An accessory structure shall be provided to house the animals. Any barn, or stable structure and any outdoor feed (non-grazing) area training or exercising corrals shall be setback at least one hundred (100) feet from any occupied dwelling or any adjacent building used by the public. All stables shall be enclosed by a suitable fence and shall be maintained so that dust, noise or water drainage shall not constitute a nuisance or hazard to adjoining premises.

(d) **Liquid Fertilizer Storage and Distribution (Commercial)**

- (1) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.

(e) **Riding Stable**

- (1) The minimum lot area shall be 20,000 square feet plus 5,000 square feet per horse.
- (2) All front, side and rear yard setbacks shall be a minimum of one hundred (100) feet.

(f) **Sales Barn for Livestock Resale**

- (1) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.
- (2) A minimum buffer/setback of fifty (50) feet shall be provided between the parking lot and any adjacent residential district.
- (3) A minimum buffer/setback of one hundred (100) feet shall be provided between the loading area and any adjacent residential district.

(g) **Slaughterhouse**

- (1) The minimum lot area shall be five (5) acres.
- (2) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.
- (3) A minimum buffer/setback of fifty (50) feet shall be provided between the parking lot and any adjacent residential district.
- (4) A minimum buffer/setback of three hundred (300) feet shall be provided between the loading area and any adjacent residential district.

(h) **Wineries**

- (1) Wineries may include a retail component, restaurant or tourist home/bed & breakfast inn. Accessory tourist home/bed & breakfast inn uses shall also be subject to the requirements of Section 9.05(a).
- (2) The minimum front yard setback shall be one hundred (100) feet.
- (3) The minimum side and rear yard setback shall be forty (40) feet.
- (4) Parking shall be provided for all employees plus parking required any accessory retail component, restaurant or tourist home/bed & breakfast inn. A minimum buffer/setback of fifty (50) feet shall be provided between the parking lot, and loading area and any adjacent residential district or residential use.

### **Section 09.03 Retail Trade**

The following requirements shall be complied with for the specified use:

(a) **Shopping Centers with More than 60,000 square Feet of Floor Area**

- (1) The design of the center shall ensure that vehicular circulation patterns will minimize conflicts between vehicles and pedestrians on-site.
- (2) Internal drives defined by the ends of aisles shall have raised curbed landscape islands at appropriate locations to define circulation paths and control movements through the parking lot.



- (3) A minimum buffer/setback of twenty five (25) feet shall be provided between the parking lot and any adjacent residential district.
- (4) A minimum buffer/setback of fifty (50) feet shall be provided between the loading area and any adjacent residential district.
- (5) Loading facilities which serve the commercial establishment in the principal building shall be screened from public view.
- (6) Any outlots shall have access, circulation and parking designed to complement the entire site.

(b) **Drive-Through Accessory to a Retail Use**

- (1) The drive-through facility must be attached to the structure.
- (2) The drive-through facility shall be located on the side or rear elevation of the building to minimize visibility from the public or private roadway.
- (3) The drive-through service, including any lighting associated therewith shall be screened from adjacent residential land uses such that it will not impact the use and enjoyment of the residential land use.
- (4) Clear identification and delineation between the drive-through facility and the parking lot shall be provided.
- (5) There shall be a minimum of three (3) stacking spaces.
- (6) Each drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served. The Plan Director may waive the requirement for an escape lane where it can be demonstrated that such a waiver will not result in an adverse effect on public safety or the convenience of patrons of the facility.

### **Section 09.04 Motor Vehicle Dealers, Parts and Service**

The following requirements shall be complied with for the specified use:

(a) **Auto Storage Disabled Vehicles**

- (1) Minimum lot area shall be five (5) acres.
- (2) No outdoor storage shall be permitted in any required yard (setback) of buildings for the district in which the storage use is located.
- (3) The site shall include a building of at least five hundred (500) feet of gross floor area for office use in conjunction with the use.
- (4) All outdoor storage area shall be screened with an eight (8) foot high screen wall or fence.

(b) **Automotive Repair and Maintenance**

- (1) All repair work shall be conducted completely within an enclosed building.
- (2) Storage of wrecked, partially dismantled, or other derelict vehicles is prohibited, unless such storage is required under police or court order. Vehicles awaiting repair shall not be stored outdoors for more than seven (7) days and shall be screened with an eight (8) foot high screen wall or fence.
- (3) There shall be no outdoor storage or display of vehicle components and parts, supplies, or equipment or other merchandise, except within an area defined on the site plan which extends no more than ten (10) feet beyond the building.

(c) **Automobile Wash**

- (1) Only one (1) ingress/egress driveway shall be permitted on any single street.
- (2) All washing facilities shall be within a completely enclosed building.

- (3) Where adjoining a residential district, a solid wall six (6) feet in height shall be erected along any common lot line.
- (4) Vacuuming and drying may be located outside the building, but shall not be in the required front yard and shall be set back at least fifty (50) feet from any residential district.
- (5) All cars required to wait for access to the facilities shall be provided stacking spaces fully off the street right-of-way which does not conflict with vehicle maneuvering areas to access gasoline pumps or vacuums.

**(d) Service Stations and Truck Stops**

- (1) There shall be a minimum lot area of one (1) acre and minimum lot frontage of two hundred (200) feet.
- (2) Pump islands shall be a minimum of twenty (20) feet from any public right of way or lot line, and at least forty (40) feet from any residential lot line.
- (3) Access driveways shall meet the standards of Article 13; turning movements may be restricted in consideration of traffic conditions. Only one driveway shall be permitted from each street.
- (4) Where adjoining residentially zoned or used property, a solid wall eight (8) feet in height shall be erected in accordance with Section 11.06.
- (5) All vehicle service shall comply with Section 09.04(b) above.
- (6) The design and materials of the canopy shall be compatible with the main building. The proposed clearance of any canopy shall be noted on the site plan. Any signs, logo on the canopy shall be considered part of the maximum wall sign permitted. Canopy lighting shall be recessed such that the light source cannot be seen from off site.

### **Section 09.05 Lodging Accommodation**

The following requirements shall be complied with for the specified use:

**(a) Tourist Homes/Bed & Breakfast Inns**

- (1) The bed and breakfast inn shall be a private residence, owned by the innkeeper and the residence in which the innkeeper resides while renting the rooms to transient tenants.
- (2) A restaurant that is open to the general public shall not be permitted and the tourist home/bed and breakfast inn may only offer breakfast to the transient tenants.
- (3) The tourist home/bed and breakfast inn shall be operated in its entirety within the principal dwelling and not within any accessory building, except for incidental storage in use of a residential type garage.
- (4) There shall be no exterior evidence, other than a permitted sign, to indicate that the residence is being utilized for any purpose other than that of a dwelling.
- (5) There shall be no alteration or construction not customarily found in residential dwellings; except modifications as recommended by the Fire Department such as fire protection and fire suppression equipment.
- (6) Guests are not allowed to stay longer than fourteen (14) consecutive days or thirty (30) days in any one calendar year at any tourist home/bed and breakfast location.
- (7) All tourist home/bed and breakfast operations shall maintain on the premises a guest register and all guests shall be legibly registered and such register is subject to inspection during reasonable hours by the County Plan Director.

- (8) Sufficient off street parking shall be required as for commercial lodging establishments. Existing buildings and structures that contribute towards the residential character of the site shall be retained and incorporated into the site design to the maximum extent practical. All required parking for any tourist home/bed and breakfast inn shall be screened from adjacent residential uses.

### **Section 09.06 Food Services**

The following requirements shall be complied with for the specified use:

#### **(a) Restaurants with Drive-Through Service**

- (1) The drive-through facility must be attached to the structure.
- (2) The drive-through facility shall be located on the side or rear elevation of the building to minimize visibility from the public or private roadway.
- (3) The drive-through service, including any associated lighting shall be screened from adjacent residential land uses so that it will not impact the use and enjoyment of the residential land use.
- (4) Clear identification and delineation between the drive-through facility and the parking lot shall be provided.
- (5) There shall be a minimum of ten (10) stacking spaces.
- (6) Each drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served.
- (7) Only one (1) access shall be provided onto any street.
- (8) Where the restaurant is constructed adjacent to other commercial uses, a direct vehicular access connection shall be established with the adjoining property if possible.

#### **(b) Restaurants in Industrial Districts**

- (1) The restaurant shall be located within an office structure or industrial building or shall be located in a freestanding building as part of an overall industrial or office park.
- (2) The restaurant shall be planned as a part of an overall plan for development and shall be part of a service establishment complex for such development.
- (3) The restaurant shall comprise not more than twenty percent (20%) of the land area of an overall development.
- (4) There shall be no more than one (1) restaurant in a freestanding building per business park.
- (5) Drive-in or drive-through restaurants shall be prohibited.

### **Section 09.07 Other Services**

The following requirements shall be complied with for the specified use:

#### **(a) Funeral Homes and Mortuaries**

- (1) Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred and fifty (150) feet.
- (2) An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.

#### **(b) Cemetery or Crematory**

- (1) The minimum lot area shall be ten (10) acres.
- (2) All front, side and rear yard setbacks shall be a minimum of fifty (50) feet.

### **Section 09.08 Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services**

The following requirements shall be complied with for the specified use:

#### **(a) Banks with Drive-Through Tellers**

- (1) The drive-through facility shall be located on the side or rear elevation of the building to minimize visibility from the public or private roadway.
- (2) The drive-through service, including any associated lighting shall be screened from adjacent residential land uses such that it will not impact the use and enjoyment of the residential land use.
- (3) Clear identification and delineation between the drive-through facility and the parking lot shall be provided.
- (4) There shall be a minimum of four (4) stacking spaces for the first drive-through lane and three (3) stacking spaces for each additional lane.
- (5) Each drive-through facility shall provide an escape lane to allow other vehicles to pass those waiting to be served. The Plan Director may waive the requirement for an escape lane where it can be demonstrated that such a waiver will not result in an adverse effect on public safety or the convenience of patrons of the facility.

### **Section 09.09 Health Care and Social Assistance**

The following requirements shall be complied with for the specified use:

#### **(a) Child day care**

- (1) There shall be a minimum of one hundred ten (110) square feet of outdoor play area per child on site at any given time.
- (2) The minimum side and rear yard setback shall be twenty (20) feet.
- (3) A minimum twenty (20) foot buffer/setback shall be provided between the parking lot and any adjacent residential use.

#### **(b) Hospital**

- (1) The minimum lot area shall be five (5) acres.
- (2) The minimum front yard setback shall be one hundred (100) feet.
- (3) The minimum side and rear yard setback shall be forty (40) feet.
- (4) A minimum twenty five (25) foot buffer/setback shall be provided between the parking lot and any adjacent residential district.
- (5) A minimum one hundred (100) foot buffer/setback shall be provided between the loading area and any adjacent residential district.
- (6) A hospital may be erected to a height not greater than seventy-five (75) feet.

#### **(c) Nursing Homes and Senior Assisted Living**

- (1) Independent senior housing and senior apartments may be developed in a multiple-family or cluster housing form with full facilities for self-sufficiency in each individual unit. A community center for this overall development may be provided.

- (2) Senior assisted living housing shall be developed in a multiple-family housing form with central dining facilities provided as a basic service to each unit. A community center for the overall development shall be provided to support recreational and social activities.
- (3) Personal service uses such as a dry cleaning pickup station, beauty shop, barber shop or similar use for the exclusive service to residents of a complex may be allowed within a housing development. In no instance shall such service use be provided with direct access to a street for the use of the public in general, it being the purpose of this provision to allow such use to only be provided as a convenience to occupants of the complex in which such service is located. No signs of any nature shall be visible from outside the building in which the use is located.

### **Section 09.10 Arts, Entertainment, and Recreation**

The following requirements shall be complied with for the specified use:

#### **(a) Adult Regulated Uses**

- (1) In the development and execution of this section, it is understood there are some uses which, because of their nature, are recognized as having serious objectionable, operations characteristics, particularly when several of them are concentrated under certain circumstances, thereby having deleterious effects upon adjacent areas. Special regulations for these uses are necessary to insure that the potential adverse effects will not contribute to the blighting, deteriorating, and/or down grading of the area in which they are located and the adjacent areas. The control or regulation of these uses is for the purpose of preventing their overcrowding into a particular location and requires, instead, their dispersal throughout the industrial areas of the County to minimize their adverse impact on any specific neighborhood.
- (2) The prohibition against the establishment of more than one adult regulated use, within 1,000 feet of each other and other incompatible uses, serves to avoid the clustering of such uses; avoids the deleterious effects of blight and devaluation of both business and residential property; and prevents the harmful effect of blight and devaluation of recreation, educational and/or religious uses.
- (3) Distance limitations shall be measured along a straight line forming the shortest distance between any portion of the subject parcel and parcels zoned residential or occupied by uses specified herein.
- (4) Concern for, and pride in, the orderly planning and development of the neighborhood and area should be encouraged and fostered in those persons who comprise the business and residential segments of that neighborhood and area.
- (5) Unless and until approval is obtained, it shall be unlawful to hereafter establish any adult regulated use, as defined herein.
- (6) Any adult regulated use/building shall be at least 1,000 feet from any of the following, except as otherwise provided by item (9) below. Distance shall be measured in a straight line from property line to property line.
  - a. Another existing adult regulated use;
  - b. Public, private or parochial school;
  - c. Library;
  - d. Park, playground or other recreation facility which admits minors;
  - e. Day care center or nursery schools;
  - f. Church, temple or other similar place of worship;
  - g. Any establishment having a liquor license;
  - h. Pool or billiard halls;

- i. Arcades;
  - j. Pawn shops;
  - k. Hotels, motels or bed and breakfast inns;
  - l. Dance clubs catering primarily to teenagers, ice or roller skating rinks, movie theaters and other similar uses which typically cater to teenagers
  - m. Hospitals; or
  - n. Any residential district.
- (7) Any adult regulated use/building offering material described in this Ordinance shall comply with the following performance standards:
- a. That any display of adult oriented material be shielded from public view either placed behind a counter, or by providing a separately established room which would have restricted access controlled by the owner or employees;
  - b. That all access to adult orientated material be restricted to person eighteen (18) years of age or older;
  - c. That signage be posted regarding the restrictions to this type of material; and
  - d. That the location of the counter or room be limited to an area away from the main entry.
- (8) Site and building requirements:
- a. Building size shall not exceed five thousand (5,000) square feet of gross floor area.
  - b. The building and site shall be designed, constructed and maintained so material such as a display, decoration or sign depicting, describing, or relating to specific sexual activities or specified anatomical areas, as defined in this Ordinance, cannot be observed by pedestrians or motorists on a public right of way or from an adjacent land use. No exterior door or window on the premises shall be kept open at any time while the business is in operation.
  - c. The use shall be located within a freestanding building. A shared/common wall or shopping center shall not be considered to be a freestanding building.
  - d. The building shall provide sufficient sound absorbing insulation so noise generated inside the premises shall not be audible anywhere on any adjacent property or public right of way.
  - e. The Board of Zoning Appeals may require a wall, fence or berm in conjunction with landscaping to provide an appropriate screen in consideration of views from public streets, distance and surrounding land uses.
  - f. The hours of operation shall be approved by the Board of Zoning Appeals.
  - g. Access shall be from a major thoroughfare.
  - h. Any adult regulated use, which allows customers to remain on the premises while viewing live, filmed or recorded entertainment or while using or consuming the products or services supplied on the premises, shall provide at least one security guard on duty outside the premises. The security guard shall patrol the grounds and parking areas at all times while the business is in operation.
- (9) The Board of Zoning Appeals may waive the location provision requiring minimum distances between adult regulated uses and those uses identified in item (6) above. Waiver exceptions from the location provision would be from any residential zoning district, public, private, or parochial school or church, convent, monastery, synagogue or other similar place of worship, if all of the following findings are made after a public hearing:
- a. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Ordinance will be observed.

- b. The proposed use will not contribute to, create, enlarge and/or encourage a blighted or deteriorated area.
- c. All applicable regulations of this Ordinance will be observed.
- d. There is no other reasonable location in the County at which the use is suited.

**(b) Common Use Riparian/Lake Access Lots**

- (1) The intent of this provision is to minimize the impacts of Back lot Development on the Shoreline. Further, it is the intent of this provision to:
  - a. discourage the funneling of lake access for multiple residences through narrow access points,
  - b. establish a balanced and orderly relationship between development and the amount of Shoreline available for use by residents, and
  - c. assure responsible “lake access” for Lakefront Development.
- (2) This section shall apply to lakefront or back lot development, including, lake front access points, lake front recreational areas, beaches, parks, playgrounds that have been designated as a common area or access point, in all zoning districts. This section shall apply to common areas lakefront or back lot developments created as part of a residential subdivision, multiple family development, condominium cooperative, retirement community, mobile home park, mobile home subdivision, camp ground, mixed-use development with a residential component, residential development under the horizontal property regime, neighborhood association, organization, or club.
- (3) Where a parcel of land contiguous to a natural body of water is proposed for residential development, a commonly owned area bordering on the body of water may be dedicated for recreational purposes.
  - a. The lake access lot must be contiguous (being part of the same parcel or adjacent parcels having a common boundary) with the development being served and platted as part of the same subdivision.
  - b. The common area shall be dedicated for the use of owners and occupants of dwellings contained in the development.
  - b. Deed restrictions and bylaws must specify the lots that are permitted to utilize the lake access lot and moor, store, or launch boats. Deed restrictions detailing what lots have access to the common waterfront area shall be submitted for approval by the Plan Director prior to recording. Verification that the deed restrictions have been recorded shall be required prior to issuance of any improvement location permit or building permit.
- (4) Common use waterfront lots shall not be used for public marinas, public beaches or commercial recreational use operated for profit.
- (5) The design, operation and use of the common waterfront lot shall not impair the natural appearance of the land, overcrowd the lake surface or produce unreasonable noise or annoyance to surrounding properties.
- (6) The lake access lot shall have a minimum lot depth of one hundred (100) feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge.
- (7) The maximum number of lots that can have access to a common waterfront lot shall not exceed the following:

First Residential Unit	100 feet of Shoreline
Second Residential Unit	50 feet of Shoreline
Each Additional Residential Unit	20 feet of Shoreline



- a. Shoreline length shall be measured along the lake shoreline, as shown on the parcel survey, but shall not include the shoreline length of any artificially created shoreline, such as harbors, boat wells or canals.

(d) **Marinas and boat clubs**

- (1) The minimum front, side and rear yard building setbacks shall be forty (40) feet.
- (2) All areas used for dry-dock boat storage shall be screened from any adjacent residential district or public road with landscaping consisting of evergreen trees space no more than fifteen (15) feet on center.

(e) **Outdoor Commercial Amusement**

- (1) The minimum front, side and rear yard building setbacks shall be forty (40) feet, which shall apply to all buildings, recreation activity areas, spectator seating and any other structural appurtenances.
- (2) The use and parking area shall be screened from adjacent major thoroughfares with berms and other approved landscaping.
- (3) Devices for the transmission of broadcasting of voices or music shall be so directed as to prevent said sound from being audible beyond the lot lines of the site.
- (4) Whenever any such use abuts a residential district or use, a transitional buffer area shall be provided between all operations, buildings and structures, including fences, and the residential property. Landscaping, walls and/or fences shall be required as part of this buffer as determined by the Plan Director based upon the nature of the use and the noise impact that the use may have on surrounding uses.
- (5) Storage buildings, restroom facilities, facilities for the sale and consumption of food, beverages and refreshments and other similar accessory uses shall comply with all standards of the County.

(f) **Public Camp/Recreational Vehicle Park**

- (1) The minimum lot area shall be five (5) acres.
- (2) Lots for tents and tent campers must be a minimum of two thousand five hundred (2,500) square feet, and also must have modern restrooms that will be approved by local and state health departments.
- (3) The minimum front yard setback shall be one hundred (100) feet.
- (4) The minimum side and rear yard setback shall be seventy five (75) feet.
- (5) A minimum buffer/setback of twenty five (25) feet shall be provided between the parking lot and any adjacent residential use.
- (6) Residency shall be limited to temporary seasonal/vacation occupancy. Use of any recreational vehicle, motor home or any other structure within a public camp or recreational area as a permanent dwelling shall be prohibited.

### **Section 09.11 Religious, Civic, Social and Similar Organizations**

The following requirements shall be complied with for the specified use:

(a) **Churches, Temples and Similar Places of Worship**

- (1) The minimum front, side and rear yard building setbacks shall be forty (40) feet.
- (2) Off-street parking spaces and circulation aisles shall not be located within twenty (20) feet of the front lot line.
- (3) There shall be no outside loudspeaker or amplified sound outside of a totally enclosed building.
- (4) Accessory child day care shall be permitted subject to the requirements of Section 09.09(a).



**(b) Lodges/Private Clubs**

- (1) The minimum front, side and rear yard building setbacks shall be forty (40) feet.
- (2) Off-street parking spaces and circulation aisles shall not be located within twenty (20) feet of the front lot line.
- (3) Indoor and outdoor activity shall be limited to local club members and their immediate families.
- (4) The outdoor use of loudspeakers, sound amplifying systems or paging systems shall be prohibited.
- (5) Appropriate licenses shall be required should alcoholic beverages be served.

**Section 09.12 Educational Services**

The following requirements shall be complied with for the specified use:

**(a) Schools, including Elementary, Middle and High Schools – Public, Private or Parochial**

- (1) The minimum front, side and rear yard building setbacks shall be forty (40) feet.
- (2) Off-street parking spaces and circulation aisles shall not be located within twenty (20) feet of the front lot line.

**Section 09.13 Public Administration**

The following requirements shall be complied with for the specified use:

**(a) Penal Institution (Correctional/Juvenile Facility)**

- (1) All front, side and rear yard setbacks shall be a minimum of one hundred (100) feet.
- (2) A minimum buffer/setback of three hundred (300) feet shall be provided between the parking lot, loading or fenced area and any adjacent residential district.

**Section 09.14 Transportation and Warehousing**

The following requirements shall be complied with for the specified use:

**(a) Airport or Heliport**

- (1) Runway clear zones shall be located entirely on the airport property.
- (2) The airport terminal, hangar area, runway, taxiway, and clear zones shall be setback a minimum of one hundred (100) feet from any adjacent residential property.

**(b) Boat Storage Inside Or Outside**

- (1) The minimum front, side and rear yard building setbacks shall be forty (40) feet.
- (2) All areas used for dry-dock boat storage shall be screened from any adjacent residential district or public road with landscaping consisting of evergreen trees space no more than fifteen (15) feet on center.

**(c) Mini- or Self Storage Warehouses**

- (1) Minimum lot size shall be three (3) acres. Where mini- or self storage warehouses are being developed through a condominium of subdivision for sale if individual storage buildings, there shall be a minimum of one-quarter (1/4) acre of land for each building.
- (2) Minimum building and parking setback shall be fifty (50) feet from any public street right-of-way line, fifty (50) feet setback from any residential district and twenty-five (25) feet from any non-residential zoning

district. Where mini- or self storage warehouses are being developed through a condominium of subdivision for sale if individual storage buildings, building shall be spaced a minimum of ten (10) feet from all other buildings and shall be setback a minimum of ten (10) feet from the internal circulation road.

- (3) The front yard and any side yards adjacent to residential districts shall include wrought iron or similar decorative fencing and evergreen plantings spaced a maximum of ten (10) feet apart on center.
- (4) All storage shall be within completely enclosed buildings or structures, unless a separate special exception approval is granted for commercial outdoor storage on the premises.
- (6) The use shall be limited to storage only. The premises shall not be used for operating any other business or repairing of any vehicles.
- (7) No storage of combustible or flammable liquids, combustible fibers, or explosive materials as defined in the fire prevention code, or toxic materials, shall be permitted within the self-storage buildings or upon the premises.

(d) **Truck Freight Terminal**

- (1) A minimum buffer/setback of one hundred (100) feet shall be provided from any adjacent residential district.

(e) **Warehouse/Grain Elevator**

- (1) The minimum lot area shall be three (3) acres.
- (2) The minimum front yard setback shall be one hundred (100) feet.
- (3) The minimum side yard setback shall be seventy five (75) feet.
- (4) The minimum rear yard setback shall be thirty five (35) feet.
- (5) A minimum buffer/setback of one hundred (100) feet shall be provided between the parking lot or loading area and any adjacent residential district.

(f) **Wholesale Produce Terminal**

- (1) The minimum lot area shall be fifteen (15) acres.
- (2) The minimum front yard setback shall be one hundred (100) feet.
- (3) The minimum side yard setback shall be seventy five (75) feet.
- (4) The minimum rear yard setback shall be thirty five (35) feet.

## **Section 09.15 Utilities and Waste Disposal**

The following requirements shall be complied with for the specified use:

(a) **Garbage Disposal Plant**

- (1) The minimum lot area shall be twenty five (25) acres.
- (2) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.
- (3) The location, size, intensity, site layout and periods of operation must be designated to eliminate any possible nuisance that might be noxious to the occupants of any other nearby permitted uses, whether by reason of odor, dust, noise, fumes, vibration, smoke or lights.
- (4) Stacking area for a minimum of five (5) vehicles must be provided on site. Any area used for parking or unloading materials must be screened with a minimum six (6) foot tall wall or solid fence to prevent materials from leaving the unloading area.

- (5) Storing or disposing of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the Health Department. All storage, processing and disposal areas shall be a minimum of one hundred (100) feet from any wetland, drain stream or body of water.
- (6) Depositing, storing or disposing of garbage or wastes shall not attract vermin, insects or other pests or allow the wastes to become a breeding place for mosquitoes, flies or other disease-carrying insects. Offensive odors shall not interfere with the enjoyment of adjacent properties.
- (7) The County may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

**(b) Junk Yard**

- (1) The minimum lot area shall be ten (10) acres.
- (2) A minimum setback of one thousand (1,000) feet shall be provided from any adjacent residential district.
- (3) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.
- (4) The location, size, intensity, site layout and periods of operation must be designated to eliminate any possible nuisance that might be noxious to the occupants of any other nearby permitted uses, whether by reason of odor, dust, noise, fumes, vibration, smoke or lights.
- (5) The entire site must be screened with a minimum eight (8) foot tall wall or solid fence. Material shall not be stacked higher than the screening enclosure. All material shall be screened so as to not be visible from any public road.
- (6) Any area used for parking or unloading materials must be located within the site. Parking of trucks and loading or unloading of materials in the public road right-of-way shall be prohibited.
- (7) Storing or disposing of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the Health Department. All storage areas shall be a minimum of one hundred (100) feet from any wetland, drain stream or body of water.
- (8) The County may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

**(c) Recycling Facility (Indoors)**

- (1) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.
- (2) The location, size, intensity, site layout and periods of operation must be designated to eliminate any possible nuisance that might be noxious to the occupants of any other nearby permitted uses, whether by reason of odor, dust, noise, fumes, vibration, smoke or lights.
- (3) Stacking area for a minimum of five (5) vehicles must be provided on site. Any area used for parking or unloading materials must be screened with a minimum six (6) foot tall wall or solid fence to prevent materials from leaving the unloading area.
- (4) Overnight storage of any refuse material in the building shall be prohibited and the dumping or storage of any material on the site outside the building at any time shall be prohibited.

- (5) Storing or disposing of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the Health Department. All storage, processing and disposal areas shall be a minimum of one hundred (100) feet from any wetland, drain stream or body of water.
- (6) Depositing, storing or disposing of garbage or wastes shall not attract vermin, insects or other pests or allow the wastes to become a breeding place for mosquitoes, flies or other disease-carrying insects. Offensive odors shall not interfere with the enjoyment of adjacent properties.
- (7) The County may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

**(d) Sanitary Land Fill or Incinerator**

- (1) The minimum lot area shall be one hundred (100) acres.
- (2) A minimum setback of one thousand (1,000) feet shall be provided from any adjacent residential district.
- (3) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area. All truck access to and from the site shall be upon a major thoroughfare.
- (4) In order to fully assess all implications and effects of the project, an in-depth environmental impact assessment shall be prepared by the petitioner and submitted for review at the public hearing and approval by the County.
- (5) The facility shall be equipped with an approved waste water recycling system to avoid contaminated water or liquids from being discharged to ground water, surface water or storm sewers. This shall include a wash-out, wash-down, and secondary containment system to recover and recycle impurities and other by-products processed from trucks, machinery products, supplies or waste.
- (6) All driveways, surface roads and storage areas on the premises shall be paved with concrete or deep strength asphalt.

**(e) Sewage Disposal Plant**

- (1) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.

**(f) Solid Waste Transfer Station**

- (1) The minimum lot area shall be ten (10) acres.
- (2) The location, size and layout of the site, and its relation to streets giving access to it, shall be such that traffic to and from the use will not conflict with the normal traffic of the area.
- (3) No portion of any structure, facility, access drive, parking area or storage area shall be located within three hundred (300) feet of a residential district.
- (4) All areas adjacent to the transfer point, such as the tipping floor and the turning, standing, parking, and storage areas shall be paved with sealed concrete. Adequate standing and parking facilities shall be provided on the site so that no packers or other collection vehicles, at any time, are standing on a public road awaiting entrance to the site. Areas subject to leakage or wash down areas shall have a secondary containment system. All other roads on the premises shall be paved with concrete or a bituminous hard surface.
- (5) Storing or disposing of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the

Health Department. All storage, processing and disposal areas shall be a minimum of one hundred (100) feet from any wetland, drain stream or body of water.

- (6) Emission of smoke, dirt, dust and fly ash shall be controlled through the use of electrostatic precipitator or other equipment of equal or better efficiency, which shall meet all applicable Federal, State and local air pollution control regulations.
- (7) All salvage and transfer operations shall be conducted totally within an enclosed building. The transfer facility and the adjacent area shall be kept clean and free of litter.
- (8) If refuse is to remain at the transfer facility beyond the working day, that material shall be stored in a leak proof, fly and rodent resistant structure or container located within the building. No overflow from containers shall be permitted.
- (9) No refuse shall be burned at the transfer facility. Arrangements shall be made for adequate fire protection and extinguishing of accidental fires. Refuse which is burning, or at a temperature which is likely to cause a fire, or is of highly flammable or explosive nature, shall not be accepted at the transfer facility.
- (10) Storing or disposing of garbage or wastes shall not attract vermin, insects or other pests or allow the wastes to become a breeding place for mosquitoes, flies or other disease-carrying insects. Offensive odors shall not interfere with the enjoyment of adjacent properties.
- (11) The County may impose such reasonable conditions as it deems necessary to protect the public health, safety and general welfare from excessive noises, excessive traffic patterns, obnoxious and unhealthy odors, and any detrimental effects from the general operation of the use.

(g) **Wireless Communication Facilities and Services**

- (1) **Purpose and Intent.** The regulations of this Section are intended to conform to federal laws and administrative rules governing facilities needed to operate wireless communication systems and to set forth procedures and standards for review and approval for the location of such facilities within the County.
  - a. It is the County's intent to reasonably regulate the location and design of such facilities to retain the integrity of neighborhoods and the character, property values and aesthetic quality of the County.
  - b. Given the increase in the number of wireless communication facilities requested as a result of the new technology and the Federal Telecommunications Act of 1996, it is the policy of the County that all users should co-locate attached wireless communication facilities and wireless communication towers, where practicable. Collocation is proposed in order to assure the most economic use of land and to prevent the proliferation of duplicative services.
  - c. In recognition of the County's concern that technological advances may render certain wireless communication facilities obsolete or unnecessary in the future, requirements are set forth for the removal of unused or unnecessary facilities in a timely manner and provide security for removal.

(2) **Zoning Districts and Approval Process for Wireless Communication Facilities.** Wireless Communication Facilities may be located within the County as follows:

<b>Table 9.15 Wireless Communication Facilities</b>		
<b>Type/Location of Wireless Communication Facility</b>	<b>Districts Permitted</b>	<b>Approval Procedure</b>
<b>Attached Wireless Communication Facilities on Existing Structures in accordance with Section 10.01</b>		
Attached to an existing building or structure that will not be materially altered or changed in appearance	All districts, except on lots occupied by a single family residential use	Approval by the Plan Director
Attached to an existing utility structure that will not be modified or materially alter the pole or impair sight lines or compromise safety	All districts	Approval by the Plan Director
Collocation upon an existing wireless communication facility	All districts	Approval by the Plan Director
<b>New Wireless Communication Tower</b>		
Monopole up to 150 feet in height	A district and on religious, civic, educational, and public sites in EC, R1, R2, and R3 districts	Special exception and site plan by the Board of Zoning Appeals
Monopole any height	AB, LB, GB, I-1 and I-2 districts	Special exception and site plan by the Board of Zoning Appeals
Lattice tower where it can be demonstrated that a monopole is not feasible	I-1 and I-2 districts	Special exception and site plan by the Board of Zoning Appeals

(3) **Application Requirements - Collocation.** The following information shall be provided with the application, in addition to other site plan submittal requirements for an attached wireless communication facility collocated on an existing structure:

- a. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
- b. The owner and/or operator of the existing tower or structure.
- c. Legal description of the parent tract and leased parcel (if applicable).
- d. Elevation drawings and construction details of all existing and proposed wireless communication facilities including accessory structures and equipment shelters.
- e. The reason or purpose for the wireless communication facility with specific reference to the provider’s coverage, capacity and/or quality needs, goals and objectives.
- f. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
- g. The structural capacity and whether it can accommodate the facility, as proposed or modified.
- h. Limits and type of fencing, the method of screening and illumination.
- i. A description of compliance with this Section and all applicable federal, state or local laws.
- j. A description of performance guarantee to be posted upon issuance of a building permit to ensure removal of the facility if it is abandoned or is no longer needed.



- (4) **Application Requirements for New Wireless Communication Tower.** The following information shall be provided with the application to construct any new wireless communication tower, in addition to the submittal requirements in subsection (3) above:
- a. A description of performance guarantee to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it is abandoned or is no longer needed. The applicant shall demonstrate that funds will be available to the County for removal of any structure used for wireless communication in an amount which reasonably reflects the cost of removal of the facility and restoration of the property or structure upon which the facility is located or placed. Adequate funds shall also be provided to cover the County's administrative costs in the event that the applicant or its successor does not remove the Wireless Communication Facility in a timely manner.
  - b. Inventory all existing towers, antennas, or sites approved for towers that are within three (3) miles of the proposed site, including specific information about the location, height, and design of each tower.
  - c. In recognition of the County's policy to promote collocation, a written agreement, transferable to all assessors and assigns, that the operator shall make space available on the facility for collocation.
  - d. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - e. Prior to issuing an improvement location permit, a signed certification by a professional engineer licensed by the State of Indiana shall be provided to the County that describes the manner in which the proposed structure will fall in the event of damage, accident or injury (i.e. "fall zone"), and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
- (5) **Design Standards Applicable to All Facilities.** All wireless communication facilities shall be constructed and maintained in accordance with the following standards:
- a. Facilities shall be located and designed to be harmonious with the surrounding areas.
  - b. Fencing shall be provided for protection of the tower and associated equipment and security from children and other persons who may otherwise access the facilities. All fencing shall be black vinyl-coated chain link fencing or a brick wall.
  - c. Landscaping shall be provided to screen the structure base, accessory buildings and enclosure from adjacent uses and public rights-of-way.
  - d. Accessory buildings shall be a maximum of fourteen (14) feet high and shall be set back in accordance with the requirements for principal buildings in that zoning district.
  - e. All attached wireless communication facilities proposed on the roof of a building shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
  - f. The requirements of the Federal Aviation Administration and Federal Communication Commission, shall be noted. Any aviation hazard lighting shall be detailed on the plans.
  - g. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(6) **Design Standards Applicable to New Towers.** In addition to the design standards in subsection (5) above, all wireless communication towers shall be constructed and maintained in accordance with the following standards:

- a. **Feasible Collocation.** A permit for the construction and use of a new wireless communication facility shall not be granted until the applicant demonstrates a feasible collocation is not available for the coverage area and capacity needs.
- b. **Collocation Agreement.** All new and modified wireless communication facilities shall be designed and constructed to accommodate collocation, with a written agreement in a format approved by the County Attorney.
- c. **Height.** The applicant shall demonstrate that the requested height of the new or modified tower and antenna shall be the minimum height necessary for reasonable communication by the applicant, including additional height to accommodate future collocation where appropriate. The height of the tower shall not exceed a maximum of two hundred (200) feet. Taller towers shall require approval from the Board of Zoning Appeals.
- d. **Tower Setbacks.** The wireless communication tower shall be setback from all non-residential property lines a distance at least equal to one-half ( $\frac{1}{2}$ ) the height of the tower and from all residential property lines a distance at least equal to the height of the tower.
- e. **Accessory Structure Setback.** Accessory structures and guys must satisfy the minimum zoning district building setback requirements.
- f. **Access.** There shall be unobstructed access to the tower, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
- g. **Soils Report.** The tower shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Indiana. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.
- h. **Color.** Towers shall be painted a neutral color so as to reduce visual obtrusiveness or be constructed of galvanized steel.
- i. **Lighting.** Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(7) **Collocation**

- a. **Statement of Policy.** It is the policy of the County to minimize the overall number of newly established locations for wireless communication facilities and towers within the County by encouraging the use of existing structures. If a provider fails or refuses to permit collocation on a facility owned or controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be required, in contradiction with County policy. Collocation shall be required unless an applicant demonstrates that collocation is not feasible.
- b. **Antennas on Existing Towers.** An antenna which is attached to an existing tower may be approved by the Plan Director and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:



1. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Plan Director allows reconstruction as a monopole.
  2. An existing tower may be modified or rebuilt to a taller height, not to exceed fifteen (15) feet over the tower's existing height, to accommodate the collocation of an additional antenna with approval by the Plan Director. A height increase of more than fifteen (15) feet shall require approval by the Board of Zoning Appeals.
- c. **Antennas Mounted on Structures or Rooftops.** Wireless communication antennas placed on the roofs of buildings may be approved by the Plan Director, if the principal use is a conforming use and the building is a conforming structure. The antenna shall not exceed the height of its supporting structure by more than twelve (12) feet.
- d. **Antennas Mounted on Utility Structures.** Wireless communication antennas attached to utility structures such as water towers or electrical transmission line towers may be approved by the Plan Director. The equipment cabinet or structure used in association with antennas shall be located in accordance with the Ordinance requirements for accessory structures.
- (8) **Variances.** The Board of Zoning Appeals may consider a variance from the standards of this Section, based upon a finding that one or more of the following factors exist, as appropriate for the type of variance requested:
- a. **Location.** The applicant must demonstrate that a location within a district or location in accordance with the standards of this Section cannot reasonably meet the coverage or capacity needs of the applicant.
  - b. **Tower Setback.** The applicant has provided engineering information that documents that the tower is self-collapsing and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
  - c. **Height.** The height requested is due to signal interference due to topography, tall buildings, masses of trees, or other obstructions, or would reduce the number of towers to the benefit of the County.
  - d. **Mitigation.** The applicant has proposed means to mitigate any negative impacts through provision for future collocation, if found to be appropriate by the County, and special design of the facility and site.
  - e. **Design.** The wireless communication and accessory facilities shall be designed to be compatible with the existing character of the proposed site, neighborhood and general area such as a steeple, bell tower, or similar form.
- (9) **Removal.** Wireless communication facilities shall be removed by the owner if the facility is no longer in use. The facilities must be removed within a year of the end of use. A performance guarantee shall be provided to the County at the time of receiving an improvement location permit for the facility to ensure removal of the facility when it is abandoned or is no longer needed. The applicant shall demonstrate that funds will be available to the County for removal of any structure used for wireless communication in an amount which reasonably reflects the cost of removal of the facility and restoration of the property or structure upon which the facility is located or placed. Adequate funds shall also be provided to cover the County's administrative costs in the event that the applicant or its successor does not remove the Wireless Communication Facility in a timely manner.

