

**Ordinance # 2008-12**

**TIPTON COUNTY**  
**ZONING ORDINANCE**

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ARTICLE TWO  
DEFINITIONS

201 GENERAL: Certain words used in this Ordinance are defined below. Words used in the present tense shall include the future. The singular number shall include the plural, and the plural the singular. The word "shall" is mandatory and not permissive.

**Accessory Apartment:** An apartment that is a separate, complete housekeeping unit that is substantially contained within the structure of a single-family dwelling or a building but can be isolated from it and is incidental to the principal use of the building.

**Accessory Structure:** A detached subordinate structure, the use of which is clearly incidental to the main use of the land, and may include, but is not limited to the following: garages, barns, storage buildings, signs, except off-premise signs, private swimming pools, and private satellite dish.

**Accessory Use:** A subordinate use which is clearly incidental and related to that of a main structure or main use of land and may include, but is not limited to the following: basketball and tennis courts, off-street parking, and outdoor storage.

**Adult Business:** An establishment which provides as a substantial or significant portion of its business matters or performances which are deemed to be harmful to minors under IC 35-49-2-2, as amended.

**Agriculture:** Any land for: cropland and orchards, pasture and grazing, livestock and poultry production, sod farming, confined feeding, and commercial fur production. Agriculture includes all accessory storage facilities, irrigation facilities, and other structures used for the conduct of the above except for dwellings. Agriculture also includes the processing and on-site sale of goods produced on the property. In residential districts, some of the above agricultural activities may not be permitted as shown in Table A of this Ordinance.

**Agribusiness:** A commercial or manufacturing establishment which provides needed services or supplies to the agricultural community. Uses include: contract sorting, grading, and packaging services for fruits and vegetables; corn shelling, hay baling, and threshing services; spring water bottling; grist mill services; horticultural services; poultry hatchery services; production of animal fat and oil; canning of fruits, vegetables, preserves, jams, and jellies; canning of specialty foods; preparation of cereals; production of natural and processed cheese; production of condensed and evaporated milk; wet milling of corn; production of creamery butter; drying and dehydrating fruits and vegetables; preparation of feeds for animals and fowl; production of flour and other grain mill products; blending and preparation of flour; fluid milk processing; production of frozen

fruits, fruit juices, vegetables, and other specialties; meat packing (not including rendering); fruit and vegetable pickling, vegetable sauces and seasoning, and salad dressing preparation; poultry and small game dressing and packing, recycling and recovery of wood products, providing that all operations be conducted within an enclosed building; production of shortening, table oils, margarine, and other edible fats and oils; milling of soybean oil; milling of vegetable oil; sugar processing and production; production of wine, brandy and brandy spirits; and other agricultural related businesses not elsewhere defined or specified in this Ordinance.

**Alley:** A public service right-of-way which affords only secondary access to the back or side of property otherwise abutting on a street.

**Automobile Impound Area:** A facility that provides temporary outdoor storage for vehicles that are to be claimed by titleholders or their agents. No vehicle shall be stored at said facility for longer than 120 days. An automobile impound area does not include salvaging of vehicles.

**Automobile Service Station:** An establishment which offers the retail sale of gasoline, oil, and similar products; and one or more of the following: automobile washing; automobile maintenance, including mechanical repairs; automobile towing, including the parking of a wrecker and operative vehicles waiting for immediate repair; or tire and battery dealers. This does not include convenience store/gas station (as defined).

**Basement:** A portion of a structure which is wholly or partly underground, and having more than one-half of its height, measured from floor to ceiling, below the average grade of the adjoining ground.

**Bed and Breakfast Establishment:** A single family dwelling which contains sleeping accommodations in the principal structure or accessory structure for which a fee is charged. (See Section 513 of this Ordinance.) This definition includes tourist homes which meet the above standards. Bed and breakfast establishments which exceed the above standards may be classified as either a country inn (as defined) or a motel/hotel (as defined).

**Berm:** A manmade, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.

**Block:** A tract of land bounded by streets, or a combination of streets, public parks, cemeteries, or railroad rights-of-way.

**Board:** The Tipton County Board of Zoning Appeals.

**Buffer, Bufferyard:** Any trees, shrubs, walls, fences, berms, or related landscaping features required under this Ordinance or the Subdivision Control Ordinance to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes, and/or for creating sound barriers and/or visual privacy.

**Building:** A type of structure (as defined) which generally has walls and a roof.

**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. On corner lots there are two building lines.

**Business/Commercial:** The exchange of goods and/or services for money or for other goods and/or services.

**Cabin or Cottage:** A dwelling of simple design and construction equipped only for temporary or seasonal occupancy. A cabin or cottage may not be rented, leased, or otherwise made available for compensation of any kind. For the purpose of this Ordinance, a cabin or cottage is not a residence.

**Child Care Home:** A residential structure in which at least six children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for regular compensation; and (3) for more than four hours but less than twenty-four hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. This definition includes Class I Child Care Homes that serve any combination of full-time and part-time children under the age of seven but not to exceed twelve children at any one time; and Class II Child Care Homes that serve more than twelve children but not more than any combination of sixteen full-time and part-time children under the age of seven at any one time.

**Children's Home:** A residence which provides care, food, and lodging for children who are not in the custody of parents or guardians. This includes children's homes as defined by IC 12-3-2-4 and those boarding homes for children as defined by IC 12-3-2-2-3.6 which provide full time care (foster home) or emergency or short term placement for more than five children.

**Clinic:** Any establishment where human patients are examined and treated by doctors and dentists, but not hospitalized overnight.

**Club:** An establishment operated for social, recreational, or educational purposes but open only to members and not the general public.

**Commercial Garage:** An establishment which includes all uses permitted for automobile service stations (as defined) except for the retail sales of gasoline and

oil. Commercial garages also include automobile body repairs and painting. Also included in this definition is the repairing of vehicles or the fixing up of old cars at a residence or any location for which money or other goods or services are received for the work.

**Commission:** The Tipton County Plan Commission.

**Community Recreational Facility:** A public or private establishment which includes one or more of the following facilities: gymnasium, indoor swimming pool, weight reduction or exercise equipment, tennis or racquetball courts, and accessory recreational programs.

**Comprehensive Plan:** The Tipton County Comprehensive Plan adopted by the County Commissioners on December 22, 2003.

**Condominium:** Real estate lawfully subjected to IC 32-1-6 (The Horizontal Property Law) by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

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

**Construction Plans:** Any maps and/or drawings and/or accompanying text showing the specific location and design of improvements to be installed in accordance with the requirements of Article Six, Planned Unit Development.

**Convenience Store/Gas Station:** A small retail grocery store and/or convenience store which sells gasoline and oil as an accessory and incidental use to the principal business activity. This definition does not include automobile service station (as defined). For the purposes of this Ordinance a convenience store/gas station will be considered a retail trade as listed in Table A.

**Conversion Dwelling:** A single-family dwelling which, because of its size and/or the character of the neighborhood in which it is located, is no longer suitable or economical for its intended use, and therefore is converted to apartments.

**Country Inn:** A lodging establishment which remains residential in character and is owned and operated by a resident of the property. (See Section 513 of this Ordinance.) A country inn which exceeds the above standards shall be classified as a motel/hotel.

**Craft/Hobby Shop:** A small retail store which provides one or more of the following: 1) sale of handmade items, 2) sale of craft and hobby supplies, 3) instruction in a craft or hobby, and/or 4) sale of related items. For the purposes of



this Ordinance a craft/hobby shop (as defined) will be considered a retail trade as listed in Table A.

**Day Care Center:** A child care facility operated for the purpose of providing care, maintenance, or supervision and instruction to children separated from their parents or guardians for more than four hours a day but less than twenty-four continuous hours for ten or more consecutive workdays. The following are not considered day care centers for the purposes of this Ordinance: 1) schools (as defined), 2) nursery schools (as defined), 3) churches which provide day care as defined by IC 12-3-2-12.8 (a), 4) child care homes (as defined), 5) home child care (as defined), 6) children's homes (as defined). A day care center may or may not be subject to Department of Public Welfare licensing.

**Development:** Any man-made change to improved or unimproved real estate, including, but not limited to, structures, mining, dredging, grading, paving, excavating, or drilling operations.

**Development Requirement:** A development requirement is any use requirement, restriction, provision or standard as authorized by IC 36-7-4-601 (d)(2) and Article Six of this Ordinance for the development of real property in a planned unit development district.

**Disabled Vehicle:** An abandoned vehicle as defined by IC 9-13-2-1, as amended, or any vehicle that is partially disassembled, inoperable, or unlicensed, on any property in location visible from public property or adjoining private property for more than twenty days or on public property without being moved for 3 days. This shall not include tractors, combines, pickers, disks, plows, or other similar farm machinery that is owned by a farm operator, that is parked in areas zoned AG, and is used for parts replacement for machinery currently being used in the farming operation.

**DNR:** Department of Natural Resources.

**Drainage:** The act, process, or mode of the outflow, removal, or carrying away of water.

**Dustless Surface:** A surface adequately covered in accordance with good construction practice; with a minimum of either two applications of bituminous surface treatment concrete, or concrete and which must be maintained in good condition at all times.

**Dwelling Unit:** One or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility for one family, and which includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Dwelling, Single-family Attached or Townhouse:** A group of two or more single-family dwelling units which are joined to one another by a common party wall, a common floor-ceiling, whether or not such a group is located on a single parcel of ground or on adjoining individual lots. Each unit shall have its own outside entrance and architectural facade or treatment of materials shall be varied from one group of units to another. No more than three abutting units in a row shall have the same front and rear setbacks, with a minimum setback offset being one foot.

**Dwelling, Single-family Detached:** A site-built residential structure or manufactured home containing one dwelling unit which is not connected to any other dwelling.

**Dwelling, Two-family (duplex):** A building located on a single lot containing not more than two dwelling units, arranged one above the other or side by side, and occupied by not more than two families.

**Dwelling, Multi-family or Apartment:** A residential building containing three or more separate dwelling units located on a single lot or parcel of ground. A multi-family dwelling, commonly known as an apartment house, generally has a common outside entrance(s) for all the dwelling units, and the units are generally designed to occupy a single floor one above another. For the purpose of this Ordinance, a multi-family dwelling may include cooperative apartment houses but shall not be construed to mean a single-family attached dwelling (as defined).

**Dwelling, Earth Sheltered Home:** A dwelling which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.

**Engineering, Research and Development Laboratories:** Engineering, research, and development activities related to such fields as chemical, pharmaceutical, medical, electrical, and transportation. All engineering, research, and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside of said building nor shall there be any health hazard created by said use.

**Erosion:** The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

**Erosion Control Measure:** The practice or a combination of practices to control erosion and resulting sedimentation.

**Erosion Control Plan:** The written description of pertinent information concerning erosion control measures designed to meet the requirements of this Ordinance as submitted by the applicant for review and approval as needed for an Improvement Location Permit.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities, rural electric membership cooperatives, or municipal or other governmental agencies of underground or overhead gas, telephone, CTV, electrical, steam, or water transmission or distribution systems including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate essential services by these agencies. This does not include private commercial enterprises such as cellular communications facilities or cable operators or wind and solar electrical generation facilities, but only those public facilities necessary for the health, safety and general welfare of the community. In addition this definition shall not apply to sewage treatment plants, electric generation facilities, underground gas storage, pipelines, pipeline pumping stations, public water wells, filtration plants, and similar structures.

**Family:** One or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group housing quarters. A family also includes foster homes as defined by IC 12-3-2-3.6 which provide full time care (foster homes) or emergency or short term placement for five or fewer children.

**Financial Services:** A business such as agricultural credit institutions, banks and branch banks, bond companies, insurance, savings and loan associations, stock and securities brokers and analysts, and similar establishments.

**Floor Area, Gross:** The total number of square feet of floor space on all floors, including basements within the surrounding walls of a structure.

**Floor Area, Net:** Gross floor area (as defined) less permanent storage and warehouse areas, show windows, utility rooms, dressing or fitting rooms, vents, elevator shafts, stairwells, parking and loading facilities, unenclosed porches and courts. Attic and basement area not used for living space in dwellings shall also be excluded.

**Group Care Home:** A residential facility (as defined).

**Group Housing Quarters:** A structure occupied by individuals sharing common facilities. Group housing quarters shall differ from two and multi-family dwelling units in that the rooms contained in the structure do not constitute independent housekeeping establishments. Examples of group housing would include a boarding house, lodging house, club, fraternity, or residential hotel.

**Hardship:** A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. Self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships.

**Hazardous Waste:** For the purposes of this Ordinance, any waste which has been or will be assigned a Hazardous Waste Number by the EPA shall be considered to be classified as a hazardous waste.

**Home Child Care:** A day care center (as defined) located within the operator's own residence which provides care for compensation to no more than five children at a time. Home child care may or may not be subject to Public Welfare licensing.

**Home Occupation:** A business or activity for financial gain carried on by an occupant at his or her place of residence, which shall be accessory and incidental to the residential use of said residence. Home occupation may be either simple or major home occupations as established in Section 512 of this Ordinance.

**IC:** The Indiana Code, 1982 or most recent edition, and the most recent yearly cumulative supplement.

**Improvement Location Permit:** A permit or certificate of zoning compliance indicating that the proposed use, erection, construction, reconstruction, alteration, or moving of a building or structure, or use of land, referred to therein, complies with the provisions of this Ordinance.

**Intensity:** Intensity is the degree of impact which a land use may have on adjacent land uses. The higher the intensity, the more likely there will be a negative impact of one land use on another. There are requirements for bufferyards and other standards in this Ordinance to minimize impact between land uses of different intensity.

**Junkyard:** Any lot, parcel, or tract of real estate, usually outdoors, where waste or discarded used property, other than organic matter, including but not limited to one or more unlicensed or inoperable motor vehicles, is accumulated and/or stored and is or may be salvaged for reuse or resale, reduction, or similar disposition.

**Land Disturbing Activity:** A land disturbing activity is any man-made change of the land surface, including removing vegetative cover, excavating, filling, transporting, and grading. It includes only non-agricultural land disturbing activities on sites which also require an Improvement Location Permit or an approved subdivision plat.

**Loading/Loading Area:** The portion of any lot which is required to be reserved for the parking, loading, or unloading of vehicles at any non residential establishment according to the standards of this Ordinance. A loading area may not use the same area as a parking area (as defined.)

**Lot:** A parcel of land of at least sufficient size to meet minimum zoning requirements of Table B of this Ordinance as established by the zoning district in which the lot is located. A lot may be a single parcel of land separately described in deed or plat which is recorded in the Office of the County Recorder or a combination of such parcels when adjoining one another and under single ownership and used as one. Such lots shall have frontage and access on an improved public street or an approved private street.

**Lot, Corner:** A lot located at the intersection of two or more street right-of-ways.

**Lot, Depth of:** A mean horizontal distance between the front and rear lot lines.

**Lot, Maximum Coverage of:** The maximum percentage of the lot area that is represented by the building area.

**Lot, Minimum Area of:** The horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public street, private street, shared access easement, or floodplain, as defined in Section 402.

**Lot, Non Conforming:** A lot of record that has less than the required minimum standards of Table B of the Ordinance as established by the zoning district in which the lot is located.

**Lot, Pipestem:** A lot which does not abut a public street other than by its driveway which affords access to the lot. The pipestem is that part of a lot which affords access and is less in width than the minimum lot width in the district in which it is located.

**Lot, Width of:** The distance between the side lot lines as measured on the building line.

**Lot Area:** The horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

**Lot of Record:** A lot that is part of a subdivision or described by metes and bounds whose existence, location, and dimensions have been legally recorded in the Office of the County Recorder pursuant to the regulations contained in the Tipton County Subdivision Control Ordinance or recorded prior to the effective date of that Ordinance, September 5, 2006.

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

- A. contains at least nine hundred and fifty square feet of occupied space per dwelling unit. Occupied space is defined as the total area of earth horizontally covered by a manufactured home; excluding accessory appendages such as, but not limited to, garages, patios, breezeways, and porches;
- B. must be a double-section or multi-section manufacturing housing unit exceeding twenty-three feet in width;
- C. be constructed after January 1, 1989;
- D. be placed onto a permanent underfloor foundation installed in conformance with the Indiana One and Two Family Dwelling Code or the Indiana Uniform Building Code in the case of multi-family dwelling units, and the manufacturer's installation specifications;
- E. be placed onto a permanent perimeter enclosure constructed in accordance with the Indiana One and Two Family Dwelling Code, or the Indiana Uniform Building Code in case of multi-family dwelling units;
- F. have wheels, axles, and hitch mechanisms removed;
- G. have siding material of a type customarily used on site-constructed residences;
- H. have roofing material of a type customarily used on site-constructed residences. Roofing material shall be installed in accordance with the manufacturer's specifications.

**Manufactured Housing:** Single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes.

**Manufacturing:**

**Light Manufacturing:** The processing and fabrication in enclosed areas of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light manufacturing includes the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed materials; lithographic plates; type composition; machine tools; dies and gauges; ceramics; apparel; light-weight non-ferrous metal castings; film processing; electrical machinery and components; light sheet metal products; plastic goods; pharmaceutical goods; and food and dairy products, but not animal slaughtering, curing, or rendering of fats.

If any of the above production activity exceeds the light manufacturing standards contained above, they shall be considered to meet the manufacturing (as defined) standards contained in this Ordinance.

**Heavy Manufacturing:** The manufacturing, fabrication, processing and storage, either in enclosed or unenclosed areas of all articles, substances, or commodities such as paper and allied products, chemicals and allied products, stone and glass products, iron and steel products, non-ferrous fabricated products, automobile assembly and heavy and industrial machinery assembly, except for manufacturing which can be classified as light manufacturing (as defined).

**Mineral Extraction:** Mining or quarrying and removal of earth materials. Mineral extraction also includes the storage, stockpiling, distribution, and sale of rock, sand, gravel, earth, clay and similar materials and rock crushing, screening, blending, washing, loading, and conveyor facilities.

**Mobile Home:** A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site and which is designed to be used as a year-round residential dwelling. Mobile homes must be newer than 20 years old to be considered conforming to this Ordinance. A mobile home shall be installed in conformance with the Indiana One and Two Family Dwelling Code. Any mobile home of less than 440 square feet shall be considered a recreational vehicle under the terms of this Ordinance.

**Mobile Home Park:** An area of land on which two or more mobile homes are regularly accommodated with or without charge, including any building or other structure, fixture, or equipment that is used or intended to be used in providing that accommodation. (See Section 506.) Two mobile homes on a single parcel of land, when one is a second principal structure for the purpose of a caretaker dwelling, is not considered a mobile home park (see Section 507).

**Motel/Hotel:** A structure or portion thereof or a group of structures which provide sleeping accommodations in separate units or rooms for transients on a daily, weekly, or similar short-term basis. Such an establishment may be designated as a hotel, motel, resort, inn, court, motor inn, motor lodge, tourist cabin, tourist court, apartment hotel, or otherwise. The motel/hotel may include separate cooking facilities for each unit. There may be additional services such as restaurants, meeting rooms, and recreational facilities; however, it shall not include business from rooms. A motel/hotel does not include group housing quarters (as defined), bed and breakfast establishments (as defined) or country inns (as defined).

**Non Conforming Structure:** Any structure or part of a structure legally existing at the time of enactment of this Ordinance or any of its amendments, or any structure for which a variance has been granted subsequent to enactment of this Ordinance, which does not conform to the provisions of this Ordinance.

**Non Conforming Use:** Any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance or any of its amendments, or any use or arrangement of land or any of its structures for which a use variance has been granted subsequent to enactment of this Ordinance, which does not conform to the provisions of this Ordinance.

**Nuclear Waste:** Radioactive byproduct materials generated by laboratory, hospital, and industrial research and commercial production; and radioactive fuel elements, assemblies, etc. generated by utility companies; military, industrial, and commercial production as defined by the Atomic Energy Act of 1954 as may be amended and administered by the Nuclear Regulatory Commission. Any radioactive material whether gaseous, liquid, or solid and associated carrier materials whether gaseous, liquid, or solid which has been declared "diminimus" and no longer under control of the NRC. Such material may or may not be designated hazardous by the EPA.

**Nursery School (Pre-School):** An establishment operated for the purpose of providing, usually part-time, instruction of children under six years of age.

**Occupancy, Certificate of Occupancy:** A permit or certificate issued by the signature of the Zoning Administrator upon completion of the construction of a structure, or change in use of structure or parcel of land and indicating that the use and/or structure is in compliance with all applicable County Ordinances and that the structure and land may be used for the purposes set forth in the Improvement Location Permit.

**Parking/Parking Area:** The portion of any lot which is required to be reserved for the parking of vehicles using that lot according to the standards of this Ordinance. A parking area may not use the same area as loading area (as defined).

**Peak Flow:** The maximum rate of flow of water at a given point in a channel or conduit resulting from a particular storm or flood.

**Performance Guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the requirements and specifications of the Planned Unit Development District Ordinance and approved secondary plan.

**Permanent Foundation:** A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil. A permanent foundation must meet the applicable specifications of the Indiana One and Two Family Dwelling Code.

**Permanent Perimeter Enclosure:** A permanent perimeter structural system completely enclosing the space between the floor joists of a manufactured home



and the ground. A permanent perimeter enclosure must meet the applicable specifications of the Indiana One and Two Family Dwelling Code.

**Planned Unit Development:** A planned unit development (PUD) as specified in IC 36-7-4-1500 series, is development of real property under single ownership or under multi-ownership but unified control and is planned and developed as a whole in a single development operation or a definitely programmed series or phases of development operations. A planned unit development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. See Article Six of this Ordinance.

**Planned Unit Development Administrative Officer:** The person appointed by the Plan Commission to administer Article Six, Planned Unit Development, of this Ordinance.

**Planned Unit Development District:** A zoning district for which a Planned Unit Development Ordinance is adopted according to the IC 36-7-4-1500 series and Article Six of this Ordinance.

**Planned Unit Development District Ordinance:** A zoning ordinance which designates a parcel of real property as a planned unit development district; specifies uses or a range of uses permitted in the planned unit development district; specifies development requirements in the planned unit development district; specifies the plan documentation and supporting information that may be required; specifies any limitation applicable to a planned unit development district; and meets the requirements of IC 36-7-4-1500 series and Article Six of this Ordinance.

**Principal Structure:** The structure in which the principal use of the lot is conducted.

**Principal Use:** The primary use to which a premises is devoted, and the main purpose for which the premises exist.

**Professional Office:** Any structure or portion thereof used or intended to be used as an office for abstractors, advertising consultants, collection agencies, detective and protective service agencies, employment agencies, interior designers, realtors, attorneys, engineers, architects, surveyors, accountants, bookkeeper agents, tax consultants, insurance agents, labor and business organizations, political organizations, professional societies, and similar professional offices.

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

**Release Rate:** The amount of storm water release from a storm water control facility per unit of time.

**Repair Services:** A business which includes the repair of electrical appliances, musical instruments, watches, clocks, jewelry, shoes, small gasoline-powered items such as lawn mowers, and similar small items and the reupholster and repair of furniture. This may include the accessory resale of items repaired at the establishment.

**Residential Facility:** A group care home for the purpose of providing a family-like and long-term living environment to individuals who are not related to the head of the household and who are developmentally disabled, mentally ill, aged, blind, or deaf; or in need of adult supervision; which provides room and board and other services in accordance with their individual needs. Emergency shelters for abused, neglected, abandoned, or homeless individuals are also included in this category, but does not include social rehabilitation facilities (as defined) or children's homes (as defined). Structures which are divided into separate dwelling units (as defined) will be considered multi-family dwellings or apartments as listed in Table A.

**Retail Trade:** Buildings for display and sale or rental of merchandise at retail such as the following: antiques, apparel, arts and crafts supplies, automotive parts, bakeries, bicycle sales and accessory repair, books and magazines, camera shops, carpet, convenience stores (as defined), department stores, drapery, drug stores, fabrics, florists (not to include greenhouses), furniture, gift shops, groceries, hardware, craft/hobby shops (as defined), household appliances, office and business machine supplies, paint stores, pet shops, (not to include kennels), records and music stores, shoes, specialty food stores, sporting goods, toy stores, variety stores, video tape sales and rentals, and other similar type uses not elsewhere defined or specified in this Ordinance.

**Right-of-Way:** A general term denoting land, property, or interest therein acquired for or devoted to the public welfare; most often intended for access, transportation, or utility transmission.

**Satellite Dish Antenna:** An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**School:** A public or private institution offering an educational curriculum or educational instruction or any institution under State Department of Public Instruction jurisdiction, except for home schools.

**Scrap Metal Yard/Salvage Yard:** A facility or land area for the storing, keeping, selling or dismantling, shredding, compressing, or salvaging scrap or discarded material or

equipment. This definition includes material recovery facilities and automobile graveyards.

**Screening:** Screening relative to this Ordinance shall mean a fence, evergreen hedge or wall at least six feet in height, provided in such a way that it will block a line of sight. The screening may consist either of one or several rows of bushes or trees, or of a constructed wall or fence. Evergreen plantings, if utilized shall be selected so as to mature to a height of at least six feet.

**Shopping Center:** Any group of two or more trade or service uses which are: designed as a single commercial group, whether located on the same lot; under common ownership or management; connected by party walls, partitions, canopies or other structural members to form one continuous structure or, if located in separate buildings, are interconnected by walk-ways and access-ways designed to facilitate customer interchange between the uses; share a common parking area; and otherwise present the appearance of one continuous commercial area. This definition includes enclosed shopping centers or malls, strip shopping centers and/or specialized centers such as outlet malls or auto malls.

**Sidewalk Cafe:** A restaurant which has as an incidental or accessory use, a group of tables, chairs, benches or decorative devices maintained upon a public sidewalk adjacent to the restaurant for the sale to the public of food or beverages as otherwise permitted by law. This definition does not include tables or benches for eating purposes provided by a restaurant as accessory uses on the restaurant property

**Sign:** Any surface, fabric, or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view; or any structure (including billboards, poster panels, or other graphic displays) designed to carry the above visual information. Sign regulations are specified in Section 505 of this Ordinance.

**Sign, Building Mounted:** A sign attached to a building or structure other than a structure used exclusively for sign support.

**Sign, Freestanding:** A sign not connected to a building or structure, other than a structure used exclusively for sign support.

**Sign, Off-premise:** A sign which communicates the availability of goods, services, ideas, or business establishment not available on the premises on which the sign is located.

**Sign, On-premise:** A sign which communicates the availability of goods, services, ideas, or business establishment available on the premises on which the sign is located.

**Sign, Portable:** A freestanding, on-premise advertising device 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 tiedown straps or stakes.

**Sign, Temporary:** An advertising device not attached to a permanent foundation and restricted as to duration of time allowed for display.

**Social Rehabilitation Center:** A secure or non-secure facility licensed by a department of state or local government in which persons reside while receiving, either within the facility or elsewhere, services which are designed to equip them for independent living within the community. Such services may include therapy, treatment, training, and/or counseling which is directed at one or more of the following groups: assisting persons to recover from the affects of drugs or alcohol or the dependence thereon; assisting persons with family, school, or social adjustment problems to return to normal family or communal life; or assisting persons to be housed under supervision while under the constraints of alternatives to imprisonment, including, but not limited to work-release, pre-release, and probationary programs. For the purpose of this Ordinance, this definition does not include state or federally owned and operated facilities.

**Special Exception:** A use which shall be allowed within a particular district contingent upon approval of the Board of Zoning Appeals because of its special nature. Special exceptions which may be considered in each district are listed in Table A.

**Staff:** All employees of the Tipton County/Tipton County Planning Department including, but not limited to, the Executive Director, the Assistant Planner, the Zoning Administrator, the Secretary, the Plan Commission Attorney, and any clerical assistants. This also includes any consultants or other individuals performing duties on behalf of or request of the Planning Department.

**Structure:** Anything constructed or erected or applied, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, which includes, in addition to buildings, billboards, carports, porches, and other building features but not including sidewalks, fences, and patios.

**Supply Yard:** A commercial establishment storing or offering for sale goods which require large storage areas primarily outside such as steel, pipe, concrete, or metal supplies. Supply yards do not include the wrecking, salvaging, dismantling, or storage of automobiles and similar vehicles.

**Telecommunications Antenna:** A specific device, the surface of which is used to transmit and/or receive radio frequency signals, microwave signals, or other signals transmitted to or from other antennas for commercial purposes.

**Telecommunications Cell Site:** A tract or parcel of land that contains the cellular communications antenna, its support structure, accessory building, and parking and may include other uses associated and ancillary to cellular communications transmissions.

**Telecommunications Co-location:** Telecommunications antenna and related equipment which is 1) located on an existing communications tower which has at least one other telecommunications antenna and related equipment; or 2) located on an existing structure, for example, water towers, radio and television towers, tall buildings, commercial signs, church steeples, etc in order to minimize the proliferation of new towers/facilities.

**Telecommunications Equipment Shelter:** A cabinet or building located at the base of or near a wireless communication facility within which are housed, among other things, batteries and electrical equipment serving the telecommunications antenna.

**Telecommunications Facility:** A facility that transmits and/or receives electronic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunications towers, or similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development.

**Telecommunications Tower:** A mast, pole, monopole, guyed, or freestanding framework or other vertical elements that act as an antenna or to which an antenna is affixed or attached.

**Use:** The specific purposes for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

**Variance:** Subject to the approval of the Board of Zoning Appeals, a modification of the strict terms of the relevant regulations of this Ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship.

**Wall Graphic:** A design which is painted on a side of a building for the purpose of improving a blank or dilapidated building surface, enhancing architectural detail, or generally intended to improve the visual aspect of the community. Wall graphics may include the name and/or logo of a local business, but shall not advertise specific products manufactured or offered for sale, except through indirect graphic representation.

**WECS:** All necessary devices that together convert wind energy into electricity and deliver that electricity to a utility’s transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower, substation, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WECS project.

- A.) **Ambient Baseline Sound Pressure Level:** The L90 A-weighted sound pressure emissions level (the level of sound exceeded 90% of the time) for a WECS project area prior to construction as determined by a baseline acoustics emissions study.
- B.) **Commercial WECS:** A Wind Energy Conversion System constructed on the property of another by a company or corporation or other entity, whose general intent is to capture wind energy and place it on the electrical grid for resale to a public utility or other energy marketer.
- C.) **Critical Wind Speed:** The wind at which a WECS turbine sound pressure levels are at greatest variance with ambient background sound pressure levels.
- D.) **Micro-WECS:** A small Wind Energy Conversion System designed to provide power to a home or other local site for use by the owner. It may or may not include net-metering capability.
- E.) **Meteorological Tower:** Towers which are erected primarily to measure wind speed and direction plus other data in order to validate a proposed WECS project. These are intended to be temporary in nature and permits for which must be renewed after the expiration of five years with the option of an annual permit extension for year 6 and 7. These towers can be converted to a Meteorological Tower, Operational Support by filling a notice with the Zoning Administrator once the WECS project is operational
- F.) **Meteorological Tower, Operational Support:** Towers which are erected primarily to measure wind speed and direction plus other data in support of an operating WECS. These are generally considered to be in place for the life of the project.
- G.) **Non-Commercial WECS:** A Wind Energy Conversion System that is generally smaller than a Commercial WECS and the primary purpose is to collect wind energy for the purpose of supplying energy to the owners, such as business, school or factory. It would normally entail net metering.
- H.) **Non-Participating Landowner:** A person(s) or entity who has not entered into any contractual agreement with a company or entity with the intention of developing a WECS Project on or near such person(s) or entity’s land and is not participating contractually to receive certain economic benefits to accrue from the development and operation of the WECS Project.
- I.) **Participating Landowner:** A person(s) or entity who has entered into an executed contractual agreement with a company or entity with the

intention of developing a WECS Project on or near such person(s) or entity's land and is participating contractually to receive certain economic benefits to accrue from the development and operation of the WECS Project.