### Section 09.16 Construction

The following requirements shall be complied with for the specified use:

(a) **Contractors Yards**

- (1) Outdoor storage shall be located in the side or rear yard of the lot and setback a minimum of forty (40) feet from any adjacent residential district. Outdoor storage area shall be screened by a minimum six (6) foot tall wall or solid fence.
- (2) Any stockpiles of soil, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust or blowing of materials.
- (3) The height of all material and equipment stored within twenty (20) feet of the screening wall or fence shall not exceed the height of the screening wall or fence.
- (4) All loading and truck maneuvering shall be accommodated on-site.
- (5) Restroom facilities shall be provided on the site.

### Section 09.17 Mining/mineral extraction

The following requirements shall be complied with for the specified use:

(a) **Mineral Extraction, Borrow Pit, or Top Soil Removal, and Their Storage Areas**

- (1) **Application:** The following additional information shall be included with the special exception and site plan applications:
  - a. Report by a qualified soil scientist, soils engineer or geologist regarding the effect the proposed operation will have upon the watershed of the area, with particular attention being devoted to the water table, and, if water bodies are to be created, the anticipated permanence of such.
  - b. A detailed description of the method of operation including an operations and restoration plan for the extraction of the natural resources deposits. The operations and restoration plan shall include the following:
    1. A progressive cell unit mining plan that divides the mining area into sections and delineates the progressive mining proposal on the extractive resources available.
    2. A transportation plan showing access to the site, proposed truck traffic and planned on-site roads. The applicant shall submit these proposed routings for review relative to the physical and design capabilities of these routes to accommodate the potential traffic.
    3. An overburden and stockpiling plan which shows how the top soil will be stripped and stored on the site as well as the stockpiling of the extracted sand or gravel.
    4. A re-vegetation plan which shows the staging of restoration through the grading process as well as replacing the top soil and the planting of grasses, trees and shrubs.
    5. End use plan which shows the ultimate use of the property once restored to assure the County the site is being restored in accordance with the County Comprehensive Plan.
    6. A detailed explanation of how the applicant intends to comply with the operating requirements of this section.

- (2) **Operations:** The removal of sand, gravel, limestone or similar materials by excavation, stripping, mining or otherwise taking, and including on-site operations appurtenant to the taking, including washing, grading, sorting, (excluding grinding operations) shall be carried on within the limits of an area approved for such activities. All extractions from new pits begun subsequent to the effective date of this Ordinance shall be washed, graded, and further processed and/or stored within the limits of the area approved, and no natural resource extracted outside the limits of this area shall be brought in for washing, grading, or further processing. Resource related industries including, but not limited to: gravel grinding operations, concrete mixing plants and asphalt batching plants shall not be permitted as a part of the operation unless the activity is located in a Zoning District which would permit such a use.
- (3) **Setbacks:** Excavation, washing and stockpiling of extracted material shall not be conducted closer than one hundred fifty (150) feet to the outer boundary of the area approved for extractive operation. The setback area shall not be used for any activity in conjunction with the extractive operation, except access roads, public notice signs identifying the operation. Greenbelt plantings and landscaping shall be provided in the setback area as required by the Board of Zoning Appeals. To reduce the effects of airborne dust, dirt, and noise, all equipment for loading, weighing, and other operations structures shall not be built closer than three hundred (300) feet from any public street right-of-way or from any adjoining residentially zoned district.
- (4) **Access:** All means of access to the property shall be from arterial roads as classified by the County. No access shall be allowed from residential streets. All private access roads shall be treated so as to create dust-free surface for a distance of three hundred (300) feet from any public access road. Arrangements shall also be made to minimize dust on public access routes traveled in the County.
- (5) **Fencing:** Any excavation operation that results in, standing water for a period of at least one (1) month during the year or slopes as described below shall be subject to the following safety requirements:
- a. Where slopes steeper than thirty (30) degrees exist for a period of one (1) month or more, access to such slopes shall be barred by a cyclone fence or similarly effective barrier at least six (6) feet high; at least fifty (50) feet outside the edge of the excavation, with suitable gates controlling access to the excavation area.
  - b. Where collections of water are one (1) foot or more in depth for any period of at least one (1) month, and occupying an area of two hundred (200) square feet or more, access to such collections shall be similarly fenced, as required in subparagraph a above.
  - c. In those instances where the extractive area is situated in marginal land areas consisting of swamp land, or is bounded by natural bodies of water, the fence shall be required only on those sides accessible to public rights-of-way or as the Board of Zoning Appeals may determine as requiring fencing so as to secure safety. The Board of Zoning Appeals may require the posting of signs "KEEP OUT - DANGER" as needed.
- (6) **Slopes:** Finished slopes of the banks of the excavation shall in no event exceed a minimum of five (5) feet to one (1) foot (five feet horizontal to one foot vertical) and where ponded water results from the operations, this slope must be maintained and extended into the water to a depth of five (5) feet. These slopes shall be established as the work in any one section of the excavation is completed and proceeds to the next section. Sufficient top soil shall be stockpiled on the site so the entire area may be covered with a minimum of six (6) inches of top soil when excavating operations are completed. The replacement of top soil shall be made immediately following termination of excavating operations. In order to prevent erosion of slopes, all replaced top soil shall immediately be planted with grass or other plant material acceptable to the Plan Director.

- (7) **Hours of Operation:** Extraction and material processing activities permitted in the Plant Area shall be limited to the hours of 6:00 A.M. to 10:00 P.M., except in the following situations:
- Where required by public authorities;
  - Where work requires a continuous flow of materials;
  - Where necessary due to public emergencies;
  - Where any necessary and reasonable repairs to equipment are required.

**(b) Oil and Gas Extraction**

- Drilling shall not be permitted for oil or gas wells within three hundred (300) feet of residential structures, school, church or hospital. Drilling shall not be permitted for oil and/or gas wells within one thousand (1,000) feet of any well used public use by a municipal water utility. All distances as set forth in this section shall be those distances as measured from the exact center of a proposed drilling site.
- Oil well storage tanks must be located a minimum of five hundred (500) feet from any commercial, or residential structures, church or hospital and at least 150 feet back from a public road or street.
- Access to the site shall be provided by a driveway constructed to County driveway standards.
- A minimum six (6) foot tall fence shall be maintained around the drilling site in accordance with good oil field practice.
- The well site shall be landscaped in accordance with the landscaping requirements for industrial sites contained in Section 12.02.
- The drilling preparation used in wells drilled with rotary equipment shall be capable of sealing off each oil, gas, brine or fresh water stratum above the producing horizon or objective formation and shall be capable of preventing blowouts and flows of salt or fresh water, in accordance with good well drilling practice.
- Drilling operations shall be controlled so that the noise level of actual drilling does not exceed the noise level of sixty five (65) decibels in a five hundred (500) foot radius during maximum noise production periods. Drilling may occur only during daylight hours on wells located within one thousand (1,000) feet of a residential dwelling.
- It shall be the duty of the permittee to seal gas and oil wells to protect fresh water wells from salt water or other pollution or contamination in such proper manner as is in accordance with good practice. Both the permittee and his driller shall establish contingency plans for the immediate furnishing of potable water to affected residents for such period as may be required to reestablish proper potability on any polluted or contaminated well or wells.
- No waste, sludge, water, brine or effluents of any type emanating from an oil or gas well shall, in any manner, be emptied or drained into any storm or sanitary sewer or water body or stream. Such wastes shall be removed from the site in trucks, tanks or similar vehicles for disposal in suitable licensed and permitted disposal sites.
- All oil well storage tanks or groups of tanks shall be diked or other suitable means taken to prevent discharge of liquid from endangering adjoining property or reaching waterways. Each dike shall have a capacity of not less than that of the tank or tanks served by enclosure. Dikes shall be continuous with no openings for roadways and no residual opening shall remain as a result of piping passing through. All dikes shall be constructed of earth, clay, steel, masonry or reinforced concrete so constructed as to be watertight and afford adequate protection and, if of concrete or masonry, shall be properly reinforced and shall have footings below the frost line. All pits used for storage or disposal of sludge or lime shall be lined with plastic or comparable material to prevent leaching and shall be of sufficient size to contain all effluents.

- (11) Adequate area shall be provided onsite for trucks. Truck staging on the public road shall not be permitted. Any mud carried onto public roads from a drilling site shall be cleaned-up by the permittee to the satisfaction of the County. Failure to take specific steps to reduce mud at a given location as requested by the County shall be grounds for revocation of a permit and/or forfeiture of the performance guarantee.
- (12) The permittee shall restore the roads and other public places of the County damaged or destructed in the operations of drilling or preparing to drill to their former conditions immediately upon completion of the drilling.
- (13) The permittee shall clear the area of all litter, rubbish, machinery, derricks, buildings, oil or other substances used or allied to the use of drilling or producing or brine disposal operations.
- (14) In the event that a well is abandoned, it shall be the duty of the owner or lessee to notify the County Plan Director of such abandonment before the well has been abandoned and the equipment removed.
- (15) All permittees shall be required to pull and/or plug a well site on abandonment and remove all aboveground appurtenances and return ground to original grade and condition and follow any other rules or regulations promulgated by the state relative to pulling, plugging and abandoning oil or gas wells. This shall be completed within six months. Landscaping may be preserved at the time of abandonment of the well, if feasible and if desired by the property owner.
- (16) A permit must be issued by the Indiana Department of Natural Resources prior to obtaining an improvement location permit from the County.
- (17) In order to insure continued compliance with the provisions of these regulations, the owner/operator shall sign a consent form agreeing to an annual inspection of the well site by the County.
- (18) A performance guarantee shall be provided to the County in accordance with Section 20.06 to guarantee compliance with this Ordinance. Performance guarantees shall be released when wells have been closed and site restored to pre-drilling conditions.

### **Section 09.18 Manufacturing**

The following requirements shall be complied with for the specified use:

(a) **Bottled Gas Storage and Distribution**

- (1) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.

(b) **Petroleum Tank Farm**

- (1) All front, side and rear yard setbacks shall be a minimum of three hundred (300) feet.

## CHAPTER 09A WIND ENERGY CONVERSION SYSTEMS

### Section 09A.01 Intent

The purpose of this section is to provide guidelines for the location and installation of wind energy conversion systems, wind farms, and WECS Overlay Zoning Districts.

### Section 09A.02 Micro WECS

(a) **Application Process.** Applicant shall submit the following materials:

- (1) A WECS Improvement Location Permit Application,
- (2) Site Plan, with the following additional requirements:
  - a. Location of the Micro WECS,
  - b. Structures within a distance of 2 times the total height,
  - c. All overhead utilities within a distance of 2 times the total height, &
  - d. Location of exterior wiring associated with Micro WECS.
- (3) A copy of the interconnection agreement for grid-connected systems,
- (4) Letters:
  - a. Letters from affected properties granting waiver of setback or sound requirements, if applicable,
  - b. Letter of non-objection or similar from the FAA, as necessary,
- (5) A maintenance plan,
- (6) System Specifications: &
  - a. Manufacturer and model,
  - b. Total system height, rotor size, ground or building clearance,
  - c. Tower and tower foundation blueprints or drawings for tower-mounted systems, &
  - d. One or three line electrical diagram.
- (7) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.
- (8) **Expiration.** The permit shall expire if:
  - a. The Micro WECS is not installed within one (1) year. A one (1) year extension may be granted,
  - b. The Micro WECS is declared abandoned, or
  - c. The Micro WECS is declared unsafe.

(b) **Zoning.**

Micro WECS shall be a permitted use in all zones.

(c) **Height.**

- (1) Building-mounted Micro WECS shall not extend more than fifteen (15) feet above the highest point of the structure it is attached to.

- (2) Tower-mounted Micro WECS shall have a total height not taller than the tallest permitted primary structure building height for the zone in which it is located.

(d) **Setbacks.**

- (1) The setback shall be measured horizontally from the center of the base of the tower for tower-mounted Micro WECS and from the edge of the swept area for building-mounted Micro WECS.
- (2) The minimum setback for tower-mounted Micro WECS from non-participating property lines shall be the required minimum setback for an accessory structure for the zone in which it is located.
- (3) The minimum setback for tower-mounted Micro WECS from any structures, parking areas, or commonly used outdoor areas on non-participating properties, public road right-of-ways, and overhead utilities shall be 1.1 times the total height.
- (4) Tower-mounted Micro WECS shall be setback so that the fall zone does not extend into the buildable area for a primary structure on non-participating properties.
- (5) The minimum setback for an experimental Micro WECS shall be double the required minimum setback.
- (6) The minimum setback from non-participating property lines for guy wires shall be the required minimum setback for an accessory structure in the zone in which it is located or ten (10) feet, whichever is less.
- (7) Setbacks may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(e) **Sound.**

- (1) Sound shall be measured at non-participating property lines and road right-of-ways.
- (2) All Micro WECS shall comply with the County noise regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short-term events, such as severe wind storms and utility outages.
- (3) If the ambient sound level exceeds the above standards, the maximum sound level shall be ambient sound level + 5 dB.
- (4) Sound requirements may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(f) **Interference.**

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

(g) **Safety.**

(1) **Access.**

- a. The tower shall not be climbable for a height of eight (8) feet above the ground unless the applicant proves it would not be a public hazard.
- b. All access doors to the tower and exterior electrical equipment shall be locked when not attended.



**(2) Operation.**

- a. The operator shall keep a maintenance record, which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to one (1) time per year.
- b. All Micro WECS shall be equipped with both automatic and manual overspeed controls.
- c. All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

**(3) Clearance.**

- a. Horizontal-axis Micro WECS shall have a minimum ground clearance of twelve (12) feet.
- b. Vertical-axis Micro WECS shall have a minimum ground clearance necessary to not be a hazard.
- c. Building-mounted Micro WECS shall have a minimum building clearance from the swept area equal to the blade length.

(4) All Micro WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.

(5) All guy wires shall be clearly visible to a height of six (6) feet above ground level.

**(h) Standards.****(1) Towers.**

- a. A tower-mounted Micro WECS may be mounted on guyed, lattice, freestanding, or monopole towers.
- b. A tower-mounted Micro WECS in a Lake Residential zone shall be mounted on a monopole tower only.
- c. An engineering analysis may be required for building-mounted Micro WECS.

**(2) Appearance.**

- a. Micro WECS shall be a non-obtrusive, non-reflective color.
- b. Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
  1. The proposed color scheme is consistent with FAA guidelines,
  2. Darker colored blades may be allowed to reduce icing concerns, &
  3. The proposed color scheme will better serve the intent of this Ordinance.
- c. The system shall be maintained in good condition and appearance at all times, consistent with industry standards.
- d. Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

**(3) Wiring.**

- a. All exterior wiring connections to the Micro WECS shall be installed underground.
- b. Wiring may be above ground if the following conditions are met:
  1. Above ground wiring will better serve the intent of this Ordinance,
  2. It will not create an undue safety hazard, &
  3. Burying of wires will cause an excessive hardship.



(4) **Lighting.**

- a. Micro WECS shall have no lighting unless required by the FAA.
- b. Tower lighting shall be the lowest intensity allowable by the FAA.
- c. Tower lighting shall not be strobe or pulsating unless required by the FAA.
- d. Strobe lighting shall be preferred to pulsating lighting.
- e. Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.

(5) **Number.**

- a. There shall be no more than two (2) Micro WECS per acre.
- b. There shall be no more than five (5) Micro WECS on any parcel.

(i) **Decommissioning/Removal.**

- (1) Any Micro WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- (2) Abandoned Micro WECS shall be removed or reconditioned at the owner's expense within three (3) months notice to take action.
- (3) Unsafe Micro WECS shall be removed or made safe within a reasonable time as determined by the Plan Director.
- (4) The County may remove any abandoned or unsafe Micro WECS not removed or reconditioned by the owner within the allowed time at the owner's expense.

### **Section 09A.03 Small WECS and MET Towers**

(a) **Application Process.** Applicant shall submit the following materials:

- (1) A WECS Improvement Location Permit Application,
- (2) Site Plan, with the following additional requirements:
  - a. Location of the Small WECS or MET Tower,
  - b. Structures within a distance of 2 times the total height,
  - c. All overhead utilities within a distance of 2 times the total height, &
  - d. Location of exterior wiring associated with Small WECS or MET Tower.
- (3) GIS Mapping and Addressing Form,
- (4) A copy of the interconnection agreement for grid-connected systems,
- (5) Letters:
  - a. Letters from affected properties granting waiver of setback or sound requirements, if applicable,
  - b. Letter of non-objection or similar from the FAA, as necessary,
- (6) A maintenance plan,
- (7) A sound-level analysis,

- (8) System Specifications: &
  - a. Manufacturer and model,
  - b. Total system height, rotor size, ground clearance,
  - c. Tower and tower foundation blueprints or drawings, &
  - d. One or three line electrical diagram.
- (9) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.
- (10) Expiration. The permit shall expire if:
  - a. The Small WECS or MET Tower is not installed within one (1) year. A one (1) year extension may be granted,
  - b. The Small WECS or MET Tower is declared abandoned, or
  - c. The Small WECS or MET Tower is declared unsafe.

(b) **Zoning.**

- (1) Small WECS and MET Towers shall be a permitted use in the following zones: Agriculture, Environmental Control, Residence-2, Residence-3, Local Business, General Business, Accommodation Business, Industrial-1, and Industrial-2.
- (2) Small WECS shall be a special exception use in the following zones: Lake Residence, Residence-1, and Manufactured Home.

(c) **Height.**

- (1) Small WECS and MET Towers on parcels less than two (2) acres in size shall have a total height of less than one hundred (100) feet or forty (40) feet above any tree lines within a distance of two (2) times the total system height, whichever is greater.
- (2) Small WECS and MET Towers on parcels two (2) acres and larger shall have a total height of less than two hundred (200) feet.
- (3) Small WECS and MET Towers shall comply with all applicable FAA rules and regulations.

(d) **Setbacks.**

- (1) The setback shall be measured horizontally from the center of the base of the tower.
- (2) The minimum setback for Small WECS from non-participating property lines shall be the required setback for a primary structure for the zone in which it is located.
- (3) The minimum setback for Small WECS from any structures, parking areas, or commonly used outdoor areas on non-participating properties, right-of-ways, overhead utilities, lakes, rivers, and wetlands shall be 1.1 times the total height.
- (4) Small WECS shall be setback so that the fall zone does not extend into the buildable area for a primary structure on non-participating properties.
- (5) The minimum setback for an experimental Small WECS shall be double the required minimum setback.
- (6) The minimum setback for MET Tower from habitable structures, non-participating properties, and right-of-ways shall be 1.1 times the fall zone.
- (7) The minimum setback from property lines for guy wires shall be the required minimum setback for an accessory structure in the zone in which it is located or ten (10) feet, whichever is less.

(8) Setbacks may be reduced without requiring a variance if the following conditions are met:

- a. Such reduction will better serve the intent of this Ordinance, &
- b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(e) **Sound.**

- (1) Sound shall be measured at non-participating property lines and road right-of-ways.
- (2) All Small WECS shall comply with the County noise regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- (3) If the ambient sound level exceeds the above standards, the maximum sound level shall be ambient sound level + 5 dB.
- (4) Sound requirements may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(f) **Interference.**

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

(g) **Safety.**

(1) **Access.**

- a. The tower shall not be climbable for a height of ten (10) feet above the ground unless the applicant proves it would not be a public hazard.
- b. All access doors to the tower and exterior electrical equipment shall be locked when not attended.

(2) **Operation.**

- a. The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to one (1) time per year.
- b. All Small WECS shall be equipped with both automatic and manual overspeed controls.
- c. All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

(3) **Clearance.**

- a. Horizontal-axis Small WECS shall have a minimum ground clearance of twelve (12) feet.
- b. Vertical-axis Small WECS shall have a minimum ground clearance necessary to not be a hazard.

(4) All Small WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.

(5) All guy wires shall be clearly visible to a height of six (6) feet above ground level.

(h) **Standards.**

(1) **Towers.**

- a. A Small WECS or MET Tower may be mounted on guyed, lattice, freestanding, or monopole towers.
- b. A Small WECS located in a Lake Residential or Mobile Home zone shall be mounted on a monopole tower only.

(2) **Appearance.**

- a. Small WECS or MET Towers shall be a non-obtrusive, non-reflective color.
- b. Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
  1. The proposed color scheme is consistent with FAA guidelines,
  2. Darker colored blades may be allowed to reduce icing concerns, &
  3. The proposed color scheme will better serve the intent of this Ordinance.
- c. The system shall be maintained in good condition and appearance at all times, consistent or better than industry standards.
- d. Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

(3) **Wiring.**

- a. All exterior wiring connections to the Small WECS or MET Tower shall be installed underground.
- b. Wiring shall be located at a depth to prevent any damage from freezing or frost and to prevent interference with drain tiles.
- c. Wiring may be above ground if the following conditions are met:
  1. Above ground wiring will better serve the intent of this Ordinance,
  2. It will not create an undue safety hazard, &
  3. Burying of wires will cause an excessive hardship.

(4) **Lighting.**

- a. Small WECS or MET Towers shall have no lighting unless required by the FAA.
- b. Tower lighting shall be the lowest intensity allowable by the FAA.
- c. Tower lighting shall not be strobe or pulsating unless required by the FAA.
- d. Strobe lighting shall be preferred to pulsating lighting.
- e. Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.

(5) **Number.**

- a. There shall be no more than one (1) Small WECS or MET Tower per acre.
- b. There shall be no more than three (3) Small WECS or MET Towers on any parcel.

(i) **Decommissioning/Removal.**

- (1) Any Small WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- (2) Abandoned Small WECS or MET Towers shall be removed or reconditioned at the owner's expense within three (3) months notice to take action.
- (3) Unsafe Small WECS or MET Towers shall be removed or made safe within a reasonable time as determined by the Plan Director.
- (4) The County may remove any abandoned or unsafe Small WECS or MET Towers not removed or reconditioned by the owner within the allowed time at the owner's expense.

**Section 09A.04 Medium WECS**

(a) **Application Process.** Applicant shall submit the following materials:

- (1) A WECS Improvement Location Permit Application,
- (2) Site Plan, with the following additional requirements:
  - a. Location of the Medium WECS,
  - b. Structures within a distance of 2 times the total height,
  - c. All overhead utilities within a distance of 2 times the total height, &
  - d. Location of exterior wiring associated with Medium WECS.
- (3) GIS Mapping and Addressing Form,
- (4) A copy of the interconnection agreement for grid-connected systems,
- (5) **Letters:**
  - a. Letters from affected properties granting waiver of setback or sound requirements, if applicable,
  - b. Letter of non-objection or similar from the FAA, as necessary,
- (6) A maintenance plan,
- (7) A sound-level analysis,
- (8) Certification by a licensed engineer that the tower design is sufficient to withstand wind load requirements for structures as defined by BOCA,
- (9) System Specifications:
  - a. Manufacturer & model,
  - b. Total system height, rotor size, ground clearance,
  - c. Tower and tower foundation blueprints or drawings, &
  - d. One or three line electrical diagram.
- (10) Decommissioning Plan, including: &
  - a. Anticipated life span of Medium WECS,
  - b. Estimated decommissioning costs, in current dollars, &
  - c. How costs for decommissioning will be paid.

- d. The County may require financial security consistent with County practices to pay for decommissioning.

(11) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.

(12) **Expiration.** The permit shall expire if:

- a. The Medium WECS is not installed within one (1) year. A one (1) year extension may be granted,
- b. The Medium WECS is declared abandoned, or
- c. The Medium WECS is declared unsafe.

(b) **Zoning.**

- (1) Medium WECS shall be a permitted use in the following zones: Agriculture, Industrial-1, and Industrial-2.
- (2) Medium WECS shall be a special exception use in the following zones: Environmental Control, Lake Residence, Residence-1, Residence-2, Residence-3, Manufactured Home, Local Business, General Business, and Accommodation Business.

(c) **Height.**

- (1) Medium WECS on parcels less than two (2) acres in size shall have a total height of less than one hundred (100) feet or forty (40) feet above any tree lines within a distance of three (3) times the total system height, whichever is greater.
- (2) Medium WECS on parcels two (2) acres and larger shall have a total height of less than two hundred (200) feet.
- (3) Medium WECS shall comply with all applicable FAA rules and regulations.

(d) **Setbacks.**

- (1) The setback shall be measured horizontally from the center of the base of the tower.
- (2) The minimum setback for Medium WECS from non-participating property lines and public lakes shall be 1.5 times the total height.
- (3) The minimum setback for Medium WECS from habitable structures on the participating properties, right-of-ways, overhead utilities, rivers, and wetlands shall be 1.1 times the total height.
- (4) The minimum setback for Medium WECS from habitable structures on non-participating properties shall be 2 times the total height.
- (5) The minimum setback for an experimental Medium WECS shall be double the required minimum setback.
- (6) The minimum setback for mechanical or electrical sheds shall be the required setback for an accessory structure for the zone in which it is located.
- (7) Setbacks may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(e) **Sound.**

- (1) Sound shall be measured at non-participating property lines and road right-of-ways.
- (2) All Medium WECS shall comply with the County sound regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- (3) If the Medium WECS produces a pure tone, the standard shall be reduced by five (5) dB.

- (4) If the ambient sound level exceeds the above standards, the maximum sound level shall be ambient sound level plus five (+5) dB.
- (5) Sound requirements may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(f) **Interference.**

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

(g) **Safety.**

(1) **Access.**

- a. The tower shall not be climbable for a height of fifteen (15) feet above the ground unless the applicant proves it would not be a public hazard.
- b. All access doors to the tower and exterior electrical equipment shall be locked when not attended.

(2) **Operation.**

- a. The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to two (2) times per year.
- b. All Medium WECS shall be equipped with both automatic and manual overspeed controls.
- c. All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

(3) **Clearance.**

- a. Horizontal-axis Medium WECS shall have a minimum ground clearance of twenty (20) feet.
- b. Vertical-axis Medium WECS shall have a minimum ground clearance necessary to not be a hazard.

(4) All Medium WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.

(5) Blades shall utilize stick-free surface coatings.

(h) **Standards.**

(1) **Towers.**

- a. Medium WECS may be mounted on freestanding or monopole towers.
- b. Medium WECS in Lake Residential, Residential-1, and Mobile Home zones shall be mounted on a monopole only.

(2) **Appearance.**

- a. Medium WECS shall be a non-obtrusive, non-reflective color.
- b. Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
  1. The proposed color scheme is consistent with FAA guidelines,
  2. Darker colored blades may be allowed to reduce icing concerns, &
  3. The proposed color scheme will better serve the intent of this Ordinance.

- c. The system shall be maintained in good condition at all times, consistent or better than industry standards.
- d. Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

(3) **Wiring.**

- a. All exterior wiring connections to the Medium WECS shall be installed underground.
- b. Wiring shall be located at a depth to prevent any damage from freezing or frost and to prevent interference with drain tiles.
- c. Wiring may be above ground if the following conditions are met:
  1. Above ground wiring will better serve the intent of this Ordinance,
  2. It will not create an undue safety hazard, &
  3. Burying of wires will cause an excessive hardship.

(4) **Lighting.**

- a. Medium WECS shall have no lighting unless required by the FAA.
- b. Tower lighting shall be the lowest intensity allowable by the FAA.
- c. Tower lighting shall not be strobe or pulsating unless required by the FAA.
- d. Strobe lighting shall be preferred to pulsating lighting.
- e. Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.

(5) **Number.**

- a. There shall be no more than one (1) Medium WECS for every two (2) acres.
- b. There shall be no more than three (3) Medium WECS on any parcel.

(6) **Flicker.**

The applicant, owner, or operator shall make reasonable steps to eliminate or mitigate flicker and blade glint on non-participating, habitable structures, major roads, and road intersections.

(i) **Decommissioning/Removal.**

- (1) Any Medium WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- (2) Abandoned Medium WECS shall be removed or reconditioned at the owner's expense within six (6) months notice to take action.
- (3) Unsafe Medium WECS shall be removed or made safe within a reasonable time as determined by the Plan Director.
- (4) The County may remove any abandoned or unsafe Medium WECS not removed or reconditioned by the owner within the allowed time at the owner's expense.
- (5) All structures, equipment, and waste associated with the Medium WECS shall be disposed of properly.
- (6) Land shall be restored to a depth of three (3) feet below grade.
- (7) Disturbed land shall be revegetated within a reasonable period of time.



- (8) Decommissioning requirements may be reduced without requiring a variance if the following conditions are met:
- a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

### Section 09A.05 Large WECS

- (a) **Application Process.** Applicant shall submit the following materials:
- (1) A WECS Improvement Location Permit Application,
  - (2) Site Plan, with the following additional requirements:
    - a. Location of the Large WECS,
    - b. Structures within a distance of 3 times the total height,
    - c. All overhead utilities within a distance of 2 times the total height,
    - d. Location, including depth when buried, of exterior wiring associated with Large WECS, &
    - e. Location of known microwave transmission lines within a radius of 3 times the total height.
  - (3) GIS Mapping and Addressing Form,
  - (4) A copy of the interconnection agreement for grid-connected systems,
  - (5) **Letters:**
    - a. All letters from affected properties granting waiver of setback or sound requirements,
    - b. Letter of non-objection from the FAA,
  - (6) A maintenance plan,
  - (7) A sound-level analysis,
  - (8) Certification by a licensed engineer that the tower design is sufficient to withstand wind load requirements for structures as defined by BOCA,
  - (9) System Specifications:
    - a. Manufacturer and model,
    - b. Total system height, rotor size, ground clearance, &
    - c. Tower and tower foundation blueprints or drawings.
  - (10) Decommissioning Plan, including: &
    - a. Anticipated life span of Large WECS,
    - b. Estimated decommissioning costs, in current dollars,
    - c. How costs for decommissioning will be paid,
    - d. The County may require financial security consistent with County practices to pay for decommissioning .
  - (11) Other materials deemed necessary by the Plan Director to ensure compliance with this Ordinance.

(12) **Expiration.** The permit shall expire if:

- a. The Large WECS is not installed within one (1) year. A one (1) year extension may be granted,
- b. The Large WECS is declared abandoned, or
- c. The Large WECS is declared unsafe.

(b) **Zoning.**

Large WECS shall be a special exception use in the following zones: Agriculture, Environmental Control, Local Business, General Business, Accommodation Business, Industrial-1, and Industrial-2.

(c) **Height.**

Large WECS shall comply with all applicable FAA rules and regulations.

(d) **Setbacks.**

- (1) The setback shall be measured horizontally from the center of the base of the tower.
- (2) The minimum setback for Large WECS from non-participating property lines and public lakes shall be 2 times the total height.
- (3) The minimum setback for Large WECS from habitable structures on the participating properties, right-of-ways, overhead utilities, rivers, and wetlands shall be 1.1 times the total height.
- (4) The minimum setback for Large WECS from habitable structures on non-participating properties shall be 3 times the total height.
- (5) The minimum setback for an experimental Large WECS shall be double the required minimum setback.
- (6) The minimum setback for mechanical or electrical sheds shall be the required setback for an accessory structure for the zone in which it is located.
- (7) Setbacks may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance,
  - b. Proposed distances are consistent with industry standards, &
  - c. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(e) **Sound.**

- (1) Sound shall be measured at non-participating property lines and road right-of-ways.
- (2) All Large WECS shall comply with the County sound regulations as defined in Section 10.07 of the Steuben County Zoning Ordinance, except for during short term events, such as severe wind storms and utility outages.
- (3) If the Large WECS produces a pure tone, the standard shall be reduced by five (5) dB.
- (4) If the ambient sound level exceeds the above standards, the maximum sound level shall be ambient sound level plus five (+5) dB.
- (5) Sound requirements may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(f) **Interference.**

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

(g) **Safety.**

(1) **Access.**

- a. The tower shall not be climbable for a height of twenty (20) feet above the ground unless the applicant proves it would not be a public hazard.
- b. All access doors to the tower and exterior electrical equipment shall be locked when not attended.

(2) **Operation.**

- a. The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to two (2) times per year.
- b. All Large WECS shall be equipped with both automatic and manual overspeed controls.
- c. All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

(3) **Clearance.**

- a. Horizontal-axis Large WECS shall have a minimum ground clearance of forty (40) feet.
- b. Vertical-axis Large WECS shall have a minimum ground clearance of twenty (20) feet.

(4) All Large WECS shall display appropriate warning signs, such as electrical warnings and emergency contact information.

(5) Blades shall utilize stick-free surface coatings.

(6) The applicant(s), owner(s), developer(s), and/or operator(s) shall work with local emergency officials to develop an emergency response plan.

(h) **Standards.**

(1) **Towers.**

All Large WECS shall be mounted on monopole towers.

(2) **Appearance.**

- a. Large WECS shall be a non-obtrusive, non-reflective color.
- b. Alternative color schemes may be approved without requiring a variance, if the following conditions are met:
  1. The proposed color scheme is consistent with FAA guidelines,
  2. Darker colored blades may be allowed to reduce icing concerns, &
  3. The proposed color scheme will better serve the intent of this Ordinance.
- c. The system shall be maintained in good condition at all times, consistent or better than industry standards.
- d. Systems shall not display any commercial advertising, except for a reasonable display of the owner, operator, or manufacturer.

(3) **Wiring.**

- a. All exterior wiring connections to the Large WECS shall be installed underground.

- b. Wiring shall be located at a depth to prevent any damage from freezing or frost and to prevent interference with drain tiles.
- c. Wiring shall not cause interference with existing communication wiring.
- d. Concrete armoring techniques shall be used at every location where a County drain and wiring cross.
- e. Permanent, visible markers shall indicate the location of directional borings.
- f. Wiring may be above ground if the following conditions are met:
  - 1. Above ground wiring will better serve the intent of this Ordinance,
  - 2. It will not create an undue safety hazard,
  - 3. Burying of wires will cause an excessive hardship, &
  - 4. Above ground wires are already present.

**(4) Lighting.**

- a. Large WECS shall have the minimum lighting required by the FAA.
- b. Tower lighting shall be the lowest intensity allowable by the FAA.
- c. Tower lighting shall not be strobe or pulsating unless required by the FAA.
- d. Strobe lighting shall be preferred to pulsating lighting.
- e. Tower lighting shall be shielded to the maximum extent possible to reduce glare and visibility from the ground.
- f. Other lighting shall comply with the Steuben County Zoning Ordinance.

**(5) Number.**

- a. There shall be no more than one (1) Large WECS for every five (5) acres.
- b. There shall be no more than two (2) Large WECS on any parcel.

**(6) Flicker.**

The applicant, owner, or operator shall make reasonable steps to eliminate or mitigate flicker or blade glint on non-participating, habitable structures, major roads, and road intersections.

**(i) Decommissioning/Removal.**

- (1) Any Large WECS which has not produced electricity for a period of twelve (12) months shall be considered abandoned.
- (2) Abandoned Large WECS shall be removed or reconditioned at the owner's expense within twelve (12) months notice to take action.
- (3) Unsafe Large WECS shall be removed or made safe within a reasonable time as determined by the Plan Director.
- (4) The County may remove any abandoned or unsafe Large WECS not removed or reconditioned by the owner within the allowed time at the owner's expense.
- (5) All structures, equipment, and waste associated with the Large WECS shall be disposed of properly.
- (6) Land shall be restored to a depth of three (3) feet below grade.
- (7) Disturbed land shall be revegetated within a reasonable period of time.

- (8) Decommissioning requirements may be reduced without requiring a variance if the following conditions are met:
- a. Such reduction will better serve the intent of this Ordinance, &
  - b. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

### Section 09A.06 Wind Farms

- (a) **Application Process.** Applicant shall submit a development plan with the following materials:
- (1) Required application materials for the individual WECS within the wind farm as defined in this Ordinance,
  - (2) Project summary, including:
    - a. General description of the project,
    - b. Name-plate generating capacity,
    - c. Name, address, and phone numbers of the Applicant(s), Owner(s), Developer(s), Operator(s), and all participating properties.
  - (3) Map of the project, including:
    - a. Topography with contours of not more than ten (10) feet. Contours may be increased for steeper slopes with approval,
    - b. Location of all WECS, MET towers, access roads, substations, wiring, and accessory structures,
    - c. Location of all primary structures on participating properties,
    - d. Location of non-participating primary structures within 4 times the total height of any WECS,
    - e. Overhead utilities within 2 times the total height of any WECS,
    - f. Location of known microwave transmission lines through the project area,
    - g. Location of radio, television, and mobile-phone transmission towers within 4 times the total height from the project boundaries,
    - h. Location of county tiles and drains within the project area and within 2 times the total height from the project boundaries,
    - i. Location of lakes, rivers, and wetlands within the project area and within 2 times the total height of any WECS.
  - (4) Transportation plan, approved by the County Highway Department and developed in conjunction with the County Highway Department, INDOT, Police, Fire, EMS, and Schools,
  - (5) Emergency response and security plan,
  - (6) Wildlife impact study detailing the potential effects of the wind farm on animals, birds, and bats, &
  - (7) **Financials.**
    - a. Financial security as approved by the County,
    - b. Economic Development Agreement as approved by the County, &
    - c. Permit fees for wind farm and WECS as determined by the County.

- (8) **Expiration.** The development plan shall expire if:
- a. Major construction of the wind farm does not begin within two (2) years. A one (1) year extension may be granted,
  - b. The wind farm is declared abandoned, or
  - c. The wind farm is declared unsafe.
- (9) **Development Plan Approval Process.**
- a. **Application.**
    1. Development plan shall be submitted to Commission staff for preliminary review.
    2. Development plan shall be placed on the Commission agenda within sixty (60) days if all of the required materials are present.
    3. The Commission shall make a written finding of facts concerning its decision which may be signed by the Commission President or Secretary.
  - b. **Notification.**
    1. Public notice shall be given at least ten (10) days prior to the public hearing.
    2. Notification shall include the time and location of the public hearing.
    3. Notification shall be made in a newspaper of general circulation.
    4. Notification shall be made by US mail to interested parties.
    5. For this section of the Ordinance Only, interested parties shall be defined as all properties within one thousand (1,000) feet of the proposed project area.
    6. Applicant shall be responsible for public notification costs.
  - c. **Public Hearing.**
    1. The presentation of reports and testimony shall be consistent with the Plan Commission Rules of Procedure.
    2. The Commission may approve the development plan if findings of facts are made consistent with the requirements in 09A.06 (a) (9) d.
    3. The Commission may approve the development plan with conditions if the Commission determines that the required findings of facts may be made only if certain written commitments are applied to the application.
    4. The Commission may deny the development plan if findings of facts are made not consistent with the requirements in 09A.06 (a) (9) d.
    5. The Commission may continue the action at the request of the Plan Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Commission that additional information is required prior to taking action on the request.
  - d. **Development Plan Decision Criteria.**
    1. The development plan is consistent with the Comprehensive Plan
    2. The development plan is compatible with the surrounding land uses.
    3. The transportation plan does not adversely affect the health, safety, and welfare of the community.
    4. All structures that are part of the development plan meet the necessary setbacks.
    5. The development plan meets the requirements of the Zoning Ordinance.