- J.) **Successor:** Any person, partnership, LLC or other corporate entity that purchases, leases or otherwise acquires an interest in all or a portion of a WECS Project from an applicant or successor. All applicable provisions of this ordinance shall apply equally to an applicant or successor.
- K.) **Substation:** A structure containing apparatus that connects the below or above-ground electrical collection lines of the WECS to the electricity grid, with or without increasing the voltage.
- L.) **WECS Project:** A collection of multiple WECS as specified in the application and/or improvement location permit.
- M.) **WECS Salvage Value:** The net value of towers, nacelles, generators, turbines, blades, wires, transformers and all other salvageable parts and commodities which make up the WECS whether sold as used parts or on a commodity/scrap basis or any combination thereof (whichever is greater) after deducting all estimated costs and expenses of dismantling, removal, and transportation and all costs and expenses of sale (including but not limited to all commissions and fees) and the amount necessary to pay and satisfy all liens, security interests and all other encumbrances attached to the WECS. The commodity/scrap value shall be based on the five (5) years average scrap value of the commodities.
- N.) **WECS Tower:** The support structure to which the nacelle, with turbine and rotor are attached. Sometimes the term is used to refer to the tower, nacelle, turbine and rotor collectively.

**Wholesale Distribution:** An establishment which buys products from manufacturers for resale to retail establishments. Wholesale establishments may include motor vehicles and automotive equipment, drugs, chemicals, dry goods and apparel, groceries, electrical goods, hardware, plumbing and heating supplies, machinery, furniture, home furnishings, lumber products, and paper products, but does not include scrap and waste materials.

**Yard:** A space on the same lot with principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this Ordinance.

**Yard, Front:** A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar uses the depth of which is the least distance between the street right-of-way line and the building line. On corner lots, the front yard shall be all yards between street right-of-ways and the building lines. The front yard may also be called the front setback or setback area.

**Yard, Rear:** A yard extending across the full width of the lot between the rear of the main building and the rear lot line unoccupied other than by accessory structures and uses, the depth of which is the least distance between the rear lot line and the rear of such main building. On corner lots, there is no rear yard. On lots which abut a street right-of-way on both the front and back (double frontage lot) or on lots which abut a street right-of-way and a lake or river shore, there shall be front yard provided on both streets and/or river or lake shore property lines, except as provided by this Ordinance. The rear yard may also be called the rear setback or setback area.

**Yard, Side:** A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest part of the main building. On corner lots, all yards that are not front yards shall be side yards. The side yard may also be called the side setback or setback area.

**Zero Lot Line:** The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

**Zoning Administrator/Administrator:** The person appointed by the Plan Commission to administer and enforce this Ordinance. For the purpose of this ordinance the terms Building Commissioner and Zoning Administrator are interchangeable.



ARTICLE THREE  
DISTRICT REGULATIONS

301 DISTRICT ZONE MAPS: A District Zone Map of each Township in Tipton County is hereby adopted as part of this Ordinance. The district zone maps shall be kept on file available for examination in the Office of the Building Commissioner at the County Courthouse.

301.01 In the event that the Official District Zone Maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Commissioners may, by resolution, adopt new Official District Zone Maps which shall supersede the prior Official District Zone Maps. The new Official District Zone Maps may correct drafting or other errors or omissions in the prior Official District Zone Maps, but no such correction shall have the effect of amending the original Official District Zone Maps or any subsequent amendment thereof. An electronic version of the District Zone Map maintained by the Building Commissioner is considered official.

301.02 District boundaries shall meet the following standards:

- A. District boundaries shown within the lines of roads, streams, and transportation rights-of-way shall be deemed to follow the centerlines.
- B. Boundaries indicated as following section lines or platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as parallel to or extensions of above features shall be so construed.
- D. Boundaries indicated as following shore lines shall be construed as following such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines as established on the effective date of the Ordinance.
- E. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than fifty feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.
- F. The vacation of streets and roads shall not affect the location of such district boundaries.
- G. When the Zoning Administrator cannot definitely determine the location of a district boundary by such centerlines, by scale or dimensions stated on the

District Zone Map, or by the fact that it clearly does not coincide with a property line, he shall refuse action, and the Board of Zoning Appeals, upon appeal, shall interpret the location of the district boundary with reference to the scale of the District Zone Map and the purposes set forth in all relevant provisions of this Ordinance.

H. Where physical or cultural features existing on the ground are at variance with those shown on the District Zone Map, or in other circumstances not covered subsections A. through G. above, the Board of Zoning Appeals shall interpret the district boundaries.

302 ESTABLISHMENT OF DISTRICTS: The jurisdictional area of the County divided into the following zoning districts for purposes as stated:

302.01 **AG, Agricultural District:** The purpose of this district is to recognize agriculture as the predominant use of land in the County and to ensure the continued viability of this resource. Adverse effects and incompatibilities between agricultural and non-farm uses will be discouraged and public sewage and water facilities will not be provided. Density should not exceed one dwelling unit per acre. Higher density development will be considered only as a planned development and/or as per the modification procedure of the Tipton County Subdivision Control Ordinance.

302.02 **RR, Rural Residential:** The purpose of this district is to provide for low density residential areas which includes most of the small unincorporated and residential areas outside of incorporated rural communities in the County which are not of sufficient density or area to warrant central sewage facilities, but may at some future date form a sewer district.

302.03 **B-1, Convenience Business District:** The purpose of this district is to provide convenience business and service uses in neighborhood areas.

302.04 **B-4, General Business District:** The purpose of this district is to provide areas for general business uses to meet the needs of a regional market and the traveling public. General Business Districts should be located on collectors or arterials highways.

302.05 **AB, Agribusiness District:** The purpose of this district is to encourage expansion of business and manufacturing support uses for the local agricultural community in proper locations.

302.06 **I-1, Light Industrial:** The purpose of the Light Industrial District is 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.

- 302.07 **I-2, General Industrial District:** The purpose of this district is to encourage the development and expansion of major industrial operations which utilize both enclosed and unenclosed space for storage, fabricating, and manufacturing.
- 302.08 **FW, Floodway Overlay District:** The purpose of this district is to restrict development within that portion of the floodplain which has been delineated by the Federal Insurance Administration as being required to carry the principal thrust and flow of floodwaters.
- 302.9 **FF, Floodway Fringe Overlay District:** The purpose of this district is to place additional restrictions upon uses permitted in underlying districts which are located within that area of the floodplain delineated by the Federal Insurance Administration as the floodway fringe.
- 302.10 **PUD, Planned Unit Development District:** The purpose of a Planned Unit Development District is to allow, where it is deemed appropriate and is consistent with the goals and policies of the Tipton County Comprehensive Plan, the land use requirements and development regulations of the Tipton County Zoning Ordinance be replaced by a Planned Unit Development District Ordinance which specifies the land use requirements, design plan, and performance criteria for the district. A PUD is permitted by adoption of a Planned Unit Development District Ordinance as specified in Article Six of the Ordinance.
- 302.11 **US 31 Corridor Overlay District:** The purpose of this district is to promote the health, safety, comfort, convenience and general welfare of the public by guiding the growth and development of those areas adjacent and adjoining to the US 31 Corridor. It is in the public interest to establish fair, objective and consistent standards for development within the US 31 Overlay District in order to encourage capital investment and economic development; to promote efficient land use and innovative site design; to preserve the natural environment; to protect the integrity of the planned limited access highway and secure the safety and convenience of vehicular and pedestrian traffic.
- 302.12 **WECS Overlay District:** The purpose of this district is to define areas, which because of their location and wind resources are recommended and best suited for the establishment of Commercial WECS. This district will allow permitting and regulation of Commercial WECS in order to minimize impact on the underlying district and affected adjacent and adjoining areas for conflict with other uses.
- 303 **DISTRICT LAND USAGE:** The permitted, prohibited, and special exception uses for each district are shown in Table A. Where the district column is marked with a “P” the use is permitted in that district. Where the district column is marked with an “X” the use is prohibited. Where the district column is marked with an “S” a special exception must first be obtained as specified in Section 805 of this Ordinance. Where the district column is marked with a “C” a conditional use must first be obtained as specified in Section 808 of this ordinance. The Zoning Administrator shall determine into which category any use

shall be placed which is not specifically listed or herein defined. This determination may be appealed to the Board of Zoning Appeals.

- 304 DISTRICT PERFORMANCE STANDARDS: District minimum lot area, lot width, minimum lot area per family, minimum front; side, and rear yards; and maximum lot coverage are listed in Table B.

TABLE A  
District Use Standards

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
<u>AGRICULTURE</u>									
1. Agriculture - Cropland and Orchards	P	P	P	P	P	P	P	A	C
2. Agriculture - Pasture and Grazing (does not include animals kept as pets or for hobby)	P	S	P	P	P	P	P	A	C
3. Agriculture - Confined Feeding (as defined)(see Section 502)	P	X	X	X	S	S	S	A	C
4. Agriculture - Commercial Fish, Worm, Fur, and Other Specialty Farms	P	X	P	P	P	P	P	A	C
5. Agriculture - Accessory Storage Facilities	P	P	P	P	P	P	P	A	C
6. Agriculture - Processing of Goods Produced on Property Only	P	S	P	P	P	P	P	A	C
7. Agriculture - Farm Business - On-site Sale of Goods Primarily Produced on Property (seasonal)	P	X	P	P	P	P	P	A	D
8. Agriculture - Farm Business - On-site Sale of Goods Produced on the Property (permanent)	S	X	P	P	P	P	P	C	D
9. Agriculture - Irrigation Facilities	P	S	P	P	P	P	P	A	C
10. Agriculture - Land Application of Sludge and Wastewater (see Section 519)	P	X	X	X	P	P	P	A	C
11. Cropland Research or Demonstration Test Plot (temporary or permanent)	P	S	P	P	P	P	P	A	C

AG - Agriculture  
RR - Rural Residential  
R1 - Suburban Residential  
I1 - Light Industrial

B1 - Convenience Business  
B4 - General Business  
AB - Agribusiness  
I2 - General Industrial

P - Permitted Use  
S - Special Exception  
X - Prohibited Use

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
12. Livestock Research and Evaluation	P	X	P	P	P	P	P	B	C
13. Forestry, Woodland	P	P	P	P	P	P	P	A	C
14. Plant Nursery (not to include office or retail business facility)	P	X	P	P	P	P	P	A	C
15. Agribusiness (as defined)	S	X	X	S	P	S	S	E	B
16. Farm Equipment Sales and Rental New and Used and Accessory Service and Repair	S	X	X	S	P	S	P	E	N
17. Liquid Fertilizer and Agricultural Chemicals - Sales, Mixing, Storage, and Distribution	S	X	X	X	P	S	S	E	B
18. Grain Elevators and Feed Dealers, Storage and Distribution	S	X	X	X	P	S	S	E	B
19. Auction Barn (livestock)	S	X	X	X	P	S	S	E	G
20. Slaughterhouse and Rendering Plant	X	X	X	X	X	X	S	E	B
21. Uncovered manure storage or treatment lagoon, 180 days or more storage capacity.	S	X	X	X	X	X	X	B	C
<u>NATURAL RESOURCES</u>									
1. Water Management and Use Facilities such as Dams, Docks, Piers, Channel Improvements, Seawalls, and Floodwalls	P	P	P	P	P	P	P	A	C
2. Wildlife and Nature Preserves	P	P	P	P	P	P	P	A	C
3. Public Landing Facilities	P	P	P	P	P	P	P	A	C
4. Public Owned Park or Recreational Area and Accessory Structures	P	P	P	P	P	P	P	A	C
5. Conservation and Environmental Study Clubs	S	X	S	S	S	S	S	B	C
6. Mineral Extraction (as defined) (see Section 517)	S	S	S	S	S	S	S	E	B
7. Fish Hatcheries	P	X	P	P	P	P	P	A	C

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
8. Artificial Lake or Reservoir of Three Acres or More	S	S	S	S	S	S	S	A	C
9 Oil and Gas Production (not to include refining)	S	X	S	S	S	S	S	E	B
10. Agricultural and Environmental Research Centers	S	X	P	P	P	P	P	B	B
11. Water Areas, Marshland	P	P	P	P	P	P	P	A	C
12. Fill of Natural Wetland, Water Areas or Marshland	S	S	S	S	S	S	S	A	C
	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
<u>RESIDENTIAL</u>									
1. Residential Subdivision (2 or more lots as defined)	S	P	X	X	X	X	X	A	A
2. Dwelling – Single-family, Detached (as defined)	P	P	X	X	X	X	X	A	A
3. Dwelling – Single-family, Attached (as defined)	S	S	X	X	X	X	X	A	A
4. Dwelling – Two-family (as defined)	S	S	X	X	X	X	X	B	A
5. Dwelling – Multi-family (as defined)	S	S	X	X	X	X	X	B	A
6. Dwelling – Cabin or Cottage (as defined)	P	S	X	X	X	X	X	A	A
7. Dwelling – Seasonal Farm Worker Housing	P	S	X	X	S	X	X	A	A
8. Dwelling - Accessory Apartment (as defined) (see Section 514)	S	S	S	S	S	X	X	A	A
9. Conversion Dwelling (as defined) (see Section 515)	S	S	S	S	S	X	X	A	A
10. Manufactured Home (as defined)	P	P	X	X	X	X	X	A	A
11. Residential Subdivision, Minor	P	P	X	X	X	X	X	A	A
12. Residential Subdivision, Major	S	P	X	X	X	X	X	A	A

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
11. Mobile Home - As Principal Structure (as defined) Not Located in Mobile Home Parks	S	S	X	X	X	X	X	A	A
12. Mobile Home - As Second Principal Structure for Caretaker Dwelling (see Section 507)	S	S	X	X	X	X	X	A	A
13. Mobile Home - As Dwelling when Located in Conjunction with a Permitted Business	X	X	S	S	P	P	P	A	A
14. Mobile Home Park (as defined) (see Section 506)	S	X	S	S	X	X	X	B	A
15. Nursing and Retirement Home	S	S	X	X	X	X	X	B	K
16. Children’s Home (as defined)	S	S	X	X	X	X	X	B	J
17. Residential Facility (as defined)	P	P	X	X	X	X	X	B	J
18. Residential Facility (as defined) for the Mentally III When Located Greater than 3000 feet from Another Residential Facility for the Mentally III	P	P	X	X	X	X	X	B	J
19. Residential Facility (as defined) for the Mentally III When Located Less than 3000 feet from Another Residential Facility for the Mentally III	S	S	X	X	X	X	X	B	J
20. Social Rehabilitation Center (as defined)	S	S	S	S	S	S	S	B	J
21. Group Housing Quarters (as defined)	S	S	X	X	X	X	X	B	K
22. Motel or Hotel (as defined)	X	X	P	P	P	X	X	D	S
23. Bed and Breakfast Facility (as defined), Tourist Home (see Section 513)	S	S	S	S	X	X	X	B	S
24. Country Inn (as defined) (see Section 513)	S	X	S	S	X	X	X	D	S
25. Home Occupation - Simple (as defined) (see Section 512)	P	P	P	P	P	P	P	A	A

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
26. Home Occupation - Major (as defined) (see Section 512)	S	X	P	P	P	P	P	C	A
27. Residential Accessory Uses and Structures (see Section 504)	P	P	P	P	P	P	P	A	A
28. Child Care Home (as defined)	P	S	S	S	S	X	X	A	T
29. Child Care Home (as defined) When Used as Primary Residence of Caretaker Operator	P	P	P	S	S	X	X	A	A
<u>TRADE</u>									
1. Retail Trade (as defined) of No More than 1000 Square Feet Per Establishment	X	X	P	P	S	X	X	C	D
2. Retail Trade (as defined) of More than 1000 Square Feet Per Establishment	X	X	S	P	S	X	X	D	E
3. Shopping Center (as defined) of Up to 200,000 Square Feet	X	X	S	S	S	X	X	D	I
4. Shopping Center (as defined) of Over 200,000 Square Feet	X	X	X	S	S	X	X	D	H
5. Restaurant and Cafeterias (not including drive-ins or sidewalk cafes)	X	X	P	P	S	S	X	D	L
6. Drive-in and Carry-out Restaurants	X	X	X	P	S	S	X	D	L
7. Sidewalk Cafes (as defined) (see Section 516)	X	X	X	S	S	S	X	D	L
8. Dinner Theater, Night Club, and Taverns	X	X	X	P	S	S	X	D	L
9. Liquor Stores	X	X	S	P	S	X	X	D	E
10. Automobile Sales and Rental - New and Used and Accessory Service and Repair	X	X	X	P	S	S	X	E	N
11. Commercial Garages (as defined) (see Section 511)	S	X	X	P	S	S	X	E	M



	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
12. Automobile Service Stations (as defined) and Tire and Battery Dealers and Accessory Service and Repair (not including junk yards) (see Section 511)	X	X	X	P	S	S	X	E	M
13. Automobile Car Washing and Waxing	X	X	X	P	S	S	X	E	M
14. Mobile Homes and Recreational Vehicle Sales and Rental and Accessory Service and Repair	X	X	X	P	S	S	X	E	N
15. Motorcycle and Truck Sales and Accessory Service and Repair	X	X	X	P	S	S	X	E	N
16. Truck Stops and Service Centers	X	X	X	P	S	S	S	E	M
17. Heavy Equipment Sales and Rental, New and Used and Accessory Service and Repair	X	X	X	P	P	S	S	E	N
18. Aircraft Sales, Storage and Rentals and Accessory Service and Repair (including crop dusting services)	S	X	X	X	S	S	X	E	N
19. Boat and Other Marine Sales and Rental and Accessory Service and Repair	S	X	X	P	S	S	X	E	N
20. Monument Sales	X	X	X	P	S	S	X	E	D
21. Lumber and Building Supplies, Lawn and Garden Supplies and Farm Supply Centers (including outdoor storage)	S	X	X	P	P	S	X	E	E
22. Truck and Trailer Rentals (as principal or accessory use)	X	X	X	P	S	S	X	E	N
<u>SERVICES</u>									
1. Financial Services (as defined)	X	X	P	P	P	S	X	D	E
2. Drive-through Services (with no inside public facilities)	S	X	P	P	S	S	S	E	A1

Tipton County Zoning Ordinance

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
3. Drive-through Services (in conjunction with a permitted use)	S	X	P	P	P	P	P	E	B1
4. Repair Services (as defined)	X	X	P	P	P	S	X	C	D
5. Hospitals	S	X	X	S	X	X	X	B	J
6. Medical and Dental Offices and Clinics (as defined)	X	X	S	P	S	S	X	C	O
7. Engineering, Research and Development Laboratories (involving fire or explosives) (as defined)	X	X	X	X	X	X	S	E	B
8. Engineering, Research and Development Laboratories (not involving fire or explosives) (as defined)	X	X	X	X	S	P	P	B	B
9. School - College and University	S	X	X	X	S	S	S	B	Q
10. School - Elementary and Secondary	P	P	P	P	S	S	S	B	P
11. School - Trade, Vocational, Business, Art or Music	S	X	X	X	S	S	S	B	Q
12. Government Offices and Auto License Bureaus	S	S	S	P	P	P	S	C	D
13. Fire and Police Stations	P	P	P	P	P	P	P	B	B
14. Libraries, Community Centers, Senior Citizen Centers, Post Offices	S	S	S	P	P	P	X	B	D
15. Penal or Correctional Institutions	X	X	X	X	X	S	S	B	B
16. Churches	P	P	P	P	P	S	S	B	R
17. Cemetery	S	S	S	S	S	S	S	B	C
18. Civic and Charitable Organization Facilities	S	X	S	P	S	S	X	C	X
19. Sanitary Landfill	S	X	X	X	S	S	S	E	B

Tipton County Zoning Ordinance

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
20. Public Water Wells, Filtration Plants, and Storage Tanks	S	S	S	P	P	P	P	B	B
21 Sewage Treatment Plants	S	S	S	S	S	P	P	E	B
22. Barber and Beauty Shops	X	X	P	P	S	S	X	D	D
23. Coin Operated Laundries and Dry Cleaning	X	X	P	P	S	S	X	D	D
24. Laundries (commercial) and Diaper Services	X	X	X	P	S	S	X	D	B
25. Mortuary	X	X	X	P	S	S	X	D	R
26. Photographic Studio	X	X	P	P	S	S	X	C	D
27. Veterinary Hospital and Clinic	S	X	S	P	P	S	X	C	O
28. Kennel	S	X	X	P	P	S	X	C	N
29. Day Care Center (as defined)	S	S	S	S	X	X	X	B	T
30. Nursery School (as defined)	S	S	S	S	X	X	X	B	T
31. Woodworking, Cabinet Shop (not to include heavy manufacturing)	S	X	S	P	S	S	X	C	D
32. Taxidermist	X	X	X	P	S	S	X	C	D
33. Sign Painting	X	X	X	P	S	S	X	C	D
34. Welding	S	X	X	P	P	S	S	C	D
35. Blue Printing and Photocopying and Printing/Publishing of No More Than 5000 Square Feet per Establishment	X	X	S	P	S	S	X	C	D
36. Data Processing	X	X	P	P	S	S	X	C	D
37. Travel Bureau	X	X	P	P	S	S	X	C	D
38. Landscaping (not to include nurseries)	S	X	X	P	P	S	X	C	D

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
39. Tailoring and Dressmaking	X	X	P	P	S	S	X	C	D
40. Professional Offices (as defined)	X	X	P	P	S	S	X	C	D
41. Contractors, including Plumbing, Heating, Cooling, Electrical, Roofing, Water Softening, Well-drilling, Excavating, Building, and House Moving (including service yard and showroom)	X	X	X	P	P	P	S	E	D
<u>RECREATIONAL FACILITIES</u>									
1. Bowling Alley	X	X	X	P	S	S	X	D	U
2. Billiard and Pool Establishment	X	X	X	P	S	S	X	D	U
3. Dance Hall and Schools of Dance	X	X	X	P	S	S	X	D	V
4. Fairgrounds	S	X	X	S	S	S	X	A	W
5. Golf and Country Clubs	S	S	X	S	S	S	X	A	X
6. Golf Courses and Accessory Structures	S	S	S	S	S	S	S	A	U
7. Golf Driving Ranges	S	X	X	P	S	S	X	A	W
8. Miniature Golf Courses	X	X	X	P	S	S	X	D	W
9. Lodges, Fraternal Organizations, and Private Clubs	X	X	X	P	S	S	X	D	X
10. Theater, Indoor	X	X	X	P	S	S	X	D	R
11. Theater, Outdoor	X	X	X	S	S	S	X	D	W
12. Museum and Art Gallery	X	X	X	P	S	S	X	D	D
13. Race Track	X	X	X	S	S	S	X	D	R
14. Auditorium, Coliseum, Stadiums	X	X	X	S	S	S	X	D	R
15. Riding Stables	S	X	X	P	P	S	X	D	W

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	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
16. Shooting or Archery Range (indoor)	X	X	X	P	S	S	X	D	V
17. Shooting or Archery Range (outdoor)	X	X	X	S	S	S	X	D	W
18. Amusement Park	X	X	X	S	S	S	X	D	W
19. Ice or Roller Skating Arena	X	X	X	P	S	S	X	D	V
20. Tennis and Racquet Clubs	X	X	X	P	S	S	X	D	U
21. Ski and Toboggan Runs	S	X	X	P	S	S	X	A	W
22. Reception Halls	X	X	X	P	S	S	X	D	V
23. Zoos, Botanical Gardens	S	X	X	S	S	S	X	A	W
24. Recreational Vehicle Park (see Section 508)	S	X	X	S	S	S	X	D	A
25. Organizational Campground (scouts, churches, recreational clubs, and similar organizations)	S	X	X	S	S	S	X	D	W
26. Campground (public and private) (see Section 508)	S	X	X	S	S	S	X	D	A
27. Hunting Preserves and Gamelands	S	X	X	S	S	S	S	A	W
28. Weight Reduction or Exercise Facility	X	X	X	P	P	S	X	D	V
29. Motorcycle Riding Trails	S	X	X	S	S	S	X	D	W
30. Boat Rental and Storage	S	X	S	P	P	P	P	D	W
31. Videogame Arcade	X	X	P	P	X	X	X	D	E
32. Community Recreational Facility (as defined)	X	X	S	S	S	X	X	D	Z
33. Water Slide Park, Public Swimming Area	S	X	S	S	S	X	X	D	W

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
<u>TRANSPORTATION, COMMUNICATIONS, UTILITIES</u>									
1. Airport, Landing Strip and Heliport	S	X	X	X	S	S	S	A	M
2. Bus Station/Service	X	X	S	P	X	X	X	E	Y
3. Taxi Service	X	X	P	P	X	X	X	E	C
4. Radio or TV Station	X	X	X	P	S	S	S	A	B
5. Radio or TV Transmitting Tower	S	X	S	S	S	S	S	A	C
6. Telecommunications Facility (as defined) (see Section 520)	P	X	X	S	S	S	S	E	C
7. Telecommunications Facility when Co-located (as defined) (see Section 520)	P	S	S	P	P	P	P	E	C
8. Telephone Exchange	S	S	S	P	P	P	P	A	B
9. Utility Station - Main Installation	S	S	S	P	P	P	P	E	B
10. Essential Services (as defined)	P	P	P	P	P	P	P	A	C
11. Railroad and Highway Right-of-way	P	P	P	P	P	P	P	A	C
12. Pipeline Pumping Stations	S	S	S	P	P	P	P	A	C
13. Pipelines (Interstate)	P	P	P	P	P	P	P	A	C
14. Electric Generation	S	X	X	S	S	S	S	E	C
15. Bridges	P	P	P	P	P	P	P	A	C
16. Meteorological Tower	P	X	X	X	X	S	S	E	C
16-A. Meteorological Tower Operational Support If included on approved Development Plan operational support meteorological towers are permitted as required facilities.	S	X	X	X	X	S	S	E	C
17. Commercial WECS Permitted in WECS Overlay District subject to Development Plan Review.	X	X	X	X	X	X	X	E	C
18. Micro WECS	P	S	S	S	S	P	P	E	C
19. Non-Commercial WECS	S	X	X	S	S	S	S	E	C

<u>WHOLESALE TRADE, WAREHOUSING AND STORAGE</u>	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
1. Wholesale Distributor (as defined)	X	X	X	S	P	P	P	E	B
2. Greenhouse (commercial)	S	X	X	P	P	S	X	E	N
3. Bottled Gas Storage and Distribution	S	X	X	S	P	P	P	E	B
4. Bulk Fuel Yard (local distribution)	X	X	X	S	P	P	P	E	B
5. Bulk Fuel Yard (regional distribution)	X	X	X	X	X	X	S	E	B
6. Highway Maintenance Garage and Storage	X	X	X	S	P	P	P	E	B
7. Utility Company Office and Storage Yard	X	X	X	S	P	P	P	E	B
8. Frozen Food Lockers	X	X	X	S	P	P	P	E	B
9. Mini-warehouses	X	X	X	S	S	P	P	E	C
10. Moving Companies and Storage	X	X	X	S	S	P	P	E	B
11. Auction Sales Yard (not involving livestock)	X	X	X	S	P	P	P	E	N
12. Automobile Impound Area	X	X	X	X	X	X	S	E	C
13. Supply Yard (as defined)	X	X	X	X	S	S	P	E	N
14. Junk Yard (as defined) and Scrap Metal Yard (see Section 510)	X	X	X	X	X	X	S	E	N
15. Freight Distributors and Terminal (truck and railroad)	X	X	X	S	P	P	P	E	B
16. Warehousing - Inside (involving explosives)	X	X	X	X	X	X	S	E	B
17. Warehousing - Inside (not involving explosives)	X	X	X	S	P	P	P	E	B
18. Air Cargo Services	S	X	X	S	P	P	P	E	B
19. Material Recovery Facility	X	X	X	S	S	P	P	E	N
20. Transfer Station	S	X	X	X	S	S	S	E	N

	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
21. Compost Facility	S	X	X	X	S	S	S	E	N
<u>MANUFACTURING</u>									
1. Light Manufacturing (as defined)	X	X	X	X	X	P	P	E	B
2. Heavy Manufacturing (as defined)	X	X	X	X	X	S	P	E	B
3. Bottling Company	X	X	X	X	X	P	P	E	B
4. Sawmills and Planing Mills (as distinguished from a temporary sawmill on the property where lumbering is being done)	X	X	X	X	P	P	P	E	B
5. Blue Printing and Photocopying and Printing/ Publishing of More Than 5000 Square Feet per Establishment (including newspapers, books, periodicals, and commercial printing)	X	X	X	X	X	P	P	E	B
6. Explosives Manufacturing	X	X	X	X	X	X	S	E	B
7. Petroleum Refining (including paving and roofing materials)	X	X	X	X	X	X	S	E	B
8. Asphalt or Ready Mix Plant	X	X	X	X	X	X	S	E	B
9. Ordnance Products (including arms and ammunition)	X	X	X	X	X	X	S	E	B
10. Incineration for Reduction of Waste Products or Refuse	X	X	X	X	X	X	S	E	B
11. General Offices Associated with a Manufacturing Use (including service facilities for employees and guests)	X	X	X	P	P	P	P	E	B
12. Accessory Use Retail or Wholesale Trade Associated with a Manufacturing Use	X	X	X	P	P	P	P	E	B
13. Accessory Use Storage of Supplies or Finished Products Associated with any Permitted Manufacturing Use	X	X	X	P	P	P	P	E	B



	<u>AG</u>	<u>RR</u>	<u>B1</u>	<u>B4</u>	<u>AB</u>	<u>I1</u>	<u>I2</u>	<u>Buffer Class</u>	<u>Parking Class</u>
14. Temporary Concrete Batching Plants and Mixing Plants for Portland Cement or Asphaltic Concrete	X	X	X	X	X	S	P	E	B
15. Manufacturing of Cement, Concrete, or Clay Products	X	X	X	X	X	X	S	E	B
<u>MISCELLANEOUS</u>									
1. Temporary Use (see Section 503)	P	P	P	P	P	P	P	NA	Y
2. Accessory Uses and Structures (see Section 504) (including fences)	P	P	P	P	P	P	P	NA	C
3. Parking - In Conjunction with a Permitted Use (see Section 308)	P	P	P	P	P	P	P	NA	C
4. Loading Area - In Conjunction with a Permitted Use (see Section 308)	P	X	P	P	P	P	P	NA	C
5. Signs (see Section 505)	P	P	P	P	P	P	P	NA	C
6. Mobile Homes - When Used for Commercial or Industrial Purposes	S	S	S	S	S	S	S	NA	B
7. Adult Business (as defined) (see Section 509)	X	X	X	S	S	S	S	D	F
8. Processing, Storage, Recycling, Recovery and Disposal of Hazardous Waste (as defined) (as principal or accessory use) (see Section 518)	X	X	X	X	X	X	S	E	B
9. Processing, Storage, Recycling, Recovery and Disposal of Nuclear Waste (as defined) (as principal or accessory use) (see Section 518)	X	X	X	X	X	X	S	E	B
10. Parking Structures or Lots (principal use)	X	X	X	S	S	X	X	D	C
11. Planned Unit Development (See Article Six)	P	P	P	P	P	P	P	NA	NA

**TABLE B**  
**District Performance Standards**

	<b><u>AG</u></b>	<b><u>RR</u></b>	<b><u>B1</u></b>	<b><u>B4</u></b>	<b><u>AB</u></b>	<b><u>I1</u></b>	<b><u>I2</u></b>
1. Minimum Lot Area (A)							
A. No Central Sewage	43,560	43,560	43,560	43,560	43,560	43,560	43,560
B. With Central Sewage	30,000	20,000	20,000	20,000	20,000	20,000	30,000
2. Minimum Lot Width (B)							
A. No Central Sewage	150	150	80	80	80	80	150
B. With Central Sewage	100	100	70	70	70	70	100
3. Min. Lot Area Per Family (A)							
A. No Central Sewage	43,560	43,560	N/A	N/A	N/A	NA	NA
B. With Central Sewage	24,000	20,000	N/A	N/A	N/A	NA	NA
4. Maximum Lot Coverage (C)	10	30	80	80	50	50	50
5. Minimum Front Yard (B)							
A. Local Roads	75	75	75	75	75	75	75
B. Collector & Arterial Roads	100	100	100	100	100	100	100
6. Minimum Side Yard (B)	20	20	15	15	20	20	20
7. Minimum Rear Yard (B)	50	50	50	50	50	50	50

(A) = square feet

(B) = feet

(C) = percent

- 305 SUPPLEMENTAL LOT REGULATIONS: Except as hereafter provided, no building or structure shall be erected or located on a lot unless such lot conforms with the lot area regulations in the district in which it is located as shown in Table B.
- 305.01 Lots of record, or lots sold by verifiable land contract, prior to the passage of this Ordinance may be smaller in area than the figure prescribed provided all other regulations of the district can be met.
- 305.02 Except as provided by Section 305.03, no Improvement Location Permit may be issued for a structure or use on any lot created after the adoption of this provision which does not have 40 feet of frontage on an open public accepted and maintained street or a private street which meets the private street standards of the Subdivision Control Ordinance. Except as provided by Section 305.03, no Improvement Location Permit may be issued for a structure or use on any lot created prior to the adoption of this provision which does not have frontage on an opened, public accepted and maintained street, or a private street which meets the private street standards of the Subdivision Control Ordinance.
- 305.03 To achieve more creative planning and preservation of natural property features, pipestem lots are permitted provided they have exclusive unobstructed private easement of access of at least 20 feet width to a road. However, 2 pipestem lots with no more than one dwelling on each lot may share a common easement of access of at least 24 feet width. The area of a pipestem lot occupied solely by the pipestem driveway or easement shall not be deemed to be a part of the required minimum lot area.
- 306 SUPPLEMENTAL YARD REGULATIONS: No portion of a principal or accessory structure or use, including garages, porches, steps, carports, and decks, shall project into any minimum front, side, or rear yard as shown on Table B and Table B-1 except as provided below:
- 306.01 An architectural or structural feature such as an eave, chimney, bay window, roof overhang, cornice, sill, awning, canopy, or similar feature may extend or project into any required yard not more than 2 feet.
- 306.02 An uncovered porch, landing, deck, or steps (except for safety railings) which do not extend above the level of the first floor of the building, a fire escape, or uncovered stairs may extend or project into any required yard no more than 4 feet. Structures approved by this subsection may not be later enclosed or extended above first floor level except by Board of Zoning Appeals approval.
- 306.03 An accessory structure, as defined, shall not be located in the front yard nor located closer than 5 feet to the side or rear lot line.