6. Adequate financial security has been made to provide for both road reconstruction and decommissioning costs.
7. The Steuben County Commissioners have approved an economic development agreement developed in conjunction with the Steuben County Council, Steuben County Economic Development Office, and the Steuben County Plan Commission Office.

(b) **Zoning.**

Wind farms shall be a permitted use requiring development plan review in the following zones: Wind Energy Conversion System Overlay.

(c) **Height.**

- (1) All wind farm WECS shall comply with all applicable FAA rules and regulations.
- (2) All wind farm WECS shall comply with the applicable height requirements of this Ordinance.

(d) **Setbacks.**

- (1) Setbacks shall be measured horizontally from the center of the base of the tower.
- (2) The minimum setback for WECS in a wind farm from non-participating property lines shall be 2.5 times the total height.
- (3) The minimum setback for WECS in a wind farm from occupied structures on non-participating properties shall be 3 times the total height.
- (4) All WECS within a wind farm shall comply with the applicable setbacks of this Ordinance.
- (5) The minimum setback between a neighboring WEC shall be 1.1 times the total height.
- (6) Setbacks may be reduced without requiring a variance if the following conditions are met:
  - a. Such reduction will better serve the intent of this Ordinance,
  - b. Proposed distances are consistent with industry standards, &
  - c. Written, notarized permission is granted by the affected properties and recorded with the County Recorder's Office.

(e) **Sound.**

- (1) Sound measurements shall be made at the exterior border of the wind farm project, habitable structures within the wind farm project, and major road right-of-ways.
- (2) All WECS within a wind farm shall comply with the applicable sound requirements as defined in this Ordinance.

(f) **Interference.**

The applicant, owner, or operator shall eliminate or mitigate any interference with electromagnetic communication signals, such as radio, television, microwave, or wireless internet signals.

(g) **Safety.**

(1) **Access.**

All access doors to towers and exterior electrical equipment shall be locked when not attended.

(2) **Operation.**

- a. The operator shall keep a maintenance record which shall be produced in a timely manner upon request for inspection by the County. Such request may be made up to two (2) times per year.
- b. All WECS shall be equipped with both automatic and manual overspeed controls.

- c. All solid and hazardous waste materials shall be promptly removed from the site and disposed of properly.

(3) **Emergency Response Plan.**

- a. The applicant(s), owner(s), developer(s), and/or operator(s) shall work with local emergency officials to develop an emergency response plan.
- b. The applicant(s), owner(s), developer(s), and/or operator(s) shall provide any specialized training necessary for local emergency officials.

- (4) The wind farm shall display appropriate signs with contact information for complaints and questions.

- (5) All WECS shall be approved by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.

(h) **Standards.**

(1) **Towers.**

All towers within a distance of 4 times the total height shall be of similar appearance.

(2) **Appearance.**

- a. All WECS within a distance of 4 times the total height shall be of similar appearance.
- b. All WECS shall be maintained in good condition at all times.

(3) **Wiring.**

- a. All feeder & communication lines shall be installed underground.
- b. Wind farm wiring shall be installed so as to minimize potential conflicts with drain tiles.
- c. Wind farm wiring shall not cause interference with existing communication wiring.
- d. Wind farm wiring may be above ground if the following conditions are met:
  1. Above ground wiring will better serve the intent of this Ordinance,
  2. It will not create an undue safety hazard,
  3. Burying of wires will cause an excessive hardship, &
  4. Above ground wires are already present.
  5. No major change in the appearance of the existing above-ground wires will be necessary, &
  6. Written, notarized permission is granted by the affected parties and recorded with the Steuben County Recorder's Office.

(4) **Lighting.**

- a. The wind farm shall have the minimum lighting required by the FAA.
- b. Lights within the wind farm shall be synchronized.

(5) **Number.**

The maximum number of WECS per parcel shall not apply to utility WECS developed as part of a wind farm.

(6) **WECS Location.**

- a. WECS shall be located to minimize the impact on farming and other use of the land.
- b. WECS shall be located to minimize the visual impact on important views within the County.



c. WECS shall be located to minimize the impact of wildlife.

**(7) Access Roads.**

- a. Access roads shall be designed to reduce the impact on farming and other use of the land.
- b. Access road location shall be approved by the Highway Department or InDOT.
- c. Access roads shall not impede the natural flow of water.

**(8) Rotation.**

All WECS within a wind farm shall rotate in the same direction.

**(9) Transportation Plan/Roads.**

- a. The applicant(s), owner(s), developer(s), and/or operator(s) shall develop a transportation plan illustrating which roads will be used for construction and operation of the wind farm with the Steuben County Highway Department and InDOT.
- b. The transportation plan shall be designed to minimize the impact on emergency responders and local schools.
- c. The applicant(s), owner(s), developer(s), and/or operator(s) shall be responsible for returning all roads used for construction to a condition at least equal to their pre-construction condition.
- d. The County may require a financial security, consistent with County Practices, to cover the costs of repairing roads
- e. The applicant(s), owner(s), developer(s), and/or operator(s) shall submit a plan each week detailing which roads will be affected and at what times due to construction to the Plan Commission, the Highway Department, the local police & fire departments, and local schools.

**(10) Complaint/Concern Resolution.**

- a. The applicant(s), owner(s), developer(s), and/or operator(s) shall establish a twenty-four (24) hour, toll-free number for members of the public to call with complaints and concerns.
- b. The toll-free number shall be posted at construction sites and at intersections throughout the project area.
- c. The applicant(s), owner(s), developer(s), and/or operator(s) shall keep a log of calls, available for inspection by County Officials.
- d. Legitimate complaints shall be remedied within forty-eight (48) hours.

**(11) Dust Control.**

Reasonable dust control measures shall be taken.

**(12) Drains.**

The applicant(s), owner(s), developer(s), and/or operator(s) shall repair all County and private drain tiles damaged due to construction or maintenance of the wind farm to original or better condition within a reasonable time.

**Section 09A.07 Wind Energy Conversion System Overlay Zoning District**

- (a) **Application Process.** Applicant shall submit a petition to rezone to a WECS overlay district with the following materials:
- (1) Project summary, including:
    - a. General description of the project,
    - b. Name-plate generating capacity,
    - c. The type of WECS, including potential manufacturer,
    - d. The number of WECS and MET Towers,
    - e. Description of substations, maintenance structure, storage yards, and other buildings that are a part of the project, &
    - f. Name, address, and phone numbers of the Applicant(s), Owner(s), Developer(s), Operator(s), and all participating properties.
  - (2) Description of the Applicant, Owner, and Operator, including their restrictive business structures.
  - (3) Map of the project, including:
    - a. Topography with contours of not more than ten (10) feet. Contours may be increased for steeper slopes with approval,
    - b. Location of all primary structures on participating properties,
    - c. Location of non-participating primary structures within one thousand (1,000) feet of the proposed overlay district,
    - d. Location of county tiles and drains within the project area and within five hundred (500) feet of the proposed overlay district, &
    - e. Location of public lakes and rivers within the proposed overlay district and within one thousand (1,000) feet of the proposed overlay district.

(b) **Zoning.**

Wind Energy Conversion Systems Overlay District shall be a permitted overlay zone in the following zones: Agriculture, Environmental Control, Industrial-1, and Industrial-2.

(c) **Written Agreement.**

- (1) All new lots and buildings approved in the WECS Overlay District shall submit and record a signed agreement with the County Recorder.
- (2) Document shall recognize that the current and subsequent owners shall not object to nor file suit against any wind farm WECS operator, developer, or owner so long as it follows industry accepted standards and complies with the Steuben County Zoning Ordinance.
- (3) Document language shall be approved by the Commission Attorney.

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## CHAPTER 09B

### Solar Energy System (SES)

#### Section 09B.01 Purpose and Intent

##### 1. Purposes:

- a) To ensure that the development and production of solar-generated electricity in Steuben County is safe and effective.
- b) To support and facilitate economic opportunities for local residents that are consistent with public health, safety, and general welfare; and
- c) To promote the effective and efficient generation of solar energy.

2. **Intent:** It is the intent of the Solar Energy Systems (SES) ordinance to provide the basic siting regulations to properly allow commercial and utility (SES) placement throughout Steuben County. Siting is subject to applicable restrictions. These regulations are intended to preserve the health and safety of the citizens of Steuben County, Indiana.

#### Section 09B.02 Applicability:

The provisions of this ordinance are applicable to those zoning districts that allow Solar Energy Systems (SES) uses requiring Board of Zoning Appeals approval and governs the siting of SES's that generate more than 20kw of electricity. All Solar Energy Systems (SES's) will require Special Exception approval regardless of zoning district.

#### Section 09B.03 Compliance Required:

No applicant shall construct, operate, locate, or enlarge a Solar Energy System (SES) within Steuben County without first obtaining Development Plan approval and must fully comply with the provision of this ordinance.

#### Section 09B.04 Conflict with other Ordinances:

Nothing in this ordinance shall preempt other applicable state and federal laws or regulations. This ordinance and the regulations contained within shall not interfere with abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. In the event that any provision of the regulations contained within this ordinance impose restrictions different from any other ordinance, rule of regulation, statute or other provision of law, then the provisions that are more restrictive and/or impose a higher standard shall governs SES's.

#### Section 09B.05 Severability Clause:

Should any section, subsection, paragraph, subparagraph, clause, word, or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

#### Section 09B.06 Approval Agency:

The Board of Zoning Appeals shall review any SES plan or its modification.

**Section 09B.07 Setbacks:**

- (1) A SES facility shall be at least two hundred (200) feet from a non-participating, pre-existing dwelling or fifty (50) feet off property line, including road right-of way, whichever is greater.
- (2) A SES facility shall meet the minimum setback standards of the applicable zoning district with no component of the SES facility being less than fifty (50) feet from the side and rear property lines.
- (3) Any pieces of equipment (such as inverters) that create a potentially objectionable sound level during normal operation shall meet the setbacks in this section to a non-participating, pre-existing dwelling.
- (4) Setbacks requirements exclude driveways, perimeter fencing, visual buffers, poles, and wires necessary to connect the facility to an electric utility or between properties.

**Section 09B.08 Height Restrictions:**

No part of a solar panel or other equipment associated with the SES facility shall be over twelve (12) feet tall as measured from the average ground level directly below the panel to the top of each panel at its maximum tilt in the vertical position.

**Section 09B.09 Maximum Vibrations:**

Any item that could create vibrations as part of a SES facility shall be located centrally within the SES facility to reduce any potential impacts on non-participating properties.

**Section 09B.10 Interference with Reception:**

A SES facility shall be constructed and operated so that it does not interfere with television, microwave, GPS, Military defense radar, navigational or radio reception in neighboring areas.

**Section 09B.11 Glare:**

A SES facility at no time shall create glare on any non-participating property line or right-of-way.

**Section 09B.12 Equipment:**

All components of the SES facility shall be new, commercially available equipment. Used, experimental, or proto-type equipment still in testing shall require a waiver approved by the Board of Zoning Appeals.

**Section 09B.13 Fencing:**

Any substation shall be completely enclosed with perimeter fencing and locked gates that are at least six (6) feet in height.

**Section 09B.14 Emergency Contact Signage:**

A standard metal road sign shall include the owner's name, facility's name, emergency contact phone number and the physical site address and shall be posted at the entrance to the facility. The sign shall be posted just outside of the public road right-of-way.

**Section 09B.15 Appearance:**

A SES facility, including all accessory buildings, shall, to the extent possible, use materials and colors that will blend them into the surrounding built environment.

**Section 09B.16 Waste Management:**

All solid waste whether generated from supplies, equipment, parts, packaging, 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, cleaning materials, or such shall be handled in a manner consistent with all local, state, and federal rules and regulations and shall not be allowed to seep into the ground or come in contact with any open water.

**Section 09B.17 Visual Buffer:**

The need for a visual buffer (from non-participating, pre-existing residences) shall be determined by the Design Review Committee. If the Design Review Committee determines a buffer is needed, the Committee will determine the species of plantings and required height.

**Section 09B.18 Electric Wires:**

The electric collection system shall be located underground, except for transformers, inverters, substations, and controls. The collection system is required to be above ground if it is located in a public right-of-way or county drainage easement (Drainage Board approval required). The transmission system shall be located above ground. All electrical components of the SES facility shall conform to applicable local, state, and federal electrical code requirements.

**Section 09B.19 Drainage Infrastructure:**

All damages including, but not limited to, waterways, drainage ditches, field tiles, and/or any other infrastructures caused by the construction or maintenance of the SES facility, must be completely repaired to original or better condition, and so as not to impede the flow of water. All repairs must be completed in a reasonable amount of time as agreed upon between the county and the applicant, owner and/or operator.

**Section 09B.20 Liability Insurance:**

The owner or operator of the SES facility shall maintain a current general liability policy covering bodily injury and property damage and name Steuben County as an additional insured with limits of at least two million dollars per occurrence and four million dollars in aggregate with a deductible of no more than five thousand dollars.

**Section 09B.21 Development Plan Approval:**

The following items must be agreed upon by the Board of Zoning Appeals:

1. Road Usage/Repair agreement
2. Decommissioning agreement
3. Traffic Management Plan
4. Storm Water Control Calculations
5. Visual Buffer (detailed plans)
6. Erosion Control Plan
7. Site Plan (setbacks, layout and safety requirement)
8. Panel Placement (to avoid glare at non-participating, pre-existing residences and ROW's)

9. Contact information (owner/operating agrees to notify DCD if ownership changes or operator information changes)

**Section 09B.22 Public Notice Requirement:**

Public notice shall be sent to all property owners within a 200-foot radius from all points of the participating property if BZA approval is required.

**Section 09B.23 Decommissioning/Removal:**

1. **Restoration:** Within twelve (12) months after the expiration, surrender or termination of this Lease, whether as to the entire Property or only as to part thereof, Solar Company shall (i) remove from the Property (or such part thereof, as applicable) any Solar Power Facilities owned, installed or constructed by Solar Company thereon, except for any roads, and (ii) leave the surface of the Property (or such part thereof, as applicable) free from debris; provided, however, that with regard to any Solar Power Facilities located beneath the surface of the land (including footings and foundations), Solar Company shall be required to remove the same to the greater of (A) thirty-six (36) inches below the surface of the land or (B) the depth (if any) required by applicable Law; and Solar Company shall have a continuing easement to enter the Property for such purpose during such twelve (12) month period. Nothing contained in this Section shall be construed as precluding Solar Company, in its sole discretion, from taking any of the actions contemplated by clauses (i) or (ii) of this Section at any time during the Term.
2. **Restoration Fund:** Beginning no later than thirty (30) days after Commencement of Construction, Solar Company shall post a bond, cash, a letter of credit, corporate guarantee or equivalent security at Solar Company's sole discretion (the "Restoration Fund") in the amount of Ten Thousand Dollars (\$10,000) per megawatt of nameplate capacity (MWAC) to be installed on the Property per the Site Plan, which Restoration Fund shall cover Solar Company's obligation under Restoration hereof. Beginning on the tenth (10<sup>th</sup>) anniversary of the Operations Date, the amount of the Restoration Fund shall be reset every ten (10) years to an amount determined by the completion (on or before the tenth (10<sup>th</sup>) anniversary and each subsequent 10<sup>th</sup> anniversary) of a decommissioning study (including the deduction of salvage value) by an independent, qualified engineer selected to the mutual satisfaction of Solar Company and Landowner. The Restoration Fund may, at Solar Company's discretion, (i) be for an amount larger than that required under this Section, (ii) include other lands on which Solar Systems are located in the Project, so long as the Restoration Fund is in the amount of at least Ten Thousand Dollars (\$10,000.00) per megawatt of nameplate capacity (MWAC) to be installed on all lands so included or such amount as determined by subsequent decommissioning studies required herein and/or (iii) be in favor of additional parties; provided, however, that in such event, each covered party shall be entitled to make a claim against the Restoration Fund only up to the amount described in the first sentence of this Section, regardless of any claims made or not made against the Restoration Fund by any other covered party. Landowner shall be entitled to apply the proceeds of the Restoration Fund against (i) any sums due from Solar Company hereunder that are outstanding at the time of expiration or termination of this Lease or (ii) remedy any damage to the Property that Solar Company is obligated to remedy at the time of such expiration or termination pursuant to the terms of this Lease and in connection therewith shall be entitled to apply salvage value of the Solar Power Facilities located on the Property for their removal. As used herein the "Operations Date" shall mean the date the Project first produces electricity for sale.
3. **Permit Restoration Fund:** Solar Company shall not be obligated to fund the Restoration Fund if the State of Indiana or applicable siting board or any applicable county permit imposes a bonding or financial security arrangement as part of the condition of the permit with respect to the Project which covers decommissioning costs, then such Restoration Fund shall be deemed to be satisfied by the bond or financial security arrangement supplied pursuant to the such permit. Solar Company shall comply

with all decommissioning requirements that are contained in the permit that is ultimately issued for the Project.

#### 4. Section 09B.24 Definitions:

**PARTICIPATING PROPERTY:** A property in which land is leased (by a signed contract) by the SES owner in order to facilitate the SES development.

**KILOWATT (kW):** A unit of electrical power equal to 1,000 watts.

**MEGAWATT (MW):** A unit of electrical power equal to 1,000 kW.

**SOLAR ENERGY FACILITY LARGE:** Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of more than 10MW (megawatts) of peak generating capacity.

**SOLAR ENERGY FACILITY MEDIUM:** Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of greater than 20kW or less than or equal to 10MW (megawatts) of peak generating capacity.



## CHAPTER 10

### GENERAL PROVISIONS

#### Section 10.01 Uses per Lot

- (a) Except as otherwise specifically provided in this Ordinance, no lot may contain more than one (1) principal building, structure, or use. This provision shall not apply to agricultural uses.
- (b) Groups of multiple-family buildings, site condominiums, shopping centers, retail business buildings, multi-tenant offices, leased industrial space, or other groups of buildings contained within a single integrated complex is deemed to be a principal use collectively. To be considered as an integrated complex, the site shall share parking, signs, access, or other similar features, which together form a unified function and appearance.
- (c) Wireless communication facilities may be located on a lot that contains another use, except one-family and two-family dwellings.
- (d) There shall be no more than one (1) dwelling per lot, except for two family dwellings, multiple family dwellings, farm worker housing or accessory dwellings approved under the requirements of this ordinance.
- (e) Dwellings for security, custodial maintenance or management personnel may be approved by the Board of Zoning Appeals as an accessory use to a non-residential use.
- (f) Wind energy conservation systems may be located on a lot that contains another use.

#### Section 10.02 Lot Area Allocation

- (a) No portion of a lot can be used more than once for determining compliance with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- (b) No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be created, divided, or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot, adjacent lots in common ownership, required yard, parking area, or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.

#### Section 10.03 Voting Place

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal, school, or other public election.

#### Section 10.04 Height Limit

The building height restrictions of all zoning districts shall not apply to chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, water tanks, public monuments, church spires, belfries, cupolas, domes, ornamental towers and penthouses, or roof structures housing necessary mechanical appurtenances. Parapet walls and cornices may project above the maximum building height by up to four (4) feet.

**Section 10.05 Projections into Required Yards**

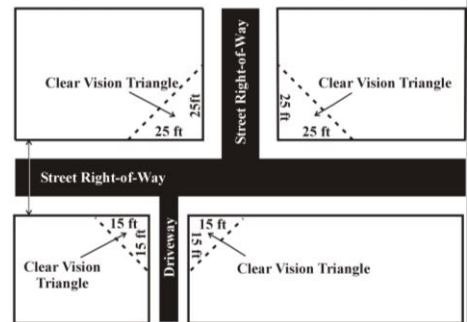
Certain architectural features may project into the required yard setbacks where the required setbacks are greater than five (5) feet as follows:

Projection	Front Yard	Waterfront Yard	Rear Yard	Interior Side Yard	Corner Side Yard
Awnings and canopies	3 ft.	5 ft.	5 ft.	18 in.	3 ft.
Cornices and similar architectural features	3 ft.	3 ft.	3 ft.	18 in.	3 ft.
Barrier-free ramps and other facilities	5 ft.	5 ft.	5 ft.	3 ft.	5 ft.
Bay windows	3 ft.	5 ft.	5 ft.	18 in.	3 ft.
Eaves, overhanging	3 ft.	3 ft.	3 ft.	18 in.	3 ft.
Gutters	3 ft.	3 ft.	3 ft.	18 in.	3 ft.
No roofs, unenclosed porches, decks, and terraces	10 ft.	--	10 ft.	3 ft.	10 ft.
Window air conditioning units	--	2 ft	2 ft.	2 ft.	--
Window wells	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.

- (a) Building projections and structures shall not be located closer than five (5) feet from the side lot line and six (6) feet from the building on the adjoining lot, except for single family attached buildings and buildings in the business districts where a fire rated wall is provided between two adjoining uses. Structures within the side yard shall not impede access around the building between the front and rear yards.
- (b) Gutters shall be required on any eave or roof overhang that projects into the setback.
- (c) An unroofed, residential handicapped ramp shall be permitted to encroach into a required yard when there are no other reasonable alternatives for the location of such a ramp on the property or other means of ingress/egress into or from the residence.

**Section 10.06 Corner Clearance**

- (a) No fence, wall, structure, or planting shall be erected, established, or maintained on any lot that will obstruct the view of drivers in vehicles approaching the intersection adjacent to a corner lot or a driveway on any lot.
- (b) Fences, walls, structures, or plantings located in the clear vision triangle, as depicted, shall not be permitted to exceed a height of twenty-four (24) inches above the lowest point of the intersecting street(s). The unobstructed triangular area is described as follows:



- (1) The area formed at the corner intersection of two (2) street rights-of-way or easement lines, the two (2) sides of the clear vision triangle being twenty-five (25) feet in length measured along abutting public right-of-way lines, and third side being a line connecting these two (2) sides, or
- (2) The area formed at the corner intersection of a street right-of-way, easement, or alley and a driveway, the two (2) sides of the triangular area being fifteen (15) feet in length measured along the right-of-way line and edge of the driveway, and the third side being a line connecting these two (2) sides.

**Section 10.07 Performance Standards and General Requirements for All Districts**

- (a) **Noise:** No use shall produce noise in such a manner as to be objectionable because of volume, frequency, or beat. Noise shall be muffled or otherwise controlled so as not to become detrimental; provided, however, fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement. Noise shall not exceed the maximum sound pressure levels prescribed below, as measured at the street or property line:

<b>TABLE 10.07 MAXIMUM PERMITTED SOUND PRESSURE LEVELS IN DECIBELS</b>		
<b>Octave Band (cycles per second)*</b>	<b>Decibels</b>	
	<b>Day**</b>	<b>Night**</b>
00 to 74	76	70
75 to 149	70	62
150 to 299	64	56
300 to 599	57	49
600 to 1,199	51	44
1,200 to 2,399	45	39
2,400 to 4,799	38	33
4,800 and above	36	31

\* Sound level meter set on the "C" or "flat" scale, slow response.

\*\* Day: 7:00 a.m. to 6:00 p.m. Night: Between 6:00 p.m. and 7:00 a.m.

- (1) A sound level meter and an octave band analyzer shall be used to measure the level and frequency of the sound or noise during the day and/or the night. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer.
- (2) Objectionable sounds, of an intermittent nature or characterized by high frequencies, even if falling below the specified decibel levels shall be controlled so as not to become a nuisance to adjacent uses.
- (b) **Vibration:** Industrial operation or activity shall not cause at any time or at any point along the nearest adjacent lot line earthborn vibrations that are detectable without the aid of instruments.
- (c) **Air Contaminants:** No person shall cause, let, permit, suffer, or allow to be discharged from any air contaminant source whatsoever any air contaminant for more than three (3) minutes in any hour at the emission point which is:
  - (1) Greater than the density that is published as No. 2 smoke on the Ringlemann Chart as published in the U.S. Bureau of Mines Information Circular 6888.
  - (2) Of such capacity as to obscure an observer's view to a degree equal to or greater than does smoke described in (1) above.
- (d) **Exceptions:** The following exceptions to the above provisions of this section shall be permitted:
  - (1) Smoke the shade or appearance of which is equal to but not darker than No. 3 on the Ringlemann Chart for a period or periods aggregating six (6) minutes in any one (1) hour, when cleaning a fire or when building a new fire; or when breakdown of equipment occurs such as to make it evident that the emission was not reasonably preventable;
  - (2) To discharge pollutants into the atmosphere (indoor and outdoor) air contaminants so as to cause air pollution and create a public nuisance is contrary to the policy of Steuben County and the provisions of this Ordinance;

- (3) No one shall discharge from any air contaminant source whatsoever air contaminants in sufficient quantities and/or such characteristics and duration as to cause an injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger or may tend to endanger the comfort, repose, health, or safety of any such persons or the public which cause or have a natural tendency to cause injury or damage to business or property. The escape of such material, in addition to constituting a violation of this Ordinance, is also declared to be public nuisance and action to abate the same may be taken by the Plan Director.
- (e) **Glare and Heat:** Any operation producing intense glare or heat shall be performed within a completely enclosed building in such a manner so as not to create a public nuisance or hazard along lot lines. Exposed sources of light shall be shielded so as not to create a nuisance across lot lines. Determination of the nuisance factor in regard to glare or heat intensity shall be made by the Plan Director.
- (f) **Waste Disposal:** Any person proposing waste treatment or disposal facilities or planning a discharge of waste material into surface waters or groundwater of the State of Indiana shall have such facility or discharge approved by the Indiana Department of Environmental Management.
- (i) **Health and Safety:** No use shall be permitted which is injurious to health and safety of humans, animals, or vegetation, or which is noxious by reason of the emission of visual pollution, or other undesirable nuisance which effects extend beyond the lot line of the lot where the use exists.
- (j) **Agricultural Uses:** Farms and other agricultural uses are exempt from the regulations of this Section, provided they are following generally accepted agricultural practices, as defined by the Indiana State Department of Agriculture.

### Section 10.08 Airspace

In compliance with I.C. 8-21-10-3, a person shall not erect a residential building or other building designed for noise sensitive uses within an area lying one thousand five hundred (1500) feet on either side of the extended centerline of a runway for a distance of one (1) nautical mile from the boundaries of any public-use airport, unless a Permit has been granted for said structure by the Indiana Department of Transportation.

### Section 10.09 Alteration of Shorelines

No alteration of the shoreline or bed of a public lake shall be made until the United States Army Corps of Engineers has reviewed the proposal, written approval is obtained from the Indiana Department of Natural Resources, and the provisions of this Ordinance are complied with. Alteration includes, among other things, the construction of channels and seawalls, dredging of the lake bed, filling of the lake and ditch excavation within one-half (1/2) mile of the lake.

### Section 10.10 Water Pollution

No authorization of a use under this Ordinance includes the authority to discharge liquid or solid waste into public waters. Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the Indiana Department of Environmental Management.

**CHAPTER 11**

**ACCESSORY BUILDINGS, STRUCTURES & USES**

**Section 11.01 Accessory Uses**

The following accessory uses are permitted in any yard of all districts: arbors, trellises, bird baths & houses, curbs, driveways, flagpoles, lamp posts, mail boxes, name plates, parking spaces, play equipment sidewalks & boardwalks, trees, shrubs, plants, & flowers, residential TV tower & satellite dish and utility installations for local service (such as poles, lines, hydrants, pump enclosures, and telephone booths).

**Section 11.02 Residential Accessory Buildings**

The following regulations shall apply to residential accessory buildings, such as garages, storage sheds, pole barns, gazebos, pavilions and other roofed buildings. These regulations do not apply to agricultural, commercial, office, institutional or industrial accessory buildings. (See 11.16)

(a) **Relation to Principal Building.** Detached garages, storage buildings, gazebos or other accessory use structures shall not be constructed on a property in a residential district or area unless the owner also has an existing residence or a residence under construction on property located within three hundred (300) feet.

(b) **Number of Buildings.**

- (1) There shall be no more than one (1) detached accessory building per lots less than two (2) acres in size.
- (2) There shall be no more than two (2) detached accessory buildings per lot on lots two (2) – five (5) acres in size.
- (3) A gazebo of 100 square feet and shed of 120 square feet or less shall be permitted in addition to the accessory buildings listed in 1 & 2 above.

(c) **Locations for Detached Accessory Buildings**

(1) Detached accessory buildings, storage sheds and gazebos shall only be located in the yards listed in the Table 11.02.

<b>Table 11.02 Accessory Building Locations and Setbacks</b>	
<b>Locations Permitted</b>	<b>Minimum Setback from Lot Line</b>
Front Yard	25 feet from road right-of-way
Side Yard	5 feet from side lot line
Rear Yard	5 feet from rear lot line
Waterfront Yard	Minimum 20 feet from shoreline
Corner lot side-street yard	Front yard setback of corner & double frontage lots

(2) When an accessory building is the only structure on a lot, it shall be considered the primary structure, which will have to meet all zoning district setbacks of primary structures. For Agricultural and Environmental Control Zoning District, see Table 11.03.

Locations Permitted	Minimum Setback from Lot Line
Front Yard	40 feet from the edge of Right-of-way
Side Yard	20 feet from side lot line
Rear Yard	20 feet from rear lot line
Height	See Section 3.04(l)

- (2) Accessory buildings shall not be located within a dedicated easement or right-of-way.
- (3) Detached accessory buildings shall be setback a minimum of ten (10) feet from the adjacent residential buildings. Sheds of 120 square feet or less shall be setback a minimum of three (3) feet from adjacent buildings on the same parcel; and a fire-rated wall is provided between structures.
- (4) On lakefront lots, an accessory building may be located in the street-front yard, provided it is setback a minimum of ten (10) feet from the front lot line and five (5) feet from the side lot line. Accessory buildings in the waterfront yard shall be limited to storage sheds not exceeding one hundred twenty (120) square feet in area and gazebos. Accessory buildings in the waterfront yard shall meet the shoreline setback applicable to principal buildings.
- (d) **Height Limitations.** The maximum height of detached accessory buildings shall be one (1) story. Attic storage shall be permitted, provided the space shall only be used for storage.
- (1) For residential accessory buildings located in all zoning districts, the maximum dimensional height shall be eighteen (18) feet, measured from the lowest floor to a height halfway between the eaves & ridge to the peak of the roof.
- (2) For sheds of less than 120 square feet located in all zoning districts, the maximum dimensional height shall be twelve (12) feet, measured to the peak of the roof. An Improvement Location Permit is required prior to installation.
- (e) **Use.**
- (1) Accessory buildings shall not be occupied for dwelling purposes, except for approved accessory dwellings.
- (2) Accessory buildings may have plumbing for sewer and water if drainage is approved by the Health Department.
- (f) **Attached Garages.** Garages that are structurally attached to a principal building by connection of walls or a roof shall be subject to, and must conform to, all regulations of this Ordinance applicable to the principal building, including setbacks and lot coverage, and not the regulations of this section. Attached garages shall not exceed the height of the living portion of the dwelling.

### Section 11.03 Porches, Decks, and Patios

- (a) **Front Yard:** An open, unenclosed porch, deck, patio or terrace may project into a required front-yard setback for a distance not exceeding ten (10) feet. Porches that are covered and enclosed by walls or windows are subject to the front yard setback applicable to the main structure, as set out in the applicable zoning district.
- (b) **Side Yard:** An open, unenclosed porch, deck, patio or terrace must not be closer to aside-lot line than provided in Table 10.05. A covered or enclosed porch, deck, patio, or terrace must meet the minimum required side-yard setback applicable to the primary building.
- (c) **Rear Yard:** An open, unenclosed porch, deck, or terrace are permitted to extend up to ten (10) feet into the minimum required rear-yard setback, provided they are no closer than twenty (20) feet from the rear-lot-line. A

covered or enclosed porch, deck, patio, or terrace must meet the minimum required rear-yard setback applicable to the primary building.

- (d) **Waterfront Yard:** All decks, porches, and terraces are required to meet the lakefront setback requirement applicable to principal buildings.
- (e) **Second-Story Decks:** Second-story decks, including any walkway connecting the second-story deck to a first-story deck, a ground-level deck, or a deck located above a walk-out basement, may extend into the rear-yard setback as provided in Table 10.05, provided it does not extend more than fourteen (14) feet from the rear of the dwelling.
- (f) **Privacy Fences and Screens:** Any privacy fence or privacy screen attached to a deck or porch shall be permitted in the rear yard, not exceeding six (6) feet in height, measured from the floor of the deck or porch.
- (g) **Exempt Accessory Structures:** Docks and seawalls are not regulated by this Ordinance, but shall meet all Indiana Department of Natural Resources standards. However, any structure placed on a seawall or dock shall be regulated by this ordinance.

### Section 11.04 Steps

Steps that are at grade or even with slopes shall be permitted within all yards, provided they shall not be permitted within five (5) feet of a lot line. Landings between flights of stairs shall be permitted in all yards, provided any landing that is wider than the stairway shall be subject to the deck and patio restrictions of Section 11.03.

### Section 11.05 Pools and Hot Tubs

- (a) **Location.** Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard and shall meet waterfront setback requirements. Swimming pools, spas, hot tubs and similar devices shall be setback at least ten (10) feet from the rear lot line and meet the side yard setback of the district.
- (b) **Security Fencing.** Swimming pools, as defined by the One and Two Family Building Code, shall be enclosed entirely by a five (5) foot fence with self-closing gates or covers which meet the aforementioned code.

### Section 11.06 Fences, Walls, and Gated Entrances

- (a) **All Districts**
  - (1) Unless specifically authorized elsewhere in this Ordinance, fences and walls located within the side yard or rear yard in any district shall not exceed a height of six (6) feet.
  - (2) Fences and walls shall not be erected within any public right-of-way.
  - (3) Fences located in the front yard shall be setback a minimum of five (5) feet from all street right-of-way lines and private-road easements. Fences or walls shall not be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways or at intersections in accordance with Section 10.06.
  - (4) The minimum property-line setback shall be two (2) feet. This distance may be reduced without requiring a variance if a letter of non-objection is obtained from the neighboring property owner.
  - (5) All exposed posts of a fence shall be located on the inside of the property they are intended to fence.
  - (6) Fences shall not contain barbed wire, electric current or charge of electricity, except in the Agricultural, Environmental Control and Industrial zoning districts.



**(b) Fences in Residential Districts**

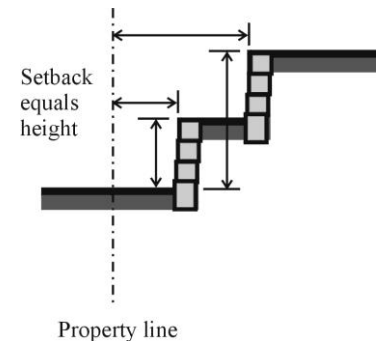
- (1) Fences or walls located within the front yard shall not exceed four (4) feet in height and shall not be in excess of sixty (60) percent solid or opaque.
- (2) Fences or walls located within the side or rear yard shall not exceed a height of six (6) feet.

**(c) Non-Residential Districts**

- (1) Fences and walls shall be permitted in the front, side and rear yard in an Agricultural, Business or Industrial district. For residential lots in the Agricultural district, fences in the front yard shall not exceed four (4) feet in height.
- (2) Fences in nonresidential districts shall not exceed eight (8) feet in height.
- (3) Fences up to eight (8) feet in height shall be permitted along all property lines on farms in all districts.

**(d) Retaining Walls.**

- (1) Retaining walls shall not be located closer than two (2) feet to from any property line. Distance may be reduced without a variance if a letter of non-objection is obtained from the neighboring property owner.
- (2) The maximum height of any retaining wall shall be four (4) feet. Where taller walls are required, the retaining wall shall be tiered. The maximum height may be increased without a variance by up to three (3) feet if the wall is concrete, a fall-prevention railing is installed, and the Plan Director determines that a single wall is consistent with the requirements of Section 11.06 (d) (5).
- (3) Grades at the property line shall not be changed without a variance unless a letter of non-objection is obtained from the neighboring property owner and the change will not negatively impact natural drainage patterns.
- (4) Retaining walls shall be setback from all lot lines and shorelines a distance equal to their height. For tiered retaining walls, each tier shall be setback so that the cumulative total height of all tiers equals the setback of the top tier. Distance may be reduced without a variance if a letter of non-objection is obtained from the neighboring property owner.
- (5) The Board of Zoning Appeals may approve taller retaining walls than allowed in paragraph (2) above and reduce the setbacks from that which is required in paragraph (1) or (3) above. The Board of Zoning Appeals may grant approval for such retaining wall, following a public hearing under Section 21.03, based upon the following criteria:
  - a. Steep topography on the site prevents development of the lot within the limits set for the retaining wall height and setback. The decrease in setback or increase in height shall be the minimum possible to provide for a reasonable building site on the lot.
  - b. The impact to topography and woodlands shall be no more than the impact from development of the site with a greater number of lower, tiered retaining walls or other alternative construction methods.
  - c. Stormwater drainage and soil erosion will be properly managed in accordance with Section 12.06 and there will not be an increase in stormwater runoff to adjacent property.
  - d. Adequate emergency access is provided around the building site.
- (6) A retaining wall whose lowest point would be below the elevation of the shoreline or waterline and within ten (10) feet landward of the shoreline or waterline of a public freshwater lake, as measured perpendicularly from the shoreline or waterline, shall not be permitted unless a permit is first obtained from the Indiana Department of Natural Resources.





- (7) A person may not excavate place fill or place, modify, or repair a temporary, or permanent structure over, along, or lakeward of the shoreline or waterline of a public freshwater lake unless a permit is obtained from the Indiana Department of Natural Resources.

(e) **Gated Entrances**

- (1) Gated entrances shall be equipped with sound activated entry systems which will automatically open the gate upon detecting an emergency siren for 2.5 to 4.5 seconds or sooner.
- (2) Gated entrances shall be equipped with a backup power supply.
- (3) Gated entrances shall be equipped with a silent, secondary access system which shall permit quiet entry for law enforcement personnel.
- (4) Gated entrances shall be equipped with a fail-safe mode to allow for manual control of the gate.
- (5) All gated entrances will require review and written approval by local Police, Fire, and EMS.

### **Section 11.07 Restrictions Along Lakes & Streams**

No structures other than docks, seawalls, retaining walls, sidewalks, boardwalks, and patios are permitted within twenty (20) feet of the meander, or high water line of any lake or stream.

### **Section 11.08 Reception Antennas**

Television and radio antennas including satellite dish antennas and transmission or reception antennas, may be permitted as an accessory use in any district. All antennas shall meet the setback requirements for principal buildings in the zoning district.

### **Section 11.09 Man-made Ponds/Lakes**

The following standards apply to man-made ponds/lakes larger than ten thousand (10,000) square feet in area:

- (a) The design and location must be approved by the Steuben County Drainage Board.
- (b) The top of the bank must be forty (40) feet from all property lines.

### **Section 11.10 Storage of Recreational Equipment**

- (a) A resident may store recreational equipment they own on their individual lot in garages or other accessory structures. Recreational equipment may also be stored in the side or rear yard, provided all recreational equipment shall be located a minimum of five (5) feet from the side or rear lot line.
- (b) Recreational equipment may not be stored in a waterfront yard, except for watercraft.
- (c) In a residential district, recreational equipment may only be stored outdoors on the same lot as the owner's principal dwelling. Recreational equipment may not be stored outdoors on a back lot that contains only accessory buildings.
- (d) All recreational equipment parked or stored shall not be connected to sanitary facilities and shall not be occupied.