- 306.04 Accessory uses, as defined, and the following yard improvements are not subject to setback regulations and are permitted in any required front, side, or rear yard provided they do not violate other sections of this Ordinance: fences (see Section 504.08); gazebos; flagpoles; arbors and trellis; outdoor barbecues; walks; driveways; parking spaces; decorative driveway entrance features; curbs; retaining walls; utility installations for local service such as pole, lines, hydrants, and telephone booths; lattice work screens; trees; shrubs; flowers and plants; gardens; mail boxes; nameplates; ponds less than 100 square feet; lamp posts; recreational equipment; bird baths and houses; dog houses; children's play houses; bushes; hedges and landscaping of a similar nature. This section does not include accessory structures, as defined, except for those listed above.
- 306.05 Air conditioners rated at 24,000 BTU or less shall not be so placed hereafter so as to discharge air within 5 feet of lot lines, and those rated over 24,000 BTU so as to discharge air within 12 feet of lot lines, except where said air conditioners are separated from lot lines either by projections of buildings or by streets, alleys, or permanent open space at least 20 feet in minimum dimensions.
- 306.06 Principal and accessory structures on lots which abut more than one street shall provide the required front yards along every street. Lots which abut a driveway or other easement of access which serves as a principal means of access for one or more lots must also meet front yard setbacks along said easement.
- 306.07 Residential structures must be orientated in such a manner that the front door of the residence faces the front yard (as defined). Where the property is required to be served by sidewalks, front doors must be accessed from the front door to the street right-of-way by sidewalks that are a minimum of 3 feet wide.
- 306.08 On corner lots, lot width requirements need to be met along only one street right-of-way provided Section 306.06 is met.
- 306.09 Where 25 % or more of the lots within a block or for a distance within 350 feet of the proposed building on the same side of the street if not within a block are occupied by buildings, the average setbacks of such buildings determines the front yard setbacks; however, if there is not any other building within the block or within 350 feet in either direction, then the standard setback for the district shall apply.
- 306.10 Front yard or building setback lines established in recorded subdivisions establish the dimension of front yards in such subdivisions, except when such building setback lines may be less restrictive as provided in the applicable district.

- 306.11 No yard, open space, or lot area required for a building or structure shall, during its life, be occupied by, or counted as open space for, any other building or structure.
- 306.12 On a corner lot, nothing shall be erected, placed, planted, parked, or allowed to grow in such a manner as to materially impede vision between a height of 2 1/2 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street right-of-way of such corner lots and a line joining points along said street lines 15 feet from the point of intersection. This requirement shall also apply at the entrance to access drives which lead to commercial or industrial developments.
- 306.13 In addition to regular setback (yard) requirements for structures, a bufferyard (as defined) shall be provided and maintained by the owner or lessee of a property in accordance with this section. Bufferyards are the horizontal distance adjacent to side and rear property lines, measured perpendicularly between adjacent property lines and/or right-of-way lines, intended to provide attractive spaces to reduce the impacts of proposed uses on adjacent property or natural features. Bufferyards also help to maintain existing trees or natural vegetation, to block or reduce noise, glare, or other emissions and to maintain privacy. Bufferyards are required between most land uses on adjacent properties in order to reduce the impact of one use on another. Generally, more intensive uses require greater amounts of buffering than less intensive uses. This section applies only to changes of use, the construction of a principal structure on a lot, or the expansion of any existing principal structure by 50% or more.
- A. Bufferyards, where required, shall be located along side and rear property lines. In the I-1, or I-2 districts, bufferyards shall also be required along the front property line when adjacent to or facing a residential district. On lots which abut a street along more than one property line, the site plan shall designate which property line shall be considered the front, and bufferyards shall be provided along all other lines. Bufferyards shall have the necessary widths and planting and fencing material as required in this section.
  - B. To determine the required widths and materials of bufferyards, the following procedure shall be used:
    - 1. Identify the Bufferyard Classification (Buffer Class A, B, C, D, or E) of the proposed use and/or structure by referring to Table A of this Ordinance.
    - 2. Identify the Bufferyard Classification (Buffer Class A, B, C, D, or E) of an existing adjacent use by referring to Table A of this Ordinance. For vacant land and for existing, adjacent uses non

conforming to the zoning district in which it is located, refer to the Zone Map for the district classification of the land and/or use.

3. Determine the bufferyard requirements for the proposed use and/or structure by referring to Table C. Go down the left hand column to the Bufferyard Classification of the proposed use and then go across the matrix either to the “Adjacent Existing Bufferyards Classification” or the “Adjacent Vacant Land (Zoning District)” and refer to the Roman Numeral (I, II, III, IV, or V) in the corresponding box which indicates the buffering type.
4. Refer to the bufferyard type in Illustrations I through V. Any one of the alternative bufferyards may be selected.

TABLE C  
Required Bufferyards

Bufferyard Classification	Adjacent Existing Bufferyards Classification					Adjacent Vacant Land (Zoning District)			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>AG</u> , <u>RR</u> ,	<u>B1, B4</u>	<u>AB,I1,I2</u>	
A	*	*	*	*	*	*	*	*	*
B	V	I	II	III	IV	II	III	V	V
C	V	IV	I	II	III	IV	III	IV	V
D	V	IV	III	I	II	V	IV	I	I
E	V	IV	III	II	I	V	V	I	II

\* = No Bufferyard Required







C. The following additional standards apply to bufferyards:

1. All bufferyards shall be maintained and kept free of debris, rubbish, weeds, and tall grass.
2. There shall be no structures, outdoor storage, or parking and loading facilities in bufferyards, except for agricultural or residential uses.

3. Where setback area is limited, bufferyards may be coterminous with the required front, side, or rear setback areas, but in case of conflict, the larger yard area regulation shall apply.
  4. All plants shall be planted within one year of the Improvement Location Permit issuance or within six months of project completion, whichever is shorter, and all plants shall be properly maintained. Any plants which do not live or are destroyed shall be promptly replaced.
  5. Deciduous trees shall be a minimum of 8 feet in height when planted. Deciduous shrubs shall be a minimum of 6 feet in height when planted.
  6. Evergreens shall be a minimum of 4 feet in height when planted.
  7. Berms shall be a minimum of 4 feet in height with a maximum 3/1 slope.
  8. Fencing shall be at least 6 feet in height and subject to all regulations of Section 504.09 of this Ordinance.
  9. Flowering trees and shrubs shall be encouraged in bufferyards.
- D. Screening (as defined) shall be required if the site cannot accommodate the bufferyard classification as shown in Table C, Class IV and/or V.
- E. On any parcel of land where there is an existing use or structure, the Zoning Administrator may waive all or part of the required bufferyard if it is physically impossible to locate the required bufferyard due to non conforming lot size, existing structure or parking lot location, or other similar reasons.







**Required Plant Units per 100'**

**I**

Deciduous Trees		10'	
Deciduous Shrubs		7.5'	
Evergreens		5'	







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**II**

Deciduous Trees		20'	
Deciduous Shrubs		15'	
Evergreens		10'	









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**III**









Deciduous Trees		30'	
Deciduous Shrubs		20'	
Evergreens		15'	



**IV**

Deciduous Trees		50'	
Deciduous Shrubs			
Evergreens		40'	
Berm	B	30'	
Fence		20'	

**V**

Deciduous Trees		70'	
Deciduous Shrubs			
Evergreens		60'	
Berm	B	50'	
Fence		40'	

306.14 Canopies for an automobile service station, drive-in bank, drive-in restaurant, or similar use where outside pedestrian activity is necessary, may be constructed to the property line provided that the canopy is at least 12 feet in height and no more than 25% of the required front and side yard area is covered by the canopy.

306.15 When an accessory structure is attached to a principal structure by a breezeway or roofed passageway, said accessory structure shall be deemed to be part of the principal structure and shall maintain principal structure yard requirements. This section does not apply to accessory structures which exist on the effective date of this Ordinance and any subsequent attachment to the principal structure or the existing accessory structure.

306.16 An existing mobile home or manufactured home which does not meet setback requirements may be replaced in a district in which mobile homes are permitted provided the replacement mobile home does not encroach into the required setback area to any extent greater than the existing home.

307 GENERAL PROVISIONS AND EXCEPTIONS TO HEIGHT REGULATIONS:  
No principal structure in any district may be constructed, reconstructed, altered, or enlarged which exceeds 35 feet in height above average ground level and no accessory structure shall extend 16 feet in height above average ground level except as provided below:

307.01 The following structures may exceed normal height requirements provided their total height does not exceed their distance from the nearest lot line.

A. Structures such as barns, silos, tanks and bins, located in the Agricultural District.

B. Communication structures such as telecommunication towers (as defined), radio and television and relay stations and receiving stations and aerials and observation towers and meteorological towers.

1. If proper engineering data is provided that demonstrates the structure is engineered to be collapsible within an area of half its height, communication structures shall be, in addition to regular setback distances, setback a minimum distance from the property line or lease line of any adjoining property (whichever requires the greater setback) a distance that is equal to 50 percent of the height of the tower, but not less than 50 feet.

C. Industrial uses such as gas and liquid fertilizer tanks, sanitary landfills, power generating plants, sub-stations, smokestacks, grain elevators, and other agricultural product processing and storage facilities, and

industries requiring a vertical production procedure such as flour mills, steel mills, and refineries.

D. Architectural projections, such as spires, belfries, parapet walls, cupolas, and domes.

E. Special structures such as monuments, scenery lofts, fire towers, and flagpoles.

F. Wind Energy Conversion Systems (WECS).

307.02 Public and semi-public buildings, hospitals and institutions, schools and churches (excluding the spire) may be erected to a height of 60 feet provided their total height does not exceed their distance from the nearest lot line.

307.03 Auxiliary structures attached to a building such as radio and television antennae, chimneys, ventilation fans, and similar mechanical appurtenances or other structures necessary to maintain and operate a building may exceed normal height requirements provided the building is setback from all minimum yard distances one additional foot for each foot of height above the maximum height limitations. If the auxiliary structure is erected at a later time than the building to which it is attached, the auxiliary structure, rather than the building must be so located that the provisions of this subsection can be met.

307.04 Essential services, utilities, water towers, electric power and communication transmission lines and vegetation are exempt from the height limitations of this Ordinance.

307.05 The above height exceptions shall not apply when the structure constitutes a hazard to an existing airport or landing strip and to electric power transmission lines.

307.06 The Board of Zoning Appeals may authorize a variance to this regulation for any principal or accessory structure in any district provided Section 307.05 of this Ordinance is met.

308 OFF-STREET PARKING AND LOADING: Off-street parking and loading spaces shall be provided as required below:

308.01 Off-street parking and loading shall be provided for all uses established or structures built after the effective date of this Ordinance in accordance with the specifications of this section.

A. Whenever a land use that was started or a structure that was built after the effective date of this Ordinance is changed in use or is enlarged in

floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking or loading spaces, additional spaces shall be provided on the basis of the enlargement or change.

B. Whenever a land use or structure existing prior to the effective date of this Ordinance is changed in use or is enlarged to the extent of 25% or more in floor area, number of employees, number of housing units, seating capacity, or otherwise, to create a need for an increase in the number of existing parking or loading spaces, said use or structure shall then and thereafter comply with all parking and loading standards set forth in this section.

308.02 The number of parking spaces shall be as specified in Table D based upon the parking classification of the use listed in Table A. The required number of parking spaces must be available for vehicle parking at all times and may not be used for any other purpose, including travel lanes or sales and display areas.

A. For a use not specified in Table D, the parking space requirement shall be determined by the Zoning Administrator. When the number of parking spaces are to be determined by the Administrator, the Administrator shall base his decision on the parking needs of similar uses in Table D, on expected traffic volume, and on past parking experiences of existing similar uses.

B. When parking spaces are based upon the number of employees in Table D, said number shall be the number of employees of the largest shift, except where noted.

C. When the application of Table D results in a fraction of parking spaces, said number of spaces shall be rounded upward to the next highest number.

D. In addition to all parking space requirements of Table D, there shall be a minimum number of parking spaces as specified by the Zoning Administrator for all trucks, buses, and other company vehicles and special equipment to be parked and/or offered for sale on the site.

TABLE D  
Required Parking

Parking Classification (Table A)	Number of Parking Spaces
A	2 per dwelling unit or pad or campsite plus 1 per home occupation
B	2 per 3 employees of the 2 expected maximum shifts combined plus 1 per visitor/customer space for each 20 required employee spaces with a minimum of 4 spaces
C	No parking required provided there are no employees at the site. If there are employees, there must be 1 space per employee
D	3 per 1000 square feet of gross floor area
E	4 per 1000 square feet of gross floor area
F	6 per 1000 square feet of gross floor area
G	10 per 1000 square feet of gross floor area
H	5.25 per 1000 square feet of leasable floor area
I	5.5 per 1000 square feet of leasable floor area
J	1 per 3 beds plus 1 per doctor plus 1 per employee on the largest shift, plus 1 per hospital vehicle
K	1 per 2 occupants plus 1 per employee
L	1 per 4 customer seats plus 1 per employee
M	2 per service stall or airplane parking space plus 1 per employee
N	1 per 500 square feet of enclosed floor space plus 1 per 2000 square feet of outside display area, plus 2 per service stall
O	1 per doctor, dentist, veterinarian, technician, and employee plus 1 per examination room
P	1 per 15 elementary students and 1 per 4 secondary students
Q	5 per 10 students expected to attend at any one time
R	1 per 3 Seats in each auditorium, chapel room or grandstand
S	1 per guest room plus 1 per employee
T	1 per 10 children on the maximum shift plus 1 per employee on the maximum shift
U	2 per table, 3 per hole, 4 per court, 5 per alley
V	1 per 3 persons based upon maximum occupancy plus 1 per employee
W	1 per 500 square feet of use area plus 1 per 3 employees
X	1 per 3 members
Y	As specified by the administrator at the time of permit issuance
Z	The cumulative parking total of all component recreational activities from this table or 1 space per member family and employee, whichever is more and/or applicable
A1	1 per employee plus stacking area for 3 vehicles for each window, stall, bay or station. The stacking area per vehicle shall measure not less than 20 feet.
B1	Parking as required for the principal use of the property plus stacking area for 3 vehicles for each window, stall, bay, or station. The stacking area per vehicle shall measure not less than 20 feet.

- E. In addition to the required parking spaces, there shall be adequate service and utility lanes for service stations, truck stops, drive-in banks, car washes, fast food restaurants, telephones, film processing, and other businesses with drive-up windows and facilities.
- F. Two or more non residential uses may collectively provide the required off-street parking in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately. Two or more uses may also jointly share the same spaces provided their hours of operation do not normally overlap and a written agreement is filed with the Zoning Administrator and approved by the Plan Commission Attorney.
- G. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Zoning Administrator provided the following standards can be met:
  - 1. The off-site parking shall be located so that it will adequately serve the use for which it is intended.
    - a. the off-site parking may not be located farther than a walking distance of 300 feet from the intended use.
    - b. there must be ease of access from the off-site parking to the parking use.
  - 2. A written agreement, approved by the Plan Commission attorney, shall be filed with the application for an Improvement Location Permit, containing a guarantee that such parking spaces shall be available so long as the principal use is continued.
- H. Parking requirements may be waived by the Zoning Administrator for uses in a block in which 50% or more of the area is occupied by business or industrial structures.
- I. Motorcycle parking spaces may be substituted for the off-street parking requirement at the rate of two motorcycle spaces per off-street parking space. This applies to lots having two or more parking spaces and may be used to replace a maximum of two parking spaces.

308.03 All parking areas and spaces shall be designed, constructed, and maintained in accordance with the following minimum standards:

- A. No design shall be approved which is likely to create substantial traffic hazards endangering the public safety. Additional safety provisions

may be required by the Zoning Administrator and/or the Indiana State Highway Commission. The developer shall be responsible for the construction of any such traffic control devices or safety provisions.

- B. No design shall allow the backing of any vehicle onto any street.
- C. In order to achieve better traffic control, eliminate run-off, and alter the impression created by a continuous parking area, landscape areas shall be provided within all parking lots. At least 5% of the parking area shall be landscaped and such landscaping shall be in addition to all bufferyards required by this Ordinance.
- D. All parking areas shall be maintained in good condition without holes and shall be kept free of all trash and other debris.
- E. All parking areas shall have parking spaces of no less than the minimum width, and minimum length, and access lanes of minimum width as indicated in Table E.

**TABLE E**  
Parking Area Standards

Angle of Parking	Stall Width	Length	Drive Two-Way	Drive One-Way 1/
61° - 90°	9'	18'	24'	18'
46° - 60°	9'	18'	22'	15'
0° - 45°	8 1/2'	18'	22'	12'
Parallel	8'	22'	22'	12'

1/ For purposes of measurement, drives with parking on one side only shall be considered as one-way drives.

308.04 In addition to the above requirements, whenever 20 or more off-street parking spaces are required, the parking area and spaces shall be designed, constructed, and maintained in accordance with the following minimum standards:

- A. All parking spaces and access lanes shall be clearly marked, including directional arrows to guide internal movements. Such markings shall be maintained.
- B. Bumper stops, curbing, or wheel chocks shall be provided to prevent any vehicle from damaging or encroaching upon any required sidewalk or upon any property adjacent to the parking area.

- C. Handicapped parking spaces and facilities shall be provided as required in the American National Standards Institute publication ANSI 1171 - 1980, as amended or superceded.
- D. The interior circulation of traffic in parking areas shall be designed so that no driveway or access lane providing parking spaces, shall be used as a through-street.
- E. Any establishment which furnishes carts or mobile baskets as an adjunct to shopping shall provide defined areas within the required parking space areas for storage of said carts. Each designated storage area shall be clearly marked for storage of shopping carts.
- F. In addition to the landscape requirements as specified in Section 308.03 C and the buffering requirements as specified in Section 306 of this Ordinance, the following minimum standards shall apply:
  - 1. At least a portion of the landscape area shall be placed within the interior of the parking area. This may be in the form of a strip planted with trees, or shrubs and grass including a pedestrian walk between parking aisles, or it may be islands appropriately spaced, raised, curbed, and planted.
  - 2. Curbed landscape islands shall be provided at the end of each row of 20 or more parking spaces to clearly define lane and turning patterns.

308.05 The number of required off-street loading spaces for commercial, industrial, and institutional uses is specified in Table F.



**TABLE F  
Required Loading**

Use Classification	Gross Floor Area in Square Feet	Number of Spaces
Office Buildings, Banks, Hotels, Auditoriums, Retail Trade, Shopping Centers, Hospitals, Institutions, Services, Recreational Facilities, Multi-family Dwellings, and Similar Uses	8,000 - 60,000	1
	60,001 - 100,000	2
	For each additional 100,000 over 100,000	1
Manufacturing, Wholesale Trade, Warehousing and Storage, and Similar Uses	8,000 - 25,000	1
	25,001 - 60,000	2
	60,0001 - 100,000	3
	For each additional 50,000 over 100,000	1

- A. Uses and structures with a net floor area of less than 8,000 square feet shall provide adequate receiving facilities so as not to obstruct the free movement of pedestrians and vehicles over a sidewalk, street, or alley.
- B. Where the required number of loading spaces is not set forth for a particular use in Table F, the Zoning Administrator shall determine the basis of the number of spaces to be provided, based upon the loading space requirements of similar uses.
- C. All off-street loading areas shall not be less than 15 feet wide, 25 feet long, and 15 feet high, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space need not be wider than 12 feet.
- D. Where a given use or structure contains a combination of uses as set forth in Table F, loading facilities shall be provided on the basis of the sum of the required spaces for each use.
- E. All required off-street loading spaces shall be located at the same lot as the use served, except, where required spaces are provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Zoning Administrator.

- F. No required off-street loading area shall be used to satisfy the space requirement for any off-street parking and no loading area shall be so located as to interfere with the free circulation of vehicles in any off-street parking area.
- G. All off-street loading space shall be provided with safe and convenient access to a street and shall be provided only through driveway openings as specified in Section 308.07.
- H. No motor vehicle repair work, except emergency service shall be permitted in association with any required off-street loading facility.
- I. In addition to the required loading spaces, a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school, church, or other facility which is designed to accommodate more than 25 persons at a time.

308.06 The following additional standards apply to off-street parking with 20 or more spaces and all off-street loading areas:

- A. All parking and loading area drainage shall be designed and built in accordance with the Drainage Plan as required by Section 313 of this Ordinance.
- B. All parking and loading areas shall be surfaced so as to provide a durable and dustless surface (as defined).
- C. All parking and loading areas and driveways shall be provided with a safe and adequate lighting system which shall be completely shielded from traffic on any public right-of-way and from any residential district.
- D. Developments which have parking and loading and driveways in excess of 40,000 square feet shall contain snow storage areas.
- E. All parking and loading areas shall be maintained in good condition without holes and shall be kept free of all trash and other debris.
- F. In addition to bufferyards required by this Ordinance, a parking or loading area shall be effectively screened by a fence or planted material on any side or rear property line which are adjacent to or face any existing residential property. Such fence shall be opaque and not less than 4 feet or more than 6 feet in height. Such planted screen shall consist of densely planted evergreen hedge not less than 4 feet or more than 6 feet in height. All screens shall be maintained in good condition.

G. All parking and loading spaces except for residential and agricultural uses and any required screens shall not be located in a required front yard area.

308.07 Clearly defined driveways shall be provided for ingress and egress from all off-street parking and loading areas. Driveways shall be located and constructed according to the standards as shown in Table G or such standards as established by the Indiana State Highway Commission, if access is onto a state highway.

TABLE G  
Driveway Access

Driveway Standard	Residential Property	Service Station/ Truck Terminal	Other Non Residential
Minimum Width at Property Line	12 Feet	20 Feet	18 Feet
Maximum Width at Property Line	25 Feet	40 Feet	35 Feet
Minimum Distance from Interior Lot Line	5 Feet	11 1/2 Feet	12 1/2 Feet
Minimum Distance from Street Intersection	30 Feet	30 Feet	30 Feet
Space Between Two Drives/ Same Property	25 Feet	25 Feet	25 Feet
Space between Two Drives/ Different Properties	25 feet	25 feet	25 feet
Radius of Curb Return			
Minimum	5 Feet	5 Feet	5 Feet
Maximum	15 Feet	20 Feet	20 Feet

A. The number of driveways for a required parking area from any street shall not exceed two per adjacent street. A common driveway may be provided between adjacent properties in order to meet this requirement.

B. Driveways contiguous to the front of commercial structures shall include an 8 foot painted fire lane in addition to other requirements of this section. If the Fire Chief having jurisdiction of the structure has stricter standards, then they shall apply in lieu of the above.

309 PERFORMANCE STANDARDS: All uses except agricultural and forestry uses, shall comply with the requirements of this Section. In order to determine whether

a proposed use will conform to the requirements of this Ordinance, the County may obtain a qualified consultant to testify, whose cost for service shall be borne by the applicant.

309.01 Fire Protection: Fire prevention and fighting equipment acceptable to the State Fire Marshall shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

309.02 Noise: Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

309.03 Electrical Disturbances: No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.

309.04 Vibrations: Vibrations detectable without instrument on neighboring property in any district shall be prohibited.

309.05 Odors: No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

309.06 Air Pollution: No pollution of air by flyash, dust, smoke, vapors, or other substances shall be permitted which is harmful to health, animals, vegetation, or other property.

309.07 Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

309.08 Erosion: No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties. Erosion control measures must meet applicable standards set forth in Section 313 of this Ordinance.

309.09 Water Pollution: Water pollution shall be subject to the standards established by applicable State and Federal agencies.

309.10 Design Release: If an application for an Improvement Location Permit relates to a commercial or industrial use, it must be accompanied by a design release, subscribed by a registered professional engineer of the State, stating that in his professional judgment, the use should meet the performance standards specified herein. After a 10 day period has elapsed during which the Zoning Administrator has not required additional information or received objections in writing, he shall issue the permit.

310 SUPPLEMENTAL ENVIRONMENTAL REGULATIONS: No land shall be used or structure erected where the land is unsuitable for such use or structure due to unfavorable topography, adverse soil or rock formation, erosion susceptibility, low percolation rate or bearing strength, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community. In addition the following standards must be met:

- 310.01 Existing features which would add value to residential development or natural or man-made assets of the community such as trees, streams, vistas, lakes, historical landmarks, and similar irreplaceable assets, shall be preserved through harmonious and careful design.
- 310.02 No alteration of the shore line or bed of a public lake or river shall be made until written approval is obtained from the Indiana Department of Natural Resources, and the provisions of Section 402 and other applicable regulations of this Ordinance are complied with. Alterations include, among other things, filling of the lake, river, or wetlands, the construction of channels and seawalls, dredging of the lake or riverbed, and ditch excavation within one half mile of a lake.
- 310.03 All development must be in compliance with applicable sections of Title 13 of the Indiana Code, as amended, as it relates to Air Pollution Control and Water Pollution Control.
- 310.04 Debris and refuse shall not accumulate on any property, in any zoning district.
- 310.05 Bricks, concrete, lumber, and other materials used for fill where permitted by this Ordinance and/or by the Board of Health, DNR, or other governmental agency, shall be promptly covered and seeded.
- 310.06 No waste materials such as garbage, rubbish, gasoline, oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be deposited, located, stored, or discharged on any lot in a way that would be likely to run off, seep, or wash into surface water or groundwater.
- 310.07 Any part or portion of the site which is not used for structures, loading or parking spaces, sidewalks, and designated storage areas, shall be landscaped or left in a natural state. If landscaped, they shall be planted with an all season ground cover and shall be landscaped with trees and shrubs in accordance with the Development Plan and/or Improvement Location Permit application and shall be in keeping with natural surroundings. Any areas left in a natural state shall be properly maintained in a sightly and well kept condition.

311 SUBDIVISION OF LAND: In accordance with IC 36-7-4-701, subdivision of land may occur in any zoning district provided that all applicable standards of this Ordinance and the Tipton County Subdivision Control Ordinance are met.

312 DENSITY TRANSFER OPTION: The density transfer option is available in AG, and RR, Zoning Districts to establish a mechanism for cooperation between the County and land developers in providing open space and recreational lands in developing areas of Tipton County.

312.01 Criteria for use: This option shall only be permitted if one of the following two conditions are met:

A. The Tipton County Board of Commissioners must determine that there is a need for public recreational land in the area proposed for development, and must agree to maintain the property if it is dedicated to the County; or

B. Private maintenance provisions must be incorporated into the land development proposal.

312.02 Minimum lot size: The minimum lot size permitted when utilizing the density transfer option shall be as stipulated in Table B with the following criteria being utilized to govern the reduction of lot sizes from that which is normally permitted.