### Section 11.11 Vehicle Repairs & Storage

An automobile may not remain on any property longer than ten (10) days while being repaired, stored, parked, or sold. Only one (1) such automobile may be repaired, stored, parked, sold at a time and the vehicle shall be owned by the occupant of the residence. Only properly licensed automobile dealers, operating in properly zoned locations, are exempt from this requirement.

### Section 11.12 Parking of Semi-Trucks, Shipping Containers and Construction Equipment

- (a) The storage or parking of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery in an agricultural or residential district is prohibited with the exception of the following:
- (1) Parking and storage of larger vehicles for farming operations is permitted, provided such vehicles are used for an agricultural use.
  - (2) Parking of one (1) semi-tractor without a trailer is permitted on a residential lot where the operator of the semi-truck resides within the principal dwelling on that lot. The semi-tractor shall not be located within the front yard or a side yard setback and shall be parked in a location that will not have an adverse impact on the aesthetic character of the surrounding area. Semi-trucks shall not be running in idled for more than fifteen (15) minutes. Semi-trailers, shipping containers and other types of storage units may not be parked or stored in a residential zoning district, except when a resident is moving into or out of a dwelling.
  - (3) Construction vehicles may be parked while in use for approved construction on the property only while a current building permit is in effect or during other site landscaping or utility work not subject to a building permit. Such vehicles shall only be parked on the property while in use for a construction project that is being diligently carried on toward completion.
- (b) In all nonresidential districts, semi-trailers may not remain on any property longer than sixty (60) days while being parked, stored, repaired, or sold. Only one (1) such semi-trailer may be parked, stored, repaired, or sold in any twelve (12) month period. Only properly licensed semi-trailer dealers operating in properly zoned districts are exempt from this requirement. Storage of semi-trailers, shipping containers and other types of storage units shall only be permitted in the industrial districts as an accessory use to an approved industrial use.

### Section 11. 13 Houseboats

A houseboat that is not propelled by its own power shall not be permitted to anchor to a dock or land or to remain in any waterway within Steuben County for more than six (6) hours. A boat or houseboat that is propelled by its own power shall not be permitted to anchor to a dock or land, or to remain in any of the waterways within Steuben County without the written consent and approval from the owner of the property to which the boat is tied or anchored or from which the dock is built. All such boats shall meet State Board of Health and Department of Natural Resources sanitation requirements. Further, no boat shall be used or occupied as a permanent residence.

### Section 11.14 Entranceways

In all zoning districts, entranceway structures, including but not limited to walls, columns and gates marking entrances to one-family subdivisions, multiple-family housing projects, business centers and industrial and office parks may be permitted and may be located in a required yard.

**Section 11.15 Garage Sales**

Persons holding garage, yard, porch sales, flea markets, etc. are allowed three (3) per year of three (3) days at a time. A Special Exception is required if the sale is of a longer duration. Signs are to be removed within two (2) days after sale is concluded. Vehicles must be parked in the driveway or off the traveled portion of the roadway so as to not cause an obstruction to traffic.

**Section 11.16 Non-Residential Accessory Buildings**

Storage buildings and other buildings that are accessory to a non-residential use shall be permitted subject to the same restrictions as the principal use and building. Accessory buildings for commercial, office, institutional or industrial uses shall be subject to the same district dimensional requirements (setbacks and height) as the principal building.

## CHAPTER 12

### SITE DEVELOPMENT PROVISIONS

#### Section 12.01 Building Design Requirements

- (a) **Purpose.** The purpose of this Section is to provide a set of exterior building wall material standards, the intent of which is to enhance the visual environment of the County. Furthermore, the review of exterior building wall design and the consistent administration of standards can help maintain the County's sense of place by encouraging consistent quality and character when structures are built or redeveloped. All development shall utilize quality architecture to ensure that a building protects the investment of adjacent landowners, blends harmoniously into the streetscape, and maintains a positive image for the County's various commercial shopping districts.
- (b) **Applicability**
- (1) This Section shall apply to all new multiple family residential, office, commercial, and institutional buildings. Agricultural, one-family detached and two-family residential structures and their associated accessory buildings shall not be subject to this section.
  - (2) Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and rhythm of openings.
  - (3) Architecture shall be reviewed by the Plan Director as a part of site plan review under the requirements of this Section.
- (c) **Exterior Building Design**
- (1) Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines, or towers.
  - (2) Building walls and roofs over fifty (50) feet in length shall be broken up with varying building lines, windows, gables, and/or architectural accents such as pilasters, columns, dormers, and awnings.
  - (3) Window area shall make up at least twenty percent (20%) or more of the exterior wall area facing the principal street(s) from which access is gained.
  - (4) A portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.
  - (5) Overhead doors shall not face a public street or residential district. The Plan Director can modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping.
- (d) **Building Materials**
- (1) Durable building materials which provide an attractive, quality appearance must be utilized.
  - (2) The predominant building materials should be quality materials that are characteristic of Indiana. The predominant building materials on the front façade shall be as follows:
    - a. Multiple family residential buildings shall use earth-toned brick, siding (wood vinyl, or fiber cement), stone or glass as the predominant building material.
    - b. Commercial, office and institutional buildings shall use earth-toned brick, decorative brick tilt-up panels, siding (wood vinyl or fiber cement), stone, textured concrete masonry units (such as split face block) or glass as the predominant building material.

- (3) Other materials such as smooth-faced concrete block, undecorated tilt-up concrete or dryvit panels, or pre-fabricated steel panels should only be used as accents and not dominate the exterior of the structure.
- (4) All building materials shall be durable, weather-resistant, rustproof, and shall be maintained by the property owner or tenant at all times.
- (5) The Board of Zoning Appeals may allow other building materials when a particular building design and the materials or combinations of materials proposed to be used are found by the Board of Zoning Appeals to be in keeping with the intent and purpose of this Section and compatible with the character of surrounding uses.

(e) **Roof Design**

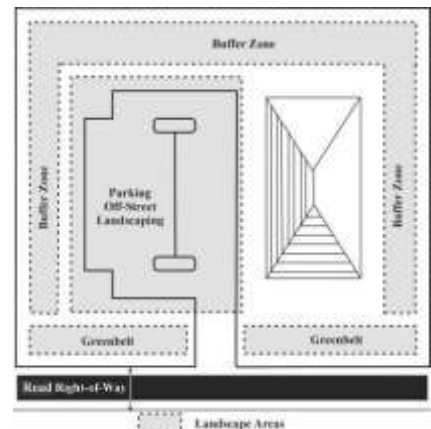
- (1) Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest, and be appropriate to the architectural style of the building.
- (2) Architectural methods shall be used to conceal flat roof tops and mechanical equipment.

- (f) **Customer Entrances.** Clearly defined, highly visible customer entrances shall be included in the design. Features such as canopies, porticos, arcades, arches, wing walls or integral planters shall be used to identify such entrances. New buildings shall have at least one (1) principal building entrance oriented parallel toward the front lot line.

## Section 12.02 Landscaping Requirements

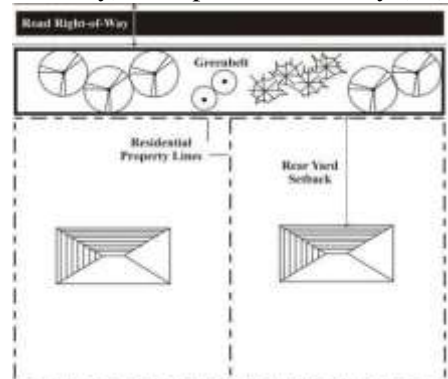
(a) **Purpose**

- (1) The following Section is intended to establish minimum standards for the design, installation and maintenance of landscaping, greenbelts and buffer zones.
- (2) Landscaping, greenbelts, and buffer zones are necessary for the continued protection and enhancement of all land uses.
- (3) Landscaping and greenbelts enhance the visual image of the County, preserve natural features, improve property values, and alleviate the impact of noise, traffic, and visual distraction. Buffer zones protect less intense uses from the noise, light, traffic, litter and other impacts.



(b) **Required Greenbelt along Street Frontage**

- (1) All non-residential sites shall provide a greenbelt along the front lot line within the minimum required front yard setback along each public or private street right-of-way that is landscaped with a minimum of one (1) canopy tree, one (1) ornamental tree, and six (6) shrubs, rounded upward, for every forty (40) linear feet of frontage. The Plan Director may approve substitution of evergreen trees for up to fifty percent (50%) of the required trees.
- (2) All residential developments (subdivisions, condominiums and multiple family) shall provide a twenty (20) foot deep greenbelt along all public road frontages that form the exterior boundary of the development. The greenbelt shall be landscaped with a minimum of one (1) canopy tree, one (1) evergreen tree, one (1) ornamental tree, and six (6) shrubs, rounded upward, for every forty (40) linear feet of frontage. This requirement shall not apply to residential homes being built on existing lots of record, except where the subdivision plat was approved with a landscape greenbelt on the lot.



- (c) **Required Buffer Zones.** The following buffer zones shall be required where a proposed use shares a common lot line with an adjacent use. The buffer zone required and the required landscaping therein shall be

as described in Tables 12.02 and 12.02.B. The proposed use is required to install the buffer zone.

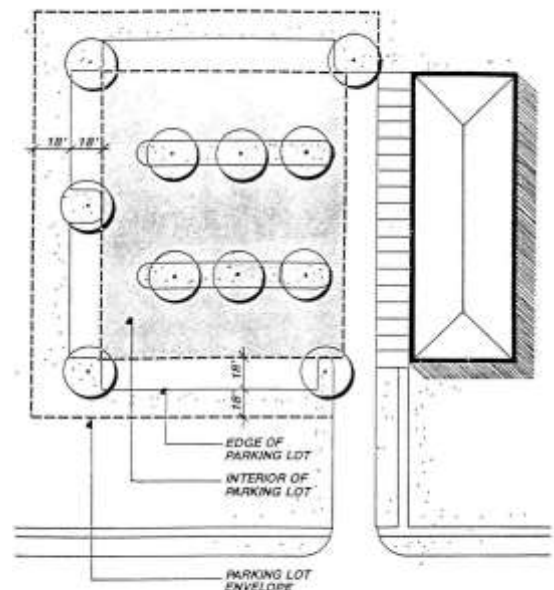
Proposed Use:	District that Proposed Use is Adjacent to:		
	A, EC, R-1, R-2, R-3, LR, MH	AB, LB, GB	I-1, I-2
One/two-family residential	None	C (1)	C
Multi-family residential	B	C	C
Manufactured home park	B	C	C
Office	B	None	None
Commercial	B	C (2)	None
Institutional	A	B	B
Industrial	A	B	None
Public and recreation	B	None	None
Planned Unit Development	Determined during PUD Plan approval using above as a guide		

Buffer Type	Minimum Depth (1)	Minimum Plant Materials
A	50 feet	1 canopy tree, 2 evergreen trees and 4 shrubs per each 20 linear feet along the property line, rounded upward
B	20 feet	1 canopy tree, 1 evergreen tree and 4 shrubs per each 30 linear feet along the property line, rounded upward
C	10 feet	1 canopy or evergreen tree or 4 shrubs per each 20 linear feet along the property line, rounded upward

- (1) The requirement for one/two-family residential to provide a buffer zone from a nonresidential district shall be required for any proposed subdivision plat. The requirement shall not apply to individual one/two-family residential construction on an existing lot of record.
- (2) The Plan Director may waive or modify buffer zone requirements between adjacent compatible uses where the district allows a lesser or zero side yard setback or a reduction in parking lot setbacks where shared access and circulation is provided between uses.

**(d) Parking Lot Screening**

- (1) Parking lots which are visible from a public right-of-way (excluding a public alley) shall have the following landscaping between the parking lot and right-of-way:
  - a. A landscaped strip of at least twenty (20) feet in width.
  - b. One (1) tree for every forty (40) feet or fraction thereof of street frontage of the parking lot.
  - c. A hedge row planted with two (2) foot tall evergreen shrubs spaced two and a half (2½) feet, or a three (3) foot tall berm.
- (2) Off-street parking areas containing twenty (20) or more parking spaces shall provide landscaping at the rate of one (1) canopy tree and one hundred (100) square feet of landscaped area per ten (10) parking spaces.
  - a. A minimum of one-third (1/3) of the trees shall be placed on the interior of the parking area and the





remaining may be placed surrounding the parking lot within eighteen (18) feet, as illustrated.

- b. The landscaped areas shall be located in a manner that breaks up the expanse of paving throughout the parking lot.
- (e) **Required Detention/Retention Pond Landscaping.** Detention/retention ponds shall be landscaped to provide a natural setting in open space areas.
- (1) Where possible, ponds or basins shall be "free form" following the natural shape of the land to the greatest practical extent. Side slopes shall not exceed one (1) foot vertical for every four (4) feet horizontal.
  - (2) One (1) deciduous shade or evergreen tree and ten (10) shrubs shall be planted for every fifty (50) lineal feet of pond perimeter as measured along the top of the bank elevation. The required trees and shrubs shall be planted in a random pattern or in groupings. The placement of required landscaping is not limited to the top of the pond bank, where the plant species is adapted to saturated soil conditions.
  - (3) Detention and retention ponds shall be landscaped in character with properties and shall be required to provide lawn areas, shrubs and trees to accomplish a suitable appearance compatible with development on the property and on nearby properties. Landscaping shall be required on all areas disturbed by grading to establish detention/retention ponds.
- (f) **Residential Street Trees.** For all new residential dwellings, including all new residential subdivisions and new homes being constructed on existing lots, one (1) deciduous canopy tree shall be provided for each dwelling unit. The tree shall be planted within the front yard setback outside of any corner clearance area required by 10.6.
- (g) **Plant Material Size**

- (1) Deciduous canopy trees shall not be less than two and a half (2½) inches in caliper. Examples of deciduous canopy trees include Oak, Maple, Birch, Beech, Linden and Hickory trees.

- (2) Deciduous ornamental trees shall not be less than one and a half (1½) inches in caliper. Examples of deciduous ornamental trees include Dogwood, Hawthorn, Flowering Crabapple, Flowering Plum, and Flowering Pear trees.

- (3) Evergreen trees shall not be less than six (6) feet in height. Examples of deciduous evergreen trees include Fir, Hemlock, Spruce and Pine trees.

- (4) Narrow evergreen trees shall not be less than four (4) feet in height. Examples of narrow evergreen trees include Arborvitae and Junipers.

- (5) Shrubs shall not be less than thirty (30) inches in height. Examples of shrubs include Boxwood, Dogwood shrubs, Forsythia, Holly, Sumac, Lilac, Viburnum, Juniper and Yews.

- (6) Spreading shrubs shall not be less than thirty (30) inches in spread. Examples of spreading shrubs include Cotoneaster, Cypress and Juniper.

### Plant Material Measurements

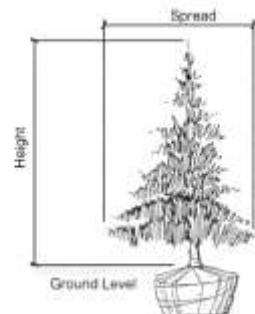
Deciduous Canopy Tree

Take measurement 12" above ground level if tree caliper is 4" or more

Take measurement 6" above ground level if tree caliper is less than 4"



Tree or Shrub Height



**(h) Installation and Maintenance Provisions**

- (1) All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be removed and replaced within six (6) months.
- (2) Landscaped areas shall be covered by grass, living ground cover or mulch.
- (3) Trees required on the site plan must be maintained to remain in compliance with the site plan. Unhealthy vegetation must be replaced. Required landscaping shall not be removed unless approved as a site plan amendment.
- (4) Landscaping shall be installed such that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.

**(i) Waiver from Landscaping and Screening Requirements.** The Plan Director during site plan review may determine that existing landscaping or screening intended to be preserved would provide adequate landscaping and screening. The Plan Director may also determine dimensional conditions unique to the parcel would prevent development of off-street parking area landscaping, greenbelts or buffer zones. If such determination is made, the Plan Director may waive, in whole or in part, the landscaping provisions of this Section. Criteria which shall be used when considering a waiver shall include, but shall not be limited to:

- (1) Existing natural vegetation
- (2) Topography
- (3) Existing and proposed building placement
- (4) Building heights
- (5) Adjacent land uses
- (6) Distance between land uses
- (7) Dimensional conditions unique to the parcel
- (8) Traffic sight distances

**Section 12.03 Lighting Regulations**

(a) **Applicability.** The regulations of this Section shall apply to all uses, except residential and agricultural uses. Where any change is made to a site requiring an Improvement Location Permit or existing light fixtures are replaced, site lighting shall be upgraded to comply with the regulations of subsection (c) below.

**(b) Lighting Intensity.**

- (1) Lighting shall not exceed one-half (0.5) footcandles at a residential lot line.
- (2) Light shall not exceed one (1.0) footcandle at a non-residential lot line, except along the street frontage.
- (3) The maximum light level on the site shall be ten (10) footcandles.
- (4) Additional lighting intensity for canopies may be allowed by the Plan Director where it is determined necessary for safety reasons, provided lighting under canopies may not exceed twenty (20) footcandles.



(c) **Light Fixtures.**

- (1) All fixtures shall be metal halide or better quality light.
- (2) Outdoor lighting in all zoning districts shall be directed toward and confined to the ground areas of lawns or parking lots except as noted elsewhere in this Section.
- (3) Lighting shall utilize cutoff fixtures that are recessed sufficiently such that the light source is not visible from off site.
- (4) Floodlight type fixtures shall not be permitted except for building accent and sign lighting.

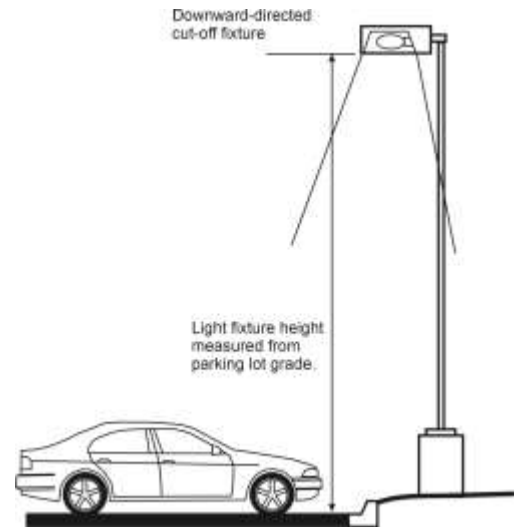
(d) **Fixture Height.** Light fixtures shall have a maximum height of twenty (20) feet within three hundred (300) feet of a residential district. Light fixtures shall have a maximum height of thirty (30) feet where not adjacent to a residential district.

(e) **Signs.** Illumination of signs shall be directed or shielded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.

(f) **Constant Light.** All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

(g) **Photometric Plan.** Any site plan application for new or revised lighting shall include a photometric plan overlaid on the site plan illustrating the planned layout and footcandles of site lighting. The following are required for review:

- (1) Lighting plan showing light pole and fixture locations and type designations;
- (2) Photometric plan showing horizontal luminance levels in a point by point format with contour lines. Canopy lighting will also be included in luminance levels;
- (3) Lighting manufacturers equipment specifications and data sheets; and
- (4) Any other presentations required to convey the intent of the design.

**Section 12.04 Waste Receptacles**

(a) **Applicability.** The regulations of this Section shall apply to all uses that have their refuse removal needs serviced by collective refuse containers.

(b) **Location**

- (1) Waste receptacles including dumpsters with enclosures, shall be located in the rear yard or non-required side yard, unless otherwise approved by the Plan Director.
- (2) For non-residential uses adjoining a residential district, the waste receptacle enclosure shall be as far as practical, and in no case less than twenty (20) feet from any adjacent residential district.
- (3) Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site.
- (4) The waste receptacle must be oriented to not directly face a street or driveway, unless approved by the Plan Director.

**(c) Enclosure Materials and Screening Required**

- (1) All waste receptacles including dumpsters and compactors must be enclosed on three (3) sides with a six (6) foot high masonry enclosure constructed of the primary building materials of the principal building on the site.
- (2) All waste receptacles, associated enclosures and receptacle contents must be screened from public view.
- (3) Supplemental landscaping to screen the waste receptacle enclosure shall be provided.
- (4) The enclosure shall also include a gate, made of wood or other high quality material, as determined by the Plan Director, on the fourth side. If the waste receptacle is a dumpster it must have an enclosing lid or cover.

**(d) General**

- (1) The waste receptacle base shall be at least nine (9) feet by six (6) feet in area, constructed of six (6) inches of reinforced concrete pavement.
- (2) The base shall extend six (6) feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.
- (3) Posts, bollards or bumpers shall also be provided to protect the enclosure from damage.
- (4) The shared use of receptacles shall be allowed by adjoining businesses where sharing will not create a health or safety concern and where it does not result in the accumulation of visibly excessive quantities of waste.

**Section 12.05 Mechanical Equipment**

- (a) **Applicability.** Any mechanical equipment or utilities and similar equipment associated with a commercial use, including water and gas meters, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar equipment, shall comply with the following standards:
- (b) **Roof-Mounted Equipment Screening.** All roof-mounted equipment shall be screened by a solid wall or architectural feature that is compatible in appearance with the principal building or the equipment shall be setback away from the edge of the building a distance sufficient to ensure that it is not visible from the public road or adjacent property. This requirement shall not apply to industrial buildings in an industrial district.
- (c) **Ground-Mounted Equipment.** All ground-mounted equipment shall be screened by a solid wall, fence or landscaping. Landscaping must create a continuous screen with the starting size of the plant material equal to or greater than the height of the equipment at the time of planting.

**Section 12.06 Stormwater**

- (a) **Applicability.** A storm water management plan approved in accordance with this section shall be required for any earth change and any development requiring an Improvement Location Permit. Every site shall control the release of storm water in accordance with the design standards contained in the County Storm Drainage and Erosion Control Ordinance.
- (b) **Stormwater Management.** All developments shall be designed, constructed, and maintained to control runoff, prevent flooding and protect water quality. The particular facilities and measures required onsite shall reflect the natural features, wetland, and watercourses on the site; the potential for onsite and offsite flooding, water pollution, and erosion; and the size of the site.
  - (1) Storm water facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff, soil erosion, and channel erosion from the proposed earth change.
  - (2) Existing storm water from upstream and offsite locations shall be conveyed around or through the site, or stored onsite.

- (3) Unless otherwise approved, storm water runoff shall be conveyed through swales and vegetated buffer strips so as to decrease runoff velocity, allow for natural infiltration and passive storage, allow suspended sediment particles to settle, and to remove pollutants.
  - (4) Stormwater shall not be discharged directly into a lake or stream without some form of pre-treatment to remove sediments and other contaminants.
  - (5) Alterations to natural drainage patterns shall not increase runoff, create flooding or water pollution for adjacent or downstream property owners and shall not cause flooding of roadways.
  - (6) Increased offsite release of storm water shall be minimized to the maximum extent practicable. The volume of storm water shall be managed and stored on-site to the maximum extent practicable.
  - (7) The increased volume of water discharged due to earth changes and/or development of the site shall not create adverse impacts to adjacent property owners, roads and watercourses. These adverse impacts may include, but are not limited to flooding, excessive soil saturation, crop damage, erosion, and/or degradation in water quality or habitat.
  - (8) In the Lake Residence District, all buildings shall be equipped with gutters and downspouts to collect rooftop drainage. Drain tile systems or other storm drains shall be utilized to direct stormwater runoff to lakes. Appropriate measures shall be incorporated to prevent erosion and sedimentation into the lake.
  - (9) In all zoning district, properties adjacent to a lake and less than one (1) acre in area, all buildings shall be equipped with gutters and downspouts to collect rooftop drainage. Drain-tile systems or other storm drains with drywells or rain barrels shall be utilized to direct stormwater runoff to lakes. Appropriate measures shall be incorporated to prevent erosion and sedimentation into the lake.
- (c) **Erosion Control.** All earth changes shall be conducted in a manner to prevent erosion and the discharge of sedimentation from the site. Cutting, filling, and grading shall be minimized and the natural topography of the site shall be preserved to the maximum extent practicable. All development and other earth changes shall be designed, constructed, and completed so that the exposed area of any disturbed land is limited to the shortest possible period of time.

**CHAPTER 13**

**Off-Street Parking, Loading, Access & Circulation Requirements**

**Section 13.01 Off-Street Parking Requirements**

There shall be provided in all districts at the time of erection or enlargement of any principal building or structure, automobile off-street parking spaces with adequate access to all spaces.

(a) **Schedule of Parking Requirements.** The minimum number of off-street parking spaces by type of use shall be determined in accordance with Table 13.01.

Use	Minimum Number of Parking Spaces
<b>Residential</b>	
Single family attached/detached and two-family dwellings	1 parking space for each bedroom. Back lots and/or detached garage may be used to calculate parking space if the dwelling is located directly across from the back lot and both parcels shall be tied together.
Mobile home dwellings	2 parking space for each family dwelling unit.
Multi-family dwellings	2 parking space for each family dwelling unit.
Fraternity, sorority, student housing cooperatives	1 parking space for each five 5 active members, plus 1 additional space for the householder or manager.
<b>Agriculture, Forestry, Fishing and Hunting</b>	
Farms, forestry and logging greenhouse, nursery, and floriculture production kennels slaughterhouse, grain storage and produce terminals	1 parking space for each employee
Roadside produce sales	1 parking space for each 250 square feet of floor area.
Seasonal hunting and/or fishing lodge	1 parking space for each 3 persons occupancy of lodge
Winery	1 parking space for each employees plus parking required for any accessory retail component, restaurant or bed & breakfast inn.
<b>Retail Trade</b>	
Retail and general merchandise stores including: clothing stores, department/variety stores, dressmaking shops, fireworks sales, flower/garden shops, office supplies, gifts/stationary stores, hardware/paint stores, jewelry stores, luggage/leather goods stores, manufactured home sales, pet shop supplies/grooming, pharmacies/drug stores, sporting goods, hobby, book, and music stores and warehouse clubs	1 parking space for each 250 square feet of floor area.
Food store including grocery stores/supermarkets, bakeries, beer, wine, and liquor stores, convenience stores and meat markets	1 parking space for each 200 square feet of floor area.
Appliance, and electronics stores and appliance service	1 parking space for each 400 square feet of floor area.
Home improvement and building material stores	1 parking space for each 200 square feet of useable floor area.
Furniture and home furnishings stores	1 parking space for each 800 square feet of floor area.
Nursery, garden center, farm supply, lawn and garden equipment and supplies stores	1 parking space for each 500 square feet of land area being used for display, plus one parking space for each employee.
Video-retail	1 parking space for each 150 square feet of useable floor area.
Sales/auction barn-livestock	1 parking space for each 400 square feet of floor area.
Drive-thru window accessory to any of the above permitted retail uses	3 stacking spaces in addition to parking required for retail use.

Use	Minimum Number of Parking Spaces
<b>Motor Vehicle Dealers, Parts and Service</b>	
Automotive parts, accessories, and tire stores	1 parking space for each 250 square feet of floor area.
Automotive repair and maintenance	2 parking spaces for each service stall.
Auto-new/used salesrooms, motorcycle, boat, and recreational vehicle dealers and marina/sales/service	1 parking space for each 400 square feet of floor area.
Automobile wash, full service	1 parking space for each one employee. In addition, stacking spaces equal in number to 5 times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 24.
Automobile wash, self service	2 stacking spaces for each washing stall in addition to the stall itself plus 1 parking space for each drying space.
Service stations	1 parking space for each employee plus 1 parking space for each 100 square feet of floor area used for cashier, office or retail sale of food, beverages and other products in addition to space provided at each fuel pump dispenser. In no instance shall such facility provide fewer than three 3 spaces for cashier's and office use. Additional spaces shall be provided as required for auto repair or car washes.
Truck stops	1 parking space for each employee plus 1 automobile space and 1 truck space for each 100 square feet of floor area used for cashier, office or retail sale of food, beverages and other products in addition to space provided at each fuel pump dispenser. In no instance shall such facility provide fewer than three 3 spaces for cashier's and office use. Additional spaces shall be provided as required for auto repair or car washes.
<b>Lodging Accommodation</b>	
Boarding/lodging houses	1 parking space for each 2 guests, plus 1 additional space for the owner or manager if the owner or manager resides on the premises.
Hotels/motels	1 parking space for each guest or sleeping rooms and suites, plus 1 parking space for each 300 square feet of floor area devoted to supplementary activities such as bars, ballrooms, dining rooms, and nightclub facilities.
Tourist homes/bed & breakfast inns	1 parking space for each guest or sleeping room or suite, plus 1 additional space for the owner or manager.
RV (recreational vehicle) parks and recreational camps	1 parking space for each trailer space.
<b>Food Services</b>	
Banquet hall	1 parking space for each 75 square feet of usable floor area or 1 parking space for each two persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater.
Carryout restaurants	6 parking space for each service or counter station, plus 1 for each employee.
Caterers	1 parking space for each 400 square feet of floor area.
Delicatessens	1 parking space for each 200 square feet of floor area.
Night clubs	1 parking space for each 75 square feet of usable floor area or 1 parking space for each 2 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater.
Sit-down restaurants	1 parking space for each 100 square feet of floor area or 1 parking space for each 4 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater.
Restaurants, drive-in and drive-thru	1 parking space for each employee, 1 parking space for each 75 square feet of dining area and 8 stacking spaces for each drive-through window.
Taverns	One parking space for each 75 square feet of usable floor area or 1 parking space for each 2 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater.

Use	Minimum Number of Parking Spaces
<b>Other Services</b>	
Barber/beauty shops	2 parking space for each beauty or barber chair plus 1 parking space for each employee.
Cemeteries/crematoriums	1 parking space for each employee.
Funeral homes and mortuaries	1 parking space for each 50 square feet of usable floor area.
Dry cleaning establishments	1 parking space for each 500 square feet of useable floor area.
Laundromats	1 parking space for each 2 washing and/or dry-cleaning machines.
Photographic studios	1 parking space for each 400 square feet of floor area.
Shoe repair shops and tailoring	1 parking space for each 250 square feet of floor area.
Tanning salons	2 parking spaces for each tanning both plus 1 parking space for each employee.
<b>Finance, Insurance, Real Estate, Professional, Scientific, and Technical Services</b>	
Banks	1 parking space for each 250 square feet of floor area. Drive-up windows shall be provided 4 stacking spaces for the first window, plus 3 spaces for each additional window.
Business offices for professions such as advertising, accounting, bookkeeping, architecture, engineering, legal services and other administrative services, computer systems design, publishing industries, radio/TV station or studios and telecommunications	1 parking space for each 300 square feet of floor area.
Laboratories for testing & research, excluding the raising of animals for research & excluding testing of fissionable material	1 parking space for each 300 square feet of floor area.
Real estate, insurance and investment brokers	1 parking space for each 250 square feet of floor area.
<b>Health Care and Social Assistance</b>	
Child day care centers	1 parking space for each caregiver, plus 1 parking space for each 10 children
Hospitals	1 parking space for each hospital bed, plus 1 additional space for each staff or visiting doctor.
Nursing homes, and senior assisted living	1 parking space for each 6 patient beds, plus 1 additional space for each staff or visiting doctor.
Offices and clinics of physicians and dentist	3 parking spaces for each doctor/dentist with the clinic, plus 1 space for each 2 regular employees, including nurses or 1 parking space for each 250 square feet of usable floor space.
Veterinary hospital, small animal	3 parking spaces for each doctor, plus 1 space for each 2 regular employees or 1 parking space for each 250 square feet of usable floor space.
<b>Arts, Entertainment, and Recreation</b>	
Adult regulated uses	1 parking space for each 75 square feet of usable floor area or 1 parking space for each two persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater.
Amusement arcade	1 parking space for each game table and amusement device.
Billiard halls	1 parking space for each 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes or 1 parking space for each 200 square feet of gross floor area, whichever is greater.
Boat access ramps	1 parking space for each boat permitted to be launched into lake at the same time as set by DNR requirements
Bowling alleys	3 parking spaces for each alley plus additional spaces determined by the Plan Director required by this Ordinance for affiliated uses such as bars and restaurants.
Dance –academies	1 parking space for each 50 square feet of floor area used for assembly.
Fitness centers	1 parking space for each 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes plus 1 parking space for each employee.



Use	Minimum Number of Parking Spaces
Golf courses and country clubs	6 parking spaces for each golf hole and 1 parking space for each employee, plus spaces required for each accessory use such as a restaurant or bar.
Ice skating or roller rink	1 parking space for each seat or 6 feet of benches, or 1 parking space for each 150 square feet of skating area, whichever is the greater.
Marinas and boat clubs	1 parking space for each boat slip
Public camps	1 parking space for each camp site.
Commercial outdoor recreation facilities (such as batting cages, driving ranges and put-put golf	2 parking space for each batting cage, driving tee, put-put golf hole or similar activity station.
Shooting ranges	2 parking spaces for each shooting range
Stadiums/coliseums/athletic fields, race tracks	1 parking space for each four 4 seats, based on the maximum seating capacity.
Swimming pools	1 parking space for each 4 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes plus 1 parking space for each employee.
Tennis club, paddle-ball club, racquetball club and other similar uses	6 parking spaces for each court, plus such additional spaces as may be required herein for affiliated uses such as restaurants, plus 1 parking space for each employee.
Theaters	1 parking space for each 3 seats plus 1 parking space for each 2 employees.
<b>Religious, Civic, Social and Similar Organizations</b>	
Assembly halls, conference centers and convention halls, lodges/private clubs	One parking space for each 75 square feet of usable floor area or 1 parking space for each 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater.
Charitable institutions	1 parking space for each 300 square feet of floor area.
Churches, temples and places of worship	1 parking space for each 4 seats provided in the main auditorium.
<b>Educational Services</b>	
Pre-school/nurseries	1 parking space for each member of the staff, plus 1 drop-off/parking space each 10 children
Elementary schools – public, private or parochial	1 parking space for each member of the staff.
High Schools – public, private or parochial	1 parking space for each member of the staff, plus 1 parking space for each 10 students.
Libraries and museums	1 parking space for each 250 square feet of usable floor area.
Technical and vocational trade schools	1 parking space for each member of the staff, plus 1 parking space for each 2 students.
University or college building	1 parking space for each member of the staff, plus 1 parking space for each 2 students.
<b>Public Administration</b>	
Government buildings including executive, legislative, justice, public safety and post offices	1 parking space for each 300 square feet of floor area.
<b>Transportation and Warehousing</b>	
Airports/heliports, railroad passenger stations, bus depots or other passenger terminal facilities	The number of spaces deemed adequate for employees and passengers, by the Board of Zoning Appeals.
Boat storage	1 parking space for each 20 storage units
Terminals, truck freight and transfer stations	5 plus 1 for every one employee in the largest working shift, or 5 plus 1 for every 1,700 square feet of usable floor space, whichever is the greater.
Warehouses, public “u-store”/self storage including mini storage buildings and storage garages	1 parking space for each 20 storage units plus 2 for manager’s residence
Warehouses for commercial and industrial uses	5 plus 1 for every one employee in the largest working shift, or 5 plus 1 for every 1,700 square feet of usable floor space, whichever is the greater.

Use	Minimum Number of Parking Spaces
<b>Utilities and Waste Disposal</b>	
Commercial composing facilities, power generation, sanitary landfills, water, sewage, and treatment facilities and utility public service buildings, and storage yards	1 parking space for each employee
<b>Construction</b>	
Construction contractors offices and storage yards and asphalt, and concrete plants	5 plus 1 for every one employee in the largest working shift, or 5 plus 1 for every 1,700 square feet of usable floor space, whichever is the greater.
<b>Mining/mineral extraction</b>	
Mineral, soil, oil and gas extraction	1 parking space for each employee
<b>Manufacturing</b>	
Manufacturing uses	1 parking space for each three 3 employees, based upon the maximum number of persons to be employed at any one work period during the day or night or 1 for each 500 square feet of usable floor area in those instances where shift size is not known. plus any additional parking facilities required for all vehicles used in the conduct of the enterprise.

- (b) **Usable Floor Area.** For the purpose of computing the number of parking spaces required, the definition of "usable floor area" in Chapter 24, Definitions, shall govern.
- (c) **Fractional Spaces.** When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- (d) **Uses Not Listed.** For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use that the Plan Director considers similar.
- (e) **Maximum Allowed Parking.** In order to minimize excessive areas of pavement which reduces aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking space requirements by more than twenty percent (20%) shall only be allowed with approval by the Plan Director. In granting additional space, the Plan Director shall determine that the parking will be required, based on documented evidence, to accommodate the use on a typical day.
- (f) **Collective or Shared Parking.** Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately, except as provided for below. Where the two uses are on separately-owned lots, a legal agreement for shared parking shall be recorded and a copy provided to the County.
- (g) **Reduction of Parking Requirements.** The Plan Director may reduce the parking requirements based upon a finding that there will be a lower demand for parking due to one (1) or more of the following:
  - (1) Shared parking by multiple uses where there will be a high proportion of multipurpose visits or uses have peak parking demands during differing times of the day or days of the week. Pedestrian connections shall be maintained between the uses. Where uses are on separate lots, the lots shall be adjacent, pedestrian, and vehicular connections shall be maintained between the lots and shared parking agreements shall be filed with the County Recorder.
  - (2) Expectation of walk-in trade due to sidewalk connections to adjacent residential neighborhoods or employment centers. The site design shall incorporate pedestrian connections to the site and on-site pedestrian circulation providing safe and convenient access to the building entrance.
  - (3) Availability of other forms of travel such as transit. The Plan Director may require the site design incorporate transit stops, pedestrian connections to nearby transit stops or bicycle parking facilities.



- (h) **Land Banked Parking.** Where the conditions of subsection (g) above are not met, but an applicant demonstrates that the parking requirements for a proposed use would be excessive, the Plan Director may defer some of the parking, provided the site plan designates portions of the site for future construction of the required parking spaces. Areas reserved for future parking shall be maintained in a landscaped appearance and not used for building area, storage, or other accessory use. The deferred parking shall be required to meet ordinance requirements if constructed and may not occupy required greenbelts. Construction of the deferred parking area to add parking spaces may be initiated by the owner or required by the Plan Director, based on parking needs or observation, and shall require administrative approval of an amended site plan.
- (i) **Existing Parking.** Off-street parking existing at the effective date of the Ordinance codified in this Title, in connection with the operation of an existing building or use, shall not be reduced to an amount less than that required in this Chapter for a similar new building or new use.
- (j) **Location.** Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown on all lots or parcels intended for use as parking by the applicant.
- (k) **Residential Parking.** Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage or combination thereof and shall be located on the premises they are intended to serve, Lawn and yard areas, other than designated parking areas, shall not be utilized for off-street parking.
- (l) **Storage in Parking Lots Prohibited.** The open storage of merchandise, materials, trucks, trailers, construction trailers, recreational vehicles and equipment for periods in excess of a total of forty-eight (48) hours in any given calendar year is prohibited in areas of the property which are designed to accommodate the off-street parking requirements of the site.
- (m) **Parking for Handicapped.** Off-street parking facilities required for physically handicapped-accessible buildings shall be based on Table 13.01.B.

<b>Table 13.01.B Handicapped-Accessible Parking Requirements</b>	
<b>Total Parking in Lot</b>	<b>Required Minimum Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

**Section 13.02 Off-Street Parking Facility Design**

- (a) **Applicability.** Whenever the off-street parking requirements in this chapter require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations.
- (b) **Access.**
  - (1) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles meeting the requirements of Section 13.05.
  - (2) Ingress and egress to parking lot lying in an area zoned for other than one-family residential use shall not be across land zoned for one-family residential use. Each entrance to and exit from any off-street parking lot located in an area zoned for other than one-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any one-family residential district.
- (c) **Maneuvering Lanes.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street is prohibited. All maneuvering lane widths shall permit one way traffic movement, except that the ninety (90) degree pattern may permit two (2) way movement.
- (d) **Minimum Dimensional Requirements.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements of Table 13.04.

Parking Pattern	Maneuvering Lane Width		Parking Space	
	One-Way	Two-Way	Width	Length
0° (parallel parking)	12 ft. <sup>1</sup>	24 ft.	8 ft.	23 ft.
30° to 53°	12 ft.	24 ft.	8 ft. 6 in.	18 ft.
54° to 74°	15 ft.	24 ft.	8 ft. 6 in.	18 ft.
75° to 90°	20 ft.	24 ft.	9 ft.	18 ft.

<sup>1</sup> Will be required to be increased in those instances where fire or safety apparatus is required to utilize maneuvering lane

- (e) **Stacking Spaces.** Required stacking spaces shall be a minimum nine (9) feet wide and twenty (20) feet in length.
- (f) **Pavement.** For commercial and industrial uses, the entire parking area, including parking spaces and maneuvering lanes shall be paved with asphalt or concrete surfacing, in accordance with County engineering specifications. However, it is the intent of this Ordinance to minimize the amount of impermeable paved surface; therefore the Plan Director may approve alternative paving materials, such as permeable/grass pavers or gravel parking for low-usage parking areas or seasonal uses. The parking area shall be surfaced within one (1) year of the issuance of a certificate of occupancy with the provision of a performance guarantee in accordance with Section 20.06.
- (g) **Drainage.** All parking lots shall be graded or drained to dispose of stormwater runoff. No surface water from a commercial or industrial parking lot shall be permitted to drain directly onto adjoining property unless a drainage easement has been obtained. Discharge of drainage into a public right-of-way or county drain shall require written approval of the County.

### 13.03 Off-Street Loading Requirements

On premise space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods. Where loading and unloading is not proposed, the applicant shall include a notation stating such on the site plan. The Plan Director may permit central loading areas to be shared by multiple uses, such as in a retail shopping center or office park.

- (a) **Number of Loading Spaces.** The minimum number of loading spaces shall be provided in accordance with Table 13.03:

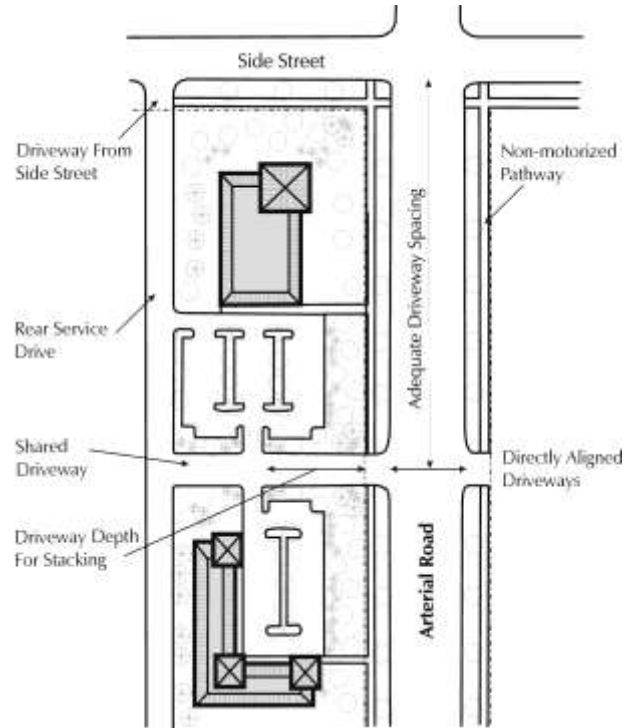
<b>Table 13.03 Off-Street Loading Requirements</b>	
<b>Institutional, Commercial and Office Uses</b>	
Up to 5,000 sq. ft. GFA	1 space
5,001 - 60,000 sq. ft. GFA	1 space, plus 1.0 space per each additional 20,000 sq. ft. GFA
60,001 sq. ft. GFA and over	3 spaces, plus 1.0 space per each additional 50,000 sq. ft. GFA
<b>Industrial Uses</b>	
up to 1,400 sq. ft. GFA	0
1,401 - 20,000 sq. ft. GFA	1 space
20,001 sq. ft. GFA or more	1 space, plus 1.0 space per each additional 20,000 sq. ft. GFA in excess of 20,000 sq. ft.

- (b) **Exceptions.** For office uses that will not require a large truck deliveries, loading may take place in undesignated places in parking lots provided such loading is of a short-term nature.
- (c) **Size.** The size of all required loading/unloading spaces shall be at least ten (10) feet by fifty (50) feet or five-hundred (500) sq. ft. in area, with a clearance of at least fourteen (14) feet in height. The Plan Director may modify this requirement for uses that will involve smaller delivery trucks such as offices.
- (d) **Location.** Loading/unloading areas and docks shall not be provided in the front yard. Where possible, loading areas shall be integrated into the design of the building to minimize visibility.
- (e) **Traffic Flow.** The size of the loading area shall be sufficient to prevent undue interference with adjacent required parking spaces, maneuvering aisles, or traffic flow on public streets.
- (f) **Screening.** Loading docks and loading areas facing a residential district or a public street shall be adequately screened by a wall and/or landscaping.
- (g) **Not Included with Parking.** Required loading areas shall not be included in calculations for off-street parking space requirements.

**Section 13.04 Driveway Access Management**

**(a) Driveway Location in General**

- (1) All driveways serving multiple-family, commercial, office, institutional or industrial uses, hereafter referred to as “commercial driveways,” shall comply with the requirements of this Section.
- (2) Commercial driveways shall be located so as to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade.
- (3) Driveways, including the radii but not including right turn lanes, passing lanes and tapers, shall be located entirely within the right-of-way frontage, unless otherwise approved by the County and upon written certification from the adjacent property owner agreeing to such encroachment.



**(b) Driveway Spacing Standards**

- (1) Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent or on the opposite side of the street may be set on a case-by-case basis but in no instance shall be less than the distances listed in Table 13.04.A. The following measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed Sections.

Location of Driveway	Minimum Spacing for a Full Movement Driveway	Minimum Spacing for a Channelized Driveway Restricting Left Turns
Along major thoroughfare, intersecting street is a major thoroughfare	250 feet	125 feet
Along major thoroughfare, intersecting street is not a major thoroughfare	200 feet	125 feet
Along other streets	75 feet	50 feet

For sites with insufficient street frontage to meet the above criterion, the Plan Director may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service road.

- (2) Minimum spacing between two (2) commercial driveways shall be determined based upon posted speed limits along the parcel frontage. The minimum spacing indicated in Table 13.04.B. are measured from centerline to centerline.
- (3) To reduce left-turn conflicts, new commercial driveways shall be aligned with those across the street where possible. If alignment is not possible, driveways shall be offset a minimum of two-hundred fifty (250) feet along arterial streets and one-hundred-fifty (150) feet along collector and local streets from those on the opposite side of the street. These

Posted Speed Limit (MPH)	Minimum Driveway Spacing (In Feet)
up to 30	185
35	245
40	300
45	350
50	395
55 and higher	435

standards may be reduced by the Plan Director where there is insufficient frontage and shared access with an adjacent site is not feasible. Longer offsets may be required depending on the expected inbound left-turn volumes of the driveways.

- (4) In the case of expansion, alteration or redesign of an existing development where it can be demonstrated that pre-existing conditions prohibit adherence to the minimum commercial driveway spacing standards, the Plan Director may modify the driveway spacing requirements. Such modifications shall be of the minimum amount necessary, but in no case shall spacing of a full-access driveway be less than sixty (60) feet, measured centerline to centerline.

**(b) Number of Commercial Driveways**

- (1) The number of commercial driveways serving a property shall be the minimum number necessary to provide reasonable access and access for emergency vehicles, while preserving traffic operations and safety along the public street.
- (2) Access shall be provided for each separately owned parcel. This access may be an individual driveway, shared driveway or via a service drive. Additional driveways may be permitted for property only as follows:
  - a. One (1) additional driveway may be allowed for properties with a continuous frontage of over three-hundred (300) feet, and one (1) additional driveway for each additional three-hundred (300) feet of frontage, if the Plan Director determines there are no other reasonable access opportunities.
  - b. The Plan Director determines additional access is justified without compromising traffic operations along the public street.
  - c. Two one-way driveways may be permitted where the frontage is at least one-hundred twenty-five (125) feet.

**(c) Commercial Driveway Design**

- (1) All commercial driveways shall be designed according to the standards of the County or Indiana Department of Transportation, as appropriate.
- (2) For high traffic generators, or for commercial driveways along streets experiencing or expected to experience congestion, the Plan Director may require two (2) egress lanes.
- (3) Where a boulevard entrance is desired by the applicant or Plan Director, a fully curbed island shall separate the ingress and egress lanes. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will use the driveway.

**(d) Shared Driveways, Frontage Roads and Service Drives**

- (1) Where noted above, or where the Plan Director determines that reducing the number of access points may have a beneficial impact on traffic operations and safety while preserving the property owner's right to reasonable access, a shared commercial driveway, frontage road or rear service drive connecting two or more properties or uses may be required. In particular, service drives may be required near existing traffic signals or near locations having potential for future signalization; along major arterial streets with high traffic volumes; and along segments with a relatively high number of accidents or limited sight distance.
- (2) Shared commercial driveways and service roads shall be within an access easement. A draft of the access easement shall be provided to the County for review prior to filing.
- (3) The number of accesses along a service road shall be according to the standards of this Section. The Plan Director may allow temporary access where the service road is not completed if a performance bond or other financial guarantee is provided which assures elimination of the temporary access upon completion of the service road. Building permits shall not be issued until such financial guarantee has been submitted to the County.

(4) **Service Road Design Standards.**

- a. **Location.** Service roads shall generally be parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind, principal buildings. In considering the most appropriate alignment for a service road, the Plan Director shall consider the setbacks of existing buildings and anticipated traffic flow for the site.
- b. **Access Easement.** The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be fifty (50) feet wide, except an access easement parallel to a public street right-of-way may be forty (40) feet wide, if approved by the Plan Director. The required width shall remain free and clear of obstructions, unless otherwise approved by the Plan Director.
- c. **Construction and Materials.** Service roads shall have a base, pavement and curb with gutter in accordance County standards for public streets, except the width of the service road shall have a minimum pavement width of twenty-four (24) feet.
- d. **Parking.** The service road is intended to be used exclusively for circulation, not as a parking maneuvering aisle. The Plan Director may require the posting of "no parking" signs along the service road. In reviewing the site plan, the Plan Director may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road.
- e. **Access to Service Road.** The Plan Director shall approve the location of all accesses to the service road, based on the driveway spacing standards of this Section, provided the Plan Director may allow additional driveways if approved by the County or the Indiana Department of Transportation, and consistent with purpose of this Chapter.
- f. **Temporary Access.** The Plan Director may approve temporary accesses where a continuous service road is not yet available and a performance bond or escrow is created to assure elimination of temporary access when the service road is continued. Building permits shall not be issued until monies have been deposited with the County.
- g. **Elevation.** The site plan shall indicate the proposed elevation of the service road at the property line and the County shall maintain a record of all service road elevations so that their grades can be coordinated.
- h. **Maintenance.** Each property owner shall be responsible for maintenance of the easement and service drive.





## CHAPTER 14

### SIGNS

#### Section 14.01 Intent

This section of the Zoning Ordinance for Steuben County is intended to regulate signs and to minimize outdoor advertising within the County to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction, and loss of visibility; promote public convenience; preserve property values; and enhance the aesthetic appearance and quality of life within the County. The requirements contained herein are intended to be content neutral. The following objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the County in order to:

- (a) Protect the public right to receive messages, including religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution.
- (b) Maintain and improve the image of the County by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.
- (c) Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
- (d) Recognize that the principal intent of commercial signs, to meet the purpose of these requirements and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names or off-premise activities, as these can be advertised more appropriately by other methods.
- (e) Eliminate potential conflicts between business signs and traffic control signs, which could create confusion and hazardous consequences.
- (f) Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
- (g) Prevent placement of signs which will conceal or obscure signs of adjacent uses.
- (h) Prevent off-premise signs from conflicting with other land uses.
- (i) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- (j) Prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

#### Section 14.02 Scope of Requirements

A sign shall not hereafter be erected, re-erected, constructed, altered or maintained without receiving the proper Sign Location Permit, except as provided by this section.

#### Section 14.03 Signs Not Requiring Permit

A sign of the following type shall be permitted without the issuance of a sign permit, subject to all other requirements of this Chapter:

- (a) **Device Signs.** Permanent signs on vending machines or other containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed three (3) square feet.



- (b) **Flags.** Flags provided there shall be no more than three (3) flags per lot, the maximum size of each flag shall be 50 square feet, and the flag poles comply with relative height limitations.
- (c) **Employment Signs.** "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall not exceed six (6) square feet.
- (d) **Enclosed Signs.** Any sign that is located completely within a building and is not visible from the outside.
- (e) **Historical Signs.** Plaques or signs designating a building or premises as a historic structure or premises not to exceed six (6) square feet.
- (f) **Identification Signs.** Signs for the sole purpose of designating an assigned house number, owner name, occupant, or building name. Identification signs shall not be counted in the total sign area allowed on the premises, however, such signs in excess of one (1) square foot in surface display area may be allowed as part of the total sign area otherwise allowed by this Ordinance.
- (g) **Incidental Signs.** Small signs, emblems, or decals informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on business affiliations. The total of all such incidental signs shall not exceed two (2) square feet.
- (h) **Murals.** Murals shall be allowed providing no text, commercial logos or other identifiable commercial representation are included.
- (i) **Nonconforming Signs.** Legal nonconforming signs existing on the effective date of the adoption of the Ordinance. Removal of the sign shall constitute an elimination of the non-conforming status.
- (j) **Public Signs.** Public signs, including the authorized signs of a government body or public utility, including traffic signs, legal notices, railroad crossing signs, warnings of a hazard, and similar signs.
- (k) **Temporary Signs.** Temporary signs shall be permitted provided they are setback a minimum of ten (10) feet from the public right-of-way or any lot line and in accordance with *Table 14.03*.

Table 14.03 Temporary Sign Regulations				
Type of Sign	Maximum Size	Maximum Height	Maximum Number	Permitted Duration
Community Special Event Signs	64 sq. ft.	15 ft.	1 per street frontage	Shall be installed up to 3 weeks prior to event and removed within 1 day after event
Construction Signs	64 sq. ft.	15 ft.	1 per lot, 2 on corner lot (1 facing each street)	Shall be removed from premises within 30 days after issuance of the occupancy permit or temporary occupancy permit
Garage Sale Signs	6 sq. ft.	6 ft.	1 per lot, 2 on corner lot (1 facing each street)	Shall be erected no more than 10 business days before and removed within 1 business day after the sale
Grand Opening Sign, Special Sale & Promotional Signs	16 sq. ft.	Ground sign 6 ft. Wall sign not higher than building	1 per lot, 2 on corner lot (1 facing each street)	May be erected for a maximum of 15 consecutive days every 6 months

Table 14.03 Temporary Sign Regulations				
Type of Sign	Maximum Size	Maximum Height	Maximum Number	Permitted Duration
Political Signs	16 sq. ft.	--	--	The owner of the property or the person in charge thereof shall be responsible for the removal of the signs
Real Estate: Sale or Lease of Individual Business or Lot	8 sq. ft	6 ft.	1 per lot, 2 on corner lot (1 facing each street)	Shall be removed within 15 days of sale closing, or the lease or rental of the premises
Real Estate: Development Signs	32 sq. ft.	8 ft.	1 per lot, 2 on corner lot (1 facing each street)	Remove within 7 days after all units or lots sold or leased

- (l) **Traffic Control Signs.** Signs directing and guiding traffic and parking on private property, but bearing no advertising, including logos.
- (m) **Window Signs.** Window signs shall be permitted in all Non-Residential Districts, up to twenty-five percent (25%) of the glass surface provided the following:
- (1) The area of permanent window signs shall be counted in determining compliance with requirements for total area of wall signs.
  - (2) Window signs that are faded, yellowed, ripped, or otherwise damaged shall be removed immediately.

#### Section 14.04 Prohibited Signs

The following devices and locations are specifically prohibited:

- (a) Any sign not expressly permitted.
- (b) **Banners.** Pennants, spinners, and streamers, and banners bearing any logo, product name, business name or other advertising, and balloons, except those temporarily attached to automobiles or temporarily displayed as part of a special sale, promotion or community event.
- (c) **Commercial Vehicles used as Signs.** An unlicensed or inoperable stationary or abandoned motor vehicle, trailer or water craft parked on public or private property used specifically for signage and not for the intended use of the vehicle. No commercial vehicle may be parked on a business or industrial premise for a time period exceeding forty-eight (48) hours for the intended purpose of advertising a product or serving as a business sign.
- (d) **Emergency Vehicles Simulation Signs.** Signs that simulate or could in any way be confused with the lighting of emergency vehicles, traffic signals, or have an appearance similar to traffic safety signs or lights.
- (e) **Exterior String Lights.** String lights used in connection with a commercial enterprise, other than holiday decorations which are strung no more than sixty (60) days before the holiday and removed within ten (10) days following the holiday for which they were erected.
- (f) **Moving Signs.** Signs having moving members or parts or appearance of movement.
- (g) **Snipe Signs.** Signs attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

- (h) **Obsolete Signs.** A sign that advertises a product that is no longer made an event that has already occurred, or that advertises a business that has closed. The Plan Director shall provide a letter to the property owner giving a set time for removal of the obsolete sign.
- (i) **Off-Premise Signs.** A sign, except for billboards, which identifies a use or advertises products and services not available on the site or parcel on which the sign is located (e.g. garage sale signs, residential open house signs, signs providing directions to a business).
- (j) **Portable Signs.** Except where expressly allowed in this Chapter.
- (k) **Roof Signs.** A sign erected above the roof line of a building.
- (l) **Signs that Confuse Traffic.** Signs that make use of the words "Stop", "Look", "Go", "Slow", "Caution", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
- (m) **Signs that Obstruct Access.** Signs that prevent free and unobstructed access to any door, window, fire escape, or other required exit.
- (n) **Signs that Obstruct Vision.** Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
- (o) **Signs Located in Public Right-of-way.** Signs located in, encroaching upon or overhanging public right-of-ways shall be removed.
- (p) **Structurally Unsafe Signs.** Signs which are deemed structurally unsafe or are constructed in violation of the requirements of any adopted Construction Code.

### Section 14.05 General Provisions for Permitted Signs

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this section.

- (a) **Determination of Sign Display Area.** No sign shall exceed the maximum sign display area allowed for a district. The sign display area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be computed as follows:
  - (1) **Single-Faced Sign.** The allowable area for a single-faced sign shall be measured by calculating the square footage of the sign face as measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle, including any frame.
  - (2) **Wall Signs.** Where a sign consists of individual letters and/or a logo affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
  - (3) **Double-Face Signs.** Where a sign has two (2) or more faces, the area of only the larger face shall be considered when calculating maximum size, provided all faces are part of the same structure, back-to-back and are separated by no more than two (2) feet.
- (b) **Design Requirements**
  - (1) **Architectural Features.** All signs shall be placed in a manner that does not obstruct or intrude upon architectural features of a building.
  - (2) **Materials.** Sign materials shall be designed to complement the original construction materials and architectural style of the building façade to promote an overall unified and aesthetic effect as permitted in the various zoning districts. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.

(c) **Illumination**

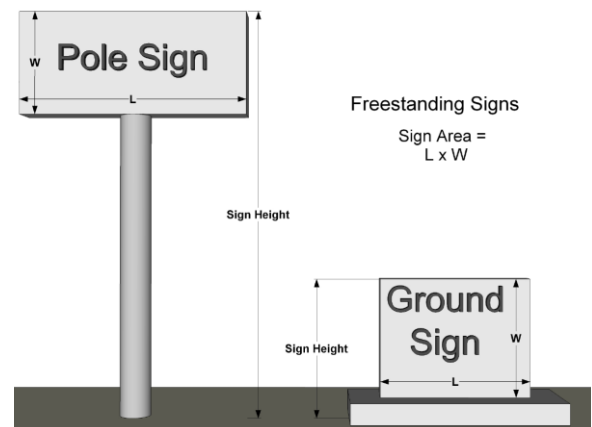
- (1) **General Requirements.** Signs may be illuminated only by steady, stationary, shielded light sources using approved electrical devices directed solely at the sign, or internal to it.
- (2) **Timer Controls.** Each illuminated sign shall be equipped with a functional timer control. No sign shall be illuminated after 10:00 p.m. or one half (1/2) hour following the close of the business, whichever is later. No sign shall be illuminated before 6:00 a.m., or one half (1/2) hour prior to the beginning of the opening of the business, whichever is earlier.
- (3) **Non-glare, Shielded Lighting.** Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded and/or shielded downward so as not to project onto adjoining properties or thoroughfares.
- (4) **Traffic Hazards.** Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
- (5) **Illumination by Other Sources.** Illumination by bare bulbs, neon or flames is prohibited.
- (6) **Wiring.** Underground wiring shall be required for all illuminated signs not attached to a building.

(d) **Location**(1) **Setbacks**

- a. All signs, unless otherwise provided for, shall be set back a minimum of ten (10) feet from any public road right-of-way. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.
- b. Side yard setbacks for signs shall be the same as that required for the main structure or building, and provided that all non-residential signs shall be setback at least one hundred (100) feet from any residential district.

(2) **Measurement.** The following guidelines shall be used to determine compliance with setback and distance measurements:

- a. **Two Signs.** The distance between two (2) signs shall be measured along a straight horizontal line that represents the shortest distance between the two (2) signs.
- b. **Sign and Property Line.** The distance between a sign and a property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the property line.
- c. **Sign and Other.** The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the sign and the outer edge of the parking lot or building.

(e) **Construction Requirements.** The following construction requirements apply to all permanent signs.

- (1) **Fastenings.** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. No sign may be placed upon a tree or utility pole, except signs of a unit of government or utility.
- (2) **Support Location.** No pole, cable or support of any nature shall be placed on any publicly owned property, road right-of-way, or proposed road right-of-way.
- (3) **Sign Safety**

- a. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least twenty (20) pounds per square foot.
  - b. All signs shall be erected so that any part including cables, guys, etc. shall have a minimum clearance of four (4) feet from any electrical conductor, electric light pole, road lamp, traffic light, or other public utility pole or standard.
  - c. All signs shall be designed to comply with minimum wind pressure and other requirements set forth in the adopted Building Code. Signs with electrical connections shall comply with Electrical Code requirements, including the application, inspection, and approval of an electrical permit.
- (4) **Safety Triangle.** No sign shall be located within, project into, or overhang the triangular area formed at the intersection of any two road right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

### Section 14.06 Permitted Signs

- (a) The number, display area, and height of signs within the non-residential zoning districts are provided in Table 14-06 and its accompanying set of additional requirements.

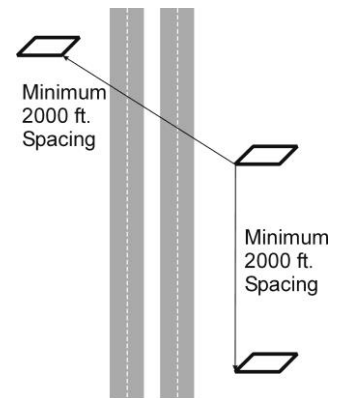
<b>Table 14-06 Specific Sign Requirements</b>				
Type of Sign	Max. Height (8)	Max. Size (1)	Max. Number	Additional Requirements
<b>Billboard</b>	25 ft.	500 sq. ft.		(2)
<b>Business Center</b>	25 ft.	50 sq. ft. per face	1 per street frontage	(3)
<b>Development and Subdivision Entry</b>	42 in.	20 sq. ft. per face	1 per entrance	(4)
<b>Gasoline Price</b>	10 ft.	12 sq. ft. per face	1 per street frontage	(5)
<b>Home Occupation</b>	--	3 sq. ft.	--	--
<b>Marquee (Canopy)</b>	--	25% of surface	1 per street frontage	(6)
<b>Menu Boards (incl. A-frame; Sandwich Boards)</b>	5 ft.	16 sq. ft. per side	1 per entrance	--
<b>Wall</b>	Must not exceed height of building	10% of wall up to a maximum of 100 sq. ft.	1 per façade facing a street or public right-of-way	(7)
<b>Monument or Ground</b>	6 ft.	30 sq. ft. per side	1 per street frontage	

- (b) Signs noted in Table 14-06 shall comply with the following requirements:

- (1) The BZA may permit a fifteen percent (15%) increase in the allowable sign area where the site has shared access with an adjoining site in accordance with Section 13.04, the sign has a brick base, and additional landscaping is provided around the base of the sign.

(2) **Billboard**

- a. **Special Exception Use.** The erection of any billboard requires special exception use approval, conditioned upon the terms of this and other County Ordinances. Following a special exception use approval, a sign permit may be granted, subject to compliance with all of the following requirements:
1. **Allowable Zoning Districts.** Billboards are allowed as a principal use subject to special exception use approval in the business or industrial zoning districts abutting I-90/I-80 and I-69/U.S. 27 Freeways. The billboard must be constructed in such a manner as to be viewed principally from the freeway(s) and not from auxiliary roadways, side road, traffic intersections, or residential areas.
  2. **Location.** Billboards shall be constructed so that its principal view is fully screened from an interchange area involving merging traffic. Any billboard shall comply with the following:
    - i. Shall be located at least five hundred (500) feet from any residentially zoned area, historic district or outdoor park/recreational facility.
    - ii. The premises must have a roadway easement to a non-freeway primary or secondary road such that the persons maintaining and servicing the sign may reach the site without danger.
- b. **Billboard Construction Details.** A billboard shall be constructed according to building requirements, codes, and zoning regulations then in effect for Steuben County that may apply to it and its surrounding premises. A billboard shall comply with the following height requirements:
1. A maximum height of twenty-five (25) feet in height above the median ground level within a five hundred (500) feet radius of the site.
  2. Shall be prohibited from:
    - i. Extending above the tree line or horizon when viewed from any portion of the roadway that it faces.
    - ii. Being located on or over the roofs of buildings.
    - iii. Projecting over any public easement or right-of-way.
- c. **Spacing and Setbacks.** A billboard shall maintain all of the following spacing and setback requirements:
1. A minimum of two thousand (2,000) feet between any other billboard, measured in all directions and including billboards in an adjacent municipality and County.
  2. At least three hundred (300) feet from any park, school, church, hospital, cemetery, or government building.
- d. **Setbacks.** Billboards shall comply with all setback requirements for a structure in the district in which they are located.
- e. **Sign Face Limitations.** A billboard shall be limited to one (1) face. Faces may not be joined horizontally or vertically. A billboard shall be prohibited from having moving, flashing, oscillating or other distracting parts visible to drivers or vehicles.
- f. **Illumination.** A billboard may be illuminated subject to all of the following requirements:
1. Illumination must be directed in such a manner that all incidental light generated falls on the sign face.





2. All lights must be shielded such that the light is not visible to traffic or surrounding homes or businesses.
  3. Billboards within five hundred (500) feet of any Residential District may not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.
  - g. **Non-use.** Any billboard not in use shall have the unused surface display a scenic view, consistent with the County scenery, or a public service display.
  - h. **Maintenance and Unsafe Conditions.** Any billboard that collapses, topples or disintegrates shall be made safe within thirty (30) days or the site shall be cleared of the debris.
  - i. **State Compliance Required.** All billboards shall comply with applicable requirements and conditions the State of Indiana.
  - j. **Identification Plate.** The framework, foundations or superstructure of the billboard shall have a metal identification plate, as defined, firmly attached thereto.
- (3) **Business Centers.** Each business center with at least three hundred (300) feet of major road frontage may be allowed one (1) on-premises freestanding business center sign, subject to the following:
- a. May be directly or indirectly illuminated.
  - b. May be double-faced.
  - c. Shall not reduce the number of signs or sign area otherwise allowed for the premises included within the business center, but shall prohibit any other freestanding signs from being permitted within the business center.
- (4) **Community, Neighborhood, Development or Subdivision Entry Signs**
- a. Freestanding signs of low profile design.
  - b. May be directly or indirectly illuminated.
- (5) **Gasoline Service Stations.** Each gasoline service station may be allowed the following signs in addition to the signs otherwise allowed by this Chapter:
- a. Gasoline pump signs not exceeding three (3) square feet per pump containing customary information regarding the brand, type of gasoline sold, and service provided.
  - b. Shall be a low profile sign.
  - c. May not project into the public right-of-way.
  - d. May contain up to two (2) pump island signs located on the structural supports identifying "self-serve" and "full-serve" operations, provided that there is no business identification or advertising copy on such signs and that such signs do not exceed four (4) square feet in area.
- (6) **Marquee Signs.** Signs on marquees and canopies may be allowed, subject to compliance with all of the following requirements:
- a. The display area of the sign on a marquee, or canopy shall be counted toward determining compliance with the requirements for total allowable area of wall signs allowed on the parcel.
  - b. Marquee signs are prohibited from projecting over any public easement or right-of-way.
  - c. Any lettering used solely for the purpose of presenting the numerals of a road address shall not be included within the computed sign area on a marquee, or canopy, provided that the height or width of the numerals does not exceed the height or width of other letters or numerals on the marquee, or canopy.
  - d. Awnings and canopies shall not be internally illuminated.

**(7) Wall Signs**

- a. Sign shall not extend more than twelve (12) inches beyond the surface of the portion of the building wall area upon which it is painted, erected, or fastened.
- b. For businesses that face directly onto adjacent public street right-of-way, the maximum allowable wall sign area may be increased as indicated in the table below up to a maximum of 140 sq. ft.

Distance of Sign From ROW Line	Allowable Increase in Sign Area
200 - 300 ft.	25%
301 - 400 ft.	30%
401 - 500 ft.	35%
501+ ft.	40%

- c. Wall signs may be directly or indirectly illuminated.

- (8) Signs within five hundred (500) feet of the interchange of I-69 and the 80/90 Toll Road shall be permitted to be increased an additional twenty (20) feet in height due to topographical differences at this interchange area.

**Section 14.07 Sign Location Permits**

- (a) No person shall erect, place, construct, structurally alter, inflate any aerial balloon or add to any sign for which a permit is required, nor attach any sign to an existing sign, that shall either increase the area thereof or constitute a structural alteration thereof or an addition thereto, without first obtaining all permits to do so in the manner hereinafter provided.
- (b) No sign shall be erected without securing a Sign Location Permit from the Steuben County Plan Commission. Before such a permit is issued, an inspection shall be made to determine that the sign location complies with the provisions of this section.
- (c) As a condition to approval of a Steuben County Sign Location Permit, all signs to be located along State Highway right-of-way shall obtain the proper State Sign Permit or written non-objection from the Indiana Department of Transportation, and a copy shall be provided to the Plan Director prior to erecting the sign.
- (d) No off-premise sign shall be located on a property without written consent of the property's owner or legal representative.
- (e) The Sign Location Permit shall be valid prior to actual placement of the sign for a period not exceeding ninety (90) days, provided that when a sign permit is issued in connection with a Improvement Location Permit for a structure on the site where the sign is to be located, the sign permit shall run concurrent with the Improvement Location Permit. Only one ninety (90) day extension can be issued by the Office of the Plan Commission, after which time the permit shall be null and void.
- (f) A permit card along with a permit number and number tag shall be issued upon proper application.
- (g) The Applicant needs to secure the permit number tag to the appropriate outdoor advertising structure in a location visible from the public way.
- (h) No permit shall be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required of signs which are stated as being allowable without a permit.



### Section 14.08 Application Procedure

- (a) **Application Form.** Application for a permit for a sign shall be filed with the Steuben County Plan Department and shall provide the following information:
- (1) Name, address, and telephone number of the applicant.
  - (2) Location of the building, structure, or lot on which the sign is to be attached or erected.
  - (3) Position of the sign in relation to buildings, structures, and property lines within one hundred (100) feet of the proposed sign.
  - (4) Plans showing the dimensions, materials, method of construction, and attachment to the building or in the ground.
  - (5) Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.
  - (6) Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.
  - (7) Information concerning required electrical connections.
  - (8) Written consent of the owner or lessee of the premises upon which the sign is to be erected.
  - (9) Other information required by the County Planner to make the determination that the sign is in compliance with all applicable laws and regulations.

(b) **Application Review**

- (1) **Plan Commission Review.** All locations for placement of a sign submitted in conjunction with the proposed construction of a new building or addition to an existing building or as part of a site plan review required by this Zoning Ordinance shall be reviewed by the Plan Commission as a part of the required site plan review. The location, size and height of all existing and proposed signs must be shown on the site plan.
- (2) **County Planner Review.** The County Planner shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
- (3) **Issuance of a Permit.** Following review and approval of a sign application by the County Planner, as appropriate, the County Planner shall have the authority to issue a sign permit upon payment by the applicant of the required fees.
- (4) **Denial of a Permit.** The County Planner shall deny the application for any sign that does not comply with the requirements of this Chapter.

### Section 14.09 Sign Inspection and Maintenance

(a) **Sign Inspection**

- (1) **Responsibility for Compliance.** The owner of any property on which a sign is located is declared to be responsible for the permit, erection, inspection, safety, condition, and removal of a sign and the area in the vicinity thereof.
- (2) **Inspection of New Signs.** All signs for which a permit has been issued shall be inspected by the County Planner when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable requirements of County Ordinances and Codes.
- (3) **Inspection before Enclosure.** In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Plan Director when such fastenings are to be installed so that inspection may be completed before enclosure.

- (4) **Inspection of Existing Signs.** The Plan Director may, at such times as deemed necessary, inspect any sign allowed under this Section, and if upon inspection a sign is found to be unsafe or in a condition that does not comply with all the provisions of this Section, the Plan Director shall give notice of such condition to the owner for such sign and cause to be made the necessary repairs or alterations, or remove the sign.

(b) **Sign Maintenance**

- (1) **Maintenance of Signs.** All signs for which a permit is required and all supports therefore shall:

- a. Be kept in compliance with the plans and specifications filed and approved for issuance of the construction permit.
- b. Be kept and maintained in a safe condition, consistent with adopted building and mechanical codes.
- c. At all times conform to all the provisions of this Chapter.

- (2) **Correction of Defects.** If the Plan Director finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the sign erector, owner of the sign, or owner of the land shall make the sign safe and secure by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the Plan Director. Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired within twelve (12) hours of notification.

(c) **Obsolete Signs.**

- (1) An obsolete sign and its supporting structure shall be removed by the property owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises within ten (10) days after written notice from the Plan Director.
- (2) A sign which is in conformity with the other provisions of these regulations may remain in place if such sign is obscured by the use of a blank panel attached within the frame of the sign and shall be permitted to remain for a period not to exceed one hundred and twenty (120) days.
- (3) Where a successor to an inactive business agrees, within thirty days of the date of written notice by the Plan Director, to maintain the sign as provided for by these regulations, this removal requirement shall not apply, provided that the existing sign and structure conforms to all current sign requirements.

(d) **Legal Nonconforming Signs**

- (1) **Continuance.** Any sign lawfully existing at the time of the adoption of this Chapter that does not fully comply with all provisions shall be considered a legal nonconforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as herein provided.
- (2) The nonconforming sign may continue as long as it is not destroyed, abandoned, or discontinued. A sign damaged in excess of fifty (50) percent of its replacement cost is considered destroyed.
- (3) **Restrictions.** A nonconforming sign shall not be altered or reconstructed, unless the alteration or reconstruction is in compliance with the provisions of this Section. For the purpose of this Chapter only, the term "altered" or "reconstructed" shall not include any of the following:
  - a. Normal maintenance.
  - b. Changing of surface sign space to a lesser or equal area.
  - c. Ornamental molding, frames, trellises, or ornamental features or landscaping below the base line.
  - d. The addition, construction, installation, or changing of electrical wiring or electrical devices.
  - e. Changing backgrounds, letters, figures, or characters, or other embellishments.
- (4) **Requirements.** Nonconforming signs shall comply with the following requirements:

- a. **Repairs and Maintenance.** Normal maintenance shall be allowed, provided that any nonconforming sign that is destroyed by any means to an extent greater than fifty percent (50%) of the sign's pre-existing fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or repair or replacement of electrical wiring or electrical devices.
- b. **Nonconforming Changeable Copy Signs.** The message on a nonconforming changeable copy sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity.
- c. **Substitution.** No nonconforming sign shall be replaced with another nonconforming sign.
- d. Where an existing nonconforming sign ceases to display advertising matter, has obsolete advertising mater or is blank for a period of one year, it will be considered discontinued or abandoned.

### Section 14.10 Fees/Costs

- (a) **Fees.** Any application for a sign permit or other request for other action pursuant to the regulations set forth in this Chapter shall be subject to and accompanied by a fee as established by the County. Such fees shall be collected in advance of any application review, inspection, or issuance of any permit or approval. Upon notification of deficient payment of fees, the County Planner shall cause any permits to be suspended and reject applications for new permits directly associated with the request.
- (b) **County Costs.** All costs incurred by the County in removing signs not in accord with this Chapter shall become a lien on the property on which said sign is erected and may be collected at law from those responsible for said sign or equity by foreclosure and sale of the land upon which the sign was erected or may be assessed to the property and collected as a property tax.

## CHAPTER 15

### FLOODPLAIN RESTRICTIONS

#### Section 15.01 Statutory Authorization, Findings of Fact, Purpose, and Objectives.

- (a) **Statutory Authorization.** The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Commission of Steuben County does hereby adopt the following floodplain management regulations.
- (b) **Findings of Fact.** The flood hazard areas of Steuben County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.
- (c) **Statement of Purpose.** It is the purpose of this Chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
  - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
  - (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;
  - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,
  - (6) Make federally subsidized flood insurance available for structures and their contents in Steuben County by fulfilling the requirements of the National Flood Insurance Program.
- (d) **Objectives.** The objectives of this Chapter are:
- (1) To protect human life and health;
  - (2) To minimize expenditure of public money for costly flood control projects;
  - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) To minimize prolonged business interruptions;
  - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
  - (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
  - (7) To ensure that potential homebuyers are notified that property is in a flood area.