A. Land with 0-25% slope receives full credit toward the reduction of lot sizes;

B. Land with a slope of 25% or greater receives 1/2 credit toward the reduction of lot sizes; and

C. Land in flood zone areas receives 1/2 credit toward the reduction of lot sizes.

312.03 Sketch Plan: Upon submittal of a sketch plan, as required by the Tipton County Subdivision Control Ordinance, an advisory meeting shall be scheduled with the Planning Director to review the plan and discuss the possibility of utilizing the density transfer option. If the option is utilized, the preliminary and final plats of the subdivision shall accurately delineate slopes exceeding 25%, flood prone areas, and any other natural land feature that may influence building locations. Finally, that portion of the site which would be dedicated to the County or otherwise protected shall be clearly delineated.

312.04 Health Department Approval: Any plan for development of property not served by a sewer system shall be required to have State or County Health

Department approval for suitability and adequacy of lots for septic systems.

313 DRAINAGE AND EROSION CONTROL REGULATIONS: It shall be the responsibility of the owner of any lot or parcel of land developed for any use, other than those listed in Section 902.02 of this Ordinance, to obtain an Improvement Location Permit from the Office of the Zoning Administrator. If the site has significant potential for drainage and erosion problems as determined by the Zoning Administrator, or in consultation with the Tipton County Soil and Water Conservation District representative, then the issuance of this permit shall include the review and approval of a drainage and/or erosion control plan as specified in this section unless provision for drainage and erosion control has been handled under the Tipton County Subdivision Control Ordinance.

313.01 If required, an erosion control plan must be submitted as a part of an Improvement Location Permit application. In addition to the information required in Section 903.03, an erosion control plan must be submitted detailing measures to be implemented during and after construction on a form provided by the Zoning Administrator, or Tipton County Soil and Water Conservation District and approved by the Soil and Water Conservation District.

313.02 If the site to be developed is over 1 acre, a permit from the Indiana Department of Environmental Management must first be obtained as per general permit regulation 327 IAC 15-5 (Rule 5) as amended prior to issuance of an Improvement Location Permit. This requirement also applies to subdivision development.

313.03 Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water run-off, and conserve the natural cover and soil. Whenever possible, existing natural surface drainage may be utilized. To the maximum extent, there shall be no increased peak discharge or run-off rates as a result of the development unless downstream systems are sufficient to accept the discharge.

313.04 Whenever the evidence available indicates that the natural surface drainage is inadequate, the owner shall provide the parcel with an adequate surface water system which shall be integrated into the drainage pattern of surrounding properties. When additional surface drainage is required, adequate easement for such drainage shall be provided.

313.05 On-site detention storage of storm water shall be required where necessary as determined by the Zoning Administrator or in conjunction with Tipton County Soil Conservation District representative in order to prevent damage to adjoining properties.

- 313.06 As required, a drainage plan must be submitted as a part of an Improvement Location Permit. In addition to the information required in Section 903.03, the drainage plan must include the following information:
- A. Existing and proposed grading showing positive drainage by contouring or sufficient spot elevations;
  - B. Location of all existing or proposed swales, ditches, culverts, drainage channels, surface and subsurface drainage devices, and the direction of flow;
  - C. Illustration of the surface drainage pattern of the site away from structures;
  - D. Final distribution of surface water off-site, either preventing or planning for surface ponding;
  - E. Demonstration of capability of accommodating the 10 year design rainfall intensity, or a rainfall of greater intensity, without endangering the public safety and health, or causing significant damage to property;
  - F. A Certificate of Sufficiency that resembles the format as shown on the following page shall be submitted along with the plans;
  - G. Detention storage facilities, if required, shall submit the following additional information:
    - 1. Plans for storage of and a controlled release rate of excess storm water with adequate detention storage to insure that the release rate of storm water following and during developments, redevelopments, and new construction shall not exceed the storm water run-off from the land in its present state of development. (Present state of development means state of development as the adoption of this Ordinance)
    - 2. Detailed computations to show that peak rate following and during construction shall not exceed the storm water run-off rate in its present state of development. Said computations must indicate that run-off will not be increased and must include computations of run-off before and after development. The computations must demonstrate that the peak run-off rate after development for the 100 year return storm of critical duration will not exceed the 10 year period predevelopment peak run-off rate. The critical duration storm is that storm duration that requires the greatest detention storage.



CERTIFICATE OF SUFFICIENCY OF PLAN

Address where land alteration is occurring\_\_\_\_\_

Plan  
Date\_\_\_\_\_

I hereby certify that to the best of my knowledge and belief:

- 1. The drainage plan for this project is in compliance with drainage requirements as set forth in the Tipton County Zoning Ordinance.
- 2. That property and persons downstream of this planned project are not endangered as a result of alterations to the property.
- 3. The calculations, designs, reproducible drawings, masters, and original ideas reproduced in this drainage plan are certified by me.

Signature\_\_\_\_\_

Date\_\_\_\_\_

Business  
Address\_\_\_\_\_

Surveyor\_\_\_\_\_

Engineer\_\_\_\_\_

Architect\_\_\_\_\_

Indiana Registration  
Number\_\_\_\_\_

313.07 Drainage swales (ditches) along dedicated roadways and within the right-of-way or on dedicated drainage easements are not to be altered, except for maintenance, as originally constructed and as approved by the County Highway Department. Driveways or other approved structures may be constructed over these as permitted by the County Highway Department, with adequate provision for the flow of surface drainage.

313.08 No permanent structures other than a fence may be erected, and if erected in violation of this section, no such structure may be used, if the location is within 75 feet of the centerline of any legal tile ditch, or within 75 feet of the existing top edge of any legal open ditch or tile as determined by the Tipton County Surveyor.

313.09 No cut or fill grade shall exceed a slope of 3/1, or 33 1/3 %. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area, including cuts or fills on land naturally exceeding 3/1 in slope.

313.10 All lands, regardless of their slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded or seeded within a reasonable time of such activity; the phrase “a reasonable time” shall be interpreted to be within 2 weeks during the growing season and shall be rigidly applied to construction activities in order to accomplish the intent of keeping erosion to an absolute minimum. Temporary vegetation or mulching shall be used to protect exposed areas during development.

313.11 All drainage and erosion control systems must be safe to persons and maintained at all times.

313.12 All land disturbing activities on site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time.

314 LIGHTING REGULATIONS: Any commercial, industrial, institutional, multi-family dwelling and condominium developments must submit a lighting plan with the application for an improvement location permit or development plan review that shows that:

314.01 Light spillage onto adjoining properties at the property line will not exceed

A. 0.5 foot candles onto adjoining properties zoned AG, B1, B4, AB, I1, or I2.

- B. 0.2 foot candles for property zoned RR or adjoining property currently used for residential purposes or subdivided for residential use.

314.02 All lighting serving parking lots and outdoor display and open sales area shall:

- A. Be full cutoff light fixtures.
- B. Provide a maximum of 1.8 foot candles at grade level for parking lots and 4.0 foot candles at grade level for outdoor display and open sales areas.
- C. Maintain a ratio of average to minimum illumination not to exceed 4:1.
- D. If used as areas for vehicle storage be illuminated at the levels required for parking lots.

314.03 Lighting of canopies and bays shall:

- A. Not exceed 15 foot candles average maintained horizontal illumination at grade level under canopies and the ratio of average to minimum illumination shall not exceed 4:1.
- B. Be full cutoff, unless indirect lighting is used whereby light is directed upward then reflected down. Indirect lighting must be shielded so that direct illumination is focused exclusively on the ceiling of the structure.
- C. Not be located on the sides or top of the canopy and the sides of the canopy shall not be illuminated.

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ARTICLE FOUR  
OVERLAY DISTRICT REGULATIONS

401 OVERLAY DISTRICTS: The following set of zoning requirements are applied to specific areas of Tipton County in addition to the requirements of the underlying use districts.

401.01 Development Requirements: Development within overlay districts must conform to the requirements of both districts. Whenever there is a conflict between the requirements of an overlay district and requirements of other sections of this Ordinance, the requirements of the overlay district shall apply. Whenever there is conflict between the requirements of an overlay district and the requirements of any other local, state, or federal law or regulation, the more restrictive shall apply.

401.02 Development Plan Review: Development Plan Review is for the purpose of promoting the orderly growth and development within areas of Tipton County deemed to be unique in their location, development opportunities, historic significance, or sensitive natural environment. Development Plan Review shall promote development opportunities, which encourage compatibility of land uses, provide safe and sufficient transportation systems and infrastructure, and protect the natural environment through fair, objective standards and regulations.

A. Application: Development Plan Review is applicable within the US 31 Overlay District, as described in Section 403, or Section 404, WECS Overlay District. No Improvement Location Permit shall be issued prior to Development Plan Review and approval pursuant to IC 36-7-4-1400 series and all standards, regulations, and procedures of this section.

B. Development Plan Review is required for any construction, reconstruction, or structural alteration of any structure or structures resulting in larger lot coverage, or the establishment or change of any land use on any property within an affected district. The following exceptions shall not be required to undergo development plan review. All other standards and regulations of the Ordinance apply.

1. New construction, improvements or additions of residential structures on lots of record as of the adoption date of this amendment to the Tipton County Zoning Ordinance provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.

2. New construction, improvements or additions of residential structures on lots within minor or major subdivisions approved by the Tipton County Plan Commission after the adoption date

of this amendment to the Tipton County Zoning Ordinance provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.

3. Agricultural land uses and accessory structures for agricultural purposes provided the applicable overlay district and the underlying zoning district permits the proposed use of the property.
4. The provision of essential services as defined in Article Two of the Tipton County Zoning Ordinance.
5. Any development which has received Planned Unit Development approval in accordance with Section 606 of this Ordinance and IC 36-7-4-1500 series.
6. Commercial, industrial or institutional development occurring outside of the US 31 Overlay District.
7. Non-Commercial WECS or Micro WECS installations.

C. Advisory Meeting: Prior to submitting an application for Development Plan Review, applicants shall have at a minimum one advisory meeting with the Zoning Administrator to discuss the details and purposes of the development plan. If the development plan request includes the subdivision of land, the advisory meeting shall be in conjunction with the Subdivision Administrator as required in the Tipton County Subdivision Control Ordinance. At the advisory meeting the applicant shall submit a statement of purpose and a sketch plan showing generally the proposed development. The sketch plan need not be professionally prepared but shall be approximate in scale and at a minimum shall include all owners names and addresses; the parcel or parcels of property to be included in the development plan; the approximate size of the property; a location map showing all surrounding properties and streets, roads, or easements; the proposed land uses in the development; the proposed access to the development; the proposed location and size of all land uses, structures, drainage features, streets, landscaping and parking areas; and any other significant features of the development. If in conjunction with a subdivision advisory meeting, the sketch plan shall include all materials required by Section 302 and 303 of the Subdivision Control Ordinance. During this meeting, the Zoning Administrator shall review the zoning classification of the property, the permitted land uses according to Table A of the Ordinance, and the applicable standards and regulations of the Ordinance. If in conjunction with a subdivision procedure, the Subdivision Administrator shall determine the subdivision

classification. The Zoning Administrator and the Subdivision Administrator, if applicable, shall aid and advise the applicant in preparing the application and supporting documents as necessary.

D. Procedure: The adoption of a Development Plan requires the approval of the Tipton County Plan Commission. In accordance with IC 36-7-4-1402 (c), the Tipton County Plan Commission authorizes the Tipton County Plan Commission Development Plan Review Committee to act on the Plan Commission's behalf to review and approve development plans when the total acreage of property is 9 acres or less. After a review of an application, the Tipton County Plan Commission Development Plan Review Committee may refer the matter for a public hearing before the Tipton County Plan Commission, if they deem it in the best interest of the public. The approval may proceed simultaneously with primary plan approval required by the Subdivision Control Ordinance, where applicable. The procedure for adoption of a Development Plan shall be as follows.

1. File in the Office of the Zoning Administrator an application, which is signed by all owners of real property, or by affidavit of applicant demonstrating that they have legitimate agency to act on behalf of landowners, included in the Development Plan request.
2. Pay the appropriate filing fee in accordance with the duly adopted fee schedule.
3. Submit the following materials with the application:
  - a. A site plan in accordance with Section 902.03 B of this Ordinance, and if the Development Plan includes the subdivision of land, a primary plat according to Article Three of the Tipton County Subdivision Control Ordinance;
  - b. A drawing to scale of the site in its pre-developed state, including any existing structures, historical structures or sites, and the proposed use of each, and any existing streets, roadways, easements and curb cuts;
  - c. Any materials and information required for Section 401.02 E, Development Requirements;
  - d. Protective covenants or maintenance agreements, if applicable;
  - e. A statement of the proposed order of development, if the Development Plan is a phased project;

- f. Any other information or documentation this Ordinance requires for the respective overlay district in which the Development Plan is located;
  - g. Written approvals of all participating agencies including the approvals or pending approvals of all federal, state or local regulatory agencies and utilities having jurisdiction over the Development Plan.
4. The Zoning Administrator shall determine if the submission is complete. If the submission is incomplete, the Zoning Administrator shall inform the applicant of the deficiencies. Unless and until the Zoning Administrator accepts the application as complete, it shall not be considered formally filed for the purpose of a Development Plan Review.
5. Within thirty days of the filing of the application which has been determined to be complete by the Zoning Administrator, the Development Plan is docketed for a hearing before the Tipton County Plan Commission or the Tipton County Plan Commission Development Plan Review Committee in accordance with IC 36-7-4-1400 series and the standards and regulations of this Ordinance.
- a. Hearings for Development Plan Review must provide notification by publication in accordance with the Rules and By-laws of the Tipton County Plan Commission.
  - b. Development Plan Review docketed for hearing before the Tipton County Plan Commission or the Tipton County Plan Commission Development Plan Review Committee must provide notification to interested parties in accordance with the Rules and By-laws of the Tipton County Plan Commission.
  - c. An interested party shall be as determined in the Tipton County Plan Commission By-laws and Rules of Procedure.
6. At the hearing the Tipton County Plan Commission or the Tipton County Plan Commission Development Plan Review Committee shall review all materials, evidence, and testimony to determine if the Development Plan is consistent with the Tipton County Comprehensive Plan, the development requirements as specified in this section, and the standards and regulations of the respective overlay district.
7. A final determination of approval or disapproval shall be made at the hearing by a majority decision of the entire membership of the hearing



body, either the Tipton County Plan Commission or the Tipton County Plan Commission Development Plan Review Committee. The hearing may be continued for just cause. Approval of a Development Plan may be predicated on the following:

- a. Conditions of approval that are reasonably necessary to satisfy the development requirements specified in this section and the respective overlay district;
- b. A performance bond or written assurance that guarantees the timely completion of any proposed public improvements or infrastructure within the Development Plan;
- c. Written commitments, in accordance with IC 36-7-4-1405, signed by the owner(s) of real property within the Development Plan and recorded in the Office of the Tipton County Recorder.

8. The hearing body, either the Tipton County Plan Commission or the Tipton County Plan Commission Development Plan Review Committee, shall complete written findings of fact concerning its decision to approve or disapprove a Development Plan. These findings shall be based on the development requirements of this section and the overlay district in which the project is located. The findings of fact shall be signed by the Secretary of the Plan Commission or the Chair of the Tipton County Plan Commission Development Plan Review Committee, respectively. The findings shall be made a part of the permanent record.

9. The applicant or interested party may appeal the decision of the Tipton County Plan Commission Development Plan Review Committee within 30 days of the date of the hearing. An appeal shall be heard by the Tipton County Plan Commission in accordance with this section of the Ordinance. Upon appeal, the applicant may not proceed with the development plan, during the procedure process.

- a. A decision of the Tipton County Plan Commission approving or disapproving a development is final and may only be appealed by writ of certiorari in accordance with IC 36-7-4-1016 filed within 30 days of the Tipton County Plan Commission decision.
- b. No application may be refiled after an adverse decision, except as allowed per IC 36-7-4-1406.

10. An approved Development Plan shall be valid for a period of two years from the date of approval. If an Improvement Location Permit has not been issued within the two-year period, the Development Plan approval is rescinded. If an appeal is filed, the approval may be extended to two years from the date of an approval of the appeal. The Development Plan may be resubmitted in accordance with the procedures specified in this section.
11. An amendment to a Development Plan may be submitted for approval in accordance with the procedures for a Development Plan Review as specified in this section.

E. Development Requirements: For WECS projects, other than operations and maintenance facilities and substations, the Commission may waive development requirements 3., 4., 5., 6., and 7. Requirements numbered 4 and 5 may only be waived in the event that a road Use Agreement has been executed consistent with Section 522.17 C.2. Unless waived as provided above, in reviewing applications for development plan approval the hearing body, the Tipton County Plan Commission or the Tipton County Plan Commission Development Plan Review Committee shall review all development requirements as listed below:

1. Compatibility of the development with surrounding land uses and the Tipton County Comprehensive Plan;
2. availability and coordination of all utilities, including water, sanitary sewers or on-site septic systems, surface and subsurface storm water drainage, and all other utilities;
3. development of the property to allow for green space and appropriate sight lines, including building setback lines, maximum lot coverage, and building separation;
4. management of traffic in a manner that creates conditions favorable to the health, safety, convenience, and the harmonious development of the community, such as properly designed interior traffic lanes, pedestrian sidewalks and bicycle pathways, parking and loading facilities, and driveway curb cuts;
5. mitigation of safety hazards and congestion by proper design and location of all streets and easements and highway or roadway access,

- including the determination that the capacity of such highways or roadways are sufficient to safely and efficiently accept the projected increase in traffic and new streets or easements are compatible with existing and planned streets and developments;
6. reduction of the impact of more intense development by aesthetically pleasing design of the property, such as buffering and landscaping, appropriate height, scale, building materials, and style of improvements, signage and outdoor lighting;
  7. availability of recreational opportunities;
  8. adoption of protective covenants, if applicable;
  9. compliance with any other applicable federal, state or local regulatory agency, including but not limited to Tipton County Health Department, Indiana State Building Commissioner, Indiana Department of Environmental Management, Department of Natural Resources, Indiana Department of Transportation, and the Federal Aviation Association.

## 402 FLOODPLAIN REGULATIONS

### **402.01 Statutory Authorization:**

The Indiana Legislature has granted the power to local government units to control land use within their jurisdictions as per IC 36-7-4 11. Therefore, the Tipton County Plan Commission recommends to the County Board of Commissioners of Tipton County to hereby adopt the following floodplain management regulations.

### **402.02 Findings of Fact:**

- (1) The flood hazard areas of Tipton 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.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

### **402.03 Statement of Purpose:**

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

- (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.
- (6) Make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

#### **402.04 Objectives:**

The objectives of this ordinance 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.

#### **402.05 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.

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

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

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

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

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

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

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

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

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

**Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

**Area of shallow flooding** means 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** means the flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.

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

**Boundary River** means the part of the Ohio River that forms the boundary between the Kentucky and Indiana.

**Boundary River Floodway** means the floodway of a boundary river.

**Building** - see "Structure."

**Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**Critical facility** means 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.

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

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

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

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

**Elevation Certificate** is a certified statement that verifies a structure's elevation information.

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

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA** means the Federal Emergency Management Agency.

**Flood** means 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)** means 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 Insurance Rate Map (FIRM)** means 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)** is 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** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

**Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

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

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

**Floodproofing certificate** is 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** is 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** means 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** is those portions of the floodplain lying outside the floodway.

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

**Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Historic structures** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

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

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

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

**Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

**Letter of Map Revision (LOMR)** means 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)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

**Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Lowest floor** means the lowest elevation described among the following:

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

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

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**Mitigation** means 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)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

**National Geodetic Vertical Datum (NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**New construction** means any structure for which the start of construction commenced after the effective date of the community's first floodplain ordinance.

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

**Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.

**North American Vertical Datum of 1988 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

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

**One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

**Physical Map Revision (PMR)** is 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.

**Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational vehicle** means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by 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** means 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** means 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 Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood," "One-Percent Annual Chance Flood," and "100-Year Flood."

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

**Section 1316** is that 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)** means those lands within the jurisdiction of the County subject to inundation by the regulatory flood. The SFHAs of Tipton County are generally identified as such on the Tipton County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

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

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

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

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

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

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

**X zone** means 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** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

**Zone A** (see definition for A zone)

**Zone B, C, and X** means 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.)

#### **402.06 General Provisions:**

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

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

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

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

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Tipton County shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Tipton County, Indiana and Incorporated Areas dated June 9, 2014 and the corresponding Flood Insurance Rate Map dated June 9, 2014 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 Tipton County, delineated as an "A Zone" on the Tipton County, Indiana and Incorporated Areas Flood Insurance Rate Map dated June 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.
- (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.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

### **C. Establishment of Floodplain Development Permit.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

### **D. Compliance.**

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

### **E. Abrogation and Greater Restrictions.**

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

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

- (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 and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

**G. Interpretation.**

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

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**402.07 Warning and Disclaimer of Liability:**

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

**402.08 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 Tipton County. All violations shall be punishable by a fine not exceeding that permitted by Section 904 of this Ordinance titled Enforcement Penalties and Remedies.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.

- (2) 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.
- (3) Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

#### **402.09 Administration:**

##### **A. Designation of Administrator.**

The Tipton County Plan Commission of Tipton County hereby appoints the Plan Commission Director to administer and implement the provisions of this ordinance 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(s) in relation to existing roads and streams.
  - c) A legal description of the property site.
  - d) A site development plan showing existing and proposed development locations and existing and proposed land grades.
  - e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
  - f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
  - g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)



(2) Construction Stage.

Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed 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 floodproofing is utilized for a particular structure said 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 floodproofing certification shall be at the applicant's risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor or floodproofed elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

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

**402.10 Duties and Responsibilities of the Floodplain Administrator:**

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

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

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Inspect and inventory damaged structures in the 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 Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization 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/authorizations are to be maintained on file with the floodplain development permit.
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway.
- (6) 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.
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and as-built elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (10) Review certified plans and specifications for compliance.
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.

#### **402.11 General Standards:**

In all SFHAs and known 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 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 ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- (10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.
- (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 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 property 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 excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.
  - d) The fill or structure shall not obstruct a drainage way leading to the floodplain.
  - e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.
  - f) 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.
  - g) 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 Floodplain

Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

#### **402.12 Specific Standards:**

In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
  - a) Construction or placement of any structure having a floor area greater than 400 square feet.
  - b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
  - c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to 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 ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
  - f) Reconstruction or repairs made to a repetitive loss structure.
  - g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- (2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).
- (3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4). Structures located in all "A" Zones may be floodproofed in lieu of being elevated if done in accordance with the following:

- a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (12).
  - b) Floodproofing 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 must meet the following minimum criteria:

- a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
  - b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
  - c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
  - e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
  - g) If applicable, property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Tipton County Recorder.
- (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 the Standard or Modified Proctor Test method, which shall be retained in permit file.
  - b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
  - c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
  - d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
  - e) The top of the lowest floor including basements shall be at or above the FPG.
  - f) Fill shall be composed of clean granular or earthen material.
- (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) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
    - (i) 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.
    - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
    - (iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
  - b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
    - (i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
  - (iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- c) Recreational vehicles placed on a site shall either:
  - (i) be on site for less than 180 days; or,
  - (ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
  - (iii) meet the requirements for manufactured homes as stated earlier in this section.
- (7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
  - a) Shall not be used for human habitation.
  - b) Shall be constructed of flood resistant materials.
  - c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
  - d) Shall be firmly anchored to prevent flotation.
  - e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
  - f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.
- (8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

**402.13 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.

- (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 (50) lots or five (5) acres.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

#### **402.14 Critical Facility:**

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

#### **402.15 Standards for Identified Floodways:**

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

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

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at



least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

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

**402.16 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 Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

**402.17 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:

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

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

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

**402.18 Standards for Flood Prone Areas:**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

**402.19 Variance Procedures:**

**A. Designation of Variance and Appeals Board.**

The Tipton County Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

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

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Tipton County Circuit Court.

**C. Variance Procedures.**

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

- (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.

- (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.
  - 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 Article 5, Section E or Section G (1) of this ordinance may be granted.
- (3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section 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 National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, 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 Article 6, Section E).

**E. Variance Notification.**

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

- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the flood protection grade increases risks to life and property

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

**F. Historic Structure.**

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

**G. Special Conditions.**

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

**402.19 Severability:**

If any section, clause, sentence, or phrase of the ordinance 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 this ordinance.

403 US 31 OVERLAY DISTRICT: The US 31 Corridor is a four-lane Federal Highway that is planned to be a limited access, federal highway; and thus, it is of special and substantial interest to the public. The importance of this highway corridor to Tipton County in its current state and as planned requires that special attention be paid to development in this area. The purpose and intent of this section is to promote the health, safety, comfort, convenience and general welfare of the public by guiding the growth and development of those areas adjacent and adjoining to the US 31 Corridor. It is in the public interest to establish fair, objective and consistent standards for development within the US 31 Overlay District in order to encourage capital investment and economic development; to promote efficient land use and innovative site design; to preserve the natural environment; to protect the integrity of the planned limited access highway and secure the safety and convenience of vehicular and pedestrian traffic. To this end, the architectural design and compatibility of development within the US 31 Overlay District will be considered in the Development Plan approval process. The architectural design of the site and structures must be harmonious with the surrounding natural environment and compatible to adjacent land uses. Areas of consideration will be access, topography, green space and landscaping, scale and proportion, building materials, architectural features, and aesthetics.

403.01 APPLICATION: The standards and regulations established in this section are applicable to all lots that lie either wholly or partially within the US 31 Overlay District which is described below. Whenever there is a conflict between the requirements of this section and requirements of other sections of the Ordinance, the requirements of this section shall apply. Whenever there is conflict between the requirements of this section and the requirements of any other local, state or federal law, the more restrictive shall apply.

403.02 DISTRICT BOUNDARIES: The boundaries of the US 31 Overlay District are hereby established as the territory described below which is within Tipton County Plan Commission jurisdiction and lying on either side of the established right-of-way of the US 31 Corridor, and in addition to the established right-of-way, any future right-of way of the US 31 Corridor at such time and at such location future right-of-way is delineated as in the Record of Decision (ROD) following the Environmental Impact Study conducted by INDOT.

- A. The territory of the US 31 Overlay District is described as:
  - a. That area 1000 feet on either side of the right-of-way or future right-of-way of the US 31 Corridor in Tipton County;
  - b. That area 3500 feet East and 3500 West of the US 31 right of way or future right-of-way of the US 31 Corridor between CR 250S to 1000 feet North of Division Rd.;

- c. That area extending 1000 feet on either side of the SR 28 right-of-way for a distance of 5,280 feet (one mile) in West from the centerline of the US 31 right-of-way; and
  - d. That area extending 1000 feet on either side of the SR 28 right-of-way from the centerline of the US 31 right-of-way East to the City of Tipton Zoning Jurisdiction 500 feet West of CR 350 W.
- (Amended by Ordinance No. 2015-02, 1/26/2015)

403.03 Development Plan Review: Prior to the issuance of any improvement location permit or change of occupancy permit within the US 31 Overlay District, a development plan review must be completed in accordance to Section 401.02, Development Plan Review, of this Ordinance. Any construction, reconstruction or land use exempt from Development Plan Review, according to Section 401.02 B is exempt from the standards and regulations of this section.

403.04 Permitted Uses: All land uses which, in accordance with Table A of the Ordinance and the underlying zoning district, are listed as permitted, or special exception and have obtained special exception approval of the Board of Zoning Appeals, are permitted in the US 31 Overlay District, except any uses listed in 406.04 A below.

A. The following uses are not permitted within the US 31 Overlay District:

- |                                     |  |
|-------------------------------------|--|
| Auction Barn                        | Adult Business                                       |
| Confined Feeding                    | Commercial Fish, Worm, Fur and Other Specialty Farms |
| Slaughter House and Rendering Plant | Fish Hatcheries                                      |
| Oil and Gas Production              | Seasonal Farm Worker Housing                         |
| Commercial Garages                  | Penal or Correctional Institutions                   |
| Cemetery                            | Sanitary Landfill                                    |
| Sewage Treatment Plants             | Tattoo/Body Piercing Parlor                          |
| Kennel                              | Dog Training School                                  |
| Fairgrounds                         | Theater Outdoor                                      |
| Race Track                          | Auction Sales Yard/Flea Market                       |
| Supply Yard                         | Automobile Impound Area                              |
| Junk Yard                           | Scrap Metal Yard/Salvage Yard                        |
| Compost Facility                    | Sawmills and Planing Mills                           |
| Explosives Manufacturing            | Petroleum Refining                                   |
| Ordnance Products                   |  |

Manufactured Home Sales Lot  
Mobile Home Park  
Heavy Manufacturing  
Asphalt or Ready Mix Plant  
Cell Towers  
Incineration for Reduction of Waste Products or Refuse  
Processing, Storage, Recycling, Recovery and Disposal of Hazardous Waste  
Processing, Storage, Recycling, Recovery and Disposal of Nuclear Waste

403.05 Accessory Buildings and Uses: All accessory buildings and uses, which are accessory to a use which is permitted in the US 31 Overlay District, shall be permitted. Accessory buildings and uses must be a part of and constructed in accordance with the approved Development Plan.

403.06 Minimum Standards: All development within the US 31 Overlay District must meet the following minimum standards.

- A. Minimum lot area is 87,120 square feet or 2.0 acres. Minimum lot area is calculated as the total horizontal area within the boundaries of a lot.
1. No land, which is within public rights-of-way or public lands or public or private street or access easements, shall be used for computing the minimum lot area.
  2. No land, which is within a watercourse, drainage way, channel, stream, designated wetlands or floodway as specified by the Zoning Ordinance, shall be used for computing the minimum lot area.
  3. No land, which is under water, other than a temporary detention storage area or ornamental pond, shall be used for computing the minimum lot area.
  4. Lots which do not meet the minimum lot area which are within approved subdivisions and lots of record prior to the establishment of the US 31 Overlay District may obtain improvement location permits provided all other standards of the Ordinance can be met, including Development Plan Review, if applicable.
- B. Minimum gross floor area is 2,500 square feet, excluding basement or any accessory buildings. Permitted single family and two family residential dwellings, agricultural buildings, and accessory buildings need not meet the minimum gross floor area.

- C. Minimum height of a principal structure is 14 feet, with a minimum of 12 feet to the lowest eaves for a building with a gable, hip, or gambrel roof.
- D. Minimum lot width is 150 feet or one half the depth of the lot whichever is greater. Lots in approved subdivisions and lots of record established prior to the adoption of the US 31 Overlay District need not meet this requirement.
- E. Minimum front yard setback is 150 feet from the right-of-way line of the US 31 Corridor and 75 feet from the right-of-way line of any county road, intersecting US 31, or 50 feet from any primary or secondary access easement.
- F. Minimum side and rear yards from the property line is 45 feet with a minimum aggregate side yards of 90 feet.

403.07 Maximum Standards: All development within the US 31 Overlay District may not exceed the following maximum standards.

- A. Maximum Building Height is as specified in Section 307 of this Ordinance.
- B. Maximum Lot Coverage is as specified for the underlying zoning district in Table B of this Ordinance provided a minimum of 20% of the lot coverage is green space.

403.08 Site Design of the development shall meet the following standards:

- A. Landscaping: A landscaping plan shall be submitted with the Development Plan Review Application. The landscaping plan shall be drawn to scale and adhere to all standards and regulations of this ordinance. A minimum of 20% of the total area must be green space. All plants specified on the landscaping plan must be described as to location, number, species and size. The variety and types of species are subject to Plan Commission approval.
  - 1. Buffering is required as per section 306 and may be located in the front yard setback.
  - 2. Parking Lot landscaping and screening is required as per section 308.
  - 3. In addition, street trees are required in the US 31 Overlay District to be planted along the US 31 Corridor, in the front yard setback. Deciduous Trees of at least eight (8) feet in height and two and a half (2 1/2) inch caliper at twelve (12) inches above ground at



planting are required every 50 feet along the corridor. Evergreen species of at least six (6) feet in height may be substituted for up to 50% of the deciduous trees.

- B. Off-Street Parking: An off-street parking plan shall be submitted with the Development Plan Review application. This plan shall be drawn to scale, including dimensions and distances. The off-street parking plan shall adhere to all the standards and regulations of this Ordinance. Off-street parking is allowed in the front yard setback along the US 31 Corridor up to a maximum of 50% of the required parking and only in the rear 50% of the required front yard setback.
- C. Outdoor Sales and Storage: All outdoor sales and storage shall be in and only in an approved designated area. No outdoor sales or storage shall conflict with the development plan as approved, including parking areas. No sales or storage shall be conducted in any trailer, container, or temporary shelter unless it is a part of the approved Development Plan. All approved outdoor sales and storage shall be appropriately screened.
- D. Signage: A signage plan shall be submitted with the Development Plan Review application. This plan shall be drawn to scale, including dimensions and distances. The signage plan shall adhere to all the standards and regulations of this Ordinance. Additionally, there shall be no banners, sandwich boards, flags, pennants, or other temporary signs unless specifically designated in the development plan approval.
  - 1. Off-premise signs, where permitted by Ordinance, may not be placed closer than 50 feet to the right-of-way line of the US 31 Corridor.
  - 2. Freestanding signs, (pole signs) are not permitted in the US 31 Corridor Overlay District for individual businesses. In addition to the building mounted signs as permitted in Section 505.03 a ground mounted sign (monument sign) not to exceed seven (7) feet in height or 70 square feet is allowed for businesses located on individual lots. Other than height and square footage these ground mounted signs are allowed in the same manner as free standing signs are permitted in Section 505.3 C, provided they do not impede vision as per section 306.12.
  - 3. In developments that have five (5) or more store fronts in a shopping center may have a freestanding marquee sign that displays the name or logo of various businesses. The maximum square footage of sign face of the freestanding marquee sign would be 200 feet or 25% of square footage allowed for wall mounted signage, whichever is less.

E. Access Roads: It is the intent of this section to discourage access from US 31 and SR 28 within the US 31 Overlay District. The preferred method of access is from access roads not from the highway. Where previously existing access points are recognized and permitted by INDOT it is preferred that these be limited to one per development and be right-in, right-out access points.

1. All access roads shall be considered a street either public or private and must meet the standards of the Subdivision Control Ordinance and any other applicable standards and regulations of Tipton County.
2. Access roads shall be designated primary or secondary access roads. Roads connecting to or extending from existing local roads are considered primary access roads. Secondary roads are those roads extending from primary access roads for the purpose of providing secondary access to development or potential development. Primary access roads must be dedicated to the public. Secondary access roads may be private if so noted on the plat and covered by a maintenance agreement recorded in the Tipton County Recorder's Office.
3. Access roads must be designed and constructed in such a manner as to coordinate with other development, potential development and existing roadways to form one main access road system with the minimum number of access roads necessary to provide safe and convenient access.
4. Access roads must meet the street requirements of the Subdivision Control Ordinance and the Master Thoroughfare Plan. Primary access roads are classified as collector streets and must meet collector street standards. Secondary access roads are classified as local streets and must meet local street standards of the Subdivision Control Ordinance and the Master Thoroughfare Plan.
5. Primary access roads must be constructed to all drives, but may be performance bonded to the full extent of the property line until such time the property beyond requires the construction of the road for access. Where deemed necessary in order to adequately serve all lots and potential lots, secondary access easements must be provided by method of public or private access easement or dedicated right-of-way easement.

6. All access roads must provide curb and gutter. Curbs and gutters shall be designed and constructed in accordance with the Master Thoroughfare Plan. Parking lanes are not required as all development will have adequate off-street parking.
  7. All access roads must provide sidewalks. Sidewalks must be constructed in accordance with of the Subdivision Control Ordinance. Access roads, which front development on only one side of the road, are required sidewalks only on the side adjoining the development.
  8. A 15-foot utility easement must be provided in addition to the road right-of-way.
  9. Access points for access road easements must not be located closer than 300 feet from the road right-of-way of the US 31 Corridor.
- F. Driveway Access: Driveways must be located, constructed and marked in such a way to provide safe ingress and egress. Driveway standards shall be as designated in Section 308.07 of the Ordinance, except for the following:
- i. Driveways shall not be located closer than 50 feet from an interior property line or another driveway on the same property.
- G. Building Orientation: All structures shall front onto US 31 or roads intersecting US 31 within the defined US 31 Corridor Overlay District or give the appearance of a front-like facade.
- H. Buried Utilities: Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

#### 403.09 Building Design Standards

- A. Exterior metal walls shall be prohibited on the walls of all buildings constructed, altered, repaired or used which abut or are adjacent to US 31 or roads intersecting US 31 within the defined US 31 Corridor Overlay District.
- B. Building facades may be constructed from masonry or glass, as defined below or other materials or products which provide the same desired stability and quality, such as composite stone, plaster, or ðDryvitö.

1. **Masonry Construction:** Includes all masonry construction which is composed of solid, cavity, faced, or veneered-wall construction, unless otherwise approved by the Plan Commission or its duly designated representative.

1. Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard of durable all-weather stone. Ashlar, cut stone, and dimensioned stone construction techniques are acceptable.
2. Brick material used for masonry construction shall be composed of hard fired (kiln-fired) all-weather standard size brick or other all-weather facing brick.
3. Concrete finish or precast concrete panel (tilt-wall) construction shall be exposed aggregate, brush-hammered, sand blasted, or other concrete finish as approved by the Plan Commission or its duly appointed representative.
4. Split-face concrete block may be used on building facades only as approved by the Plan Commission or its duly appointed representative but shall not exceed 15 (fifteen) percent of the wall surface.
5. Concrete block is not considered an acceptable material for building facades.

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

C. **Roofing and Mechanical Equipment:** The materials and finishes of exposed roofs shall compliment the exterior walls. An exposed roof shall be defined as that portion of the roof that is visible from US 31 or roads intersecting US 31 within the defined US 31 Corridor Overlay District.

1. Standing-seam metal roofs of a complimentary color are permitted.
2. Roof mounted equipment on exposed roofs shall be screened from view.

3. All building mechanical and electrical equipment located adjacent to the building and visible from a public thoroughfare or a residentially zoned district or use shall be screened from view. Such screens or enclosures shall be treated an integral part of the building's appearance.

404 WECS OVERLAY DISTRICT: Commercial WECS projects may occur only in a WECS Overlay District. The scale of commercial WECS turbines and extent of territory that a commercial WECS project encompasses requires that the County establish a comprehensive set of standards and an approval process that protects the public and provides a public forum for interested persons to be heard. This section is intended to provide for the public health safety, comfort, morals, convenience and general welfare by guiding the growth and development of those areas within the overlay district and for the benefit of areas adjacent and adjoining that are potentially affected. It is in the public interest to establish fair, objective and consistent standards for development within the WECS Overlay District in order to encourage capital investment and economic development; to promote efficient land use and innovative site design; to preserve the natural environment; to protect the property values and agricultural heritage. The design of the site and structures must be harmonious with the surrounding natural environment and compatible to adjacent land uses. Areas of consideration will be access, topography, scale and proportion, structural design, aesthetics, and measures taken to insure the orderly decommissioning of an approved project when it is obsolete or otherwise determined to be discontinued. The developmental standards and regulations for Commercial WECS are found in Section 522 of the Zoning Ordinance.

404.01 APPLICATION: Previously approved and constructed Commercial WECS development does have the status of legal non-conforming use. Any application for development plan review for new or expanded Commercial WECS development must be preceded with the approval of a WECS Overlay District through the rezone process. Any new WECS development without prior legitimate approval will be subject to all standards and regulations of this section and Section 522 and must receive development plan approval as set forth in Article Four of this Ordinance.

404.02 DISTRICT BOUNDARIES: The boundaries of the WECS Overlay District will be comprised of the aggregate parcels under lease for the proposed Commercial WECS that receive rezone approval. Any rezones for a WECS Overlay District duly adopted by the legislative body will be added to the official District Zone Map. WECS Overlay District areas are by their nature collections of parcels and may occur in different parts of the County's jurisdiction and will not necessarily be comprised of contiguous parcels or districts. 404.03 Development Plan Review: Prior to the issuance of any improvement location permit or change of occupancy permit within the WECS Overlay District, a development plan review

must be completed in accordance with Section 401.02, Development Plan Review, of this Ordinance. Any construction, reconstruction or land use exempt from Development Plan Review, according to Section 401.02 B is exempt from the standards and regulations of this section.

404.04 Permitted Uses: All land uses which, in accordance with Table A of the Ordinance and the underlying zoning district, are listed as permitted, or special exception and have obtained special exception approval of the Board of Zoning Appeals, are permitted in the WECS Overlay District.

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ARTICLE FIVE  
DEVELOPMENT STANDARDS

501 PROCEDURE: The following specified uses must meet the development standards as listed in this Article in addition to the requirements of all other Articles of this Ordinance. In a district which the specified use is permitted, the Zoning Administrator shall ascertain that the specifications of the Article are met. In a district in which the specified use is allowed by special exception, the Board shall ascertain that the specifications of this Article are met prior to approval of the special exception.

502 CONFINED FEEDING OPERATIONS: All confined feeding operations [as defined by IC 13-1-5.7 (d)] must meet the following standards:

502.01 All structures shall be set back at least 250 feet from any road right-of-way and 200 feet from any side or rear lot line, provided the setbacks from structure to structure requirements are met.

502.02 The outer perimeter of the confined feeding operation structures, including housing for animals or manure storages shall not be located closer than:

A. One mile to the nearest boundary of any incorporated city or town or public school (not including private school or home school).

B. 1,320 feet from any Rural Residential District line, residence, (other than the farm operator or residences owned by the confined feeding operation), any church, commercial use other than agriculturally related, public recreational area, or any public building.

C. The liquid edge of an uncovered storage basin(s) or treatment lagoon(s) that provide(s) more than 180 days manure storage for the entire operation either singly or combined must be located 2,640 feet from any Rural Residential District line, residence (other than the farm operator or residences owned by the confined feeding operation), any church, commercial use other than agriculturally related, public school, public recreational area, or any public building.

502.03 Any major or minor subdivision, or any new church, commercial use other than agriculturally related, public recreational area or public building shall not be located closer than 1320 feet from any confined feeding operation structure.

A. New public schools shall not be located closer than 1 mile from an existing confined feeding operation structure.

B. Any new major or minor subdivision approved or any new residence permitted to be constructed on an existing lot of record, as defined, after the effective date of this ordinance will not have the effect of



establishing a new setback for an existing permitted confined feeding operation. If a confined feeding operation ceases for any reason for a period of more than 12 consecutive months, as per section 701.04, setbacks from the new major or minor subdivision or new residence on an existing lot of record will apply.

502.04 All confined feeding operations shall meet all applicable regulations of the Indiana Department of Environmental Management (IDEM) and US Environmental Protection Agency (EPA).

A. Anyone making application to IDEM for a confined feeding operation shall expand notice requirements to include all landowners within 1 mile of the confined feeding operation structures of the existing and proposed operation. Notification letter must be sent prior to or within 10 days of application to IDEM via certified mail. Copies of the receipts of delivery are required prior to issuance of an improvement location permit. Notice must meet IDEM requirements and include an aerial map showing the proposed location of the confined feeding structures, the animal capacity of the operation, the method of manure storage, the planned method of manure application and the potential frequency of land application.

502.05 An existing confined feeding operation may be expanded, extended, or enlarged at the same immediate location provided the following:

A. The expansion, extension, or enlargement does not encroach into any required setback to a greater extent than that which exists prior to the expansion, extension, or enlargement.

B. The expansion does not include an uncovered manure storage or treatment lagoon(s) with greater than 180 days storage capacity.

503 TEMPORARY USES: An Improvement Location Permit for a temporary use may be issued by the Zoning Administrator subject to the standards in Table H and after receipt of Board of Health approval, if applicable. Access and parking for all temporary uses shall be provided to the Zoning Administrator's satisfaction. All temporary use sites shall be adequately cleaned up at the conclusion of the event. Signs for temporary uses shall comply with Section 505 of the Ordinance. Any temporary use exceeding the standards of Table H shall be considered a special exception in the district in which it is located. Events which are reasonably expected to exceed an attendance level of 5,000 over an 18 hour period are required a mass gathering permit by the State Department Health of the State of Indiana.

503.01 Amusement and charitable activities, sponsored by public agencies, churches, civic and charity groups, schools and other non-profit organizations on a temporary basis, are permitted in any zoning district, provided it is on the site of said sponsor or on public property with the

approval of the appropriate governmental body. No permit is necessary. If an amusement or charitable activity does not meet the standards, it shall be considered under the appropriate use as listed in Table H.

503.02 The sale or offering for sale of goods or services from any vehicle, including trailers, buses, or vans, shall be deemed to be a commercial use and shall be subject to all the regulations prescribed for the zoning district in which the same is conducted, but this regulation shall not be deemed to prohibit any vending from vehicles on a public street that is not otherwise prohibited by law.

TABLE H  
Temporary Uses

USE	DISTRICT	MAXIMUM LENGTH OF TIME	PERMIT	CONDITIONS
1. Carnival, Circus, Fair, Festival, or Concert	B-2, B-3, and by special exception approval in B-4, AB, AG, I-1, I-2	15 days per year per site	Required	Lights, noise and traffic plans to be approved
2. Outdoor Promotional Attraction, Tent Sale, Auto Show, Farm Products Promotions, Farm Equipment Show	B-1, B-4, AB, AG, I-1, I-2	30 days per year per site	Required	Lights, noise, and traffic plans to be approved
3. Farm Tours, Hayrides (commercial), Pick-Your-Own Produce	B-1, B-4, AB, AG, I-1, I-2	4 months per year	Not Required	None
4. Farm Fair	AG, I-1, I-2	30 days per year per site	Not Required	None
5. Farmers Market	B-1, B-4, AB, AG	90 days per year per site	Required	Agricultural products only
6. Sawmills on Property Where Timber is Cut	AB, AG, I-1, I-2	6 month per year	Required	Must meet Section 309 if within 100' of off-property residence
7. Temporary Group Camp	B-1, B-4, AB, AG, I-1, I-2, OS	1 week per 6 months	Required	Lights and noise to be controlled
8. Contractor Office and Equipment Storage or Real Estate Sales Office	All districts if incidental to construction or development	Must be removed upon completion of construction or development	Not Required	Includes mobile homes but no cooking or sleeping facilities

9. Christmas Tree Sales	B-1, B-4, AB, AG, I-1, I-2	45 days per year	Required	Unsold merchandise must be removed by January 1 <sup>st</sup>
10. Fireworks, Sales and Display	B-1, B-4, AB	45 days per year	Required	All applicable State and Federal laws must be met. Unsold merchandise to be removed by July 10 <sup>th</sup>
11. Religious Tent Meeting	B-1, B-4, AB, AG, I-1, I-2	30 days per 6 months	Required	Off-street parking as required for churches
12. Basement Home	AG, R-1, RR,	Not to exceed 2 years from permit issuance	Required	Does not include permanent earth-sheltered home
13. Yard, Garage or Porch Sale	Any District	2 days twice per year per site	Not Required	Only normal household items. Multiple participants allowed
14. Sale of Personal Property at Place of Residence	Any District	3 months per year per item per site	Not Required	Items allowed such as automobiles, motorcycles, recreational vehicles, etc. May not be disabled vehicles (as defined). Must be titled to resident. Limit two items at a time.
15. Auction/Pre-priced Sale	Any District	3 days per year	Not Required	Parking to be controlled

**504 ACCESSORY USES AND STRUCTURES:** Accessory uses and structures, as defined, shall meet the following requirements:

504.01 An accessory structure shall not be erected or an accessory use located prior to the establishment or construction of the principal building or use to which it is accessory or to which it is intended to be accessory, except for agricultural structures.

504.02 An accessory structure or accessory use may be permitted on a parcel of land separated by a public right-of-way or easement from the parcel containing the principal structure but any accessory structure must meet principal structure yard requirements and Section 504.01 of this Ordinance.

504.03 The square footage of the footprint of an accessory structure located in a residential district may not exceed the square footage of the principal structure.

504.04 Swimming pools shall meet the following requirements:

- A. An in-ground swimming pool shall be entirely enclosed by buildings, fences, or walls or equipped with an electronic pool cover.
  - 1. Said fences or wall must be a minimum of 4 feet in height and must be equipped with self-latching gates or doors, with the latching device located not less than 4 feet above the ground.
  - 2. Electronic pool covers must meet the standards of 675 IAC 20-4-27, et sec, and be in working condition at all times.
  - 3. All fencing must be in place and approved by the Zoning Administrator before the water is put into the pool.
- B. Above-ground swimming pools, hot tubs, and saunas are considered accessory structures and are subject to setback regulations for accessory structures. They are not subject to any of the standards in Section 504.04 A above, provided they do not violate other sections of this Ordinance.
- C. In addition to the above regulations, commercial swimming pools are subject to the standards as set forth by the Indiana State Board of Health Rule 410 IAC 6-2.

504.05 No major recreational vehicle shall be parked or stored on any lot in any Residential District, except in a carport or enclosed building or behind the nearest portion of a structure to the street. This provision, however, does not restrict the parking of a recreational vehicle on a residential lot for a period not to exceed 48 hours during loading or unloading. No such vehicle shall be used for living or housekeeping purposes when parked or stored on a residential lot, or on any location not approved for such use.

504.06 Trucks or tractor-trailer combination vehicles in excess of one ton capacity shall not be parked or stored in any Rural Residential except in an enclosed building. Operating refrigeration units will be permitted in the General Business, Light Industrial, and General Industrial districts only.

504.07 In all zoning districts satellite dish antennae (satellite earth stations) of up to 12 feet in diameter are permitted as accessory structures. A satellite dish antenna may be either roof-mounted or ground-mounted and must meet the following standards:

- A. A roof-mounted antenna shall not extend above the required height of the zoning district in which it is located and shall not overhang within 2 feet of any side or rear lot line.
- B. A ground-mounted antenna may be located in a side or rear yard, or in the front yard if it is at least 100 feet back from the front property line.

The closest edge of any antenna may not be less than 2 feet to any side or rear lot line. Ground-mounted antenna may not extend above the accessory use height requirement.

- C. If any antenna cannot receive a usable satellite signal by complying with the above standards without substantial removal of mature trees or vegetation, a special exception may be requested from the Board of Zoning Appeals to locate the antenna in a front yard. A usable satellite signal is defined as a signal from a satellite which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.
- D. All antennae shall meet manufacturers specifications, shall meet all applicable Building and Electrical Code requirements, shall be of non-combustible and corrosive-resistant material, shall be erected in a secure, wind-resistant manner and shall be adequately grounded for protection against a direct strike of lightning.

504.08 Outdoor display of merchandise, where permitted, and outdoor storage for any use, shall not extend into any street right-of-way, required parking area or bufferyard area and shall be maintained in a neat and orderly manner at all times. The following outdoor storage regulations shall also be met:

- A. Any article or material stored temporarily outside an enclosed structure as an incidental part of the primary commercial operation, shall be so screened by opaque ornamental fencing, walls, or evergreen planting, that it cannot be seen from adjoining public streets or adjacent lots, when viewed by a person standing on ground level during any season of the year. This section does not apply to any commercial or industrial use unless the storage area is located within 100 feet of a residence or residential district line.
- B. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except tanks or drums of fuel connected directly with energy devises or heating appliances located and operated on the same lot as the tanks or drums of fuel and except for permitted agricultural uses and permitted uses in the Industrial District.
- C. All outdoor storage of raw materials, waste products, and similar materials shall be enclosed by an approved safety fence and shall be shielded from view of public streets and adjacent lots.
- D. All materials or wastes which might cause fumes or dust or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in containers adequate to eliminate such hazards. This section does not apply to agriculture or agribusiness uses.

- 504.09 Fences are permitted as accessory structures in any district and do not require any permit. However, fences, excepting partition fences as defined by IC 32-10-9, must meet the following standards:
- A. Fences must be located entirely upon the lot which it serves, though it may be located immediately adjacent to the lot line.
  - B. All fences shall be constructed and maintained at a uniform height from the same construction material and of a uniform color scheme.
  - C. Fences in residential districts or abutting residential uses may not have a height greater than 36 inches in the front yard setback, with the exception of a fence that does not encroach into the front yard setback to a greater extent than the farthest point of the principal structure.
  - D. No fence in any district, except for those servicing agricultural uses, shall be constructed of or contain barbed wire, broken glass, spikes or sharp and dangerous objects, nor be electrically charged.
    - 1. Barbed wire may be used at the top portion of a permitted fence or wall in the AG, Agricultural, I-1, Light Industrial or I-2, General Industrial districts, provided that the fencing does not abut a residential district or residential use.
    - 2. Barbed wire, where permitted, must be located more than 7 feet above the adjacent ground level. Such permitted barbed wire shall be considered part of the fence and subject to the fence height restrictions.
  - E. All fences shall meet the requirements of IC 32-10.
  - F. No fence abutting a residential lot or district may exceed 6 feet in height. All fences constructed abutting a residential lot or district must be designed so as not to prohibit more than 50% of the light and/or ventilation to a residence.
- 504.10 A refuse disposal container (dumpster) and/or refuse storage area or corral for a commercial or industrial use shall not be located within any required front or side yard, parking area or bufferyard. Refuse disposal containers and areas shall be opaquely screened from public streets and adjacent properties. This screening may be achieved by walls, landscaping or the bufferyard, or by virtue of the location on the lot.
- 504.11 Collection stations for used merchandise or for recyclable items are permitted in the Agricultural, Convenience Business, General Business, Agribusiness, Light Industrial, and General Industrial districts and are not subject to side or rear setback regulations provided they are not located in a way to create a traffic hazard and do not violate other sections of this

Ordinance. The collection stations shall be routinely emptied and no outdoor storage of items is permitted.

504.12 Newspaper, soft drink and ice vending machines, and other similar devices are permitted in areas zoned commercial or industrial and are not subject to setback regulations provided they do not violate other sections of this Ordinance.

504.13 No mobile home or manufactured home shall be stored or parked, vacant or otherwise, in any zoning district, except in conformity with the provisions of the district in which it is located.

505 SIGNS: The purpose of this section is to regulate all exterior signs placed for exterior observance so as to protect property values, to protect the character of the various communities in the County to facilitate the creation of a convenient, attractive, and harmonious community, to protect against danger in travel and transportation, to improve and protect the public health, safety, convenience, and general welfare, and to further the stated purposes and intent of this Ordinance.

Any sign erected on a lot or building for the purpose of identification or for advertising a use conducted therein or thereon shall be an accessory structure to the principal use.

It is further intended that all signs within a given development be coordinated with the architecture of the principal use in such a manner that the overall appearance is harmonious in color, form, and proportion and that the signs shall be structurally sound so as to ensure the safety of the general public.

No sign shall be permitted in any district except as herein provided. No sign shall be permitted which creates a safety hazard. No sign shall be permitted between the street and the sidewalk. No sign, except as specified herein, shall hereafter be erected unless a sign permit has been issued by the Zoning Administrator.

Applications for sign permits shall include detailed drawings of the construction and design of the sign, and shall be accompanied by such fee as may be established by the Tipton County Commissioners.

505.01 The following operations shall not be considered as creating a sign and therefore shall not require a sign permit:

A. The changing of the advertised copy or message on an approved painted or printed sign or billboard or a theater marquee and similar approved signs which are specifically designed for the use of replaceable copy.

B. Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural alteration is made.



505.02 Signs Permitted in All Districts: The following signs are permitted in all districts. No sign permit is required for these signs.

- A. One residential identification sign, not to exceed 2 square feet in area, for each residential dwelling, may be affixed to a fence or structure, or be freestanding. In addition, house numbers not to exceed 2 square feet depicting the address of the property are permitted. Also, a sign for an allowable home occupation is permitted as specified in Section 512.
- B. Signs for the purposes of identifying the name of schools, churches, community buildings, or other public or semi-public institutional buildings, residential subdivisions, apartments or townhouse developments, or mobile home parks, shall be permitted provided the following conditions are met:
  - 1. The sign shall not exceed 24 square feet.
  - 2. If freestanding, the sign shall be located not less than 15 feet from the road right-of-way. Freestanding signs may be double-faced, and such sign, including any structure to which it is attached, shall not exceed 5 feet in height.
  - 3. No sign mounted on a building shall project above the ridge line of a sloping roof nor above the eave line of a flat roof.
  - 4. The Zoning Administrator may authorize additional signs if a building fronts on more than one street.
- C. One bulletin board, not illuminated except by indirect light and not exceeding 24 square feet in surface area is permitted with any church, school, or other similar public or semi-public structure.
- D. Permanent off-site directional signs intended for the purpose of directing traffic to such civic or public facilities as churches, schools, or public parks, shall be permitted, provided such signs do not exceed 1 square foot in area and are not placed so as to create a traffic hazard.
- E. Signs erected by a duly constituted governing body or a public utility, such as traffic control and safety signs, handicapped parking signs, railroad signals, entrance and exit signs, signs indicating scenic or historical places, welcome signs, county facilities and public directional signs, and memorial plaques, are permitted.
- F. Show window displays, including displays of merchandise, photographs, drawings, prices, promotional statements, etc., designed and intended to be viewed by pedestrians passing in front of the show window.

- G. An exterior building directory, on a multiple tenancy structure, is not to exceed one sign and not to exceed 6 square feet in area.
- H. Any flags bearing the official design of the nation, state, city, community, organization, corporation, or school are permitted, and up to one decorative flag per property is permitted.
- I. On-site directional signs shall be permitted for the purpose of directing traffic and parking on the same lot as the sign(s). Such signs shall not exceed 5 square feet, shall not be located in any public right-of-way, and such sign, including any structure to which it is attached, shall not exceed 4 feet in height.
- J. Signs located on-site warning the public against hunting, fishing, dumping, trespassing, dangerous animals, swimming or the like, shall be permitted. Such signs may be freestanding or attached to a fence, and such signs shall be no more than 4 square feet in area.
- K. Names of buildings, dates of construction, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the building or structure.
- L. Signs accessory to an agricultural use located on a parcel of not less than 20 acres for the purpose of identifying such agricultural uses or advertising the products thereof. No such sign shall exceed 30 square feet in area, and all such signs on a given farm shall not exceed a total of 60 square feet in area. No such sign shall exceed 8 feet in height or be located closer than 10 feet to any street right-of-way.
- M. Signs erected by farm operators on their barns or other accessory buildings giving their name, the name of their farm and the year of the farm establishment.

505.03 Signs Permitted in Business and Industrial Districts: The following signs are permitted in business and industrial districts subject to the standards and restrictions set forth herein. A permit is required for these signs.

- A. One business sign mounted on the building occupied shall be permitted in connection with any legal business or industry, if the following requirements are met:
  - 1. No sign shall contain information or advertising for any product not sold on the premises.
  - 2. The business sign shall not have a surface area greater than 2 square feet for each foot of frontage of the building and shall not project

above the ridge line of a sloping roof nor above the eave line of a flat roof.

3. No sign shall project over any public sidewalk or right-of-way.

B. The Zoning Administrator may authorize additional business signs if one of the following conditions are met:

1. The business fronts on more than one thoroughfare.
2. More than one business is located in one building. In such instance, the combined total area of the business signs shall not exceed 2 square feet per linear foot of the front foot of the building.
3. The business has a rear parking lot, in which case one additional business sign may be permitted on the side or rear of the building occupied, provided such sign is constructed to the same standards as are required in the front of said premises.
4. The sign is part of a wall graphic, as defined in Article Two.

C. In addition to an attached business sign (or signs), one single or double-faced, freestanding sign may be erected on a business or industrial site, provided the following conditions are met:

1. The sign shall contain only the logotype, trademark, or name of the company, commercial, or industrial center on the property. Only one freestanding sign shall be permitted on each individual business site; however, within commercial or industrial centers, one freestanding sign shall be permitted for each principal structure within the center. In such instances where an individual business site or commercial or industrial center has access on more than one thoroughfare, the Zoning Administrator may authorize such additional signs as are warranted. Additional freestanding signs may be approved as a special exception by the Board of Zoning Appeals, where specific and special circumstances warrant.
2. Such sign, including any structure to which the sign is attached, shall not exceed 35 feet in height, shall be set back not less than 10 feet from the road right-of-way and shall not be located less than 10 feet from any adjacent property.
3. The logo sign shall not be larger in total surface area than 25 square feet per face for each half acre of lot area on the premises or 300 square feet, whichever area is less.
4. Businesses which require the frequent display of special prices and/or events shall be permitted, in addition to a logo sign, one permanent

message sign which does not exceed 20 square feet per face for each half acre of lot area on the premises or 100 square feet whichever area is less. Where additional message logo signs have been allowed by Subsection (1) above, additional message signs shall be permitted also. All such signs shall be mounted on the same pole or structure as the logo or signs.

D. In addition to other permitted signs, gasoline stations may have the following signs:

1. Signs on vending machines, provided that such machines are placed together in a single group against the building.
2. Wall signs, not exceeding 6 square feet in area for each sign, identifying the special functions of various service bays in the building facade, located above the doorways and containing no advertising.
3. Signs on pump islands and/or canopies relating to self-service or full-service locations, prices (the numerals of which shall be between 4 and 8 inches in height), promotions for products and services, displays of products, fuel availability, and so forth.
4. One sign stating hours of operation, in the form of a wall sign or window sign, not exceeding 4 square feet in area.
5. A single wall sign not exceeding 2 1/2 square feet, identifying the owner or manager, the address of the property and the telephone number.

E. Off-premise Signs: Off-premise signs (as defined) are permitted in the County. Off-premise signs shall be freestanding (as defined). For the purpose of this Ordinance, an off-premise sign shall be treated as a principal land use.

1. The following standards apply to freestanding off-premise signs:
  - a. Signs shall be permitted in the following zoning districts: B-4 General Business, AB Agribusiness, I-1 Light Industrial and I-2 General Industrial.
  - b. The maximum height of an off-premise sign above the road grade from which it is to be viewed shall not exceed 35 feet.
  - c. Lighting for off-premise signs shall be indirect and non-flashing in nature.