**Section 15.02 General Provisions.**

- (a) **Lands to Which This Chapter Applies.** This Chapter shall apply to all special flood hazard areas (SFHAs) within the jurisdiction of Steuben County.
- (b) **Basis for Establishing Regulatory Flood Data.** This Chapter'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 Indiana Department of Natural Resources for review and approval.
- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Steuben County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Steuben County, Indiana and Incorporated Areas dated December 17, 2013 and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 17, 2013 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
  - (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Steuben County, delineated as an "A Zone" on the Steuben County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 17, 2013 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
  - (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- (c) **Establishment of Floodplain Development Permit.** A Floodplain Development Permit shall be required in conformance with the provisions of this Chapter prior to the commencement of any development activities in areas of special flood hazard.
- (d) **Compliance.** No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this Chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this Chapter and other applicable regulations.
- (e) **Abrogation and Greater Restrictions.** This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) **Discrepancy between Mapped Floodplain and Actual Ground Elevations.**
- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
  - (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
  - (3) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a letter of map amendment (LOMA).
- (g) **Interpretation.** In the interpretation and application of this Chapter all provisions shall be:
- (1) Considered as minimum requirements;
  - (2) Liberally construed in favor of the County; and,

- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (h) **Warning and Disclaimer of Liability.** The degree of flood protection required by this Chapter 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 Chapter does not create any liability on the part of Steuben County, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this Chapter or any administrative decision made lawfully hereunder.
- (i) **Penalties for Violation.** Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development 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 Steuben County. All violations shall be punishable by a fine not exceeding \$75 per day. A separate offense shall be deemed to occur for each day the violation continues to exist. The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended. Nothing herein shall prevent the Steuben 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.
- (j) **Increased Cost of Compliance (ICC)** In order for buildings to qualify for a claim payment under ICC coverage as a “repetitive loss structure”, the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a 10 year period ending on the date of the event for which the second claim is made, in which the cost of repair of repairing the flood damage, on the average equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

### Section 15.03 Administration.

- (a) **Designation of Administrator.** The County Commissioners of Steuben County hereby appoint the Steuben County Plan Director to administer and implement the provisions of this Chapter and is herein referred to as the Floodplain Administrator.
- (b) **Permit Procedures.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:
- (1) **Application stage.**
- (a) A description of the proposed development;
  - (b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
  - (c) A legal description of the property site;
  - (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
  - (e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
  - (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be flood proofed;
  - (g) Description of the extent to which any watercourse will be altered or related as a result of proposed development, and;



- (2) **Construction Stage.** Upon placement of the lowest floor; or flood proofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD or NGVD elevation of the lowest floor or flood proofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When flood proofing is utilized for a particular structure the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. The permit holder shall correct deficiencies detected by the review before any further work is allowed to proceed. Failure to submit the survey or failure to make required corrections shall be cause to issue a stop-work order for the project.
- (c) **Duties and Responsibilities of the Floodplain Administrator.** The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this Chapter. The Floodplain Administrator is further authorized to render interpretations of this Chapter, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:
- (1) Review all floodplain development permits to assure that the permit requirements of this Chapter have been satisfied;
  - (2) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
  - (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 15.04 (e ) and (g) (1), and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)
  - (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;
  - (5) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
  - (6) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and flood proofing data for all buildings constructed subject to this Chapter.
  - (7) Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
  - (8) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
  - (9) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 15.03(b);
  - (10) Verify and record the actual elevation to which any new or substantially improved structures have been flood proofed, in accordance with Section 15.03(b);
  - (11) Review certified plans and specifications for compliance.
- (d) **Stop Work Orders**
- (1) Upon notice from the administrator, work on any building, structure or premises that is being done contrary to the provisions of this Chapter shall immediately cease.
  - (2) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.



**(e) Revocation of Permits**

- (1) The administrator may revoke a permit or approval, issued under the provisions of the Chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - (2) The administrator may revoke a permit upon determination by the administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this Chapter.
- (f) Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized County officials shall have the right to enter and inspect properties located in the SFHA

**Section 15.04 Provisions for Flood Hazard Reduction.**

(a) **General Standards.** In all SFHAs and know flood prone areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the flood protection grade (FPG);
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters and other service facilities shall *be* located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this Chapter shall meet the requirements of “new construction” as contained in this Chapter; and,
- (10) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this Chapter, shall be undertaken only if said non-conformity is not further, extended, or replaced.
- (11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood elevation (BFE) shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to (1) due to the fill or structure.
  - (a) The excavation shall take place in the floodplain and in the same immediate watershed in which the authorized fill or structure is located;

- (b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;
  - (c) The fill or structure shall not obstruct a drainage way leading to the floodplain;
  - (d) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and,
  - (e) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Plan Director a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.
- (b) **Specific Standards.** In all SFHAs, the following provisions are required:
- (1) In addition to the requirements of Section 15.04(a) all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
    - (a) Construction or placement of any new structure having a floor area greater than 400 square feet;
    - (b) Addition or improvement made to any existing structure:
      - (1) where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
      - (2) with a previous addition or improvement constructed since the community's first floodplain ordinance.
    - (c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;
    - (d). Installing a travel trailer or recreational vehicle on a site for more than 180 days;
    - (e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This Chapter 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
    - (f) Reconstruction or repairs made to a repetitive loss structure.
  - (2) Residential Construction. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 15.04(b)(4).
  - (3) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation). Or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitates the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 15.04(b)(4). Structures located in all "A Zones" may be flood proofed in lieu of being elevated if done in accordance with the following:

- (a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Section 15.03(c)(10).
  - (b) Flood proofing measures shall be operable without human intervention and without an outside source of electricity.
- (4) Elevated Structures. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the follow minimum criteria:

- (a) provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
  - (b) the bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
  - (c) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - (d) openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.
  - (e) access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
  - (f) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - (g) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
  - (h) Where elevation requirements exceed 6 feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.
- (5) Structures Constructed on Fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- (a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either Standard or Modified Proctor Test method.
  - (b) The fill should extend at least ten feet beyond the foundation of the structure 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 shall be at or above the FPG.

- (6) Standards for Manufactured Homes and Recreational Vehicles. Manufactured Homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- (a) 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 in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood
  - (b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevation 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. 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.
  - (c) Manufactured homes with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit for floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 15.04(b)(4).
  - (d) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
  - (e) Recreational vehicles placed on a site shall either:
    - 1. be on site for less than 180 days; and
    - 2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
    - 3. meet the requirements for “manufactured homes” as stated earlier in this section.
- (c) **Standards for Subdivision Proposals.**
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
  - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
  - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.
- (d) **Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

- (e) **Standards for Identified Floodways.** Located within SFHAs, established in Section 15.02(b), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential.
- (1) If the site is in an identified floodway, the Plan Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources.) If fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)
  - (2) No action shall be taken by the Plan Director until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Plan Director may issue the local Floodplain Development Permit, provided the provisions contained in Section 15.04 have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, more restrictive local regulations (if any) shall take precedence.
  - (3) No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot; and
  - (4) For all projects involving channel modifications or fill (including levees) Steuben County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.
- (f) **Standards for Identified Fringe.** If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 15.04 of this Chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.
- (g) **Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.**
- (1) Drainage area upstream of the site is greater than one square mile:
    - (a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.
    - (b) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
    - (c) Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 15.04 of this Chapter have been met.

- (2) Drainage area upstream of the site is less than one square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 15.04 of this Chapter have been met.
  - (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.
- (h) **Standards for Flood Areas.** All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 15.04

### Section 15.05 Variance Procedures.

- (a) **Designation of Variance and Appeals Board.** The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this Chapter.
- (b) **Duties of Variance and Appeals Board.** The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this Chapter. Any person aggrieved by the decision of the Board may appeal that decision to the Steuben County Circuit/Superior Court, as provided in State Statute.
- (c) **Variance Procedures.** In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and;
- (1) The danger of life and property due to flooding or erosion damage;
  - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (3) The importance of the services provided by the proposed facility to the community;
  - (4) The necessity to the facility of a waterfront location, where applicable;
  - (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (6) The compatibility of the proposed use with existing and anticipated development;
  - (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
  - (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (d) **Conditions for Variances.**
- (1) Variances shall only be issued when there is:
    - (a) A showing of good and sufficient cause;
    - (b) A determination that failure to grant the variance would result in exceptional hardship; and,



- (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Section 15.04(e) or (g)(1) may be granted.
- (3) Any variance granted in a floodway subject to Section 15.04(e) or (g)(1) will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of Section 15.04(b) may be granted only when a new structure is to be located on a lot of one half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances 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.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section (e)).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section (e)).
- (e) **Variance Notification.** Any applicant to whom a variance is granted shall be given written notice by the Floodplain Administrator that:
- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance; and;
- (2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (3) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.
- (f) **Historic Structure.** Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.
- (g) **Special Conditions.** Upon the consideration of the factors listed in Section 15.05, and the purposes of this Chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

### Section 15.06 Severability.

If any section, clause, sentence, or phrase of the Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of the Chapter.



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**CHAPTER 16**

**Improvement Location Permits, Site Plans and Certificates of Occupancy**

**Section 16.01 General Requirements**

No structure shall be erected, moved, occupied, or added to; and no land shall be used or occupied without an Improvement Location Permit, as required by this Ordinance. No Improvement Location Permit shall be issued unless the project is in conformity with the provisions of this Ordinance, the Subdivision Control Ordinance, and other applicable regulations of Steuben County, as applicable. The issuance of all Improvement Location Permits shall be subject to the applicable procedures established by the Plan Director.

**Section 16.02 Improvement Location Permits**

An Improvement Location Permit shall be obtained for any of the following actions. Certain activities are exempt from the requirement of obtaining an Improvement Location permit, but must still be in compliance with the use, setback and other requirements of this ordinance. Major activities such as commercial or industrial uses require a full engineered site plan. Minor activities such as single family residential dwellings may provide a less detailed sketch plan, provided the level of detail is sufficient to demonstrate compliance with this ordinance.

<b>Activity/Use</b>	<b>Improvement Location Permit</b>
Agricultural buildings or structures	Sketch plan
Single family detached and two family dwellings	Sketch plan
Multiple family dwellings	Site plan
Residential accessory buildings and decks	Sketch plan
Non residential building	Site plan
Establishment of a new special exception use (see Chapter 17)	Site plan
Planned Development Area (see Chapter 18)	Site plan
Private road	Site plan
Construction solely on the building interior that does not increase usable floor area	Exempt
Cosmetic (non-structural) changes to any structure including the replacement of windows in existing openings, re-roofing, the installation of siding material, and repainting	Exempt
Wireless communication facility	Site plan
Change in use to an existing building to a similar or less intensive use, as determined by the Plan Director	Exempt
Change in use to an existing building to a more intensive use, as determined by the Plan Director	Sketch plan
Temporary uses, buildings, structures, and seasonal events	Sketch plan
Temporary storage/accessory structures	Sketch plan
Accessory commercial or industrial outdoor storage	Site plan
New parking lot/loading area or change in driveway access for a non-residential use	Site plan
Expanding an existing parking lot or paving an existing gravel parking lot	Site plan
Resurfacing of existing parking lot without increasing number of spaces	Exempt
Residential driveways and sidewalks that are located entirely on private property	Sketch plan
Construction, relocation or erection of signs, retaining walls, fences, walls, waste receptacle, sidewalks, antennas, lights, poles, cooling/heating or other mechanical equipment for any nonresidential use	Sketch plan
All fences (landscaping, privacy or security) and all retaining walls greater than two (2) feet in height except on farms and lots in the Agricultural District	Sketch plan
Residential TV towers, satellite dishes, and other similar structures	Exempt
Modifications to comply with accessibility requirements	Exempt
Mineral extraction	Site plan
Alteration of the existing grade in excess of two (2) feet relative to the grade at the property lines of adjoining property owners in Subdivisions, and/or in R-1, R-2, R-3, LR, MH Zoning Districts	Sketch plan

Private ponds

Sketch plan

**Section 16.03 Site Plan/Sketch Plan Requirements**

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

- (a) A description of the proposed development and legal description of the property site.
- (b) A dimensioned site plan or sketch plan, drawn to scale showing existing and proposed structure locations and existing and proposed land grades. Engineered site plans must include all of the information listed below. Sketch plans shall include the information noted with an "X;" provided the level of detail is sufficient to demonstrate compliance with this ordinance.

Site Plan/Sketch Plan Information	Sketch Plan	Site Plan
Name, address and seal of professional engineer or land surveyor who prepared the site plan	X	X
The address of the parcel	X	X
Photograph of existing site conditions	X	X
Property survey showing topography, existing structures, utilities and floodplain elevation	X	X
Property boundaries, including dimensions	X	X
Net lot area (exclusive of any road right-of-way, or submerged land)	X	X
Drawing scale and a north arrow	X	X
Site location map showing the subject property, adjacent streets, and the nearest intersection	--	X
Zoning of site and adjacent land	X	X
Rights-of-way (with street name and classification labeled) and easements	X	X
Drainage courses, floodplains, lakes, streams and wetlands	X	X
Required setbacks and yard areas	X	X
Adjacent buildings, structures or pavement within twenty (20) feet of site, including buildings and decks on adjacent waterfront lots	X	X
All existing and proposed structures or other site improvement with the dimensions of such improvements	X	X
Height of all structures	X	X
Distances from all proposed structures to the property lines	X	X
Location of any existing or proposed septic field	X	X
Well sites	X	X
Utility information including water mains, water service leads, fire hydrants, sewer lines, and electrical service	X	X
Location of any existing or proposed driveway and/or parking areas	X	X
Parking space dimensions, number of required and provided parking spaces, driving aisle widths, pavement materials, curb locations	--	X
Driveway widths, intersection radii, pavement materials, curb locations, deceleration tapers, and distances to the nearest drives on the same and opposite side of the street	--	X
Location of any drive-through facilities, including vehicle stacking spaces and point of service	--	X
Location of any loading areas	--	X
Sidewalks (public and private) including construction details and accessible ramp details;	--	X
Landscaping, with plant materials labeled according to size at planting and species	--	X
Permanent or occasional outdoor storage, sales, and/or display	X	X
Fences or walls	X	X
Photometric plan and detailed specifications for all exterior lighting fixtures	--	X
Waste containers and a detail demonstrating how they are to be enclosed	X	X
Location, type, and dimensions of any storm water structures, conduits, or detention/retention ponds that are located on, cross, or adjoin the subject property	--	X
General grades on-site sufficient to determine positive drainage	X	X
Flood hazard areas, including the finished floor elevation, base flood elevation, and flood protection grade for all structures;	X	X

- (c) All plans shall be based on an accurate survey prepared by a licensed land surveyor. The requirement for a survey may be waived on agricultural or residential parcels greater than one (1) acre where all buildings will be setback from all lot lines at least five (5) feet more than the minimum required setback and building and impermeable coverages are at least three (3) percent less than the minimum required.
- (d) A Driveway Permit from the applicable State or County Highway Engineer.
- (e) A Letter of Approval from the relative Waste District, where applicable.
- (f) A Well and Septic Permit or Letter of Non-Objection from the County Health Department.
- (g) A Letter of Approval from the County Surveyor relative to drainage plan and setbacks from legal drains.
- (h) A Letter of Air Space Approval, if so applicable.
- (i) A Mobile Home Tax Release from the County Treasurer, if so applicable.

#### **Section 16.04 Improvement Location Permits Review**

- (a) Upon receipt of an application for an Improvement Location Permit and site plan/sketch plan, the Plan Director, or designee, shall determine if the site plan/sketch plan complies with the requirements of this ordinance.
- (b) An Improvement Location Permit shall not be issued for a site located within an identified floodway or within the floodplain where the limits of the floodway have not yet been determined, except as follows:
  - (1) If the site is in an identified floodway the Building Official 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.
    - (a) Under the provision of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for the 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.
    - (b) No action shall be taken by the Plan Director 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 Plan Director may issue the local Improvement Location Permit, provided the provisions contained in Section 15.04 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 Plan Director may issue the local Improvement Location Permit, provided the floodplain provisions contained in Chapter 15 of this ordinance have been met. The key provision is that the bottom of the lowest provisions contained in Section 15.04 of this Ordinance have been met.
  - (3) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), and the drainage area upstream for the site is greater than one square mile, the Plan Director 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.
    - (a) No action shall be taken by the Plan Director until either a permit for construction in the floodway or a letter of recommendation citing the 100 year Flood Elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.
    - (b) Once the Plan Director has received the proper permit or letter of recommendation approving the proposed development, and improvement Location Permit may be issued provided the conditions of the Permit may be issued provided the conditions of the ILP are not less restrictive than the conditions received from the Department of Natural Resources and the provisions of this ordinance have been met.

- (c) If the application for an Improvement Location Permit is approved, the applicant shall post the permit in a conspicuous location on the site of a new, or altered building or structure, or an addition, or a building or structure moved from another location.
- (d) Buildings shall be completed for issuance of a Certificate of Compliance within one (1) year from the date of issuance of the permit, or a new permit must be obtained.
- (e) An Improvement Location Permit may be extended by a six (6) month period a maximum of two (2) times if construction has already commenced and the applicant has demonstrated a good-faith effort to complete the permit.
- (f) An applicant must notify the Plan Director immediately if there are any changes to the approved plan. Significant changes may require issuance of a new Improvement Location Permit.

### **Section 16.05 Certificate of Compliance**

- (a) No application for an Improvement Location Permit under this Chapter may be considered unless the applicant has also applied for a Certificate of Compliance.
- (b) It is unlawful to use or permit the use of any building or premises, or both, or part thereof hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Plan Director stating that the proposed use of the building or land conforms to the requirements of this Ordinance.
- (c) Within ten (10) days after the completion of the change authorized by the Improvement Location Permit, the Administrator shall inspect the premises. If the change conforms to this Ordinance and the Improvement Location Permit, a Certificate of Compliance, if required by Chapter 15, will be issued.
- (d) Any person utilizing, or occupying, a building prior to the issuance of a Certificate of Compliance will be fined \$75.00 per day for every day the building is utilized, or occupied, from the day he is informed of noncompliance in writing, until: (1) the building is not utilized, or occupied; or (2) the issuance of a Certificate of Compliance.

### **Section 16.06 Industrial Uses: Certificate of Compliance**

If an application for an Improvement Location Permit relates to a light or general industrial use, it must be accompanied by a Certificate of Compliance, subscribed by a registered professional engineer of the State, stating that the use will meet the Performance Standards as set forth in Section 10.07. After a ten (10) day period has elapsed during which the Plan Director has not required additional information or objected in writing, he shall issue the permit.

### **Section 16.07 Records**

A record of each Improvement Location Permit and each Certificate of Compliance shall be kept by the Plan Director. Upon request, a copy shall be furnished to any person having proprietary or possessory interest in the premises concerned.

**CHAPTER 17****Special Exception Review Requirements and Procedures****Section 17.01 Special Exception Approval**

A use listed in a zoning district as a special exception use may only be established or expanded with the approval of the Board of Zoning Appeals (BZA) following the procedures and requirements of this chapter.

**Section 17.02 Application**

The applicant shall submit a special exception use application, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:

- (a) **Site Plan:** A site plan, signed and dated, and clearly showing all features relevant to the special exception use request in accordance with Section 16.03.
- (b) **Written Commitments:** Documentation of any written commitments being made as a part of the application.

**Section 17.03 Notification**

For all public hearings, notice shall be provided to the public consistent with the requirements of Indiana State Code. 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 by the County. Notification shall also be provided by regular US mail at least ten (10) days before the date of the hearing to the applicant and the two (2) properties in all directions that are within six hundred (600) feet of the subject property (i.e. all adjacent property and the next set of property beyond the adjacent property if within 600 feet). The cost of such notices shall be borne by the person applying for the special exception.

**Section 17.04 Public Hearing**

The BZA will, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the special exception use application and required supporting information.

- (a) **Procedures:** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules of Procedure of the Board.
- (b) **Possible Action:** The BZA may approve, approve with conditions, deny, or continue the application.
  - (1) **Approval:** The application may be approved if findings of fact are made consistent with the requirements of section 17.05.
  - (2) **Approval with Conditions:** The application may be approved with conditions if the Board of Zoning Appeals determines that the required findings of fact may be made only if certain written commitments are applied to the application.
  - (3) **Denial:** The application shall be denied if findings of fact consistent with the requirements of 17.05 are not made.
  - (4) **Continued:** The application may be continued by the Board based on a request by the Plan Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Board that additional information is required prior to action being taken on the request.

### Section 17.05 Decision Criteria

The Board may grant a special exception use approval for any use listed as "special exception" in the applicable zoning district of this Ordinance if, after a public hearing, it makes findings of fact in writing that each of the following is true:

- (a) **General Welfare:** The proposal will not be injurious to the public health, safety, and general welfare of the community. The development will be served adequately by essential public facilities and services such as: highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools.
- (b) **Development Requirements:** The development of the property will be consistent with the intent of the development requirements established by this Ordinance for similar uses. The development will be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity.
- (c) **Ordinance Intent:** Granting the special exception use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.
- (d) **Comprehensive Plan:** The proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.

### Section 17.06 Other Considerations

When considering a special exception use request the Board of Zoning Appeals may examine the following items as they relate to the proposed use:

- (a) The Special Exception will not endanger the public health, safety, or welfare.
- (b) The Special Exception will not be injurious to the use and enjoyment of other property in the vicinity nor diminish and impair property values within the neighborhood.
- (c) The Special Exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts.
- (d) Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- (e) Ingress and egress points are so designated as to minimize traffic congestion in the public streets.
- (f) The Special Exception Use is authorized as a use in that district.
- (g) The requirements for Special Exception prescribed by this Ordinance will be met.

### Section 17.07 Conditions & Commitments

The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in Section 17.06 will be served. The Board may also accept written commitments concerning the use or development of the property as specified under IC 36-7-4-921. Any conditions and/or commitments shall be recorded in the Steuben County Recorder's Office by the applicant within 90 days of approval.

- (a) **Recording Required:** A copy of the recorded document shall be provided to the Plan Director for inclusion in the petition file prior to the issuance of any Improvement Location Permits.
- (b) **Compliance Required:** No Improvement Location Permit shall be issued for any permit application which does not comply with the recorded conditions and/or commitments.
- (c) **Expiration of Approval:** If a person to whom an Improvement Location Permit has been issued for a special exception use fails to begin construction within twelve (12) months after the permit is issued, or fails to comply with the approved plan, said permittee may be required by the Board on its own initiative and shall be required



by the Board upon written request of any interested person, to show cause why the permit should not be revoked. However, an order to show cause may not be issued for failure to begin construction on time if in the meantime construction has begun.

- (1) In a proceeding to show cause under this subsection (c), the Board shall hold a public hearing, of which written notice shall be published according to law and sent by certified mail to the holder of the permit. This notice must be published and mailed at least ten (10) days before the date set for the hearing.
- (2) At the hearing, evidence may be presented by any person present. If on the evidence the Board finds that the holder of the permit has failed as described in this subsection (c), it shall revoke the permit. However, if it considers the failure correctable within six (6) months, it may defer revocation and continue the hearing until a specified day within that period.

### **Section 17.08 Limitations**

Special exception use approvals shall be invalid if (1) changes are made to the site that violate the ordinance or the conditions of approval, or (2) the special exception use approval is terminated.

### **Section 17.09 Special Exception Use Expansion**

A use authorized as a special exception use may not be expanded, extended, enlarged or moved to a new location unless reauthorized by the Board under the procedures set forth in this Chapter for granting a special exception use approval.



## CHAPTER 18

### Planned Unit Development

#### Section 18.01 Intent

- (a) The Planned Unit Development (PUD) standards are a supplementary list of "overlay" zoning standards which apply to properties simultaneously with one (1) of the other zoning districts established in this Ordinance, hereinafter referred to as the "underlying" zoning district.
- (b) The PUD standards are provided as a design option, intended to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership, and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve farmland, significant natural, historical, and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment, and shopping opportunities particularly suited to residents of the County; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas.
- (c) The standards are intended to accommodate development on sites with significant natural, historical, and architectural features, as noted in the County Comprehensive Plan, on land which exhibits difficult development constraints, and/or to provide the opportunity to mix compatible uses or residential types, and/or to allow clustering of residential units to preserve common open space and natural features. The PUD standards shall not be sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes set forth in this section.
- (d) In order to encourage PUD developments on specific properties, these standards may allow the County to relax or waive one (1) or more of the requirements of the underlying district. The PUD also allows the developer the opportunity to mix compatible uses or residential types on a single property, allows clustering to reduce construction costs, and may enhance marketability through the preservation of significant natural, historical, and architectural features.

#### Section 18.02 Qualifying Conditions

In order to qualify for PUD approval, the applicant must demonstrate in writing that each of the following criteria will be met by the proposed PUD:

- (a) **Demonstrated Benefit.** The PUD shall provide two (2) or more of the following benefits not possible under the requirements of another zoning district, as determined by the Plan Commission:
  - (1) Preservation of significant natural features or farmland.
  - (2) A complementary mixture of uses or a variety of housing types that provides a benefit to the County over conventional development.
  - (3) Common open space for passive or active recreational use.
  - (4) Mitigation to offset community impacts such as public roadway improvements.
  - (5) Redevelopment of a nonconforming site where creative design can address unique site constraints.
- (b) **Availability and Capacity of Public Services.** The proposed type and density of use(s) shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
- (c) **Compatibility with the Comprehensive Plan.** The proposed PUD shall be compatible with the overall goals and recommendations as proposed in the County Comprehensive Plan.

- (d) **Compatibility with the PUD Purpose.** The proposed PUD shall be consistent with the intent of this Chapter and spirit of this Ordinance.
- (e) **Development Impact.** The proposed PUD shall not impede the continued use or development of surrounding properties for uses that are permitted in this Ordinance.

### Section 18.03 Permitted Uses

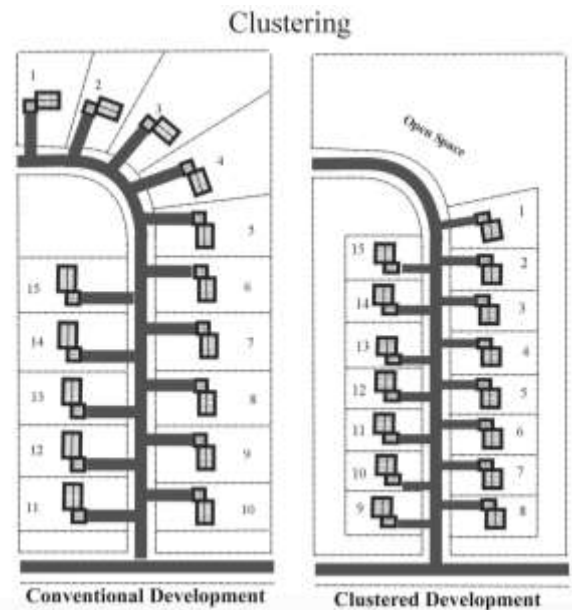
Principal uses permitted under the PUD standards are based on the underlying zoning district.

- (a) All permitted uses and special exception uses of the underlying district shall be permitted.
- (b) In addition to those uses, low density multiple-family dwellings or a mixture of single and multiple-family dwellings on a planned basis, through the use of attached dwellings, townhouses, apartment buildings, zero lot line configurations, and/or other similar building configurations; or any combination of these residential uses may be permitted within the PUD.

- (1) Residential density shall be determined by a conventional development plan that illustrates how the site could be developed as a conventional subdivision, meeting all applicable County zoning and subdivision requirements. The Plan Commission shall review the design and determine the number of buildable lots that could be feasibly constructed, taking into consideration any wetlands or other non-buildable land. This number shall be the maximum number of dwelling units allowable for the PUD. Where the underlying zoning is multiple family, density shall be determined based upon the underlying zoning district and the definition of density.

- (2) Once the density has been determined, residential units may be clustered on smaller lots on a portion of the site, with the remaining land area being preserved as open space.

- (c) For a PUD in a residential district that has an area of at least forty (40) acres, up to ten percent (10%) of the total site acreage may be developed with uses permitted in the LB District. Such uses must front a public street and be developed in conjunction with, or following, development of the residential uses.
- (d) For a PUD in a LB or GB business district, residential uses may be permitted in a mixed use PUD such as residential apartments on a second floor above retail uses.



### Section 18.04 Dimensional Requirements

- (a) **Base Zoning Regulations.** Unless modified by the Plan Commission, according to the PUD standards, all Zoning Ordinance requirements for the zoning district shall remain in full force.
- (b) **Regulatory Flexibility.** To encourage flexibility and creativity consistent with the PUD concept, the Plan Commission may grant specific departures from the requirement of the Zoning Ordinance as a part of the approval process. Yard, lot width, and bulk standards may be modified, provided that such modifications result in enhanced buffering from adjacent land uses or public right-of-ways, or preservation of natural features.
- (c) **Approval of Modifications.** Any regulatory modification shall be approved through a finding by the Plan Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Board of

Zoning Appeals. No part of a PUD plan may be appealed to the Board of Zoning Appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan or the requirements of the Chapter.

- (d) **Table of Modifications.** A table shall be provided on the site plan which specifically details all deviations from the established zoning district's lot area, height and setback regulations, off-street parking regulations, general provisions, subdivision regulations or other Zoning Ordinance provisions which would otherwise be applicable to the uses and development proposed in the absence of this PUD Chapter. This specification should include Ordinance provisions, from which deviations are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this Ordinance and the County Comprehensive Plan shall be considered.

### Section 18.05 Open Space

- (a) **Open Space Requirement.** All PUD's shall set aside a minimum of twenty five percent (25%) of the total site area as common open space. Common open space shall be planned in locations visible and accessible to all in the PUD. The common open space may either be centrally located, along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland, link with adjacent open space or recreation land or located to connect open spaces throughout the development. Open space shall be situated to maximize the preservation of any existing site woodlands.
- (b) **Open Space Protection.** The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement that is found acceptable to the County.
- (1) The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use.
  - (2) The dedicated open space shall be maintained by parties who have an ownership interest in the open space.
  - (3) The dedicated open space shall forever remain open space, subject only to uses approved by the County on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Plan Commission approval, and shall not diminish compliance with the requirements of this Ordinance.
  - (4) The open space or a conservation easement for the open space may be conveyed to a conservation organization or to a public agency for recreational or conservation use.

### Section 18.06 Application and Review Procedure for Preliminary and Final PUD Site Plan

The application process for a PUD involves a two (2) step process for review of a preliminary site plan and final site plan by the Plan Commission. The procedures are described below.

- (a) **Pre-application Meeting.** The applicant shall meet with the Plan Commission Director to review the PUD requirements and ensure that application materials are complete. An optional pre-application workshop with the Plan Commission may be requested by the applicant to discuss the appropriateness of the PUD concept, solicit feedback, and receive requests for additional materials supporting the proposal. An applicant desiring such a workshop shall request placement on the Plan Commission agenda.
- (b) **Application.** The applicant shall submit the preliminary PUD site plan, meeting the requirements of Section 18.07, at least thirty (30) days prior to the meeting at which the Plan Commission shall first review the request.
- (c) **Public Hearing.** The Plan Commission shall review the preliminary PUD site plan, and shall conduct a public hearing. The Plan Director shall prepare and provide a legal notice consistent with the requirements of IC 5-3-

1. 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 by the County. Notification shall also be provided by regular US mail at least ten (10) days before the date of the hearing to the applicant and the two (2) properties in all directions that are within six hundred (600) feet of the subject property (i.e. all adjacent property and the next set of property beyond the adjacent property if within 600 feet). The cost of such notices shall be borne by the person applying for the PUD.
- (d) **Plan Commission Action.** During this review, the Plan Commission may request additional materials supporting the PUD proposal, or recommend modifications or conditions based on the standards of Section 18.08. Once the Plan Commission is satisfied that all of the required information has been provided, the preliminary PUD site plan shall be approved or denied based on the standards of Section 18.08. The Plan Commission may stipulate conditions to approval, which the applicant shall incorporate into the preliminary site plan and resubmit to the Plan Director to be maintained as part of the official record.
- (e) **Conditions.** Any conditions imposed upon the approval of the preliminary PUD site plan by the Plan Commission shall be made part of the approval and shall be reflected in the final PUD site plan. The County attorney shall prepare a PUD Agreement stating the conditions upon which the PUD is based, which shall be submitted to the Plan Commission for approval. The applicant shall reimburse the County for all costs related to the preparation of the PUD Agreement. The Agreement, after approval by the Plan Commission, shall be entered into between the County and the applicant and be recorded in the office of the County Recorder. The agreement must be recorded prior to submitting an application for final site plan approval.
- (f) **Effect of Approval.** Approval of the preliminary PUD site plan shall be effective for a period of one (1) year. If a final PUD site plan for at least the first phase of the project is not submitted and approved within one (1) year of the preliminary approval, the right to develop under the preliminary PUD site plan shall terminate and a new application must then be filed and processed. The one (1) year period for preliminary PUD approval may be extended for one (1) year, if applied for by the petitioner prior to expiration and granted by the Plan Commission.
- (g) **Phased PUD.** If the approved preliminary PUD site plan indicated that the proposed development was to occur in phases, final PUD site plan approval may be granted on each phase of the development, provided that each phase contains all the necessary components to insure protection of significant natural, historical, and architectural features, and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. Roads, utilities and other infrastructure for each phase shall be designed to fully operate in accordance with County Engineering Standards and not be dependent upon the completion of subsequent phases. Subsequent phases shall also follow the process for final PUD site plan outlined in this Chapter.
- (h) **Final Site Plan.** The applicant shall submit the final PUD site plan for any or all phases of, the approved preliminary PUD site plan at least thirty (30) days prior to the Plan Commission meeting at which the Plan Commission shall first review the request. If the PUD is being developed as a subdivision, then all requirements of the Subdivision Control Ordinance shall be met and the final PUD application shall also include a preliminary plat. The preliminary plat shall be reviewed concurrently with the requirements of this Chapter and the Subdivision Control Ordinance.
- (i) **Plan Commission Review.** Upon submission of all required materials and fees, the Plan Commission shall review the final PUD site plan and shall take final action on the final PUD site plan, in accordance with the standards and regulations of this Ordinance.
- (j) **Conditions.** If the final PUD site plan was approved with conditions, the applicant shall submit a revised final PUD site plan to the Plan Director for approval prior to submitting construction plans.
- (k) **Subdivision.** If the PUD is being developed as a subdivision, then the applicant shall be required to submit construction plans and final plat drawings in accordance with the Subdivision Control Ordinance.
- (f) **Final Approval.** Approval of the final PUD site plan shall be effective for a period of two (2) years. If construction has not begun on the first phase of the project within two (2) years of the final PUD approval, the

right to develop under the PUD site plan shall terminate and a new application must then be filed and processed.

### Section 18.07 Preliminary PUD Site Plan Submittal Requirements

The preliminary PUD site plan shall set forth the proposed uses to be developed in the PUD. The following specific information shall be provided in the preliminary PUD site plan submittal:

- (a) **Proof of Ownership.** Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement with written authorization from the owner.
- (b) **Written Documentation.** Written documentation that the preliminary PUD site plan meets the standards of Section 18.08.
- (c) **Application Form and Fees.** A completed application form, supplied by the Plan Director, and an application/review fee; a separate escrow deposit shall be required for administrative charges to review the PUD submittal.
- (d) **Sheet Size.** Sheet size of submitted drawings shall be at least twenty-four (24) inches by thirty-six (36) inches, with graphics at an engineer's scale of one (1) inch equals twenty (20) feet for sites of twenty (20) acres or less; and up to one (1) inch equals one hundred (100) feet or less for sites over twenty (20) acres.
- (e) **Cover Sheet.** Cover sheet providing:
  - (1) Applicant's name.
  - (2) Name of the development.
  - (3) Preparer's name and professional seal of architect, engineer or surveyor, license in the State of Indiana.
  - (4) Date of preparation and any revisions.
  - (5) North arrow.
  - (6) Property lines and dimensions.
  - (7) Complete and current legal description and size of property in acres.
  - (8) Small location sketch of the subject site and area within one-half (1/2) mile, and scale.
  - (9) Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site.
  - (10) Lot lines and all structures on the property and within one hundred (100) feet of the PUD property lines.
  - (11) Location of any vehicle access points on both sides of the street within one hundred (100) feet of the PUD site along roads where vehicle access to the PUD is proposed.
- (f) **PUD Site Plan.** A site plan sheet indicating:
  - (1) Existing locations of all natural, historical, and architectural features, existing drainage patterns, surface water bodies, floodplain areas, wetlands and woodlands.
  - (2) Existing and proposed topography at five (5) foot contour intervals, and a general description of grades within one hundred (100) feet of the site.
  - (3) Dimensions of existing and proposed right-of-way lines, names of abutting public roads, proposed access driveways and parking areas, and existing and proposed pedestrian paths.
  - (4) Existing buildings, utility services, and any public or private easements, noting those which will remain and which are to be removed.



- (5) Layout and typical dimensions of proposed lots, footprints, and dimensions of proposed buildings and structures.
  - (6) Proposed uses with the acreage allotted to each use. For developments with residential components: the number, type, and density of proposed housing units.
  - (7) General engineering information for utilities and drainage.
  - (8) General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees and landscaping to be retained.
  - (9) Size, type, and location of proposed identification signs.
- (g) **PUD Development Agreement.** A draft written PUD Development Agreement specifying all the terms and understandings of the PUD development. The content of the agreement shall be based on the extent of the proposed development, but shall, at a minimum, provide the following:
- (1) A survey of the acreage comprising the proposed development.
  - (2) The manner of ownership of the developed land.
  - (3) The amount, manner of ownership, and proposed method of dedication or mechanism to protect any areas designated as common areas or open space.
  - (4) Land use description including list of proposed uses, residential density, dwelling types, lot dimensions, setbacks and other dimensional standards.
  - (5) Description of improvements to common areas, recreational facilities and non-motorized pathways.
  - (6) General description of any improvements to roads or utilities. The cost of installing and maintaining all roads and the necessary utilities shall be assured by a means satisfactory to the County.
  - (7) Provision assuring that open space areas shown on the plan for use by the public or residents of the development will be irrevocably committed for that purpose. The County may require conveyances or other documents to be placed in escrow to accomplish this.
  - (8) Provisions for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the County.
  - (9) Provisions to ensure adequate protection of natural features.
  - (10) The preliminary PUD plan shall be incorporated by reference and attached as an exhibit.
- (h) **Multi-Phased PUD.** If a multi-phase PUD is proposed, identification of the areas included in each phase; for residential uses identify the number, type, and density of proposed housing units within each phase.
- (i) **Additional Information.** Any additional graphics or written materials requested by the Plan Commission to assist the County in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impact study; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost.

### Section 18.08 PUD Site Plan Standards for Approval

Based upon the following standards, the Plan Commission may deny, approve, or approve with conditions the proposed preliminary PUD site plan.

- (a) The PUD shall meet the qualifying conditions of section 18.02.

- (b) The PUD must be consistent with the County Comprehensive Plan.
- (c) The uses must have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed must not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone or that of any other zoning district.
- (d) Any modifications to the dimensional standards of this Ordinance, such as lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards shall be reviewed and approved by the Plan Commission.
- (e) Any increase in the density requirements of the underlying zoning district must be approved by the Plan Commission and be included under review of the preliminary PUD site plan.
- (f) The number and dimensions of off-street parking shall be sufficient to meet the minimum required by Chapter 13. However, where warranted by overlapping or shared parking arrangements, the Plan Commission may reduce the required number of parking spaces.
- (g) All roads and parking areas within the PUD shall meet the minimum construction and other requirements of County Ordinances, unless modified by Plan Commission.
- (h) Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, roads, and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
- (i) Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Plantings and other landscape features shall meet or exceed the standards of Chapter 12.
- (j) Judicious effort shall be used to preserve significant natural, historical, and architectural features and the integrity of the land.
- (k) Adequate water and sewer facilities shall be available or shall be provided by the developer as part of the site development.