- d. No off-premise sign shall be placed so as to obstruct the view of on-coming traffic or create any kind of traffic hazard.
- e. All signs shall meet the Uniform Sign Code, 1979 Edition, as amended.
- f. Each sign face shall contain no more than 300 square feet and no sign structure shall contain more than two such faces facing in the same direction and shall not be separated by more than 12 inches. However, a freestanding sign not exceeding 700 square feet in area per side may be permitted by special exception by the Board of Zoning Appeals.
- g. Back-to-back freestanding signs may be separated in the shape of the letter “V” if the greatest point of separation between sign faces does not exceed 15 feet.
- h. The distance between legally erected freestanding off-premise sign structures shall be a linear measure taken along right-of-way lines along both sides of the street where the sign is to be located. Freestanding signs shall be at least:
  - (i) 1500 feet or more from one sign to another on either side of the street.
  - (ii) 1000 feet to any residential zone.
  - (iii) 1000 feet to a church, school, or health care institution.
- i. The distance measured at a right angle from the right-of-way line to the leading edge of an off-premise sign structure shall be no less than 15 feet.

3. Notwithstanding the provisions of Article Seven of this Ordinance, a nonconforming off-premise sign structure may be continued but may not be extended, expanded, replaced, or otherwise increased in nonconformity except as specified herein or as permitted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance. Nonconforming off-premise sign structures may be maintained and repaired subject to the above restrictions.

505.04 Temporary Signs: Temporary signs are permitted within all districts within the County subject to the requirements listed below. No permit is required for these signs.

- A. Temporary real estate signs are permitted on any property being sold, leased, or developed if they are not illuminated, not in any required side or rear yard, and are no larger than 7 square feet in any residential, or agricultural district, nor 32 square feet in any commercial or industrial

district. Such signs shall be promptly removed when the sale, lease, or development of the property has been completed.

- B. Temporary signs announcing such events such as “Grand Opening,” “Under New Management” or “Going Out of Business”. Such signs may be freestanding, building-mounted, or a banner and shall be subject to the following standards:
  - 1. A maximum of 20 square feet in area,
  - 2. If freestanding, not to exceed 8 feet in height or located closer than 10 feet to any lot line,
  - 3. For a period not to exceed 45 days,
  - 4. Only contain information and/or advertising pertaining to the special event,
  - 5. On a given property, such temporary sign may be displayed only one time by the same proprietor in a 12 month period.
  
- C. Any temporary construction sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building or development or announcing the character of a building enterprise or the purpose for which the building is intended. Such signs shall be located on the site of the construction work, not to exceed 4 square feet in any residential district or 32 square feet in any business or industrial district.
  
- D. Seasonal displays and decorations, for events such as religious holidays and the Fourth of July, not advertising a product, service, or entertainment.
  
- E. Freestanding, off-site directional sign(s) providing information as to the location of grand openings, private garage or yard sales, and other temporary uses or of real estate that is for sale or for rent. Such signs shall be subject to the following conditions:
  - 1. No such sign shall exceed 3 square feet in area or 4 feet in height,
  - 2. Such signs shall not exceed 5 in number per use being advertised,
  - 3. Such signs shall not be located in any public right-of-way,
  - 4. Such signs shall not be situated so as to cause an obstruction or distraction to passing motorists,
  - 5. Such sign placement shall have the approval of the property owner,

6. Such signs shall be removed promptly after the sale or temporary activity is over.

F. Temporary signs, announcing a campaign, drive, or event of a civic, charitable, educational, historical, or religious organization. Such signs may be either building-mounted or freestanding and shall not exceed 16 square feet in area. If freestanding, no such sign shall exceed 6 feet in height or be located closer than 10 feet to any street right-of-way. Such signs may be located on or off-site, and may be posted prior to the event for a period not to exceed 21 days and must be removed immediately after the completion of the event.

G. Political campaign signs erected on Election Day at officially designated polling places.

H. Temporary political campaign signs may be permitted on-site or off-site in any district subject to the following conditions:

1. No one such sign shall exceed 32 square feet in area, and no freestanding sign shall exceed 8 feet in height.
2. No signs shall be erected for more than 45 days prior to the nomination, election, or referendum which they advertise.
3. Political signs shall be permitted during local special events, such as fairs, carnivals, and festivals. Signs must be removed immediately after the completion of the event.
4. All signs shall be removed within 14 days after voting.
5. Nothing in this provision shall be construed to authorize the posting of political campaign signs upon trees, utility poles, traffic control signs, lights or devices, or in any place or manner prohibited by this Ordinance.
6. Any temporary political campaign signs placed on buildings or in building windows which are visible to the outside shall meet the above requirements.

505.05 Temporary Signs Permitted in all Districts: The following signs are permitted in all districts subject to the requirements listed below. A permit is required for these signs.

A. Temporary on-site signs advertising any temporary use specified in Section 503. Such signs may be freestanding or building-mounted, shall not exceed one in number per use, shall not exceed 32 square feet in area and, if freestanding, shall not exceed 8 feet in height. Such signs may be

erected only for the duration of the temporary use and shall be located only as approved by the Zoning Administrator. In addition, there may be off-site directional signs as specified by Section 505.03 E.

505.06 Temporary Signs Permitted in Business and Industrial Districts: The following temporary signs are permitted in the business and industrial districts subject to the requirements listed below. A permit is required for these signs.

- A. Portable, mobile, or “tow-in” signs shall be permitted in business and industrial districts to substitute for a permanent sign prior to installation of the permanent sign, to announce grand openings, or to advertise special sales events providing the following requirements are met:
  - 1. These signs may be permitted on the premises for the period of time specified in conjunction with those uses listed in Table H or for 45 days if the use is not specified in Table H. Additional days may be permitted by the Administrator, if the sign is being used in lieu of a permanent sign.
  - 2. No more than 2 permits shall be issued in any 12 month period for the same enterprise.
  - 3. No sign shall contain information on any event not conducted on the premises nor advertising for any product not sold on the premises.
  - 4. In no instance shall such signs be permitted in the street right-of-way, nor shall they be placed so as to obstruct the view of on-coming traffic for cars exiting premises or intersecting street.
  - 5. No such sign shall be permitted to flash.
  - 6. All such signs shall be safely anchored to the ground.
  - 7. No more than one portable, mobile, or “tow-in” sign may be permitted per enterprise.
  - 8. When not in use, all portable, mobile, or “tow-in” signs shall be stored out of public view.
  - 9. Any portable, mobile, or “tow-in” sign exceeding the above standard would require a special exception approval by the Board of Zoning Appeals.
- B. Inflatable balloons used for the purpose of product or business advertising shall be permitted as temporary signs in any business or industrial district for a period not to exceed 7 days. The Zoning



Administrator shall determine that no unsafe condition will exist due to the use of the device.

- C. Search lights with a vertical beam may be placed temporarily on the premises for grand openings and other similar special events. The Zoning Administrator shall determine that no unsafe condition will exist due to the use of the device.

505.07 Signs Prohibited in All Districts: The following signs are specifically prohibited in all districts:

- A. Any sign which is in need of maintenance, or which is no longer functional or is abandoned. Signs shall be considered no longer functional and abandoned when such sign is materially obstructed from view, when its essential elements are no longer readable, when a sign has been left by a business or other use which has ceased to operate, or when a condition of deterioration or dilapidation of the sign face or structure is in evidence. All signs shall be repaired, removed or relocated in compliance with the regulations of this Ordinance within a reasonable period of time after official notification by the Zoning Administrator.
- B. Any sign which is constructed, altered, located, or illuminated in any manner which causes undue glare, distraction, confusion, nuisance, noise, or hazard to traffic or to other properties. No sign may be illuminated after 11:00 P.M. if it is located within or adjacent to any residential district, except those businesses remaining open beyond that time, in which case illumination shall cease upon closing.
- C. No sign which has a rotating beam, beacon, flashing or alternating illumination shall be permitted for advertising or identification purposes where no hazard or need for caution exists. This section shall not be construed as prohibiting:
  - 1. Time or temperature devices customarily identified with banks or lending institutions.
  - 2. Barber poles, provided such devices meet all other applicable provisions of this Ordinance.
- D. Any sign that is attached to a tree or other living vegetation, utility pole, rock, curbstone, sidewalk, lamppost, hydrant, bridge, highway marker, or other sign, except for public informational signs as provided for in Section 505.01 E.
- E. Any sign displayed on a stationary vehicle or trailer when said vehicle or trailer is used primarily for the purpose of and serving the function of an off-site sign.

- F. Any sign so placed that it obstructs any window, door, fire escape, stairway, ladder, opening, or access intended for light, air, ingress to, or egress from any building.
- G. Any portable, mobile, or “tow-in” sign unless otherwise permitted as a temporary sign as provided in Section 505.06.
- H. Signs advertising activities which are illegal under federal, state, or county laws or regulations.
- I. Any sign that violate any provision of IC 8-12-2.5-2 or IC 9-4-1-38.
- J. Any sign that is not expressly listed in this Ordinance.

506 MOBILE HOME PARKS: Mobile home parks shall meet the following requirements:

506.01 No mobile home park shall have an area of less than 5 acres.

506.02 Each home site within the park shall have an area of at least 4,000 square feet.

506.03 There shall be at least 25 feet between homes.

506.04 No mobile home shall be closer than 40 feet to an adjacent property.

506.05 Not less than 10% of the gross area of the park must be improved for recreational activity of the residents of the park.

506.06 The park shall be appropriately landscaped and screened (as defined) from adjacent properties in accordance with an approved site plan.

506.07 All streets, sidewalks, and driveways shall be privately maintained and shall be constructed in accordance with the applicable standards contained in the Article V of the Tipton County Subdivision Control Ordinance.

506.08 Applicable requirements of IC 13-1-7 shall be met.

506.09 Mobile home parks with 5 or more homes shall also meet Indiana State Board of Health Rule 410 IAC as amended.

507 MOBILE HOME AS CARETAKER DWELLING: A mobile home as a second principal structure may be allowed by special exception in the AG and RR zoning districts provided:

507.01 The mobile home is to provide living quarters for the purposes of a caretaker dwelling.

507.02 There is a minimum of two acres of land, and principal structure setbacks are adhered to.

507.03 Board of Health approval has been granted.

507.04 The mobile home is removed from the property when the caretaker situation is no longer needed.

508 RECREATIONAL VEHICLE PARKS/CAMPGROUNDS: All recreational vehicle parks and campgrounds must meet the following requirements:

508.01 Recreational vehicle parks and campgrounds shall have direct access to a public street with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of all vehicles into and out of the park.

508.02 Conditions of soil, ground water level, drainage, geologic structure, and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, or noise, or the possibility of subsidence, sudden flooding, or severe erosion.

508.03 The minimum area of a recreational park or campground shall be three acres.

508.04 The density of a park shall not exceed 17 recreational vehicles or camping spaces per acre of gross site area.

508.05 Recreational vehicles and camping spaces shall be separated from each other and from other park structures by at least 10 feet.

508.06 In addition to complying with any required side or rear yard requirements of the district in which the park is located:

A. No recreational vehicle or camping space shall be nearer than 50 feet to the right-of-way line of a highway or street.

B. Where the boundary line of a recreational vehicle park coincides with that of a residential district, a yard of at least 25 feet shall be provided for a camping space.

508.07 In the Agricultural District, food stores, restaurants, sporting good stores, laundromats, and similar convenience and service shops shall be permitted in recreational vehicle parks and campgrounds which contain 50 or more spaces provided:

A. Such shops and the parking areas required by their use shall not occupy more than 10% of the total area of the park.

B. The use of such shops shall be solely by the occupants of the park, and

C. Such shops shall be so located or designed within the park to present no visible evidence of their commercial nature to persons outside the park.

508.08 Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs, and other structures customarily incidental to a recreational vehicle park or campground shall be permitted as accessory uses.

508.10 All applicable regulations of the Board of Health shall be met.

## 509 SEXUALLY ORIENTED BUSINESS

509.01 It is the purpose of this *Section* to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent deleterious effects of sexually oriented businesses within the County. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this *Section* to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution or the Indiana State Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this *Section* to in any way condone or legitimize the distribution of obscene or material harmful to minors.

509.02 DEFINITIONS For the purposes of this *Section*, certain terms and words are defined as follows:

A. "Sexually oriented businesses" are those businesses defined as follows:

**Adult Arcade** means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

**Adult Bookstore, Adult Novelty Store or Adult Video Store** means a commercial establishment which has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, of any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas";
- b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- c. An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas", and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

**Adult Cabaret** means a nightclub, bar, restaurant "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude or in a state of nudity or semi-nude; (b) live performances which are characterized by an emphasis on (as amended the exposure of "specified anatomical areas" or by "specified sexual activities", or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

**Adult Motel** means a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of way, or by means of any off-premises advertising

including but not limited to, newspapers, magazines, pamphlets, or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

**Adult Motion Picture Theater** means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

**Adult Theater** means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features a person who appear in a state of nudity or live performances which are characterized by exposure of "specified sexual activities."

**Escort** means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Escort Agency** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Massage Parlor** means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities", or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of sexually oriented businesses shall not include the practice of massage in or by any licensed hospital; nor by a licensed physician, surgeon, chiropractor or osteopath; nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath; nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program; nor by any person or entity licensed pursuant to Title 8, Chapter 8.20 (Massage Establishments) of the Tipton County Code.

**Nude Model Studio** means any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" for money or any form of consideration and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by

other persons.

**Sexual Encounter Establishment** means a business or commercial establishment that, as one of its primary business purposes offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of engaging in "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

**Employee** means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

**Establishment** means and includes any of the following:

1. The opening or commencement of any such business as a new business;
2. The conversion of an existing business, regardless of whether it currently exists as a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
3. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
4. The relocation of any such sexually oriented business.

**Nudity or State of Nudity** means: (a) the appearance of human bare buttock, anus, male or female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

**Operator** means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

**Permitted or Licensed Premises** means any premise that requires a license and/or permit and that is classified as a sexually oriented business.

**Permittee and/or Licensee** means a person in whose name a permit

and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

**Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

**Public building** means any building owned, leased or held by the United States, the state, the county, the city, and special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

**Public Park or Recreation Area** means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of the county parks and recreation authorities.

**Religious Institution** means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

**Residential District or Use** means a single family, duplex, townhouse, multiple families, or Mobile Home Park or subdivision as defined in the Tipton County Zoning Section.

**School** means any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges and universities. The term "School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

**Semi-Nude** means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**Sexually Oriented Business** means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, and adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.



**Specified Anatomical Areas** means and includes any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities** means and includes any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or
4. Human genitals in a state of sexual stimulation, arousal or tumescence;
5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.

**Substantial Enlargement of a Sexually Oriented Business** means an increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on the date this *Section* takes effect.

**Transfer of Ownership or Control of a Sexually Oriented Business** means and includes any of the following:

1. The sale, lease or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
3. The establishment of a trust, gift, or other similar legal devices which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

509.03 PERMIT REQUIRED.

- A. No person shall conduct, maintain, operate, or cause to be conducted, maintained, or operated, any sexually oriented business within the unincorporated areas of the County without first being licensed under this chapter.
- B. The Planning Commission or its designee is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The County Zoning Board (hereafter "Zoning Board) or its designee is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being applied complies with all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this *Section* in the County.
- C. The Tipton County Sheriffs Department shall be responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth.
- D. The Zoning Board shall be responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and Sections.
- E. An application for a permit must be made on a form provided by the Planning Commission. Any person desiring to operate a sexually oriented business shall file with the Planning Commission an original and two copies of a sworn permit application on the standard application form supplied by the Planning Commission, or its designee.
- F. The completed application shall contain the following information and shall be accompanied by the following documents:
  - 1. If the applicant is:
    - a. an individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is eighteen years of age;
    - b. a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited. and a copy of the partnership agreement, if any;
    - c. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is

in good standing under the laws of the State of Indiana, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he must state 1) the sexually oriented business fictitious name and 2) submit the required Indiana registration documents.
3. Whether the applicant or any of the other individuals listed in the application has, within the two (2) or five (5) year period preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, and the date and place of conviction.
4. Whether the applicant or any of the other individuals listed in the application has had a previous permit under this *Section*, or other similar sexually oriented business Sections from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed in the application has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this *Section* whose permit has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
5. Whether the applicant or any other individual listed in the application holds any other permits and/or licenses under this *Section* or other similar sexually oriented business Section from another city, county, or state and, if so, the names; and
6. The single classification of permit for which the applicant is filing.
7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
8. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or

minus six (6) inches.

9. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a State of Indiana registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this *Section* within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park, recreation area, government buildings or liquor establishment, within 1, 000 feet of the property to be certified; and the property lines of any residentially zoned area or residential property within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
  10. If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person wished to operate a sexually oriented business collectively with a group of individuals, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.
  11. If a person wishes to operate a sexually oriented business which shall exhibit on the premises films, video cassettes, or other video reproductions which depict specified sexual activities or specified anatomical areas, then said person shall comply with the application requirements stated herein.
- G. Applicants for a permit under this Section shall have a continuing duty to promptly supplement application information required by this Section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change shall be grounds for suspension of a permit.
- H. In the event that the Planning Commission or its designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

- I. The applicant must be qualified according to the provisions of this *Section* and the premises must be inspected and found to be in compliance with health, fire and building codes and laws.
- J. The applicant shall be required to pay a non-refundable application fee on One Thousand Dollars (\$1000.00) at the time of filing an application under this *Section* of this *Section* to the Tipton Planning Commission.
- K. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit.
- L. By applying for a permit under this *Section*, the applicant shall be deemed to have consented to the provisions of this *Section* and to the exercise by the Tipton County Sheriff's Department and all other County agencies charged with enforcing the laws, ordinances and codes applicable in the County of their respective responsibilities under this *Section*.
- M. The applicant shall be required to pay a non-refundable application fee of One Thousand Dollars (\$1,000) to provide the County with the names of any and all employees who are required to be licensed. See XIV. This shall be a continuing requirement even after a permit is granted or renewed.

509.04 INVESTIGATION AND APPLICATION.

- A. Upon receipt of an application properly filed with the County and upon payment of the non-refundable application fee, the Planning Commission shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Tipton County Sheriff's Department and any other County agencies responsible for enforcement of health, fire and building codes and laws. Said investigation shall be completed within twenty (20) days of receipt of the application by the Auditor. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons. The Tipton County Sheriff's Department shall only be required to certify the NCIC records request check. The Tipton County Sheriff's Department shall not be required to approve or disapprove applications.
- B. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the County. After its indication of approval or disapproval,

each department or agency shall immediately return the photocopy of the application to the Planning Commission for consideration.

509.05 ISSUANCE OF PERMIT.

- A. The Planning Commission or its designee shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth (30th) day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the Planning Commission or its designee, notifies the applicant of a denial of the application and states the reason(s) for that denial.
- B. Grant of Application for Permit
  - 1. The Planning Commission or its designee, shall grant the application unless one or more of the criteria set forth in Section C below is present
  - 2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall also indicate that the sexually oriented business shall be subject to prohibitions against Public Nudity and Indecency pursuant to the Indiana Penal Code 35-45-4-1. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.
- C. Denial of Application for Permit
  - 1. The Planning Commission or its designee shall deny the application for any of the following reasons:
    - a. An applicant is under eighteen years of age.
    - b. An applicant or an applicant's spouse is overdue on his/her payment to the County of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
    - c. An applicant is residing with a person who has been denied a permit by the Planning Commission to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually

oriented business has been revoked within the preceding twelve (12) months.

- d. An applicant has failed to provide information required by this Section or permits application for the issuance of the permit or has falsely answered a question or request for information on the application form.
- e. The premises to be used for the sexually oriented business have not been approved as being in compliance with health, fire and building codes by the department or agency responsible under law for investigating said compliance.
- f. The application or permit fees required by this *Section* have not been paid.
- g. An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this *Section* or the County Zoning Ordinance.
- h. The granting of the application would violate a statute, ordinance, or court order.
- i. The applicant has a permit under this *Section* that has been suspended or revoked.
- j. The applicant has been convicted of a "specified criminal" act for which:
  - 1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.
  - 2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

3. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are or two or more misdemeanor offenses for "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any twenty-four month period;
  4. the fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
  5. an applicant who has been convicted of the above described "specified criminal acts" may qualify for a sexually oriented business permit only when the time period required above has elapsed.
- k. An applicant knowingly has in his or her employ, an employee who does not have a valid license as required of this Section.
2. If the Planning Commission or its designee denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial.
  3. If a person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonable be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied.

#### 509.06 ANNUAL PERMIT FEE

The annual fee for a sexually oriented business permit is Five Hundred dollars (\$500.00).

#### 509.07 INSPECTION

- A. An applicant or permittee shall permit representatives of Tipton County to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- B. A person who refuses to permit any such inspection of the premises at any time that it is occupied or open for business or open for business shall be in violation of this Section and subject to penalty.



#### 509.08 EXPIRATION OF PERMIT

- A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in this *Section* (for renewals, filing of original survey shall be sufficient) of this *Section*. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.
  
- B. When the Planning Commission or its designee, denies renewal of the permit, the applicant shall not be issued a permit under this *Section* for one (1) year from the date of denial. If, subsequent to denial, the Planning Commission or its designee finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

#### 509.09 SUSPENSION OF PERMIT

- A. The Planning Commission or its designee, shall suspend a permit for a period not to exceed thirty (30) days if he/she determines that a permittee, or an employee of a permittee, has:
  - 1. Violated or is not in compliance with any section of this *Ordinance*;  
or
  - 2. Been under the influence of alcoholic beverages or any controlled substances while working in the sexually oriented business premises; or
  - 3. Refused to allow an inspection of sexually oriented business premises as authorized by this *Section*; or
  - 4. Knowingly permitted gambling by any person on the sexually oriented business premises; or
  - 5. Operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the Auditor or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the Auditor or its designee, shall forthwith

suspend the permit and shall notify the permittee of the suspension.

6. Operated the sexually oriented business in violation of the hours of operation of this *Section*.
7. Knowingly employs a person who does not have a valid license as required in this *Section*.

B. The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

#### 509.10 REVOCATION OF PERMIT

- A. The Planning Commission or its designee shall revoke a permit if a cause of suspension of this *Section* occurs and the permit has been suspended within the preceding twelve (12) months.
- B. The Planning Commission or its designee shall revoke a permit upon determining that:
  1. A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or
  2. A permittee or an employee has knowingly allowed possession, use, or sale of alcohol and/or controlled substances in or on the premises; or
  3. A permittee or an employee has knowingly allowed prostitution on the premises; or
  4. A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or
  5. A permittee has been convicted of a "specified criminal act" for which the time period required of this *Section* has not elapsed: or
  6. On two or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or
  7. A permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business; or

- 8. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.
- 9. A permittee has been operating more than one sexually oriented business under a single roof.
- 10. A permittee has engaged in or attempted to engage in a transfer of permit in violation of this *Section*.

C. When the Planning Commission or its designee, revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective. If, subsequent to revocation, the Planning Commission or its designee finds that the basis for revocation under this *Section* has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective. If the permit was revoked under this *Section*, an applicant may not be granted another permit until the number of years required have elapsed.

509.11 JUDICIAL REVIEW OF PERMIT DENIAL,  
SUSPENSION OR REVOCATION

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek judicial review of the administrative action in Tipton Circuit Court.

509.12 TRANSFER OF PERMIT

A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

- A. A permittee shall not transfer his/her permit to another person.
- B. A permittee shall not transfer his/her permit to another location.
- C. Any attempt to transfer a permit either directly or indirectly in violation of this Section is hereby declared void and the permit shall be deemed revoked.

509.13 SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE

- A. Each individual to be employed in a sexually oriented business, as defined in this Section who engages in the services rendered by a nude

model studio, escort or escort agency, sexual encounter establishment, or a live performer or entertainer shall be required to obtain a Sexually Oriented Business Employee License. Each applicant shall pay a license fee of twenty five dollars (\$25.00). Said fee is to cover reasonable administrative costs of the licensing application process.

- B. Before any applicant may be issued a Sexually Oriented Business Employee License, the applicant shall submit on a form to be provided by the Auditor or its designee the following information:
1. The applicant's name or any other names including "stage" names) or aliases used by the individual;
  2. Age, date, and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Present business address and telephone number;
  6. State driver's license or identification number;
  7. Social Security number; and
  8. Acceptable written proof that the individual is at least eighteen (18) years of age.
  9. Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Tipton County Sheriffs Department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  10. A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
  11. Whether the applicant has been convicted of a "specified criminal"

act as defined in this Section. This information shall include the date, place, nature of each conviction or plea of *nolo contendere* and identifying the convicting jurisdiction.

12. The Planning Commission or its designee shall refer the Sexually Oriented Business Employee License Application to the Tipton County Sheriffs Department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the Auditor or its designee shall issue a license unless the report from the police department finds that one or more of the following findings are true:
  - a. That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license. or in any report or record required to be filed with the Tipton County Sheriffs Department or other department of the county;
  - b. That the applicant is under eighteen (18) years of age;
  - c. That the applicant has been convicted of a "specified criminal act" as defined in this *Section*;
  - d. That the Sexually Oriented Business Employee License is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this Section.
  - e. That the applicant has had a Sexually Oriented Business Employee License revoked by the county within two (2) years of the date of the current application.

C. Renewal of license:

1. A license granted pursuant to this Section shall be subject to annual renewal by the Auditor or its designee upon the written application of the applicant and a finding by the Auditor or its designee and the Tipton County Sheriffs Department that the applicant has not been convicted of any "specified criminal act" as defined in this *Section* or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.
2. The renewal of the license shall be the same as the initial application fee.

- A. A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented business, other than a sexually oriented motel/hotel, regardless of whether or not a permit has been issued to said business under this *Section*, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises wherein patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. The diagram shall also designate the place where this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Building Department or its designee may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  2. The application shall be sworn to be true and correct by the applicant.
  3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Building Department or its designee.
  4. It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
  5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's station designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patrol is permitted access

for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection "A" of this Section.
7. No viewing room may be occupied by more than one person at any one time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room or restroom.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2) foot candle as measured at the floor level.
9. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

#### 509.15 PROHIBITION REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES

It shall be unlawful for a person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to knowingly or with reasonable cause knows, permits, suffers, or allows:

1. Admittance of a person under eighteen (18) years of age to the business premises;
2. A person who is under eighteen (18) years of age to work at the business premises as an employee.
3. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the establishment. It shall be presumed that an attendant knew a person was under the age of

eighteen (18) unless the attendant asked for and was furnished:

- a. a valid operator's, commercial operator's or chauffeur's license, or
- b. a valid personal identification certificate issued by the State of Indiana reflecting that such person is eighteen (18) years of age or older.

#### 509.16 ADVERTISING AND LIGHTING REGULATIONS

- A. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.
- B. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to display or otherwise exhibits the materials and/or performances at such sexually oriented business in any advertising or any portion of the interior premises which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such sexually oriented business.
- C. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this *Section*.
- D. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to erect, construct, or maintain any sign for the sexually oriented business other than as permitted by the County *Section* and as follows:
  1. Signage shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the legal name of the enterprise.
  2. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size, and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.



- E. It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to allow the exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
  - 1. The establishment is a part of a commercial multi-unit center; and
  - 2. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a pattern of the commercial multi-unit center.
  
- F. All off-street parking areas and premise entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.
  
- G. Nothing contained in this Chapter of the *Section* shall relieve the operator(s) of a sexually oriented business from complying with the requirements of this *Section*, commonly known as the “Sexually Oriented Business Ordinance”, as it may be amended from time to time, or any subsequently enacted County ordinances or regulations.

#### 509.17 HOURS OF OPERATION

- A. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, and allows such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of any particular day.
  
- B. It shall be unlawful for any person while working as an employee of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this *Section*, to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit service between the hours of 10:00 p.m.

and 10:00 a.m. of any particular day.

**509.18 NUDITY AT SEXUALLY ORIENTED  
BUSINESSES PROHIBITED**

No person shall allow public nudity in any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of this ordinance.

**509.19 REGULATIONS PERTAINING TO LIVE ENTERTAINMENT**

- A. For purposes of this Chapter, "live entertainment" is defined as a person who appears semi nude, or a performance which is characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- B. No person shall perform live entertainment for patron(s) of a sexually oriented business establishment except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patron(s). No patron shall be permitted within ten (10) feet of the stage while the stage is occupied by a performer.
- C. The sexually oriented business establishment shall provide separate dressing room facilities for female and male performers that shall not be occupied or used in any way by any one other than performers.
- D. The sexually oriented business establishment shall provide access for performers between the stage and the dressing room which is completely separated from the patrons. If such separate access is not physically feasible, the establishment shall provide a minimum four (4) foot wide walk aisle for performers between the dressing room and the stage, with a railing, fence or barrier separating the patrons and the performers which prevents any physical contact between patrons and performers.
- E. No entertainer, either before, during, or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after a performance. This subsection shall only apply to physical contact while in or on the premises of the establishment.
- F. Fixed rails at least thirty (30) inches in height shall be maintained establishing the separations between performers and patrons required by this section.

- G. No patron shall directly pay or give any gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performers for the purpose of preventing any physical contact between a patron and a performer. No performer shall solicit any gratuity from any patron.
- H. No operator of a sexually oriented business establishment shall cause or allow a performer to engage in any entertainment such as a "couch" or a "straddle" dance with a patron while in or on the establishment premises. No performer shall come in contact or engage in a "couch" or "straddle" dance with a patron while in or on the establishment premises. For purposes of this subsection, "couch" or "straddle" dance is defined as an employee of the establishment intentionally touching or coming within ten (10) feet of any patron while engaged in the display or exposure of any "specified anatomical area", or any "specified sexual activity". For purposes of this subsection, "employee" is defined as it is in this *Section*.
- I. Section H, shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within ten (10) feet of a patron. No employee shall engage in any "specified sexual activity" or display or expose any "specified anatomical area" while acting as a waiter, waitress, host, hostess, or bartender.
- J. Compliance with this Chapter:
  - 1. For purposes of this Chapter, establishment is defined as it is in Section II of this *Section*. No establishment shall be in compliance with this Chapter until the County's designated agent(s) have inspected and approved of the establishment's compliance. The County shall have ten (10) days from the date it receives written notice from the operator that the establishment is ready for inspection to approve or disapprove of compliance required by this Chapter. Failure to approve or disapprove of compliance within ten (10) days shall constitute a finding of compliance under this Chapter.
  - 2. The operator of an establishment, that has been providing live entertainment under a valid sexually oriented business permit, shall have the time periods listed below in which to bring the establishment into compliance with this Chapter. Failure to do so while continuing to provide live entertainment shall cause the establishment's permit to be suspended under this *Section*. The permit shall remain suspended until the establishment is approved by the County's designated agent(s) as being in full compliance with this Chapter.

3. The operator of establishment, that has been operating under a valid permit for another classification of sexually oriented business and who wishes to provide live entertainment at that establishment, shall apply for an receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided at that establishment. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this Chapter and all other applicable requirements of this *Section*.
4. The Applicant for a permit to operate a new establishment, who wishes to provide live entertainment, shall apply for and receive a sexually oriented business permit for the operation of an establishment providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the establishment is approved as being in full compliance with this Chapter and all other applicable requirements of this *Section*.
5. Compliance with Subsection “B” must occur within sixty (60) days from the date this Chapter becomes effective.
6. Compliance with Subsection “C” must occur within ninety (90) days from the date this Chapter becomes effective.
7. Compliance with Subsection “D” must occur within ninety (90) days from the date this Chapter becomes effective.
8. Compliance with Subsection “E” must occur upon the date this Chapter becomes effective.
9. Compliance with Subsection “F” must occur within sixty (60) days from the date this Chapter becomes effective.
10. Compliance with Subsection “G” must occur upon the date this Chapter becomes effective.
11. Compliance with Subsection “H” must upon the date this Chapter becomes effective.

#### 509.20 EXEMPTIONS

- A. It is a defense to prosecution for any violation of this *Section* that a person appearing in a state of nudity did so in a modeling class operated:
  1. By a college, junior college, or university supported entirely or partly by taxation.

2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or:
3. In a structure:
  - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - b. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
  - c. Where no more than one nude model is on the premises at any one time.
- B. It is a defense to prosecution for a violation of this *Section* that an employee of a sexually oriented business, regardless of whether or not it is permitted under this *Section*, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employees bona fide use of a dressing room which is accessible only to employees.

#### 509.21 PENALTY AND INJUNCTIVE RELIEF

- A. Any person who violates the provisions of this Chapter shall be subject to a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for each violation. Each day of continued violation shall constitute a separate offense.
- B. In addition to seeking penalties against individuals who violate provisions of this Chapter, the County Attorney or his/her designated representations may commence legal action seeking injunctive relief against any individuals or entities violating the provisions of this Chapter.

#### 509.22 PROHIBITION OF DISTRIBUTION OF SEXUAL DEVICES

- A. It is unlawful for anyone to distribute, for commercial purposes, sell or offer for sale any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- B. Such devices, instruments or paraphernalia shall include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other

tools of sadomasochistic abuse.

#### 509.23 PROHIBITION OF ALCOHOLIC BEVERAGES

- A. It is unlawful for anyone to distribute, sell, offer for sale or consume any alcoholic beverages of any kind on the property of a sexually-oriented business.

#### 509.24 SEVERABILITY

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

- 510 JUNK YARDS AND SCRAP METAL YARDS: All junk yards and scrap metal yards must meet the following requirements and all other conditions deemed necessary by the Board:

510.01 The minimum lot area shall be 10 acres.

510.02 All operations shall be conducted entirely within an enclosed building or opaque fence not less than 8 feet in height which bears no advertising, and does not violate Section 504.08 of this Ordinance. Such building or fence shall be constructed on or inside the front, side, and rear yard setback lines required within the district in which located and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property or highway. Storage, either temporary or permanent, between such fence and any property line is expressly prohibited. All applicable standards of IC 8-12-1 shall also be met.

510.03 All salvage processing shall be entirely within an enclosed building and no processing shall be permitted closer than 300 feet from a Rural Residential or Suburban Residential District line, or a residential use in the Agricultural District.

- 511 AUTOMOBILE SERVICE STATIONS AND COMMERCIAL GARAGES: All automobile service stations and commercial garages established after the effective date of this Ordinance shall meet the following standards:

511.01 The minimum lot size shall be 20,000 square feet and, in addition:

- A. Gasoline service stations shall have 500 square feet of lot area for each additional pump over four and 1,000 square feet of lot area for each additional service bay over two.
- B. Commercial garages shall have 1,000 square feet of lot area for each additional service bay over two. There shall also be 300 square feet of

additional land area for each space intended for storage of disabled vehicles.

511.02 The minimum lot width shall be 150 feet.

511.03 All activities except those to be performed at the fuel pumps shall be performed within a completely enclosed structure.

511.04 Fuel pumps shall be at least 15 feet from any street right-of-way and any canopies shall meet the standards of Section 306.13 of this Ordinance.

511.05 There shall be no outdoor storage of merchandise such as tires or lubricants and there shall be no outdoor storage of discarded auto parts.

511.06 Vehicles shall not be stored outside while awaiting repairs for more than 7 days. No vehicles may be parked or stored on any public right-of-way.

511.07 Disabled vehicles may not be stored in the open at any time.

511.08 Parking areas, bufferyards, and signs shall meet applicable sections of this Ordinance.

512 HOME OCCUPATIONS: Simple and Major Home Occupations may be permitted where allowed subject to the provisions of this section:

512.01 Simple home occupations may be approved by the Zoning Administrator when it is determined the following standards are met:

- A. The home occupation is considered customary and traditional and incidental and subordinate to the residential use of the premises and not construed as a business.
- B. The home occupation shall be carried on by a resident of the premises with no more than one employee not a resident on the premises.
- C. There shall be no more than one separate home occupation per premises.
- D. The home occupation shall not be conducted in any accessory building and shall not occupy more than 25% of the floor area of the principal dwelling unit, except in the Agricultural District, where an accessory structure may be used provided that the home occupation not exceed 50% of the gross floor area of the principal residential structure, and that the accessory structure, if new, comply with principal structure setbacks. In no case shall both the principal structure and an accessory structure be used for the home occupation.

- E. There shall be no exterior indication of the home occupation or variation from the residential character of the premises.
- F. There shall be no direct sales or displays of articles other than those items produced or repaired on the premises of the home occupation.
- G. There shall be no outdoor storage of materials or goods produced and no display of goods visible from any adjoining property line or road.
- H. The home occupation shall not increase vehicular traffic flow and parking by any more than one additional vehicle at a time, other than that of the one permitted employee.
- I. Delivery of materials to or from the premises by commercial vehicles shall not exceed once per week and for a period any longer than one hour.
- J. There shall be no use which creates noise, vibration, smoke, dust, electrical interference, smell, heat, glare, fire hazard, or any other hazard or nuisance to a greater or more frequent extent beyond what normally occurs from a residence.
- K. No more than one sign shall be allowed. Such sign shall be no greater than 2 square feet in size.
- L. A permit for a home occupation is not transferable and a new occupancy permit must be applied for whenever there is a change in the occupation, ownership or the property, or tenants in the dwelling unit.

512.02 Major Home Occupations may be approved by special exception in the Agricultural district or by the Zoning Administrator in the Business or Industrial districts when it is determined that the following standards are met:

- A. The home occupation is incidental and subordinate to the residential use of the premises.
- B. The home occupation shall be carried on by a resident of the premises with no more than 3 employees not residing on the premises.
- C. There shall be no more than one separate home occupation per premises.
- D. The home occupation may be conducted in the dwelling unit or in an accessory building. The home occupation shall not exceed 50% of the floor area of the principal building.



- E. There shall be minimal exterior indication of the home occupation or variation from the residential character of the premises.
- F. Any sales or displays of articles produced on or off the premises shall be effectively screened from adjoining properties and road.
- G. No more than 5 vehicles and/or pieces of equipment shall be operated from the site or stored there overnight and shall meet Section 512.02 H of this Ordinance.
- H. Any outdoor storage of materials, equipment, or goods produced shall be effectively screened from adjoining properties and roads.
- I. The home occupation shall not increase vehicular traffic flow and parking by any more than 2 additional vehicles at a time, other than those of the permitted employees. Any parking generated by the home occupation shall be off-street and not in any required front yard.
- J. No use shall create noise, vibration, smoke, dust, electrical interference, smell, heat, glare, fire hazard, or any other hazard or nuisance to a greater or more frequent extent beyond what normally occurs from a residence.
- K. No more than one sign shall be allowed. Such sign shall be no greater than 4 square feet in size.
- L. A permit for a home occupation is not transferable and a new occupancy permit must be applied for whenever there is a change in the occupation, ownership of the property, or tenants in the dwelling unit.

**513 BED AND BREAKFAST ESTABLISHMENTS AND COUNTRY INNS: Bed and breakfast establishments and country inns shall meet the following standards:**

- 513.01 A bed and breakfast establishment shall have no more than 6 guest rooms or lodging units and a country inn shall have no more than 20 guest rooms or lodging units. These rooms or lodging units may be located within the principal structure or in an accessory structure. Accessory uses which are clearly incidental to the guest accommodations may be provided.
- 513.02 The owner and operator of the bed and breakfast establishment or country inn shall live on the property.
- 513.03 At a bed and breakfast establishment food service is to be limited to a continental breakfast. At a country inn full meal service may be provided for guests and the general public. In addition, a country inn may provide banquet facilities, gift shops, and/or other small retail sales.

513.04 No alterations shall be made to the external appearance of any principal or accessory structures or of the property which changes the residential character of the bed and breakfast establishment or country inn.

513.05 One non-illuminated sign no greater than 4 square feet in size shall be permitted.

513.06 There shall be one additional off-street parking space provided for each guest room at the bed and breakfast establishment or country inn.

514 ACCESSORY APARTMENT: A structure may be converted to allow the incorporation of one dwelling unit in addition to the single-family residence, or two dwelling units in addition to the commercial use of the building, to extend the economic life of a large, older building. Accessory apartments are subject to the following requirements:

514.01 There shall be no visible change in the exterior appearance of the structure containing the accessory apartment, except for additional windows and those changes necessary to meet Section 514.04.

514.02 All improvements associated with construction of the accessory apartment shall meet all applicable building and health codes.

514.03 Any additional parking as needed or required by this Section shall be provided in an off-street space.

514.04 Each accessory apartment shall have safe and proper means of entrance and exit.

514.05 There shall be a maximum of one accessory apartment which can be created from any single-family dwelling, and it shall not exceed 25% the floor space of the entire building.

515 CONVERSION DWELLINGS: Except for accessory apartments, as defined, no structure may be converted to accommodate an increased number of dwelling units unless:

515.01 The single-family appearance of the structure is not altered;

515.02 Additional off-street parking shall be available as necessary; and

515.03 The conversion is in compliance with all other applicable codes and ordinances.

516 SIDEWALK CAFES: All sidewalk cafes shall meet the following requirements:

- 516.01 The café may be unenclosed, partially enclosed, or covered but must be clearly incidental to the operation of a restaurant on the same or adjacent private property.
- 516.02 The café shall not obstruct any entrances to adjoining buildings, any pedestrian traffic, or any access to the café from the sidewalk.
- 516.03 The café must keep at least 5 feet or 50% of the pavement width, whichever is more, free of obstruction.
- 516.04 All tables, awnings, canopies, partitions and accessory items shall be removed during the period of the year when the café is not in use.
- 516.05 The café must be approved by the appropriate governing body having jurisdiction and/or ownership of the sidewalk. Liability insurance must be provided to the satisfaction of the governing body.
- 516.06 The café shall meet all applicable health department, alcoholic beverage, and building code regulations.
- 516.07 If the café is within 500 feet of a residential district, there shall be no outdoor music or entertainment.
- 516.08 The café shall be designed to complement the character of the area and/or structures and shall be attractively landscaped and/or decorated.
- 516.09 The café and adjacent sidewalk areas shall be kept well maintained and free of debris.
- 517 MINERAL RESOURCES: Nothing in this Ordinance shall prevent the use and alienation of mineral resources by the owner or alienee. However, any such use shall be subject to the following standards:
  - 517.01 No production shall be started nor shall any permit be issued until the Board shall have made a written determination with respect to the conditions under which such operation shall be conducted. The Board shall investigate the area to be developed, as well as the surrounding area, in order to determine the conditions to be prescribed so as to protect surrounding property.
  - 517.02 In their review, the Board shall determine that the following standards are met, but may, where deemed necessary, make reasonable exceptions:
    - A. That the site will be used for mineral extraction activities (as defined). Concrete batching plants and mixing plants for ortland cement or asphaltic concrete, and the manufacture of concrete, clay or cement products are only permitted if zoned industrial. All mineral extraction and related uses are subject to the performance standards prescribed in

Section 309 of this Ordinance and shall be removed upon completion of active mining at the site upon which they are located.

- B. No production from an open pit shall be permitted which creates a finished slope steeper than two feet to one foot vertical for the excavation of sand and gravel, or which creates a finished slope steeper than one foot horizontal to one foot vertical for the excavation of products other than sand and gravel, except that in locations where the soil or rock content is such that vertical cuts are proven to be safe, a vertical cut thereafter of any depth shall be allowed.
  - C. Property to be used for production shall be enclosed by a cyclone fence along the exterior boundaries for the promotion of safety and general welfare of the community.
  - D. Where required, suitable plant material shall be placed and maintained to screen cut slopes from public view. There shall be no open storage of discarded machinery, trash, or junk which would present an unsightly appearance.
  - E. Access roads to any site shall be limited to two, or at most three points and shall be constructed on a level with the pavement of any public street or highway for a distance of not less than 80 feet therefrom, and said 80 feet of road shall be improved with a dustless, all weather surface. Adequate sight distance shall be maintained for traffic safety in compliance with the standards and requirements of the highway department.
  - F. Upon the completion of operations, the land shall be left in a safe condition as shown on the Plan of Rehabilitation (see Section 517.03) so that sufficient drainage is provided so as to prevent water pockets or undue erosion, with all grading and drainage such that natural storm water leaves the entire property at the original, natural drainage points, and that the area drainage to any one such point is not increased.
  - G. Vehicles carrying materials from the site shall be loaded in such a manner as to prevent spilling rock, gravel, or sand or other materials of a similar nature while in transit upon roads and highways.
  - H. Mining shall be done so as to keep noise and dust to a minimum. Explosives shall be used only between sun-up and sun-down except in the case of emergency.
- 517.03 All applications for mineral extraction shall be accompanied by a map or plat showing the existing conditions of the area proposed for mining (including existing contours and drainage); a plan of the operational and excavation areas; the time estimate for removal of the materials; and a

plan of development showing the rehabilitation and reuse of the entire site following extraction (including proposed contours and drainage).

517.04 Mineral extraction must comply with all applicable sections of IC 13-4-6, and IC 14-4-2, and IC 14-4-2.1.

518 **HAZARDOUS WASTE/NUCLEAR WASTE:** In addition to review by the Board of Zoning Appeals, all processing, storage, recycling, recovery, and disposal of hazardous waste shall be in accordance with the provisions of IC 13-7-8.5 and 8.6, as amended, and all processing, storage, recycling, recovery, and disposal of nuclear waste shall be in accordance with the regulations of the Nuclear Regulatory Commission.

519 **LAND APPLICATION OF SLUDGE AND WASTEWATER:** Land application of sludge and wastewater shall be in accordance with the procedure, standards, and definitions of IC Title 13 and Article 330 IAC 3.3 of the Regulations of the State of Indiana, as amended.

520 **TELECOMMUNICATIONS FACILITIES:** All standards of this section apply to telecommunications facilities that are covered by the Telecommunications Act of 1996. It does not apply to personal television antennas, ham radio, or short wave radio antennas, or other communications equipment accessory to residential uses.

520.01 Prior to an improvement location permit, the applicant shall provide information demonstrating compliance with all FCC, FAA and ANSI standards and all other state or local standards.

520.02 All telecommunication towers must meet the standards of Section 307.01 which states communication structures, such as telecommunication towers (as defined) may exceed normal height requirements provided their total height does not exceed their distance from the nearest lot line.

A. If proper engineering data is provided that demonstrates the structure is engineered to be collapsible within an area of half its height, communications structures shall be, in addition to regular setback distances, setback a minimum distance from the property line or lease line of any adjoining property (which ever requires the greater setback) a distance that is equal to 50 percent of the height of the tower, but not less than 50 feet.

520.03 All new telecommunications towers shall be designed and constructed to accommodate a minimum of three service providers.

520.04 Ingress and egress to the site shall only be from approved access points. Surfacing of all roadways, driveways, and off-street parking areas shall comply with the standards of this Ordinance and the Subdivision Control Ordinance.

520.05 Telecommunications facilities shall be entirely enclosed by a woven wire or chain link fence. Such fence may be located in the front, side or rear yard.

520.06 Telecommunications facilities shall meet the standards of Section 306.13 for screening and buffering except for those sites that are adjoining property in which agriculture (as defined) is the primary use of the land.

520.07 Telecommunications towers shall not be illuminated, except in accord with other state or federal regulations.

520.08 No signs shall be permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state or local agency. Such signs shall not exceed 5 square feet.

521 PONDS: Construction of ponds greater than 100 square feet require an improvement location permit.

A. Ponds of less than 100 square feet of surface size shall be constructed no more than four (4) feet in depth.

B Ponds and wildlife wetland habitat of 100 square feet of surface size or larger shall:

1. Be constructed to have setbacks no less than;
  - a. 75 feet from the existing or purposed right-of-way (whichever is greater)
  - b. 75 feet from the side lot lines\*
  - c. 75 feet from the rear lot lines\*
  - d. 75 feet from mutual tile drains
  - e. 75 feet from county drains
  - f. 75 feet from fingers of septic systems

\* Unless an adjoining property owner grants written permission for the pond construction to be closer to his property including crossing the property line in the case of shared pond. Written permission must be recorded. The pond boundary is defined as the edge of the ordinary high water in the pond. The ordinary high water is where vegetation stops along the edge of the water.

2. Cause no surface drain obstruction.

3. Have spoils leveled to within three (3) feet of original ground level.

4. Ponds to be constructed in compliance with the Soil Conservation Service. Technical guide, section IV, part no. 378 as amended.

5. Wildlife wetland habitat shall be constructed in compliance with Soil Conservation Service technical guide, section IV, part no. 644 as amended.
  6. Be constructed under the consultation of the Soil Conservation Service and their supervision or direction if they deem necessary.
  7. Modification of existing ponds shall conform to this ordinance.
  8. Drainage approval must be received from the Tipton County Surveyor or Tipton County Drainage Board.
- C. After obtaining a permit, but prior to excavation, the perimeter of the pond shall be staked and the applicant or excavator must call for an inspection in order to verify that required setbacks are met.
- D. Any application for variance from the above requirements must be made to the Tipton County Board of Zoning Appeals.
- E. Exempt from this Ordinance are detention and/or retention ponds approved as part of a subdivision or Site Plan by the Tipton County Plan Commission and The Tipton County Drainage Board.
- F. A Certificate of Compliance will be issued after inspection to verify compliance with the permit.

## 522 - WIND ENERGY CONVERSION SYSTEMS REGULATIONS

### 522.01 Purpose

The purposes of this Chapter are to:

- A. Assure that any development and production of wind-generated electricity in Tipton County is safe and effective;
- B. Facilitate economic opportunities for local residents; and
- C. Provide a framework of development for wind energy resources that balances the benefits of renewable energy production with protection of agricultural, existing residential use and built environment. Conditions of the ordinance shall be consistent, which preserves property values, with Article One, Basic Provisions, Section 103 Purpose.

### 522.02 Intent

It is the intent of the Wind Energy Conversion Systems (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in the jurisdiction of the Plan Commission; subject to reasonable restrictions these regulations are intended to preserve the health and safety of the public.

### 522.03 Applicability

The provisions of this Chapter are applicable to those districts which allow wind energy conversion systems (WECS), govern the siting of WECS and substations that generate electricity to be sold to wholesale or retail markets, or that generate electricity for private use and for operations and maintenance facilities and other accessory facilities, as defined, that are ancillary to commercial WECS . In addition to notification requirements as prescribed by the applicable Rules of Procedure for approval processes, notification requirements for Development Plan Review applications shall include notification individually by certified mail to all owners of property within the project area at the Applicant's expense.

### 522.04 Prohibition

No Applicant shall construct, operate, or locate a wind energy conversion system (WECS) within the jurisdiction of the Tipton County Plan Commission without having fully complied with the provisions of this Chapter.

### 522.05 Conflict with Other Regulations

Nothing in this Chapter is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Aviation Administration rules and regulations. Nor are they intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute or other provision of law. In the event that any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that are more restrictive or that imposes higher standards shall govern.

### 522.06 District Regulations

#### A. Location

Commercial, Non-commercial, and Micro WECS will be permitted, or not permitted, in various districts as prescribed by Article Three, Use Standards (Table A).

#### B. Height

##### 1. Non-Commercial WECS or Meteorological Towers

Any Non-commercial WECS Towers or Meteorological Towers greater than two hundred (200) feet in height calculated to the blade tip at its highest point shall require a variance from developmental standards approval.

2. Commercial WECS or Operational Support Meteorological Towers  
For Commercial WECS Towers and Operational Support Meteorological Towers there are no limitations on height, except those height limitations imposed by Federal Aviation Administration rules and regulations.



3. Micro WECS  
 Any Micro WECS Tower exceeding sixty feet in height calculated to the blade tip at its highest point shall require a variance from developmental standards approval.

522.07 Setback Requirements

A. Minimum setback distances for COMMERCIAL WECS TOWERS

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS Tower to the property line	One Thousand Five Hundred (1500) feet. (i) The setback requirement for affected adjoining landowners sharing the common property line are Participating Landowners shall be 1.5 times the sum of hub height and rotor diameter (ii) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected adjoining Non-Participating Landowner
Residential dwellings, regularly occupied commercial or institutional buildings, measured from the center of the WECS Tower to the nearest corner of the structure.	Two thousand Six hundred Forty (2640) feet. (i) The setback requirement can be reduced to no less than 1.5 times the sum of the hub height and rotor diameter, if the affected adjoining landowners sharing the common property line are Participating Landowners. (ii) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected adjoining Non-Participating Landowner
Public road right-of-way, measured from the center of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than three hundred and fifty (350) feet. <sup>1</sup>

Other rights-of-way, such as railroads and public utility easements, measured from the center of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than three hundred and fifty (350) feet
Public conservation lands, measured from the center of the WECS Tower to the nearest point of the public conservation land in question	One Thousand Five Hundred (1500) feet.
Rural Residential Districts measured from the WECS Tower to the Rural Residential District line	One Thousand Five Hundred (1500) feet.
Incorporated limits of a municipality and county boundary, as measured from the center of the WECS Tower to the corporate limits or county boundary.	Five thousand Two hundred and Eighty (5280) feet or the limits of the Planning Jurisdiction of an Incorporated municipality, whichever of the two is greater.
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the WECS Tower to the nearest point of the Wetland in question.	1.1 times the total height (where the blade tip is at its highest point)
Above-ground electric transmission or distribution line, measured from the nearest horizontal extension	1.1 times the total height (where the blade tip is at its highest point)

<sup>1</sup> The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**B. Commercial WECS Power Collection and Transmission System**

1. WECS Substation shall meet principle structure setbacks.
2. For all Substations, setbacks from property lines are waived if the affected adjoining landowners sharing the common property line are all Participating Landowners.
3. For all poles carrying overhead wiring connecting Commercial WECS Towers to a Substation for connection to a utility’s electric transmission line, there are no setback requirements from property lines as long as the poles are located within a recorded easement for such purpose.

**C. Minimum setback distances for NON-COMMERCIAL and MICRO WECS TOWERS**

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS Tower to the property line	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed for that district
Residential dwellings and regularly occupied commercial or institutional buildings, measured from the center of the WECS Tower to the nearest corner of the structure	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point)
Public road right-of-way, measured from the center of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less the required yard setback prescribed for that district <sup>1</sup>
Other rights-of-way, such as railroads and public utility easements, measured from the center of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed for that district
Public conservation lands, measured from the center of the WECS Tower to the nearest point of the public conservation land in question	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point)
Above-ground electric transmission or distribution lines, measured from the nearest horizontal extension	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point)

<sup>1</sup> The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**D. Horizontal extension for Non-commercial and Micro WECS**  
 The furthest horizontal extension (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure, or public right-of-way easement for any above-ground telephone, electric transmission or distribution lines.

E. Minimum setback distances for all METEOROLOGICAL TOWERS

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the Meteorological Tower to the property line	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback  (i) The setback requirement is waived if the affected adjoining landowners sharing a common property line are Participating Landowners
Residential dwellings, measured from the center of the Meteorological Tower to the nearest corner of the structure	1.1 times the total height of the Meteorological Tower
Public road right-of-way, measured from the center of the Meteorological Tower to the edge of the right-of-way	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback <sup>1</sup>
Other rights-of-way, such as railroads and public utility easements, measured from the center of the Meteorological Tower to the edge of the right-of-way	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback
Above-ground electric transmission or distribution lines, measured from the nearest horizontal extension	500 feet or 1.1 times the total height of the Meteorological Tower, whichever is greater.

<sup>1</sup> The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**F. Minimum Setback distances for all METEOROLOGICAL TOWERS, OPERATIONAL SUPPORT**

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the Meteorological Tower to the property line	500 feet or 1.1 times the total height of the Meteorological Tower, whichever is greater, provided that the distance is no less than the required yard setback  (i) The setback requirement is waived if the affected adjoining landowners sharing a common property line are Participating Landowners
Residential dwellings, measured from the center of the Meteorological Tower to the nearest corner of the structure	500 feet or 1.1 times the total height of the Meteorological Tower whichever is greater.
Public road right-of-way, measured from the center of the Meteorological Tower to the edge of the right-of-way	500 feet or 1.1 times the total height of the Meteorological Tower, whichever is greater. <sup>1</sup>
Other rights-of-way, such as railroads and public utility easements, measured from the center of the Meteorological Tower to the edge of the right-of-way	500 feet or 1.1 times the total height of the Meteorological Tower, whichever is greater.
Above-ground electric transmission or distribution lines, measured from the nearest horizontal extension	500 feet or 1.1 times the total height of the Meteorological Tower, whichever is greater.

<sup>1</sup> The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**G. Horizontal extension for all Meteorological Towers**

The furthest horizontal extension (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure, or public right-of-way easement for any above-ground telephone, electric transmission or distribution lines.

**H. Time horizon for Meteorological Towers**

1. Meteorological Towers, as defined, are intended to be temporary in nature and permits for which must be renewed after the expiration of five year initial permit period with the option for two additional years, each to be permitted separately, for a total of seven years.
  
2. Meteorological Towers, Operational Support, as defined, are

considered to be operational for the lifetime of the project and are considered accessory equipment to be included within a required decommissioning plan.

## 522.08 SAFETY DESIGN AND INSTALLATION STANDARDS

### A. Equipment type

1. All turbines shall be constructed of commercially available equipment.
2. All Meteorological Towers may be guyed.
3. Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.
4. Commercial WECS towers shall be of tubular construction or appearance, not guyed or with exposed girders.
5. Roof mounted units must be documented to be suitable for the specific structure for which it is intended and certified by a registered engineer or architect.

### B. Industry standards and other regulations

All WECS shall conform to applicable industry standards, as well as all local, state and federal regulations. An Applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energie, or an equivalent third party.

### C. Controls and brakes

#### 1. Braking system

All WECS Towers shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over speed protection.

#### 2. Operation mode

All mechanical brakes shall be operated in a fail-safe mode.

### D. Electrical components

#### 1. Standards

All electrical components of all WECS shall conform to applicable local, state and national codes, and any relevant national and international standards.

#### 2. Collection cables

All electrical collection cables between each WECS Tower shall be located underground wherever possible.

#### 3. Transmission lines/Distribution lines

All transmission and/or distribution lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

E. Color and finish

In addition to all applicable Federal Aviation Administration requirements, the following shall also apply to all WECS:

1. Wind turbines and towers

All wind turbines and towers that are part of a WECS shall be white, grey, or another non-obtrusive color.

2. Blades

All blades shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing.

3. Finishes

Finishes shall be matte or non-reflective.

a. Exceptions

Exception may be made for Meteorological Towers, where concerns exist relative to aerial spray applicators.

F. Guy wires and anchor points

For all guyed towers, one of the following warning mechanisms shall be used for each anchor point:

1. Visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above the ground.
2. Visible fencing not less than four (4) feet in height installed around anchor points of guy wires.

G. WECS and Non-commercial WECS warnings and notices

The following notices shall be clearly visible on all WECS and Non-Commercial WECS Towers and accessory facilities:

1. "No Trespassing" signs shall be attached to any perimeter fence.
2. "Danger" signs shall be posted at the height of five (5) feet on WECS Towers and accessory structures.
3. A sign shall be posted on the WECS Tower showing an emergency telephone number.
4. The manual electrical and/or overspeed shutdown disconnect switch(es) shall

be clearly labeled.

5. Sign or signs shall be posted on the pad-mounted transformer and the Substation(s) warning of high voltage.

6. Private roads providing access to Commercial WECS shall have posted an Emergency-911 address private road sign.

#### H. Meteorological Towers

Consideration shall be given to paint aviation warnings as required by the Federal Aviation Administration on all Meteorological Towers.

#### I. Climb prevention

All Commercial WECS Tower designs shall include features to deter climbing or be protected by anti-climbing devices such as:

1. Fences with locking portals at least six (6) feet in height; or
2. Anti-climbing devices fifteen (15) feet vertically from the base of the WECS Tower; or
3. Locked WECS Tower doors.

#### J. Blade clearance

The minimum distance between the ground and any protruding blades(s) utilized on all Commercial WECS Towers shall be twenty-five (25) feet, as measured at the lowest point of the arc of the blades. The minimum distance between the ground and any protruding blade(s) utilized on all Non-commercial or Micro WECS Towers shall be a minimum of fifteen (15) feet, as measured at the lowest point of the arc of the blades. In any case, the minimum distance shall be increased as necessary to provide for vehicle clearance in locations where oversized vehicles might travel.

#### K. Lighting

All lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration (FAA) and this Ordinance and must incorporate an FAA-approved Aircraft Detection System (ADS) lighting control, activating lighting only when aircraft are in the vicinity of the turbine, to minimize potential for nuisance.

#### L. Materials handling, storage and disposal

##### 1. Solid wastes

All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the WECS, including old parts and equipment related to the construction, operation and/or maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

##### 2. Hazardous materials



All hazardous materials or waste related to the construction, operation and/or maintenance of any WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

M. Shadow Flicker

Flicker which results from the passage of the blades of a rotating wind turbine between the sun and the observer shall be limited to the following:

1. No more than 30 minutes a day
2. No more than 30 hours a year.

Evidence that the limits have not been exceeded will be provided in the form of a model done for the project that is certified by a competent professional utilizing the following conditions in the model.

- a. Sun is always shining during the day
- b. Wind is always blowing, i.e. blades are always spinning
- c. Wind direction is always favorable for generating shadow flicker at the receiver

The applicant is required to use available technology to detect conditions when shadow flicker would occur and turn off the turbine during the time when those conditions are present to prevent shadow flicker (e.g., Shadow Detection System). If the technology is applied and used to completely prevent shadow flicker, then the above requirements to perform the worst case analysis are waived.

522.09 Other Applicable Standards

A. Guyed wire anchors

No guyed wire anchors shall be allowed within any required public road right-of-way.

B. Sewer and water

All facilities or structures that are part of the WECS Project shall comply with the existing septic and well regulations as required by the Tipton County Health Department and/or the State of Indiana Department of Public Health.

C. Noise and vibration

a. Sound Level Limits.

1. The A-weighted equivalent sound level (LAeq) measured at the residence of a non participating resident shall not exceed 45 dBA.
2. On a participating resident, the ten-minute LAeq sound level measured at the wall of an occupied building nearest to the wind turbine or turbines shall not exceed 55 dBA.