### **Section 18.09 Final PUD Site Plan Submittal Requirements**

The final PUD site plan shall include all the following information, unless the Plan Director determines that some of the required information is not reasonably necessary for the consideration of the PUD:

- (a) All information required for site plan submittal in accordance with Section 16.03. If the PUD is being developed as a subdivision, then all information required for a preliminary plat shall be submitted in accordance with the Subdivision Control Ordinance.
- (b) Any additional graphics or written materials requested by the Plan Commission to assist in determining the impacts of the proposed PUD site plan, including, but not limited to, economic or market studies; impact on public utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.
- (c) A written draft of PUD design guidelines specific to the PUD. Such document shall include provisions for site layout, access, vehicular and pedestrian circulation, parking, screening, building design and architecture, landscaping, open space, lighting, and signage. The design guidelines shall also include any variations to the dimensional standards of this Ordinance, such as density, lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards.

### Section 18.10 Final PUD Site Plan Standards for Approval

The Plan Commission shall use the standards for approval of Section 18.08 and any design requirements developed specifically for the PUD, in reviewing the final PUD site plan.

### Section 18.11 Deviations from Approved Final PUD Site Plan

- (a) Deviations and amendments from the approved final PUD site plan and associated design guidelines shall be reviewed and approved by the Plan Commission. The following minor modifications can be approved by the Plan Commission without the need for a new preliminary PUD site plan:
- (1) For residential buildings, the size of structures may be reduced; or increased by five percent (5%), provided the overall density of units does not increase and the minimum square footage requirements are met.
  - (2) Gross floor area of non-residential buildings may be decreased; or increased by up to five percent (5%).
  - (3) Floor plans may be changed if consistent with the character of the use.
  - (4) Horizontal and/or vertical elevations may be altered by up to five percent (5%).
  - (5) Relocation of a building by up to five (5) feet, if consistent with required setbacks and other standards.
  - (6) Designated "Areas not to be disturbed" may be increased.
  - (7) Plantings approved in the Final Landscape Plan may be replaced by similar types of landscaping on a one-to-one or greater basis.
  - (8) Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
  - (9) Changes of building materials to another of higher quality.
  - (10) Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.
  - (11) Changes required or requested by the County for traffic safety reasons.
- (b) If the Plan Commission determines that the modifications to the final PUD site plan significantly alter the intent of the preliminary PUD site plan, a new submittal illustrating the modification shall be required and must be approved by the Plan Commission as a new preliminary PUD site plan.
- (c) Any deviation from the approved final PUD site plan shall be considered a violation of this Chapter and shall invalidate the PUD designation.

**CHAPTER 19**  
**RESERVED FOR FUTURE USE**



## CHAPTER 20

## Administration and Enforcement

**Section 20.01 County Plan Director**

*Under the terms of the enabling legislation, I.C. 36-7-4-311, et. seq., the Steuben County Advisory Plan Commission established the Office of the Plan Commission. The duties of this Office shall be administered by the Plan Director and shall include, but are not limited to, the following:*

- (a) Administer the Comprehensive Plan and enforce the substance of the Zoning Ordinance, the Subdivision Control Ordinance, the Public Environmental Nuisance Ordinance, the Abandoned Motor Vehicle Ordinance, and any other ordinances deemed necessary by the Steuben County Board of Commissioners.
- (b) Review all development and subdivision proposals to insure compliance with the aforementioned Ordinances.
- (c) Maintain efficient office functions and support services.
- (d) Establish and maintain an effective method for administering and enforcing Improvement Location Permits.
- (e) Establish and maintain an effective method for administering the Physical Address Numbering System.
- (f) Be available to lend advice and instructions to the general public on the proper procedures for subdivision approval, rezoning requests, variance petitions, special exception petitions, improvement location procedures, flood plain hazard area procedures and interpretation, and other related issues under the jurisdiction of this Office.
- (g) Revise and update the Zoning Maps of Steuben County.
- (h) Respond to the needs of the Board of Commissioners, the Plan Commission and the Board of Zoning Appeals.
- (i) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment, Letters of Map Revision, copies of DNR permits and advisory letters, FPG elevations per IDNR letters of recommendation, federal permit documents, "as built" elevation certifications, and information on flood proofing construction techniques.
- (j) Ensure that all development activities within the SFHAs of the jurisdiction of Steuben County meet the requirements of this ordinance.
- (k) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Chapter 15 of this ordinance, and maintain a record of such authorization.
- (l) Maintain a record of the "as built" elevation of all new and/or substantially improved buildings constructed in the Special Flood Hazard Areas.
- (m) 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.
- (n) Perform on-site inspections of all potential Improvement Location Permits which might require Developmental Standard Variances or fall within a designated flood plain.
- (o) 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 20.02 Enforcement

- (a) The Commission or the Board may, by securing a mandatory injunction in the Circuit Court of the County, require the removal of a structure erected in violation of this Ordinance.
- (b) A use that violates this Ordinance shall be treated as if it was a common nuisance and it may be abated in the same manner as such a nuisance.
- (c) Whenever the Plan Director determines that there are reasonable grounds to believe there has been a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, he shall give notice of the violation to the person or persons responsible. The notice shall:
  - (1) Be in writing;
  - (2) Include a list of violations found;
  - (3) Allow a reasonable time for the performance of any act it requires;
  - (4) Be served upon the owner or his agent, or the occupant, as the case may require; provided that the notice shall be deemed to be properly served upon the owner or agent, or upon the occupant if a copy is served upon him personally or is sent by Registered Mail to his last known address; or if service is effected by any other method authorized under the laws of the State.
- (d) Should the violation(s), as noted in Subsection (c)(2) of this Section, not be remedied within the time allowed by subsection (c)(3) of this section, the Plan Director may issue a "Stop Work Order" to halt further progress until the violations are remedied.
- (e) For any structure or placement of a building, mobile home, etc. that requires a permit and construction or placement has begun without a permit, a "Stop Work Order" shall be placed on that construction and the Stop Work Order shall not be or removed until a proper permit is issued.
- (f) In accordance with I.C. 36-7-4-1014 (d), if the Plan Commission or any designated enforcement official is successful in an action brought to enforce this Zoning Ordinance, the respondent shall bear the costs of the action.
- (g) Upon presentation of proper credentials, the Plan Director or his duly authorized representative may enter at reasonable times any property in the County of Steuben, Indiana, to perform any duty imposed upon him or any function necessary, for enforcement of this ordinance.

### Section 20.03 Miscellaneous

- (a) Physical Environment - All yard structures, fences, rubbish, inoperable appliances of any sort, materials, or supplies which obstruct light and/or air, harbor rats and vermin and create an undesirable environment shall be removed. All occupants shall keep every yard reasonably free from accumulation of dirt, filth, rubbish, or similar matter and shall keep the same reasonably free from vermin and rodent infestation. This section shall apply to that portion of the property over which the occupant has exclusive control. This includes one (1) or more motor vehicles of any type, including semi-trailer, travel trailer, camper, water-craft, mobile home or any other vehicle used for living, hauling, or recreation, which is unlicensed and/or inoperable.
- (b) Buildings Damaged by Fire - Buildings destroyed or damaged by fire or an act of god must be repaired or removed from the property within one hundred eighty (180) days from the date of the damage or application made to the plan commission for an extension of time.



### Section 20.04 Fees

- (a) Fees for all applications under this ordinance shall be set by resolution of the County Board of Commissioners. Fees shall be established to cover the County's cost for items such as administration, staff review, public notice, Plan Commission and Board of Zoning Appeals cost and site inspections. The Plan Director shall collect all required fees prior to accepting any application under this ordinance.
- (b) All applicants for the Platting of subdivisions, Special Exceptions, Variances, Appeals, Zone Changes, Vacation of Public Ways, and any other petition requiring a public hearing shall pay all legal advertisement costs and all certified mailing costs to the appropriate "interested persons," as so designated by the Office of the Plan Commission.
- (c) In the event an applicant or petitioner is in violation of any provision of this Ordinance at the time an application or petition is filed, the fee for the application or petition shall triple in amount, for the type of application or petition.
- (d) When a petitioner or applicant requests a special meeting, a onetime fee will be charged. If more than one petitioner/applicant files, the fee may be divided equally among the petitions filed. The Plan Director shall collect Special Meeting Fees as set by resolution of the county Board of Commissioners.

### Section 20.05 Violations and Fines

- (a) **Nuisances.** Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and manufactured homes, used, erected, altered, razed, or converted in violation of any provision of this Ordinance, are hereby declared to be nuisances per se, and may be abated by order of any court of competent jurisdiction.
- (b) **Cease and Desist Orders.** The Plan Director shall have the authority to issue a cease and desist order in the form of a written notice for the violation of any provisions of this Zoning Ordinance. A cease and desist order may be issued to any person that is subject to the requirements of this ordinance. The cease and desist order must be complied with within ten (10) days from the time that it has been posted on the property where the violation has occurred. Once a cease and desist order is effective, any use or work done in violation of the Zoning Ordinance shall stop immediately and shall not be recommenced until the Plan Director issues written notice dissolving the cease and desist order. Any person who violates a cease and desist order shall be guilty of a municipal civil infraction as authorized below.
- (c) **Fines.** Every person, corporation or firm who violates, disobeys, or omits, neglects or refuses to comply with any provision of this Ordinance or any permit granted hereunder, or any lawful order of the Plan Director issued in pursuance of this Ordinance shall be guilty of a civil infraction and upon conviction thereof shall be fined. The amount of the fine shall be based upon a schedule of civil infraction fines adopted by resolution of the county Board of Commissioners.
- (d) **Remedies.** The County may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use. The rights and remedies herein provided are civil in nature. The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

**Section 20.06 Performance Guarantees**

- (a) Where required by this ordinance or as a condition of approval for a permit under this ordinance, a guarantee in a form acceptable to the County such as a cash deposit, certified check or irrevocable bank letter of credit shall be provided.
- (b) In instances where all required improvements are not completed, and a temporary certificate of occupancy is requested, the estimated cost of completing the improvements shall be provided in the form of a guarantee acceptable to the County such as a cash deposit, certified check or irrevocable bank letter of credit .
- (c) The guarantee shall include a schedule of costs assigned to the different improvements. Monies may be released to the applicant in proportion to work completed on the different elements after inspection of work and approval of the Plan Director. Any partial release of funds shall not reduce the amount of the remaining guarantee to less than ten percent (10%) of the original amount, which shall be retained by the County until all work has been completed and subsequently inspected and approved by the Plan Director.

## CHAPTER 21

### Board of Zoning Appeals

#### Section 21.01 Boards of Zoning Appeals: Establishment and Organization

Pursuant to the IC 36-7-4-900 series, each legislative body establishes an Advisory Board of Zoning Appeals for its jurisdiction which shall conduct business consistent with all requirements of the Indiana Code and this Ordinance.

- (a) A Board of Zoning Appeals is established, with membership as provided by State Law.
- (b) At the first meeting in each calendar year, the Board shall elect from among its members a Chairman and a Vice-Chairman. Consistent with State Law, it may appoint and fix the compensation of a Secretary and such employees as it considers necessary to discharge its duties.
- (c) The Board shall prescribe such regulation as it considers necessary to carry out this Ordinance.
- (d) Meetings of the Board shall be open to the public unless an executive session is lawfully called.
- (e) The Board shall keep minutes of its meetings, keep records of all examinations and other official actions, make all findings in writing, and record the vote of each member on each question. Minutes and records shall be filed in the office of the Board and made available to the public.

#### Section 21.02 Powers and Duties

The powers and duties of a Board of Zoning Appeals with regard to this Ordinance are defined by Indiana Code, and are described in this Chapter. These powers and duties are further described by Board of Zoning Appeals Rules and Procedures.

- (a) **Meeting Time:** Fix a reasonable time for the hearing of administrative appeals, special exception uses, and variances.
- (b) **Minutes:** Keep minutes of its proceedings and record the vote on all actions taken, file all minutes and records in the office of the Board, and make written findings of fact in all cases.
- (c) **Rules and Procedures:** Adopt rules concerning the filing of appeals, applications, public notice, the conduct of hearings, and the determination of whether a variance application is for a variance of use or for a variance from the development standards.
- (e) **Publications:** Make adopted rules available to all applicants and other interested persons.
- (e) **Variances:** Review, hear and approve or deny all applications for variances from development standards (such as height, setback, or area) and variances of use. Variances shall only be granted where the petitioner demonstrates that an exceptional hardship would result from a failure to grant the requested variance. The County requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- (f) **Special Exception Uses:** Review, hear and approve or deny all applications for special exception uses.
- (g) **Appeals:** Review, hear, and decide appeals of decisions made under this Ordinance or in the enforcement of this Ordinance by the Plan Director, committees, administrative boards, or any other bodies (except the Plan Commission).
- (h) **Other Duties:** All additional duties as established by Indiana State Code.

**Section 21.03 Boards of Zoning Appeals: Procedures**

- (a) **Rules of Procedure:** A Board of Zoning Appeals shall have sole authority to adopt any and all rules under Indiana Code Section 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices and conduct of meetings, and public hearings.
- (b) **Filing:** All applications for variances, special exception uses, and appeals shall be filed by the applicant with the Planning Director in the manner prescribed by the Board. All applications shall be accompanied by a fee established by resolution of the county Board of Commissioners.
- (c) **Communication with Board Members:** No person (including applicants or other interested parties) may communicate directly with any member of a Board of Zoning Appeals before a hearing with intent to influence the member's action on a matter pending before the Board. Written comments may be provided to the Plan Director for distribution to the Board members consistent with the Board's Rules of Procedure.
- (d) **Notice of Public Hearing:** For all public hearings, notice shall be provided to the public consistent with the requirements of Indiana State Code. 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 by the County. Notification shall also be provided by regular US mail at least ten (10) days before the date of the hearing to the applicant and the two (2) properties in all directions that are within six hundred (600) feet of the subject property (i.e. all adjacent property and the next set of property beyond the adjacent property if within 600 feet). The cost of such notices shall be borne by the person applying or appealing.
- (e) **Site Visit:** Members of the Board may make site visits prior to the hearing provided no communication is made in violation of subsection (c) above. If the Board visits the site as a group, the site visit shall be open to the public.
- (f) **Findings of Fact- Developmental Standard Variance:** The Board of Zoning Appeals shall set out findings of fact which support the determination based upon the evidence presented for the following:
- (1) The approval will not be injurious to the public health, safety, and welfare of the community.
  - (2) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
  - (3) The need for the variance arises from some condition peculiar to the property involved.
  - (4) The strict application of the terms of the ordinance will constitute an unnecessary hardship.
  - (5) The approval does not interfere substantially with the County Comprehensive Plan.
  - (6) The need for the variance is not the result of actions of the property owner, previous owners, or their agents.
  - (7) The variance requested is the minimum necessary to mitigate an unnecessary hardship.
- (g) **Findings of Fact- Use Variance:** The Board of Zoning Appeals shall set out findings of fact which support the determination based upon the evidence presented for the following:
- (1) The approval will not be injurious to the public health, safety, and welfare of the community.
  - (2) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.
  - (3) The need for the variance arises from some condition peculiar to the property involved.
  - (4) The strict application of the terms of the ordinance will constitute an unnecessary hardship.
  - (5) The approval does not interfere substantially with the County Comprehensive Plan.

- (h) **Appeals and Interpretations:** The Board of Zoning Appeals shall review the record and decision of the administrative body or official and determine whether the record supports the conclusion that was reached, in light of the requirements of this ordinance. The BZA is bound by the same rules, procedures, and standards in this ordinance as the original decision body. The BZA should uphold the original decision unless the record clearly shows that one or more of the following is true:
- (1) The original decision was arbitrary or capricious.
  - (2) The body or official making the decision failed to ensure consistency with ordinance standards.
  - (3) The decision was made in error, such as relying on false or inaccurate information.
  - (4) The decision made constituted an abuse of discretion.
  - (5) The decision was based upon erroneous interpretation of the Zoning Ordinance or zoning law.
- (i) **Re-filing of Denied Applications:** No request for variance, special exception use, or appeal that has been denied may be re-filed for a period of one (1) year from the date of the denial, unless changes have been made that address the reasons for denial.
- (j) **Appeals:** Every decision of a Board of Zoning Appeals shall be subject to review by a court of jurisdiction (writ of certiorari) as prescribed by the IC 36-7-4-1000 series. All appeals shall be presented to a court of jurisdiction within thirty (30) days of the Board's decision.
- (k) **Improvement Location Permit Required:** If a Board grants a special exception use or variance, it shall direct the applicant to apply for an Improvement Location Permit, if required. If such application complies with all established requirements and this Ordinance, an Improvement Location Permit for the execution of the approved variance or special exception use shall be issued.
- (l) **Expiration of Approvals:** A special exception use or variance ceases to be authorized and is expired consistent with the provisions of IC 36-7-4-1109 if the execution of the approval has not been completed within one (1) year, provided the Board may grant a six (6) month extension, if applied for by the petitioner prior to expiration.

#### Section 21.04 Termination

A variance or special exception use may be terminated by a Board of Zoning Appeals under the following procedure:

- (a) **Public Hearing:** Upon determination by the Planning Director that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. The Planning Director shall notify the applicant of the hearing via Certified Mail a minimum of ten (10) days prior to the hearing.
- (b) **Grounds for Termination:** At the public hearing the variance or special exception use shall be revoked if a finding is made by the Board that one or more of the following is true:
- (1) The execution of the approval is not consistent with a requirement of this Ordinance as it existed at the time of the approval,
  - (2) The execution of the approval is not consistent with any condition of approval,
  - (3) The execution of the approval is not consistent with any written commitment,
  - (4) The approval was the result of fraud or the misrepresentation of facts that occurred within the two (2) years prior to the date of the first notice of termination hearing.
- (c) **Time Limitation:** No special exception use or variance may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one (1) year period.

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## CHAPTER 22

### Nonconforming

#### Section 22.01 Nonconforming Uses

A nonconforming use of a building or premises, existing at the time of passage of the Zoning Ordinance, or amendment thereto making the existing use nonconforming, may be continued although such use does not conform to all provisions of the Ordinance or amendments to this Ordinance, except as hereinafter provided.

- (a) A nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.
- (b) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use or a less restricted one.
- (c) A nonconforming mobile home may be replaced provided that the replacement unit is newer and that it contains equal or greater ground floor area than the removed unit, meets the setback requirements and if in conformance with the requirements of Section 9.01(a)(1).
- (d) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with regulations of this Ordinance.
- (e) When a building containing a nonconforming use is damaged by any means or in any manner to the extent the cost of reconstruction or restoration is equal to or less than fifty percent (50%) of the value of the structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, it may be restored, within twelve (12) months, provided that its original use is not changed and size is not increased.
- (f) In the event that a nonconforming use of any building or premises is abandoned or discontinued for a period of one (1) year, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.
- (g) Any nonconforming open use of land shall be discontinued within one (1) year from the date of passage of this Ordinance. If any use was to be discontinued by any prior Ordinance and has not, then the nonconforming use shall be discontinued immediately, unless protected by previous "grandfather" provisions under the same ownership.
- (h) In the event that a nonconforming use of land used for confinement feeding is discontinued for any consecutive twelve (12) month period the land loses its nonconforming status.

#### Section 22.02 Nonconforming Structures and Buildings

- (a) Structures and buildings that are existing and lawful on the effective date of this Ordinance or amendments thereto, may be continued even though the structure or building does not conform with the dimensional or other provisions of this Ordinance, subject to the following provisions of this section.
- (b) If a nonconforming structure or building is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then the nonconforming characteristics shall not be later re-established or increased.
- (c) In the event that any nonconforming structure or building is damaged by any means or in any manner to the extent the cost of reconstruction or restoration is equal to or less than fifty percent (50%) of the value of the structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of



the structure, exclusive of the market value of land, reconstruction or restoration shall be permitted, provided a building permit for reconstruction or restoration is issued within one (1) year of the occurrence of the damage.

- (d) In the event that any nonconforming structure or building is damaged by any means or in any manner to the extent the cost of reconstruction or restoration exceeds fifty percent (50%) the value of the structure prior to the damaging occurrence as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, reconstruction or restoration shall only be permitted in conformity with the provisions of this Ordinance, except residential structures or buildings as provided for below.
- (e) In the event a nonconforming residential structure or building is damaged by fire or other natural cause, a residential structure may be reconstructed on the same foundation provided the first floor footprint and the total floor area does not exceed the size of the previous residence.
- (f) Repairs, improvements, or modernization of non-conforming structures and buildings shall be permitted provided the repairs or improvements do not exceed fifty percent (50%) of the value of the building or structure during any period of twelve (12) consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems. However, if a non-conforming structure or a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of maintenance and repairs and is declared as such by the County, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- (g) A building that is nonconforming may be altered or rehabilitated if that activity will make the building conform to the regulations of this Zoning Ordinance and the building code.
- (h) A residential nonconforming building may be expanded provided the expansion will be within required setbacks; other dimensional requirements are met (spacing between structures, height, maximum lot coverage, etc.) (Example: a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming and maximum lot coverage is not exceeded). The addition must comply with all Health Department and Building Code requirements. The total cost of the expansion shall be limited by the improvements allowed by subsection (f) above.
- (i) Nonresidential nonconforming buildings shall not be expanded, unless a variance is obtained from the Board of Zoning Appeals.
- (j) Nonconforming structures and buildings shall not be enlarged nor altered in a way which increases the nonconformity within the provisions of this Ordinance or beyond the limits set in this section, unless approved by the Board of Zoning Appeals.

### Section 22.03 Nonconforming Lots

- (a) In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, where an existing lot of record fails to meet the requirements of this Ordinance for minimum lot area, minimum lot width or both, of the zoning district in which it is located, the lot may be used for the permitted uses of the zoning district, including permitted accessory uses, provided other requirements of the zoning district in which the lot is located are met. The lot must be an existing lot of record, created prior to the effective date of the original Zoning Ordinance, adopted January 3<sup>rd</sup> 1972, or the amendment that made the lot nonconforming.
- (b) A principal building and customary accessory buildings for a permitted use may be erected on any single lot of record at the effective date of this Zoning Ordinance, provided all other standards of the Zoning Ordinance are met. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that the buildings are in conformance with all other applicable yard setback, minimum floor area, maximum height and access requirements for the district in which it is located.

- (c) If a proposed building on a non-conforming lot requires a variation in minimum floor area and dimensional (minimum setback and maximum height) standards, then the building shall be permitted only if a variance is granted by the Board of Zoning Appeals.
- (d) Where there are multiple contiguous nonconforming lots under single ownership they may be combined and used as a single lot. Combined use of multiple contiguous lots shall be permitted; provided approval under the Subdivision Control Ordinance shall be required if any lots are divided or any lot boundaries changed.

#### **Section 22.04 Nonconforming Sites**

The County may permit improvements and minor modifications to a conforming use and building on a site that does not meet all of the various site improvement related regulations of this Zoning Ordinance. This Section is intended to allow gradual compliance with the site related requirements for sites which predate the various Zoning Ordinance standards for landscaping, paving, lighting and other non-safety items in proportion to the amount of expansion or improvement proposed. Improvements or expansions may be permitted by the Plan Director during site plan review without a complete upgrade of all site elements under the following conditions:

- (a) The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.
- (b) The applicant has addressed safety related site issues on the overall site.
- (c) The improvements or minor expansion will not increase noncompliance with site requirements.
- (d) All driveways that do not conform to the access standards of this Zoning Ordinance shall be eliminated, provided that the minimum reasonable access shall be maintained.

#### **Section 22.05 Nonconformity Resulting In Right-Of-Way Dedication**

Where a nonconforming front yard setback, parking lot setback or greenbelt is created as a result of additional road right-of-way width being acquired by the County or State, the building or parking lot may be improved or expanded without the need to obtain a variance from the Board of Zoning Appeals, provided the following conditions are met:

- (a) The building or parking lot complied with the front yard setback prior to the acquisition of the additional road right-of-way.
- (b) The building or parking lot expansion will not reduce the depth of the front yard setback.
- (c) All other Ordinance requirements are met and necessary approvals obtained.



## CHAPTER 23

### Amendments and Rezonings

#### Section 23.01 Application Initiation

Proposals for Zoning Map Amendments may be initiated by either the Plan Commission or Board of Commissioners, or through an application signed by property owners of at least fifty percent (50%) of the land involved (per IC 36-7-4-602(c)(1)(B)).

- (a) **Plan Commission / Board of Commissioners Initiation:** The Plan Director shall prepare the application for zoning map amendment on behalf of the Plan Commission if either the Commission or the Board of Commissioners has initiated the application. The Plan Director shall serve as the representative of the applicant for such proposals.
- (b) **Property Owner Initiation:** Any property owners requesting a zoning map amendment shall be the applicants and assume responsibility for preparing application materials.

#### Section 23.02 Application

The applicant shall submit a rezoning application, a legal description for the property involved, the required filing fee, and any supporting information.

#### Section 23.03 Notification

Notification for the scheduled Plan Commission public hearing regarding the rezoning request shall be completed consistent with the following:

- (a) **Legal Notice.** The Plan Director shall prepare and provide a legal notice consistent with the requirements of IC 5-3-1. 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 by the County. Notification shall also be provided by regular US mail at least ten (10) days before the date of the hearing to the applicant and the two (2) properties in all directions that are within six hundred (600) feet of the subject property (i.e. all adjacent property and the next set of property beyond the adjacent property if within 600 feet). The cost of such notices shall be borne by the person applying for the rezoning.
- (b) **Notice to Interested Parties.** The Plan Director shall prepare and distribute written notice of the application to all interested parties.

#### Section 23.04 Plan Commission Public Hearing

The Plan Commission will then, in a public hearing scheduled no later than sixty (60) days following the receipt of the application (per IC 36-7-4-608), review the rezoning application and required supportive information.

- (a) **Procedures:** The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules of Procedure of the Commission.
- (b) **Possible Action:** The Commission shall either forward the application to the County Board of Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.
  - (1) **Favorable Recommendation:** The application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in Section 23.07. The recommendation may include written commitments proposed by the applicant and/or requested by the Plan Commission.

- (2) **Unfavorable Recommendation:** The application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in Section 23.07.
- (3) **No Recommendation:** The application may be forwarded with no recommendation if, by a majority vote of the Commission, it is determined that the application includes aspects that the Commission is not able to evaluate.
- (4) **Continued:** The application may be continued by the Commission based on a request by the Plan Director, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Commission that additional information is required prior to action being taken on the request.

### Section 23.05 Certification

The Plan Commission shall certify its recommendation by resolution to the County Board of Commissioners within 10 business days of its determination (per IC 36-7-4-608).

### Section 23.06 Board of Commissioners Action

The County Board of Commissioners shall vote on the proposed rezoning ordinance within 90 days of its certification by the Plan Commission (per IC 36-7-4-608).

- (a) **Notification:** The County Board of Commissioners shall provide notification of action on the ordinance consistent with Indiana State Code.
- (b) **Possible Action:** The County Board of Commissioners may either approve or deny the ordinance. If the County Board of Commissioners fails to act within the 90 day time frame the ordinance shall become effective or be defeated consistent with the provisions of IC 36-7-4-608. The County Board of Commissioners may also seek modifications or additions to any written commitments as described in Section 23.08 of this Chapter.

### Section 23.07 Decision Criteria

In reviewing the rezoning application, the Plan Commission shall pay reasonable regard to all of the following (per IC 36-7-4-603):

- (a) **Comprehensive Plan:** The Comprehensive Plan and any other applicable, adopted planning studies or reports.
- (b) **Current Conditions:** The current conditions and the character of current structures and uses in each district.
- (c) **Reasonable Use:** The most reasonable use for which the land in each district is adapted.
- (d) **Property Values:** The conservation of property values throughout the planning jurisdiction.
- (e) **Responsible Growth:** Responsible growth and development.

### Section 23.08 Written Commitments

The applicant in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-615. Written commitments may also be initiated by the Plan Commission or County Board of Commissioners.

- (a) **Consideration of Commitments:** All commitments shall be considered by the Plan Commission and the County Board of Commissioners in the review of the application. Any deletion, addition, or alteration of the written commitments by the County Board of Commissioners shall be referred back to the Plan Commission for consideration.

- (1) **Plan Commission Affirms:** If the Plan Commission affirms the altered commitments the rezoning ordinance adoption process shall be complete.
  - (2) **Plan Commission Disagrees:** If the Plan Commission disagrees with the altered commitments, the reason for disagreement shall be forwarded to the County Board of Commissioners. The rezoning, including the altered commitments, shall take effect if the county Board of Commissioners again votes for its adoption.
- (b) **Documenting of Commitments:** The rezoning ordinance shall not become effective until the written commitments are recorded. The written commitments shall be recorded in the office of the Steuben County Recorder within 90 days of the rezoning ordinance adoption by the Board of Commissioners. A recorded copy of the commitments shall be provided to the Plan Director for inclusion in the application file within that 90 day time period. The adoption of the rezoning ordinance shall not take effect and shall be void if the commitments are not recorded in the 90 day time period.
- (c) **Enforcement of Commitments:** The written commitments shall be considered part of this Ordinance binding on the subject property. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
- (1) The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of any other aspect of this Ordinance, as described in Chapter 20.
  - (2) The written commitments may be modified only through the Zoning Map Amendment process described by this Chapter.

### Section 23.09 Zoning Text Amendments

In accordance with IC 36-7-4-602, the appropriate legislative body(ies) may amend or partially repeal the text of this Ordinance. The Board of County Commissioners or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedures of IC 36-7-4-602(b). The Plan Commission shall conduct a public hearing following the same procedures outline in Section 23.04 identified above and make a recommendation on the Zoning Ordinance amendment to the Board of County Commissioners in accordance with Section 23.05. The County Board of Commissioners shall consider the proposed Zoning Ordinance amendments following the same procedures in Section 23.06 above.

The Plan Commission shall review the Ordinance on an annual basis and identify any amendments deemed necessary to the Ordinance for review, public hearing and recommendation for adoption.





**CHAPTER 24****Definitions****Section 24.01 Construction of Language****(a) Interpretations**

- (1) If the meaning of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of the Ordinance or law.
- (2) All words and phrases shall be construed and understood according to the common preferred use of the language; but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.
- (3) The definitions contained in this Chapter are for the purposes of this Ordinance.

**(b) Terms**

- (1) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (2) The terms "Ordinance" and "Act" shall be understood to include the term "as amended" where the context is appropriate.
- (3) The particular shall control the general. For terms used in this Ordinance the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "pharmacy," as used in this Ordinance, shall not be interpreted to be the same as a "retail business" since each is listed as a separate and distinct use.
- (4) Words used in the present tense shall include the future; words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates otherwise.
- (5) A "building" or "structure" includes any part thereof.
- (6) The word "build" includes to "erect" or "construct."
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.
- (8) Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
  - a. "And" indicates that all connected items, conditions, provisions, or events shall apply.
  - b. "Or," indicates that the connected items, conditions, provisions or events may apply separately or in combination.
  - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply separately, not in combination.
- (c) Computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the County or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- (d) All measurements shall be to the nearest integer and in the horizontal plane, unless otherwise specified.
- (e) The phrase "used for" includes "arranged for," "intended for," "occupied for," and "maintained for."

- (g) Unless the context clearly indicates to the contrary, where an illustration accompanies any item in this Ordinance, the written text shall have precedence over the illustration.
- (h) The terms “abutting” or “adjacent to” include property along the lot lines of the subject site including those in another community, but do not include lands separated by a public road right-of-way.

### Section 24.02 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**ABANDONED MOTOR VEHICLE:** Basically defined for this ordinance, as all forms of transportation that require registration and/or licensing by the State of Indiana, that are mechanically inoperable and/or unlicensed. Note County Ordinance No. 771, “An Ordinance for the Abatement of Abandoned Motor Vehicles” for more specific definitions.

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

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

### **ADULT REGULATED USE RELATED DEFINITIONS**

- (a) **ADULT CABARET.** A nightclub, bar, cocktail lounge, restaurant or similar establishment that has performers and/or employees that are characterized by the exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (b) **ADULT BOOK OR VIDEO STORE:** An establishment that has a substantial portion of its stock in trade and offers for sale, for any form of consideration, any one or more of the following: a.) books, magazines, periodicals, or other printed matter, or photographs, films, movies, motion pictures, video cassettes, compact disks, slides, or other visual representations that are characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specific anatomical areas. Substantial portion means a use or activity accounting for more than twenty (20%) percent of any one or more of the following: stock-in-trade, display space, floor space, or viewing time, movie display time, or entertainment time measured per month.
- (c) **MASSAGE PARLOR:** An establishment having a substantial portion of its space devoted to massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient. The following uses shall not be included in the definition of a massage parlor:
  - (1) establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed physical therapist, a licensed nurse practitioner, a therapeutic massage practitioner as defined in this Ordinance or any other similarly licensed medical professional;
  - (2) Fitness center;
  - (3) Electrolysis treatment by a licensed operator of electrolysis equipment; and.
  - (4) Hospitals, nursing homes, medical clinics or medical offices.

- (d) **SPECIFIED ANATOMICAL AREA:** Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breast below a point immediately above the top of an areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (e) **SPECIFIED SEXUAL ACTIVITIES:** Human genitals in a state of arousal or stimulation, acts of human masturbation, sexual intercourse or sodomy and fondling or other touching of human genitals, pubic region, buttocks or female breast.

**AGRICULTURE:** The use of a tract of land for agricultural purposes, including, but not limited to: farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry, the necessary accessory uses of tenant housing, packing, treating, or storing of produce; provided, however, the operation of any such accessory use shall be secondary to the normal agricultural activities. Said definition does not include fur bearing animals or confinement feeding operations.

**AGRICULTURAL BUILDING:** A structure utilized for the conduct of farming operations, but does not include a dwelling or an attached garage to the dwelling.

**AIR CONTAMINANT:** Dust, fumes, gas, mist, smoke, vapor, or any combination thereof.

**AIR CONTAMINANT SOURCE:** Any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, heating and power plants and stations; buildings and other structures of all types, including single and multi-family residences, apartments, houses, office buildings, hotels, restaurants, schools, hospitals, churches and other institutional buildings; automobiles, trucks, tractors, buses, and waterborne craft; portable fuel- burning equipment; incinerators of all types, indoor and outdoor refuse dumps and piles; and all stack and other chimney outlets from any of the foregoing.

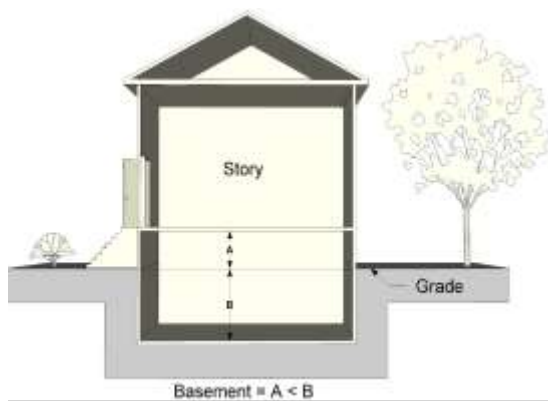
**AIR POLLUTION:** Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious and to unreasonably interfere with the comfortable enjoyment of life and property.

**APPEAL:** A request for a review of the Plan Directors interpretation of any provision of this ordinance or a request for a variance.

**AVERAGE GRADE:** See **GRADE**

**BAR:** See Tavern.

**BASEMENT:** The portion of a building which is partially or wholly below the average grade, (50% below grade). A basement shall be counted as a story.



**BED AND BREAKFAST INN:** See “TOURIST HOME/BED AND BREAKFAST INN.”

**BLOCK:** An area that abuts a street and lies between two (2) adjoining streets or barriers such as railroad right-of-way, rivers, lakes, and other lines of demarcation.

**BOARD:** The Board of Zoning Appeals of Steuben County, Indiana

**BOARDING HOUSE:** A building in which rooms and meals are regularly provided for compensation, for twelve (12), or fewer, persons.

**BOAT ACCESS RAMP:** Either a private or a public facility at waters edge to permit the launching of watercraft and the parking of the associated tow vehicle and trailer.

**BOAT REPAIRS AND STORAGE:** Only privately owned boats, or other aquatic apparatus, may remain outside on any property of owner, longer than sixty (60) days while being repaired, stored, parked, sold, etc. at any one time. (Only properly licensed dealers operating in properly zoned locations are exempt from this requirement.)

**BOAT SALES:** The use of any building, land area, or other premise for the display, sale, preparation, storage and repair of new or used boats and other watercraft.

**BOTTLED GAS STORAGE AND DISTRIBUTION:** A business that stores, sells and delivers to end users substances that are stored in gas cylinders, including compressed air, argon, helium, nitrogen, oxygen, butane, propane, carbon dioxide, nitrous oxide, acetylene, liquid nitrogen, liquid oxygen, and carbon dioxide. For the purpose of this ordinance, an end-user of bottled gas such as a medical facility or industrial manufacturer shall not be considered a bottled gas storage and distribution facility, provided that all gas stored on-site is to be used on-site.

**BREEZEWAY:** A structure that connects the accessory structure to the primary structure, by means of continuous footer, roof and walls. The main entrance shall be through the breezeway.

**BUFFER ZONE:** That area of land between the lot lines (front, side and rear) and the allowed structure; also an area of land surrounding a sanitary landfill or refuse dump from property line to point of operation on all sides to be left in a natural state strictly prohibiting any development, structure, buildings, vehicle, or construction of drainage ditches, ponds, or collection systems.

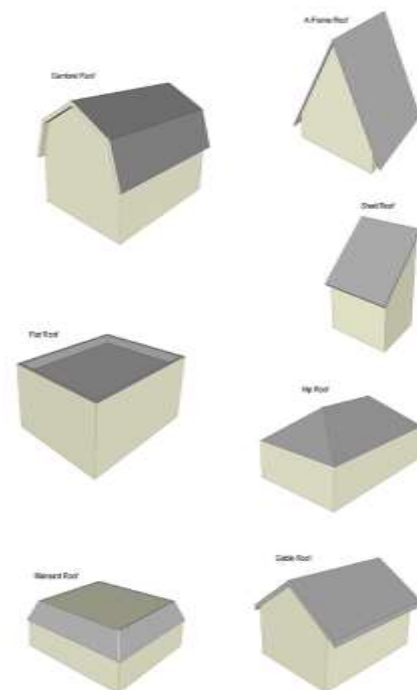
**BUILDING:** A structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind. A building shall include mobile homes, manufactured housing, sheds, garages, greenhouses, pole barns and used for the purposes of a building and similar structures. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, produce silos, coal bunkers, oil cracking towers, or similar structures.

**BUILDING AREA:** The horizontal projected area of the building on a lot, excluding open areas, terraces, wetlands and submerged areas

**BUILDING HEIGHT:** The vertical distance from the lowest floor to the highest point of the roof surface in a flat roof, to the deck line for mansard roofs and to a height halfway between eaves and ridge for gable, hip, and gambrel roofs

**BUILDING LINE:** The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line, private or public

**BUSINESS:** A facility or enterprise which: (1) Purchases, sells, exhibits, or exchanges animals, goods, or services; or Maintains offices for recreational or amusement enterprises.



CAMPGROUNDS: See: RECREATIONAL VEHICLE PARK/RECREATIONAL CAMP

CAR LOT: Any property on which vehicles are for sale other than the property owner selling one (1) personal vehicle.

CEMETERY: A place for burying the dead. Also includes a columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tracts as the cemetery.

CLINIC: An establishment in which patients are admitted for examination and treatment by a group of physicians, dentists or similar professionals, but are not lodged overnight. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

COMMERCIAL AMUSEMENT OR RECREATIONAL ENTERPRIS: Any amusement or recreational business, including, but not limited to: amusement park, amusement machine or arcade, animal race track, motorized vehicle race track, competition, or similar event, canoe rentals, dance hall, bingo or gambling establishment.

COMMERCIAL FACILITY: Same as business facility.

COMMERCIAL GREENHOUSE: A business operating a building having transparent walls and roof for the protection, propagation, and sale of plants.

COMMERCIAL HELIPORT: An airport for helicopters operated as a business.

COMMISSION: The Steuben County Plan Commission.

CONFINED FEEDING: The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where all food is supplied to the animals by means other than grazing

CONFINED FEED OPERATION: (1) Any confined feeding of three hundred (300) or more cattle, six hundred (600) or more swine or sheep, and/or thirty thousand (30,000) or more fowl; or (2) Any animal feeding operation utilizing a waste pond (outdoor), waste holding pit (indoor) or other waste holding device or structure.

CONFINED FEEDING OPERATOR: An individual, a corporation, a group of individuals, joint ventures, a partnership, or any other business entity having charge or control of one (1) or more confined feeding installations

CONSTRUCTION SIGN: A temporary sign identifying the architects, engineers, contractors or other individuals or firms involved with the construction, alteration, or repair of a building project or announcing the character of the building enterprise or the purpose for which the project is intended.

CONVENIENCE STORE: Food stores, specializing in a limited line of high- volume grocery and beverage items, including the sale of alcoholic beverages as permitted by law, with or without the sale of gasoline and gasoline by-products, and emphasizing fast service

COUNTY: Steuben County, Indiana.

COUNTY ENGINEER: A State-licensed engineer designated by the County to furnish engineering assistance in the administration of these Ordinances.

CRAWLSPACE: The portion of a building which is used to support a structure which partially or wholly below grade; shall not exceed four (4) feet of inside height.

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

CURB LEVEL: The level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the pavement elevation at the street center line similarly measured, or the mean elevation of the finished grade of the surface of the ground or pavement immediately adjacent to a building shall be considered the "curb level".

CUSTOM SLAUGHTERHOUSE: A business that butchers on a customer by customer basis.

**DECK:** A non-enclosed, unroofed horizontal platform raised above adjacent ground level to a height exceeding eight (8) inches. A deck located below a second story deck above or a trellis shall be considered an unroofed deck.

**DETACHED BUILDING:** A building that has no structural connection with another building

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

- (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (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. "Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**DRIVE-IN RESTAURANT:** A food service establishment where food is consumed on the premises outside of fully enclosed buildings or structures

**DUPLEX:** A building containing two (2) separate and independent dwelling units.

**DWELLING:** A building or part of a building (including mobile home as defined herein) that is used exclusively as a place of residential occupancy, including single-family, two-family, and multi-family dwelling, but not including a hotel, motel, lodging house, boarding house, or tourist home

**EASEMENT:** A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. It is either for the benefit of land, such a right to cross A to get to B, or "in gross," such as a "public utility easement."

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

**ENTERPRISE:** Same as business.

**EXISTING CONSTRUCTION:** Any structure for which the "start of construction" commenced before effective date of the community's first floodplain ordinance.

**FAÇADE:** The entire building front, including the parapet, which faces a public way, private roadway, parking lot, or pedestrian walkway.

**FACING:** The display surface portion of a sign upon which the advertising is affixed or painted and visible in one direction at one time

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

**FARM:** An area used for agricultural operations, including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry except as defined under "Confined Feeding"; or the processing of farm products produced on the farm by the resident owner or tenant, but not to include commercial or custom slaughtering.



FARM SERVICE CENTER: Primarily serves agricultural & allied uses.

**FLOOD PLAIN RELATED DEFINITIONS.**

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

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

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

Building:- see "Structure"

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

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

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

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

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

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

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

FEMA: The Federal Emergency Management Agency.

FIVE HUNDRED YEAR FLOOD: (500-year flood) the flood that has a 0.2 percent chance of being equaled or exceeded in any year.

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

FLOOD BOUNDARY AND FLOODWAY MAP: (FBFM) an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway

FLOOD HAZARD BOUNDARY MAP: (FHBM) An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A

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

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



**Flood Prone Area:** Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood”)

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

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

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

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

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

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

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

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

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

**Functionally Dependent Facility:** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

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

**Highest Adjacent Grade:** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic Structure: Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

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

LETTER OF MAP AMENDMENT (LOMA): An amendment to the currently effective FEMA map that establishes that a property is not located in a 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.

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

MAP AMENDMENT: A change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

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

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

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

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

North America Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

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

ONE-HUNDRED YEAR FLOOD (100-year flood). The flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood"

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

**PARTICIPATING COMMUNITY:** Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP

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

**POST-FIRM CONSTRUCTION:** Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

**PRE-FIRM CONSTRUCTION:** Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

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

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

**REGULATORY FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 15.02 (b) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**REPETITIVE LOSS:** Flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

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

**SPECIAL FLOOD HAZARD AREA (SFHA):** Those lands within the jurisdictions (including extraterritorial jurisdictions) of Steuben County subject to inundation by the regulatory flood. The SFHAs of the County are generally identified as such on the Flood Insurance Rate Map of Steuben County, Indiana and Incorporated Areas dated, December 17, 2013 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

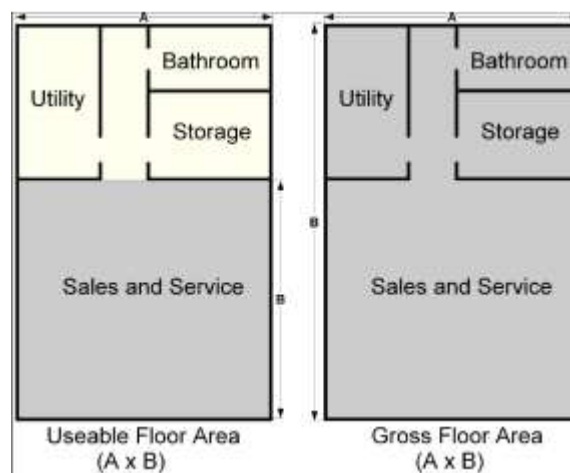
**ZONE:** A geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

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

1. **Zone A:** Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.
2. **Zone AE and A1-A30:** Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)
3. **Zone AO:** Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.
4. **Zone AH:** Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are 1-3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.
5. **Zone AR:** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.
6. **Zone A99:** Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

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

**FLOOR AREA OF A BUILDING.** The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to a specific use, including accessory storage areas located within selling or working space such as counters, racks or closets; and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.



**FUMES.** Minute solid particles generated by the condensation of vapors from solid matter after coagulation from the molten state, or may be generated by sublimation, distillation, calcination, or chemical reaction, when these processes create airborne particles.

**GARAGE, PRIVATE.** An accessory building or an accessory portion of the principal building, including a carport, which is intended and used for storing the private passenger vehicles, recreational vehicles, or personal items of the family residing on the premises.

**GAS.** An aeriform fluid having neither independent shape nor volume, but tending to expand indefinitely.

**GATED COMMUNITY.** A development, whether single-family, multi-family, or accessory uses, that are enclosed within a geographical area by restrictive gates.

**GATED ENTRANCE.** An entrance to a gated community at which a gate, crossbar, door, or other obstructive device is utilized for the purpose of restricting, controlling, or obstructing entry or exit by motor vehicles or pedestrians to or from a shared driveway or public/private roadway.

**GENERAL INDUSTRIAL USE.** Manufacturing, processing, extraction, heavy repairing, dismantling or storage, performed in either open or closed areas.

**GOVERNMENTAL AND PUBLIC UTILITY USES.** Including, but not limited to: electric, natural gas and telephone substations and distribution centers; filtration plant, pumping station and water reservoir; public or package treatment plants; fire stations; telephone exchange; radio and television transmitting stations; antenna towers and other similar governmental and public utility service uses, except line and mains for local distribution.

**GRADE.** (1) The average level of the finished surface of the ground adjacent to the exterior walls of the structure, measured as the average around all sides of the building. (2) The slope of a street, or other public way, specified in percentage (%) terms.

**GROUND FLOOR AREA.** 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, garages, and exterior stairways.

**GREENHOUSE.** A building having glass walls and roof for the protection or propagation of plants.

**HABITABLE ROOM.** A room capable of being lived in for any period of time, as defined by the rules of the Indiana Fire and Building Services Commission (675IAC 14).

**HEIGHT.** See **BUILDING HEIGHT.**

**HELIPORT.** An airport for helicopters.

**HISTORIC STRUCTURE.** 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.

**HOME OCCUPATION.** A gainful occupation or profession that is carried on by an occupant of a dwelling unit as a use which is clearly incidental to the use of the unit as a residence.

**HOME OCCUPATION, LOW-IMPACT.** A gainful occupation or profession limited to home office, catalog business, telecommuting, professional services, internet businesses, or similar, that is conducted by the resident which is significantly incidental to the residential use with no visible evidence of the home occupation.

**HOSPITAL.** An institution where sick or injured persons are given medical care and, in the course of same, are housed overnight, fed and provided nursing and related services. This definition shall include any related, accessory facilities such as laboratories, outpatient departments, training facilities, central service facilities and staff offices which are integral parts of the facility. This definition shall not include drug rehabilitation facilities, halfway houses, convalescent or nursing homes, institutions for mentally ill individuals, or other similar facilities.

**INDUSTRIAL PARK.** A planned and organized industrial tract of land that is subdivided and developed according to a comprehensive plan for the use of a community and industries. The plan must include a detailed provision for streets, designed to facilitate truck and other traffic, and for all utilities including but not limited to drainage, sewer and water. Said facilities are to be installed before the sites are sold or otherwise assured to prospective occupants.



**JUNK YARD.** An open area where waste or scrap materials or two (2) or more motor vehicles not in operable condition, or parts thereof, are bought, sold, exchanged, stored, baled, packed, disassembled or handled, but excluding uses established entirely within enclosed buildings.

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

**LIGHT INDUSTRIAL USE.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or waste, in which all operations, other than transportation, are performed entirely within enclosed buildings.

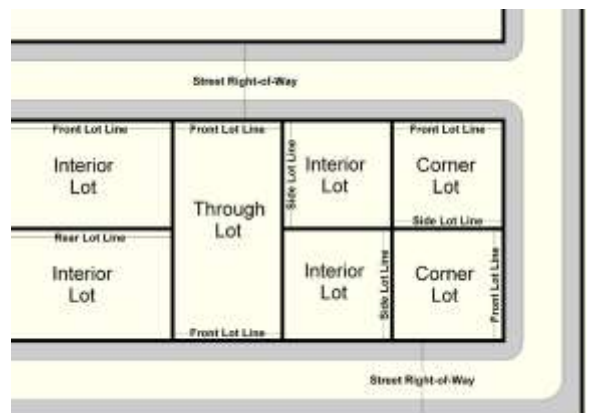
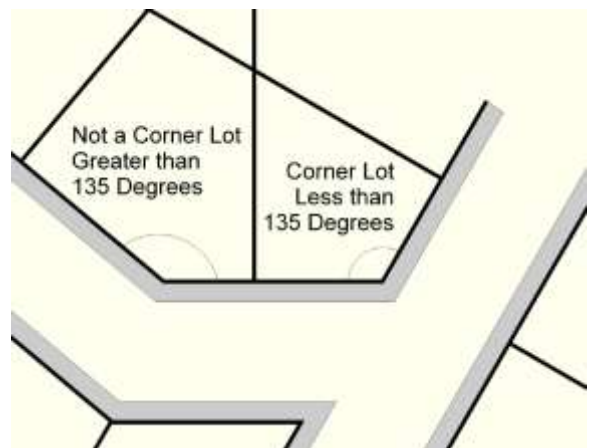
**LIQUID FERTILIZER STORAGE AND DISTRIBUTION (COMMERCIAL)** A business that stores, sells and delivers liquid fertilizers to end users. For the purpose of this ordinance, an end-user of fertilizer such as a farm or golf course shall not be considered a commercial liquid fertilizer storage and distribution facility, provided that all fertilizer stored on-site is to be used on-site.

**LIVESTOCK.** Horses, ponies, mules, donkeys, cattle, sheep, goats, buffaloes, llama, ostriches, chickens, ducks, geese turkeys and swine and other domestic animals normally kept or raised on a farm. Wild or vicious animals shall not be considered livestock.

**LODGE/CLUB.** An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

#### LOT DEFINITIONS

- (a) **CORNER LOT.** A lot at the junction of and abutting two (2) intersecting or intercepting streets or a lot bounded on two (2) sides by a curving street, any two (2) chords of which form an angle of one hundred thirty-five (135) degrees or less.
- (b) **FRONTAGE.** That side of a lot abutting on a street, or way, and ordinarily regarded as the front of the lot. In the case of corner lots, frontage will be considered to front on both intersection streets.
- (c) **INTERIOR LOT.** A lot other than a corner lot or a through lot.
- (d) **LOT.** A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership with the intent, or possible intent, of making improvements. For the purpose of zoning, a lot may be a single lot or a combination of two or more lots that are under single ownership and developed for a single use or principal building.
- (e) **LOT AREA.** The total area within the boundaries of a lot, measured on a horizontal plain, exclusive of any road right-of-way, private road easement or the submerged area of any lake, stream or canal.
- (f) **LOT COVERAGE.** The percentage of the lot area that is covered by buildings and impermeable surface:
- (1) The building coverage shall be calculated as the ratio of the footprint of all buildings, including the principal building, garages and detached accessory buildings, to the net area of the lot.



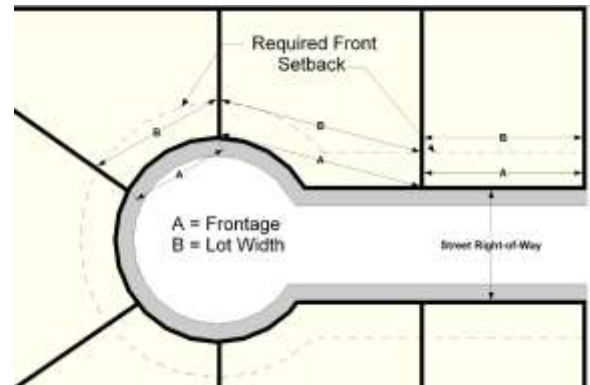
(2) The total impermeable surface coverage shall be calculated as the ratio of the ground area covered by all buildings, accessory structures, pavement, gravel surfaces, parking, loading and storage areas to the net lot area. Planked decks with spacing between the planks and permeable ground beneath the deck and patios or parking areas constructed of pervious material shall be calculated at a rate of 50% towards the impermeable surface coverage.

(g) LOT GROUND LEVEL. (1) For a building having walls abutting (that is, generally parallel to and not more than five [5] feet from) one (1) street only, means the elevation of the sidewalk at the center of the wall abutting the street. (2) For a building having walls abutting more than one (1) street means the average of the elevations of the sidewalk at the centers of all walls that face the street. (3) For a building having no walls abutting a street, it means the elevation of the lowest exposed portion of the wall facing the front yard.

(h) LOT OF RECORD. A lot that is part of a subdivision, the plat of which has been recorded in the Office of the Recorder; or a parcel of land, the deed to which was recorded in the Office of said Recorder prior to the adoption of the original Zoning Ordinance, dated January 3, 1972.

(i) LOT WIDTH. The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback. For "flag lots," the minimum lot width shall be measured at the point where the narrow access connects to the main section of the parcel.

(j) LOT WATER FRONTAGE. The horizontal distance measured along the shoreline of a lake between side lot lines. The shoreline measurement shall follow the lake legal limit, but shall not include stream frontage within the lot or artificially created shoreline such as canals or boat wells cut into the shore.



(k) REAR LOT LINE. For an interior lot, it means the lot line that is opposite the front lot line and farthest from it. For a lot adjacent to a lake, it means the established high water mark or established shore line. For a corner lot, it means the lot lines or where one of the streets is a major arterial roadway the rear lot line shall be opposite the front lot line that fronts the local street. For a through lot that fronts a local street on one side and backs-up to an arterial road on the opposite side, it means the lot line that is adjoining the arterial street.

(l) THROUGH LOT. A lot fronting on two (2) parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

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

LOWEST FLOOR. The lowest of the following:

- (a) the top of the lowest level of the structure;
- (b) the top of the basement floor;
- (c) the top of the garage floor, if the garage is the lowest level of the structure;
- (d) the top of the first floor of a structure elevated on pilings or pillars;
- (e) the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - (1) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior wall having a total net area of one (1) square inch for every square



foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening whichever is higher, and,

(2) such enclosed space shall be usable solely for the parking of vehicles and building access

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

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

**MARINA.** A lakefront lot that is utilized for one or more of the following activities: Provides docking space for more than eight (8) boats or other watercraft. Provides storage for more than eight (8) boats or other watercraft. Provides servicing of boats and/or other watercraft. The sale of petroleum products for use in boats and/or other watercraft. The sale or rental of boats, watercraft, and fishing accessories, which may include the sale of convenience items.

**MARKET VALUE.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**MINERAL EXTRACTION.** (1) mining or quarrying operations (2) removal of earth materials.

**MINI /SELF-STORAGE WAREHOUSES.** A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized or controlled-access stalls, lockers or buildings for the storage of customer's goods, vehicles or wares, including mini-storage buildings and storage garages. These uses include commercial storage facilities where storage space is leased or a group of storage buildings that are owned by individuals through a condominium or similar means.

**MISTS.** Minute liquid particles generated by any of the methods listed for Dusts or Fumes or by the spraying of liquids.

**MOBILE HOME.** A factory-fabricated building built on a chassis and so constructed so as to permit it being towed upon public thoroughfares, with a minimum living area of four hundred eighty (480) square feet, excluding accessory structures, and designed to be used for year-round living when connected to the required utilities. Mobile homes include expandables and double-wides, but not Modular's and HUD Approved Sectionals.

**MOBILE HOME PARK.** See MANUFACTURED HOME PARK.

**MOBILE HOME SITE.** The area of land in a mobile home park for the parking of one (1) mobile home.

**MOBILE HOME SUBDIVISION.** See MANUFACTURED HOME SUBDIVISION.

**MODULAR HOME.** A factory-built home of two (2) or more units built other than on the home site. Modular homes will carry the Indiana Building Seal and be constructed to the Indiana 360 Building Code. Modular Homes must be placed on a permanent foundation.

**MULTIFAMILY DWELLING.** A Building occupied by more than one family. A Building designed as a dwelling for more than two families at the same time.

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

**NEW CONSTRUCTION.** Any structure for which the "start of construction" commenced after the effective date of the County's first floodplain ordinance.

**NIGHT CLUB.** An establishment primarily offering a floor show, dancing, or live entertainment, which may be of an adult nature and which occurs exclusively within an enclosed structure, where minors are not allowed on the premises, and where food and drink may be provided for on-site consumption, but does not provide the performances as described in the definition of “Adult Cabaret.”

**NONCONFORMING.** A use or structure that existed at the time the first Steuben County Zoning Ordinance (January 3<sup>rd</sup> 1972), or any subsequent amendment, was passed, but does not comply with the provisions of this Ordinance.

- (a) **NON-CONFORMING BUILDING OR STRUCTURE.** A building or structure portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of the Ordinance in the district in which it is located.
- (b) **NON-CONFORMING LOT.** A lot of record, lawfully in existence on the effective date of this Ordinance and any amendments thereto, which no longer meets the dimensional requirements of this Ordinance for the district in which it is located.
- (c) **NON-CONFORMING SITE.** A development on a site which met Ordinance requirements for site design elements at the time the site was developed, such as the amount of parking, parking lot pavement or landscaping; but which does not meet the current site standards of the Township.
- (d) **NON-CONFORMING USE.** A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

**NORMAL HIGH WATER MARK.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).** As adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**OIL AND GAS WELLS.** Any perforation through the Earth's surface, by drilling or other means, designed to find and release petroleum oil, gas or other hydrocarbons.

**PARKING, PUBLIC.** A group of five (5) or more parking spaces in a parking area or structure, exclusive of any part of the street or alley, designed to be available to the public, for temporary parking of motor vehicles, with or without the payment of a fee.

**PATIO.** A paved at grade area adjoining a dwelling.

**PETROLEUM TANK FARM.** An industrial facility for the storage of oil or petrochemical products and from which these products are usually transported to end users or further storage facilities (sometimes called an oil depot, installation or oil terminal). A tank farm or oil depot typically has tanks and gantries for the discharge of products into road tankers or pipelines.

**PERFORMANCE STANDARDS.** A criterion established to control noise, air contaminants, vibration, and glare or heat generated by, or inherent in uses of land or buildings.

**PERSON.** Includes a person, corporation, firm, partnership, association, organization or any other group that acts as a unit.

**PLANNED UNIT DEVELOPMENT.** An area of land in which a variety of residential/commercial/industrial uses are planned and developed as a whole, according to comprehensive and detailed plans with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

**PLANNED RECREATIONAL DEVELOPMENT.** An area planned for recreational purposes; limited to sites sold for the purpose of use by recreational vehicles only.

**PLAT.** A document indicating the subdivision or resubdivision of land filed, or to be filed, for record.

PORCH. A covered structure forming an entrance to a building, outside, and generally not enclosed.

PRINCIPAL BUILDING. A building in which the principal use of the lot on which it is located is conducted, including a building that is attached to such a building in a substantial way, such as by a roof (with respect to residential uses, it means the main dwelling). Standards recognized by the Indiana Administrative Building Council shall be used to determine whether a given structure constitutes one (1) or more buildings in cases where ambiguities exist.

PROBATION. A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

PROFESSIONAL OFFICE. An office used by members of a recognized profession such as, but not limited to, an architect, dentist, engineer, lawyer, physician, surgeon, etc.

PUBLIC CAMP. An area of land used, or designated to be used, to accommodate one (1) or more camping parties. Camping includes: cabins, shelters, tents, travel trailers, and other camping outfits. (A public camp also meets the definition of a business and/or enterprise, but not the definition of a travel trailer park.)

PUBLIC GARAGE. A garage, other than a private garage, whose services are available to members of the public or to persons occupying a hotel, club, or similar facility.

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

RECREATIONAL DEVELOPMENT. Same as Commercial Amusement.

RECREATIONAL VEHICLE. A vehicular unit primarily designed as temporary living quarters for recreational, camping, travel or seasonal use that has its own mode of power, or is mounted on, or towed by another vehicle. The basic entities are:

- (a) BOAT. A watercraft including, but not limited to any vessel, ship, motorboat, sailboat, barge, scow, tugboat or rowboat.
- (b) CAMPING TRAILER. A vehicular portable unit, mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- (c) FIFTH WHEEL TRAILER. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require special highway movement permit(s), of gross trailer area not to exceed 400 square feet in the set-up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
- (d) MOTOR HOME. A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.
- (e) PARK TRAILER, also known as a Park Model. A vehicular unit designed to provide temporary living quarters for recreational, camping, or seasonal use, built on a single chassis mounted on wheels, having a gross trailer area not exceeding 400 square feet in the set-up mode, and certified by the manufacturer as complying with ANSI A119.5.
- (f) TRAVEL TRAILER. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require special highway movement permits when towed by motorized vehicle, and of gross trailer area less than 320 square feet.
- (g) TRUCK CAMPER. A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

RECREATIONAL VEHICLE PARK/RECREATIONAL CAMP, also known as a TRAVEL TRAILER PARK. An area of land on which two (2) or more recreational vehicles are regularly accommodated with or without charge, including any building or structure, fixture or equipment that is used or intended to be used in connection with providing that accommodation. A recreational vehicle park/recreational camp shall be for the overnight or short-term parking of recreational vehicles and installation of tents for the establishment of temporary living quarters for a no more than one hundred eighty (180) in any one calendar year and there shall be no permanent foundations.

RENTAL STORAGE BUILDING. See MINI-STORAGE/SELF STORAGE WAREHOUSES.

RESIDENTIAL DEVELOPMENT SIGNS. A sign at a residential development or subdivision four or more dwelling units, that identifies only the name and/or address of the project or subdivision.

RESTAURANT. An establishment existing primarily for the sale of food and drink which is prepared, served, and consumed for the most part within the principal building and where entertainment may be provided, but which does not provide the performances as described in the definition of “Adult Cabaret.”

### **ROAD DEFINITIONS:**

- (a) ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street or road. A right-of-way that provides secondary access for the special accommodation of an abutting property.
- (b) LOCAL STREET. A street intended to provide access to other streets from individual properties and to provide right-of-way beneath, or beside it, for sewer, water, and storm drainage pipes.
- (c) PRIMARY ARTERIAL. A street intended to move through-traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the county; and/or as a route for traffic between communities; a major thoroughfare.
- (d) PUBLIC STREET. A street established for and/or dedicated to the public.
- (e) PUBLIC WAY. A sidewalk, alley, street or limited access highway.
- (f) SECONDARY ARTERIAL. A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as community-commercial areas, primary and secondary educational institutions, manufacturing plants, hospitals, major recreational areas, churches and offices and/or those designed to carry traffic from collector streets to the system of primary arterials.

RIDING STABLE – COMMERCIAL AND BOARDING. A stable open to the public that provides boarding of horses or riding lessons for remuneration.

ROADSIDE STAND. A temporary structure used for the selling of produce, such as fruits and vegetables, which are grown on the property from which they are sold.

SALES BARN. A business, typically located in an agricultural area, where agricultural producers can buy, sell or trade agricultural products, livestock, equipment and services.

SELF STORAGE BUILDING. Same as Rental Storage Building.

SEMI-TRAILER. A trailer, which may be enclosed or not enclosed, having wheels generally only at the rear, and supported in front by a truck tractor or towing vehicle.

SEMI-TRUCK/TRACTOR TRAILER. A vehicle used to haul goods and materials for commercial purposes with a trailer attached to a tractor with a swivel hitch. See also: TRUCK.

SETBACK. See: YARD/SETBACK

**SHORELINE.**

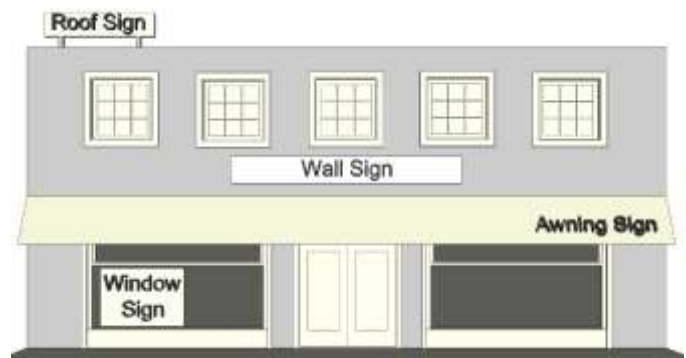
- (a) If the water level has been legally established, the line formed on the bank or shore by the water surface at the legally established average normal level; or
- (b) If the water level has not been legally established, the line formed by the water surface at the average level as determined by:
  - (1) Existing water level records; or
  - (2) If water level records are not available, the action of the water that has marked upon the soil of the bed of the lake a character distinct from that of the bank with respect to vegetation as well as the nature of the soil.

**SIGN RELATED DEFINITIONS:**

- (a) **ABANDONED SIGN.** A sign, which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner of record can be found.
- (b) **AWNING SIGN.** A sign on an awning or other material that covers the sidewalk or is located above the storefront.
- (c) **BACK-TO-BACK SIGN.** A sign consisting of two (2) sign facings oriented in opposite directions.
- (d) **DIRECTIONAL SIGN.** A sign erected for the convenience of the public, which solely designates the location or direction of any area or place, such as for directing traffic movement, parking, or identifying rest rooms, public telephones, walkways and other similar features or facilities, and bearing no advertising message.
- (e) **DIRECTORY SIGN.** A sign that provides a listing of uses or tenants within a particular building or complex of buildings.
- (f) **DOUBLE FACED SIGN.** A sign with two (2) adjacent facings oriented in the same direction.
- (g) **ELECTRONIC MESSAGE SIGN.** An electronic message board that displays time and temperature, or provides changing messages, provided that said sign does not blink or flash.
- (h) **FREESTANDING SIGN.** A sign erected on a freestanding framework supported and affixed by one or more uprights or braces in or upon the ground.
- (i) **GROUND/MONUMENT SIGN.** A self-supporting, solid base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.
- (j) **MARQUEE SIGN.** A sign designed and/or constructed as an integral part of a marquee (a roof-like structure, often bearing a signboard, projecting over the entrance to a building) or giving the appearance of being an integral part of a marquee. Marquee signs shall also include canopy and awning signs.
- (k) **OFFICIAL SIGN.** A sign erected by a governmental agency or its designee, setting forth information pursuant to law.
- (l) **OFF-PREMISE OUTDOOR ADVERTISING SIGN.** A sign, including the supporting sign structure, which is visible from a public way and advertises goods or services not usually located on the premises and/or property upon which the sign is located; often called a “billboard.” The following shall not be considered off-premise signs for the purpose of this section: (1) Directional or Official Signs authorized by law (2) Real Estate and Other Temporary Signs (3) On-Premise Signs
- (m) **ON-PREMISE SIGN.** A sign which advertises only the primary goods and services sold or taking place upon the premises on which the sign is located.
- (n) **PORTABLE SIGN.** A freestanding sign, often mounted on wheels which is designed to be moved from one location to another, and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes.



- (o) **PROJECTING SIGN.** A sign, other than a wall sign, which is attached to and projects from a structure or building face and does not project above the roof line or cornice wall.
- (p) **REAL ESTATE SIGN.** A sign which advertises the sale or lease of the property upon which the sign is located.
- (q) **ROOF MOUNTED SIGN.** A sign attached with its own substructure to the roof of a building or structure.
- (r) **SIGN.** Any visual device, identification, description, symbol, illustration or structure which is in view of the general public and which identifies or directs attention to a person, place, product, service, activity, institution or business for advertising, display or publicity purposes.
- (s) **SIGN BOARD.** A specific type of temporary sign, double-sided, self-supporting, not permanently attached to a building, structure or the ground, and intended for a limited period of display.
- (t) **SIGN, GROSS AREA OF.** The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same.
- (u) **TEMPORARY SIGN.** Any sign, banner, pendant, valence or advertising display constructed of cloth, canvas, fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.
- (v) **V-TYPE SIGN.** A sign structure which consists of multiple sign facings at angles to each other, oriented in different directions.
- (w) **WALL MOUNT, WALL SIGN or FACADE SIGN.** A sign attached to the wall of a building that projects no more than twelve (12) inches from the wall surface.
- (x) **WINDOW SIGN.** A sign attached either the inside or outside of a window or a sign that is hung within one (1) foot of the interior of the window and is visible from the outside.



**SLAUGHTERHOUSE.** A place where animals are butchered.

**SMOKE.** Small gasses and airborne particles consisting essentially of carboniferous material in sufficient number to be observable.

**SPECIAL EXCEPTION.** The authorization of a use as permitted in the district concerned, if it meets the requirements set out in Article 17, and upon application, is specifically authorized by the Board.

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

**STORMWATER DETENTION/RETENTION POND.** A system that is designed to capture storm water runoff and retain it on-site or release it over a given period of time through an outlet structure at a controlled rate.

**STORY.** That part of a building included between the surface of any floor and the surface of the floor, or roof, next above. For residential structures, basements shall be counted as a story.

**STREET/PRIVATE DRIVE.** A right-of-way that is established by a recorded dedication to provide the principal means of access to abutting property.

**STRUCTURE.** Anything constructed or erected, the use of which requires location on ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, radio, television and cellular phone towers, decks, fences, privacy screens, walls, antennae, swimming pools, signs, gas or liquid storage facility, manufactured homes, prefabricated buildings, street directional or street name sign and billboards. The term also includes recreational vehicles or portable items similar to a structure located on a site for more than 180 days

**STRUCTURAL CHANGE.** A substantial change, or repair, excluding normal and usual repair, in a supporting member of a building, such as a bearing wall or partition, column, beam, girder, foundation, or in an exterior wall or the roof.

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

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "Repetitive Loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

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

**TAVERN.** An establishment existing primarily for the sale or dispensing of liquor by the drink for on-site general public consumption, where minors are not allowed on the premises, where food may be available for on-site consumption and where entertainment may be provided on the premises, but does not provide the performances as described in the definition of "Adult Cabaret."

**TERMINALS, TRUCK FREIGHT.** A structure to which goods (except raw or unprocessed agricultural products), natural minerals, equipment or other resources, are delivered for immediate distribution or to be amalgamated or divided for delivery in larger or smaller units to other points, or for distribution, amalgamation, or division involving transfer to other modes of transportation.

**TOURIST HOME/BED AND BREAKFAST INN.** A residential dwelling in which no more than five (5) guest rooms are used to provide or offer overnight accommodations to transient guests for compensation, including provision for a morning meal only for the overnight guest only. The tourist home/bed and breakfast inn shall also serve as the dwelling for the owner/operator.

**TRADE OR BUSINESS SCHOOL.** A secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hair dressing, drafting and for industrial or technical arts.

**TRUCK.** Any single unit or combined vehicle used to carry people, goods, material or equipment for commercial purposes, such single or combined vehicle having a combined gross vehicle weight rating of twenty-two thousand (22,000) pounds or more.



USE. The purpose or activity, for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained. Uses are classified under the following categories:

- (a) Residential, which includes single family, two family, multiple family, manufactured homes.
- (b) Agriculture, which includes all farming, forestry, fishing and hunting uses.
- (c) Commercial, which includes all retail trade uses, motor vehicle dealers, parts and service, lodging accommodation, food services, other services and arts, entertainment, and recreation.
- (d) Office, which includes administrative offices and buildings used for finance, insurance, real estate, professional, scientific, and technical services and health care, and social assistance.
- (e) Institutional, which includes all religious, civic, social, and similar organizations, educational services and public uses (other than those uses classified under industrial).
- (f) Industrial, which includes all transportation, and warehousing, utilities, and waste disposal, construction, mining/mineral extraction and manufacturing uses.

USED CAR LOT. Same as a car lot. Any property on which vehicles are for sale other than the property owner selling one (1) vehicle.

VAPORS. The gaseous form of substances which are normally in the solid or liquid state and which can be changed to these states by increasing the pressure or decreasing the temperature.

VARIANCE. A modification of the specific requirements of this Ordinance granted by the Board of Zoning Appeals in accordance with the terms of I.C. 36-7-4-918.4 and 5, for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of the rights commonly enjoyed by other properties in the same Districts.

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

WAREHOUSE CLUB. A retail store selling a variety of merchandise, typically in large, wholesale quantities, in which customers must pay an annual membership fee in order to shop.

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

WATER SURFACE ELEVATION. The height, in relation to the National American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WETLANDS. Those lands having vegetation that grows in lowlands as shown on the National Inventory Maps, or according to the Army Corps of Engineers, the U.S. Department of Fish & Wildlife, in conformance with the IDNR Flood Plain Management Plan.

WHOLESALE BUSINESS. A business involved in the resale of new and used goods to retailers, industrial, commercial, or institutional users, or a business that acts as an agent or broker in buying merchandise for, or selling merchandise to, such persons or companies. Wholesalers frequently physically assemble, sort and grade goods in large lots, break bulk, repack and redistribute in smaller lots.

WHOLESALE PRODUCE TERMINAL. A structure to which agricultural products are delivered for distribution to buyers or transfer to other modes of transportation for delivery to other points.

WIND ENERGY CONVERSION SYSTEM (WECS) DEFINITIONS:

- (a) AMBIENT SOUND LEVEL. The L90 A-weighted sound pressure emissions level; the level of sound exceeded 90% of the time.

- (b) APPLICANT. The person(s) or entity(ies) which prepares and files the applications and paperwork related to a WECS Overlay Districts, Wind Farms, or WECS.
- (c) BOCA. Building Officials and Code Administrators International.
- (d) ECONOMIC DEVELOPMENT AGREEMENT. An agreement between the a Wind Farm Applicant, Operator, and/or Owner and Steuben County detailing the applicant, operator, and/or owner's financial commitment to support economic development and/or provide other financial assistance in the Steuben County.
- (e) EXPERIMENTAL WECS. A WECS not approved by Underwriters Laboratories, Det norske Veritas, Germanischer Lloyd Wind Energie, or similar third party.
- (f) LARGE WECS. A WECS with a nameplate capacity greater than one hundred (100) kW or with a total height of two hundred (200) feet or greater.
- (g) MET TOWER. A tower used to measure wind. It will generally have anemometers, direction vanes, temperature and pressure sensors, and other measurement devices.
- (h) MEDIUM WECS. A WECS with a nameplate capacity greater than ten (10) kW and less than one hundred (100) kW and a total height of less than two hundred (200) feet.
- (i) MICRO WECS. A WECS mounted on a building that projects no more than fifteen (15) feet above the highest point of the building or mounted on a tower with a total height less than the permitted building height for the parcel with a nameplate capacity of two (2) kW or less.
- (j) NON-PARTICIPATING PROPERTIES. Properties that are not participating in a WECS project.
- (k) ON-SITE WIND SYSTEM. A WECS used for generating electricity that will primarily be consumed on-site.
- (l) OPERATOR. The person(s) or entity(ies) responsible for the use, operation, and/or maintenance of a WECS or Wind Farm.
- (m) OWNER. The person(s) or entity(ies) and their successors or assigns which has any ownership interest in a WECS or Wind Farm. The term owner does not apply to any person or entity whose ownership interest in a WECS or Wind Farm is limited to an interest in real property which is used for a WECS or Wind Farm.
- (n) PARTICIPATING PROPERTIES. Properties that are participating in a WECS project in some manner.
- (o) TOTAL (SYSTEM) HEIGHT. The vertical distance between the ground and the highest point of the swept area.
- (p) SMALL WECS. A WECS with a nameplate capacity of ten (10) kW or less and a total height of less than two hundred (200) feet.
- (q) SWEPT AREA. The area that is swept by the turbine blade.
- (r) UTILITY WIND ENERGY CONVERSION SYSTEM. A WECS used for generating electricity that will primarily be supplied to the utility grid and off-site consumers.
- (s) WIND ENERGY CONVERSION SYSTEM (WECS). A device which converts wind energy into electrical energy.
- (t) WIND FARM. A collection of Utility Wind Systems developed jointly as part of a single project.
- (u) WIND ENERGY CONVERSION SYSTEM OVERLAY ZONING DISTRICT. An overlay zoning district that is well suited to development of wind farm and is consistent with the goals of the Steuben County Comprehensive Plan.

#### YARD/SETBACK DEFINITIONS

- (a) YARD. The open spaces on the same lot with a main building or main use, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.

**FRONT YARD.** A yard, defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. A lot situated at the intersection of two (2) or more streets shall be deemed to have two (2) front lot lines.

(c) **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. On corner lots, the rear yard, shall be opposite the shorter of the two (2) front lot lines or shall be opposite the front lot line that the principal building faces, as determined by the Plan Director.

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

(e) **SETBACK.** A line parallel to and equidistant from the relevant lot line (front, back or side) between which no building or structure may be erected as prescribed in this Ordinance.

(f) **REQUIRED YARD.** The open space between the lot line and the minimum setback line. The required yard corresponds to the minimum setback requirement for the district.

(g) **NON-REQUIRED YARD.** The open space between the minimum setback line and the main building. The non-required yard is the additional yard area that the building is setback beyond the minimum setback requirement for the district.