3. These sound level limits are to be evaluated using the A-weighted equivalent sound level (LAeq) descriptor. The LAeq should be measured using a ten-minute time interval.
4. The sound level limits listed above apply to the contribution from the wind energy system only and do not include contributions from background ambient sounds.

b. Studies Required.

1. Preconstruction Noise Background Survey. The applicant shall provide a noise background study at the time of application which indicates Leq, L10, and L90 ten-minute sound levels using A-weighting. Measurement procedures should generally follow the most recent versions of ANSI S12.18, and ANSI S12.9
2. Sound Modeling Study. A predictive sound study of turbine noise shall accompany an application for a wind energy system to verify that ordinance requirements can be met for dBA sound levels. The applicant shall present the maximum Sound Power Level of the proposed turbine on the dBA scale.
3. Post Construction Sound Survey. Documentation of sound pressure level measurements shall be provided to the Zoning Administrator by a third-party qualified professional selected by the Planning Commission and at the expense of the wind energy system owner within 12 months of the commencement of the operation of the project. The post construction study shall be performed at the same locations as the pre-construction study unless additional locations are required by the Planning Commission. The study should generally follow the procedures in the most recent versions of ANSI S12.9 Part 3 (with or without and observer present) and ANSI S12.18. All sound pressure levels shall be measured with instruments that meet ANSI or IEC Type 1 Precision integrating sound level meter performance specifications.

D. Utility interconnection

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations and/or tariffs of the electrical utility or any other regulatory body with jurisdiction, as amended from time to time.

E. Signage

All signs pertaining to a WECS Project must comply with Section 505, Sign Standards, unless otherwise specified as follows:

1. No sign shall exceed sixteen (16) square feet in surface area except development signs.
2. No sign shall exceed eight (8) feet in height.
3. The manufacturers or owner's company name and/or logo may be placed

upon the compartment containing the electrical equipment.

4. An identification sign relating to the WECS Project development shall be located on each side of the total WECS Project area. There shall be no less than four (4) and no more than six (6) signs. Development signs must be sized in compliance with Section 505 and must include seven (7) day per week contact information to reach a responsible representative with authority to resolve problems associated with development of a WECS Project.

5. No other advertising signs or logos shall be placed or painted on any structure or facility.

#### F. Feeder lines

Feeder lines (lines at distribution levels) installed as part of any WECS shall not be considered an essential service. To wit, all communications and feeder lines installed as part of any WECS shall be buried underground wherever possible.

#### G. Other appurtenances

No appurtenances other than those associated with the WECS construction, operations, maintenance, decommissioning/removal, and permit requirements shall be connected to any WECS Tower except with express, written permission by the Board of Zoning Appeals.

### 522.10 OPERATION AND MAINTENANCE

#### A. Physical modifications

In general, any physical modification to any WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Building Commissioner Staff to determine whether the physical modification requires re-certification.

#### B. Interference

Prior to construction, a communications study to determine whether the proposed WECS will have any adverse impacts on any public or public serving utility microwave transmissions shall be completed. If necessary, the Applicant or Successor shall mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. In addition, the Applicant or Successor shall comply with the following:

##### 1. Post-construction

If, after construction of the WECS, the owner or operator receives a written complaint that can be substantiated through an independent review related to interference with the broadcast of residential television, telecommunication, communication or microwave transmissions that existed prior to construction of the WECS, the owner or operator shall

take reasonable steps to mitigate said interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant. Data received by the WECS operator as to the results of any testing or studies resulting from complaints shall be provided to the Zoning Administrator.

## 2. Failure to remedy a complaint

If an agreement to remedy a known interference is not reached within forty-five (45) days, appropriate action will be taken. If further negotiations and/or mitigation measures to reduce or eliminate the interference do not remedy the problem it may result in requiring the WECS to become inactive. This Section does not apply to interference with private telecommunications systems.

## C. Declaration of public nuisance

Any WECS thereof declared to be a hazard to public safety (unsafe) by the Building Commissioner by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.

## D. Complaint Procedure

The current operator of the WECS shall keep on record with the Planning Office contact information for any person who may wish to register a complaint regarding the WECS operation. All complaints shall be logged by the Operator and the logs of complaints received by the Operator shall be also provide to the Planning Office. At minimum the log shall describe the name and address of the complainant, contact information of the complainant, when the complaint is received, a detailed description of the nature of the complaint, action taken to resolve the complaint and the date the complaint is resolved. If any complaint is considered by the operator to not be the responsibility of the operator a reason shall be provided to the complainant and so noted on the log. Weekly the log must be sent to the Planning Office by a method mutually agreeable to the Planning Office and the Operator. All WECS projects shall agree to submit any and all complaints to binding arbitration as part of the approval process. If after 45 days there is no resolution of a registered complaint the complainant may provide notice to the Planning Office on a form provided by the Planning Office accompanied by a fee of \$350.00 that they intend to enter into binding arbitration of the unresolved complaint. All amounts received from complaintants for binding arbitration shall be placed in a non-reverting fund created by the County for the purpose of arbitration of these complaints. Upon receipt of a request for arbitration the Planning Office will arrange for a time and place to meet with the arbitrator. Upon approval of a WECS project the Operator shall continually fund a non-reverting fund (for arbitration only), which will contain no less than \$5,000 dollars at any time, for the life of the WECS project. Notification of the balance of the fund to the Operator shall be the responsibility of the Plan Director, in a manner he or she sees fit. If upon notification that the fund is deficient, the Operator shall have 30 days to bring the fund back to the prescribed minimum limit.

If it is not satisfied within the 30 days, the WECS project will be deemed in violation of the permit. The arbitrator shall be selected from the American Arbitration Association (AAA) list of mediators and said mediation shall function pursuant to the rules of the AAA. The mediator selected shall not be a citizen of Tipton County, Indiana

## 522.11 DECOMMISSIONING PLAN

Prior to receiving an Improvement Location Permit and Building Permit under this Ordinance, the County and the Applicant or Successor shall formulate a decommissioning plan outlining the anticipated means and cost of removing a WECS at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned. This requirement applies to all WECS projects in excess of 10 kW aggregate nameplate capacities.

### A. Content of decommissioning plan may include:

#### 1. Assurance

Written assurance that the WECS will be properly decommissioned upon the expiration of the project life or in the event that the WECS Project is abandoned.

#### 2. Cost estimates

The Applicant or Successor shall provide a contractor cost estimate for demolition and removal of the WECS. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS.

#### 3. Financial assurance

The Applicant or its Successor, as defined, will provide to the County a financial assurance for the cost of decommissioning each WECS tower and related improvements constructed under the permit. The financial assurance shall be in the form of a performance bond, surety bond, letter of credit or other security instrument mutually acceptable to the County and the Applicant or Successor. Then, on or before the end of the fifth (5<sup>th</sup>) year following the installation of the first WECS within the WECS Project, the Applicant or its Successor shall hire a third-party engineer, reasonably acceptable to the County, which approval shall not be unreasonably withheld, to determine the cost of decommissioning each WECS Tower and related improvements and to secure an estimate of the WECS salvage value, as defined. The net removal costs are the cost of decommissioning less the WECS salvage value. The Applicant or its Successor shall provide an acceptable financial assurance in a timely manner to cover the net removal costs. To the extent that net removal costs are zero (or negative) a financial assurance shall not be required.

The Applicant or its Successor shall re-evaluate, or cause to be re-evaluated, the need for a financial assurance no less than every five (5) years thereafter until the project is decommissioned. The Applicant or its Successor shall keep such financial assurance, or replacement acceptable to the County, in force until such time the decommissioning plan is completed. In order to maximize economies of scale associated with decommissioning the County shall permit that net removal costs be calculated on removal of the entire WECS Project and not a net removal cost of any single WECS tower or related equipment.

#### 4. Abandonment by the Applicant or Successor

Written assurance that in the event of abandonment by the Applicant or Successor, the Applicant or Successor will provide an affidavit to Tipton County representing that all easements and/or leases for WECS Towers shall contain terms that provide financial assurances, including access to the salvage value of the equipment, for the property owners to ensure that the WECS Towers are properly decommissioned within one (1) year of expiration or earlier of termination of the WECS Project.

### B. Discontinuation and abandonment

All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Building Commissioner outlining the steps and schedule for returning the WECS to service.

#### 1. Removal

An applicant or Successor's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of four (4) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the WECS or WECS Project, and restoration of the project area to as near as practicable to a condition similar to its previous use immediately before construction of such improvements. Below ground level is understood to be from the existing grade. Covering with fill material does not constitute removal. Removal obligations shall be completed by the Applicant or Successor or by the County at the former's expense.

#### 2. Written notices

Prior to implementation of the existing procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

#### 3. Costs incurred by the County

If the County removes a WECS Tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee

or grantor grants a license to Tipton County to enter the property to remove a WECS Tower and appurtenant facilities pursuant to the terms of an approved decommissioning plan.

#### 522.12 LIABILITY INSURANCE

The owner or operator of any Commercial or Non Commercial WECS shall maintain a current general liability policy covering bodily injury and property damage and shall be required to name Tipton County as an additional insured with dollar amount limits not less than \$2,000,000 per occurrence, \$5,000,000 in the aggregate, and a deductible which is reasonably commercially available and which is mutually suitable to the Applicant or Successor and the County.

#### 522.13 APPLICATION PROCEDURES

A. Permits and variances for all types of WECS shall be applied for and reviewed under the procedures established by this Ordinance and shall include the following information:

1. Contact information of project applicant including

The name(s), address(es), and phone number(s) of the Applicant(s), as well as a description of the Applicant's business structure and overall role in the proposed project.

2. Contact information of current project owner

The name(s), address(es), and phone number(s) of the owner(s), as well as a description of the owner's business structure and overall role in the proposed project, and including documentation of land ownership or legal control of the property on which the WECS is proposed to be located. The Building Commissioner shall be informed of any changes in ownership.

3. Contact information of project operator

The name(s), address(es) and phone number(s) of the operator(s) if other than the owner. If the owner assigns a different operator they are obligated to notify the Building Commissioner.

4. Legal description

The legal description, address, and general location of the project.

5. A WECS Project Description, including to the extent possible, information on each wind turbine proposed, including:

- a. Number of turbines;
- b. Type;
- c. Name plate generating capacity;
- d. Tower height;

- e. Rotor diameter;
- f. Total height;
- g. Anchor base;
- h. The means of interconnecting with the electrical grid;
- i. The potential equipment manufacturer(s); and
- j. All related accessory structures.

6. Site layout plan

A site layout plan, drawn at an appropriate scale, showing distances pertaining to all applicable setback requirements, regulated drains, flood plains, and wetlands and certified by a registered land surveyor.

7. Engineering certification

For all WECS, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the building permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions. An engineering analysis of the WECS Tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted. The analysis shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. The engineering certification may be completed following submission of a improvement location permit application on condition of being required no later than thirty (30) days prior to initiation of construction

8. Utility notification

No WECS shall be installed until evidence has been given that the local electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

9. Any other item reasonably requested by the Building Commissioner.

**522.14 APPLICATIONS FOR COMMERCIAL AND NON-COMMERCIAL WIND ENERGY CONVERSION SYSTEMS**

A. In addition to the application requirements listed in 522.13, applications for Non-Commercial and Commercial WECS shall also include the following information:

- 1. Demonstration of energy need (not applicable to Commercial WECS)  
The primary purpose of the production of energy from a Non-Commercial WECS shall be to serve the energy needs of that tract. The Applicant shall



demonstrate how much energy is needed and how the proposed size and number of the WECS Towers fulfills this need. Net-metering may be allowed, but shall not be the primary intent of the WECS.

2. Statement of Federal Aviation Administration compliance

A statement of compliance with all applicable Federal Aviation Administration rules and regulations, including any necessary approvals for installations within close proximity to an airport.

3. Proof of correspondence and cooperation with wildlife agencies For the purposes of preventing harm to migratory birds and in compliance with the Migratory Bird Treaty Act Applicants shall provide documentation that they are in communication and cooperation with the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.

4. Compliance with National Electrical Code

A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

5. Good Neighbor Notice.

An affidavit along with supporting documentation that shows notification was given to all property owners (as listed by the Tipton County Auditor's Office) in and within 1320 feet of the proposed footprint of the WECS project within 30 days prior to any official action sought (by) on behalf of the petitioner (involving) by any county agency or body. The Notice shall contain the minimum:

- a. A map showing the general layout of the project.
- b. An opportunity to meet with the petitioner prior to any action being sought by the petitioner.
- c..A list of steps that will be needed to accomplish the project.

6. Any other item reasonably requested by the Building Commissioner.

## 522.15 APPLICATIONS FOR COMMERCIAL WIND ENERGY CONVERSION SYSTEMS

A. In addition to the application requirements listed in 522.13 and 522.14, applications for all commercial WECS shall also include the following information:

1. A preliminary site layout plan

In addition to the site layout plan described in 522.13, Applications for All Wind Energy Conversion Systems, an application for a Commercial WECS shall include a preliminary site layout plan with distances drawn to an appropriate scale illustrating the following:

- a. Property lines, including identification of adjoining properties, with a notation indicating participating and non-participating landowners;
- b. The latitude and longitude of each individual WECS Tower, along with individual identification of each WECS Tower;
- c. Dimensional representation of the structural components of the WECS Tower construction including the base and footings;
- d. WECS access roads;
- e. Substations;
- f. Electrical cabling;
- g. Ancillary equipment;
- h. Primary structures within one quarter (1/4) mile of all proposed WECS Towers;
- j. Distances from each individual WECS Tower to each setback requirement;
- k. Location of all public roads which abut, or traverse the proposed site;
- l. The location of all above-ground utility lines within a distance of two (2) times the height of any proposed WECS structure;
- m. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources, within the WECS Project Area; and
- n. The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within the WECS Project Area.

#### B. Topographic Map

1. A USGS topographical map, or map with similar data, of the property and the surrounding area, including any other WECS Tower within a two (2) mile distance, but no less than a one quarter (1/4) mile radius from the proposed WECS Project site, with contours of not more than five (5) foot intervals.

#### C. Noise and wind profile

1. Location of all known residential, commercial or public structures within one (1) mile of the proposed WECS Tower, including a description of the potential sonic impacts of said WECS Tower and affect of wind resources on adjacent properties.

#### D. Copy of the Communications Study

- E. Evidence that the Applicant is participating as a member of Indiana 811 (Indiana Underground) Program.

#### 522.16 Applications for all Meteorological Towers

A. Applications for all Meteorological Towers shall include the following information:

1. A copy of the memorandum of lease agreement where landowner has authorized the placement of a Meteorological Tower on their property.
  
2. A preliminary site layout plan with distances drawn to an appropriate scale including the following:
  - a. Property lines, including identification of adjoining properties;
  - b. The latitude and longitude of each individual Meteorological Tower;
  - c. Dimensional representation of the structural components of the tower construction, including the base and footings;
  - d. Ancillary equipment;
  - e. Required setback lines;
  - f. Location of all public roads which abut, or traverse the proposed site;
  - g. The location of all above-ground utility lines within a distance of 2 times the height of any proposed tower;
  - h. The location of all underground utility lines;
  - i. Any other items reasonably requested by the Area Plan Department; and
  - j. Variance approval if any Non-Commercial WECS or Meteorological Tower is greater than 200 feet in height.

#### 522.17 PRE-CONSTRUCTION REQUIREMENTS

Prior to the issuance of any Improvement Location Permit, the following shall be required and materials submitted and reviewed by the Building Commissioner, who shall certify that the submissions are in compliance with all applicable regulations:

- A. Federal Aviation Administration permits application and approval, if applicable.
- B. Decommissioning plan as described in Section 522.11.
- C. Economic Development Agreement, Drainage, and Road Use and Maintenance

Agreements required before issuance of an improvement location permit.

1. An Economic Development Agreement approved by the County Commissioners.
2. A Road Use and Services Maintenance Agreement approved by the County Commissioners or City Officials, and Street Department and County Highway Superintendent, as applicable, that addresses the following:
  - a. A compilation of routes that will be used for construction and maintenance purposes, approved by the Superintendent;
  - b. A documented baseline survey to determine existing road conditions prior to construction. The survey shall include photographs, or video, or a combination thereof, and a written agreement to document the condition of the public facility;
  - c. A corporate surety bond in an amount to be fixed by a professional engineer may be required by the Tipton County Highway Superintendent to ensure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the Applicant. This requirement may be addressed in conjunction with the Economic Development Agreement;
  - d. A plan to address transportation routes and conditions during construction. If the route includes a public road, it shall be approved by the Tipton County Highway Superintendent. The affected school system(s) transportation department must also be consulted;
  - e. A plan to avoid damage and to address repair to damaged roads;
  - f. a requirement that newly constructed WECS access roads will not impede the flow of water; and
  - g. Provisions to address crop, field tile, waterway and other infrastructure damage.
- D. An Erosion Control Plan developed in consultation with the Natural Resources Conservation Services (NRCS), and compliant with any storm water quality management plan adopted by the applicable jurisdiction.
- E. A Utility Plan drawn to the same scale as the site layout plan illustrating the location of all underground utility lines associated with the total WECS Project. This may be incorporated into the site plan.
- F. A Dust Control Plan detailing reasonable measures to be employed to control dust during construction of a Commercial WECS Project.

G. A Storm Water Plan employing best management practices as required by the approved Drainage Plan/Agreement on file with the Tipton County Surveyor.

#### 520.18 POST-CONSTRUCTION REQUIREMENTS

A. Post-construction, the Applicant or Successor shall comply with the following provisions:

##### 1. Road Repairs

Any road damage caused by the construction of project equipment, the installation of the same, or the removal of the same, shall be repaired as per the Road Use and Services Maintenance Agreement.

##### 2. As-Built Plans Requirement

Whereupon completion of all development, the exact measurements of the location of utilities and structures erected during the development are necessary for public record and shall therefore be recorded. The Applicant or Successor shall submit a copy of the Final Construction Plans (as-built plans), as amended, to the Building Inspector with the exact measurements shown thereon. The Building Inspector, after being satisfied that the measurements are substantially the same as indicated on the originally approved final plan(s), shall approve, date and sign said Construction Plans for the project, which the Applicant or Successor shall then record.

##### 3. Change in Ownership

It is the responsibility of the owner or operator listed in the application to inform the Plan Commission Staff of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

ARTICLE EIGHT  
BOARD OF ZONING APPEALS

- 801 CREATION: There is hereby created a Board of Zoning Appeals consisting of five members who shall be appointed and serve in accordance with Title 36, Article 7, Chapter 4, Series 900 of the Indiana Code.
- 802 RULES: The Board of Zoning Appeals shall adopt rules, which may not conflict with the zoning ordinance or IC 7-4-900 series concerning:
- 802.01 the filing of appeals;
  - 802.02 the application for variances and special exceptions;
  - 802.03 the giving of notice;
  - 802.04 the conduct of hearings; and
  - 802.05 the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).
- 803 MINUTES AND RECORDS: The Board of Zoning Appeals shall keep minutes of its proceedings, keep records of its examinations and other official acts, and shall record and vote on all actions taken. All minutes and records shall be filed in the Office of the Zoning Administrator and shall be a public record.
- 804 APPEALS: A Board of Zoning Appeals shall hear and determine appeals from and review:
- 804.01 any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance;
  - 804.02 any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of the zoning ordinance; or
  - 804.03 any order, requirement, decision, or determination made by an administrative board or other body except a plan commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an Improvement Location Permit or Certificate of Occupancy.
- 805 SPECIAL EXCEPTIONS: A Board of Zoning Appeals shall approve or deny all special exceptions from the terms of the zoning ordinance, but only as specified in the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.

805.01 A Special Exception shall be approved if, and only if, it is found to meet the following criteria:

- A. the zoning ordinance authorizes the special exception request and the request conforms to all general regulations of this Ordinance;
- B. the proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards herein;
- C. the proposed use shall be sited, oriented, and landscaped so that the relationship of its buildings and grounds to adjacent buildings and properties does not impair health, safety, or comfort, and does not adversely affect values of adjacent properties;
- D. the proposed use shall produce a total environment effect which is consistent with, and not harmful to, the environment of the neighborhood;
- E. the proposed use shall organize vehicular access and parking to minimize conflicting traffic movement on adjacent streets;
- F. in the case of a change in nonconforming use, the proposed use shall be equally appropriate or more appropriate to the district than the existing or former non conforming use; and
- G. the proposed use shall promote the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.

806 VARIANCES - USE: A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.

806.01 A variance may be approved under this section only upon a determination in writing that:

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- B. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- C. the need for the variance arises from some condition peculiar to the property involved;
- D. the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

E. the approval does not interfere substantially with the Comprehensive Plan.

807 VARIANCE - DEVELOPMENTAL STANDARDS: A Board of Zoning Appeals shall approve or deny variances from the developmental standards (such as height, bulk, or area) of the zoning ordinance.

807.01 A variance may be approved under this section only upon a determination in writing that:

- A. the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- B. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- C. the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the “practical difficulties” standard prescribed by this section.

808 CONDITIONAL USE: Petitions for approval of a conditional use consistent with the provisions set forth in Section 522 herein may be considered provided that any related developmental standards issues are approved separately.

808.01 The Board of Zoning Appeals may approve a Conditional Use only upon a determination in writing that:

- A. The zoning ordinance authorizes the conditional use request and the request conforms to all regulations of this Ordinance;
- B. the approval will not be injurious to the public health, safety, morals and general welfare of the community;
- C. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- D. the proposed use shall promote the objectives of this ordinance and shall be consistent with the comprehensive plan.

809 FLOODPLAIN VARIANCE: Petitions for variances to the provisions set forth in Section 402 herein may be considered provided any terms and conditions imposed by the Department of Natural Resources shall be incorporated into the issuance of any local permit.

809.01 The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this Ordinance provided the applicant demonstrates that:



- A. there exists a good and sufficient cause for the requested variance;
- B. the strict application of the terms of this Ordinance will constitute an exceptional hardship to the applicant; and
- C. the granting of the requested variances will not increase flood heights, create additional threats to the public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

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

- A. no variance or exception for a residential use within a floodway subject to Section 402.06 A or 402.06 B may be granted;
- B. any variance or exception granted in a floodway subject to Section 402.06 A or 402.06 B will require a permit from the Department of Natural Resources;
- C. variances or exceptions to the Building Protection Standards of Section 402.07 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;
- D. variances or exceptions 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;
- E. all variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
- F. the Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

810 **PROCEDURE:** An appeal filed with the Board of Zoning Appeals must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the Board of Zoning Appeals by rule.

810.01 The administrative official, hearing officer, administrative board, or other body from whom the appeal is taken shall, on the request of the Board of Zoning Appeals, transmit to it all documents, plans, and papers constituting the record of the action from which the appeal is taken.

- 810.02 Certified copies of the documents, plans, and papers constituting the record may be transmitted for purposes of Section 809.01.
- 810.03 Upon appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken.
- 810.04 The Board shall make a decision on any matter that it is required to hear under the 900 series either:
- A. At the meeting at which that matter is first presented; or
  - B. At the conclusion of the hearing on that matter if it is continued.
- 810.05 Within five days after making any decision, the Board of Zoning Appeals shall file in the Office of the Zoning Administrator a copy of its decision.
- 810.06 If the variance, exception, use, or appeal petitioned for is granted, an Improvement Location Permit may be applied for up to twelve months from the date of approval. An extension of time may be granted by the Zoning Administrator for good and sufficient cause.
- 811 HEARINGS: The Board of Zoning Appeals shall fix a reasonable time for the hearing of administrative appeals, exceptions, uses, and variances.
- 811.01 Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least 10 days before the date set for the hearing by certified mailed as required by rule.
- 811.02 The party taking the appeal, or applying for the exception, use, or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, by agent, or by attorney.
- 811.03 The Board shall by rule, determine who interested parties are, how notice is to be given to them, and who is required to give that notice.
- 811.04 The Planning Department staff, if any, may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.
- 811.05 Other persons may appear and present relevant evidence.
- 811.06 A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board. Not less than 5 days before the hearing, however, the

staff (as defined by ordinance), if any, may file with the Board a written statement setting forth any facts or opinions relating to the matter.

811.07 The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than 4 days before the hearing, the Board may also require the petitioner to furnish each adverse party with a copy of the petition and a site plan of the property involved.

812 COMMITMENTS: In the case of a petition for a special exception or a variance from the terms of the zoning ordinance, the Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.

812.01 The Board may:

A. Adopt rules governing the creation, form, recording, modification, enforcement, and termination of commitments; and

B. adopt rules designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

812.02 Commitments shall be recorded in the Office of the Tipton County Recorder and take effect upon the granting of the exception, use, or variance. Unless modified or terminated by the Board, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified or terminated only by a decision of the Board made at a public hearing after notice as provided by rule.

812.03 By permitting or requiring commitments, the Board does not obligate itself to approve or deny any request.

812.04 Conditions imposed on the granting of an exception, use, or variances are not subject to the rules applicable to commitments.

812.05 This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

813 HEARING OFFICER: In accordance with IC 36-7-4-923, the Plan Commission may authorize a hearing officer who has the power of a Board of Zoning Appeals to approve or deny a variance for developmental standards or a special exception.

813.01 The hearing officer may be a Board member, a staff member, or other person.

813.02 All hearing officer rules and proceedings shall be in accordance with IC 36-7-4-924.

ARTICLE NINE  
ADMINISTRATIVE PROCEDURES

901 ZONING ADMINISTRATOR: The title of Zoning Administrator and Building Commissioner are considered interchangeable for the purposes of this Ordinance. The Zoning Administrator shall have the following duties:

901.01 to administer and enforce the provisions of this Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance;

901.02 to issue Improvement Location Permits and Certificates of Occupancy;

901.03 to maintain a permanent file of all permits and applications as public records; and

901.04 to ensure that during his review of Improvement Location Permit applications, all National Flood Insurance Program regulations, pertaining to State and Federal permits, subdivision review, utility construction, record keeping (including lowest floor elevation), and water course alteration and maintenance have been met.

902 IMPROVEMENT LOCATION PERMIT: The Zoning Administrator shall issue Improvement Location Permits in accordance with this section.

902.01 Except as provided below, an Improvement Location Permit shall be obtained before any person may:

- A. occupy or use any land; or
- B. construct, reconstruct, move, alter, or enlarge any structure; or
- C. construct a pond of 100 square feet or greater; or
- D. change the use of a structure or land to a different use; or
- E. change a non conforming use.

902.02 Improvement Location Permits are not required for the following:

- A. water management and use facilities except as in 902.01 C;
- B. yard improvements listed in Section 306.04 of this Ordinance;
- C. land preparation activities, as listed below:

1. normal plowing and working of the land for gardens and yards
  2. normal trimming and/or removal of trees and shrubs for maintenance or agricultural purposes;
  3. earth movements related to farming and other agricultural activity, including sod farming;
  4. public and private road construction;
  5. installation of utilities;
  6. drain tile laying and ditch cleaning;
  7. top soil removal, other than mineral excavation (as defined);
  8. forest management activities such as timber harvesting and timber stand improvement, including sawmills on property where the lumbering is being done;
- D. soft side above ground swimming pools, hot tubs, spas, and saunas as specified in Section 504.04 B of this Ordinance;
- E. storage of recreational vehicles and trucks as specified in Sections 504.05 and 504.06 of this Ordinance;
- F. fences as specified in Section 504.09 of this Ordinance; and
- G. vending machines listed in Section 504.12 of this Ordinance.
- 902.03 Applications for an Improvement Location Permit shall include the following information:
- A. Common elements to be submitted with all Improvement Location Permit applications:
1. name and address of the legal owner;
  2. a legal description of the property;
  3. name and address of the developer, if other than the legal owner;
  4. the street address, or the subdivision name and lot number, or a metes and bounds description of the property;
  5. a site plan drawn to scale which includes the following;

- a. property dimensions and lot lines;
  - b. an arrow indicating north;
  - c. all adjacent streets, alleys, and roadways, appropriately identified and including the centerline and right-of-ways, and all other right-of-ways and easements;
  - d. the location and dimensions of all existing and proposed structures, improvements, and paved areas with each appropriately labeled to indicate existing, proposed, or to be razed;
  - e. a drainage and erosion control plan, if required, as specified in Section 313 of this Ordinance;
  - f. all existing and proposed entrances and exits and parking spaces;
  - g. the distance of all proposed structures from all front, rear, and side lot lines measured from the point where the structure or its foundation is nearest the lot line;
  - h. the location and nature of all existing and proposed utilities, including any wells and/or septic systems;
  - i. the location and condition of all on-site and related off-site drainage facilities; culverts, sewers, and ditches;
  - j. the flood plain boundary and 100-year flood elevation as determined by the Zoning Administrator and the elevation of the lowest floor (including basement) of all proposed structures located in the Special Flood Hazard Area.
5. driveway permit from the County Highway Department, and Septic Permit from the County Health Department, if applicable.
  6. application fee, as established in the fee schedule.
  7. any other materials that the Zoning Administrator may require to ensure compliance with any other applicable regulations, ordinances, or statutes.

B. Information and materials to be submitted with Improvement Location Permit applications for all commercial, industrial, institutional, and multi-family dwelling and condominium developments, excepting accessory structures and uses (as defined):

1. all requirements as listed in 902.03 A;
2. the location and to scale horizontal dimensions of all existing and proposed canopies, overhangs, covered walkways, and related structures;
3. a lighting plan as specified in Section 314;
4. the location, number, type, species, size, height and caliper (of deciduous trees) of all existing and proposed landscaping and buffering, including open/green spaces, screening, walls, curbing, mounding and fences;
5. the location and dimensions of all existing and proposed off-street parking and loading areas and paved areas, including surface materials, dimensions of parking spaces and loading docks, driveways, and interior traffic lanes;
6. the location of all existing and proposed outside operations, storage areas, and trash receptacles, including a description of all fencing and screening of such;
7. the proposed number of employees and other information as required by Table D of the Ordinance;
8. the location, type, size, height, and spacing of all existing and proposed signs;
9. the location and dimensions of all entrances and exits, including details indicating cross-sections for new pavement, curbs, auxiliary lanes and/or tapers, and medians;
10. contour lines indicating existing and final grading elevations at one foot intervals where the average slope exceeds 10%.

902.04 Improvement Location Permits shall become null and void one year from the date of issue. If the work described in the Improvement Location Permit has not been substantially completed by the expiration of this time, no further work may proceed unless and until a new Improvement Location Permit has been obtained.



902.05 Within 30 days after the receipt of an application, the Zoning Administrator shall either approve or disapprove the application in conformance with the provisions of this Ordinance. If the Improvement Location Permit application is approved, the applicant may proceed to secure any other applicable permits; e.g., Building Permits. If the application is disapproved, the Zoning Administrator shall state the reasons for disapproval in writing and shall deliver such notice or refusal to the applicant.

903 CERTIFICATE OF OCCUPANCY: Prior to occupancy of land or structure for which an Improvement Location Permit was issued, a Certificate of Occupancy must be obtained to insure full compliance with the terms of the Improvement Location Permit.

904 ENFORCEMENT REMEDIES AND PENALTIES: In case any structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance is hereby declared to be a common nuisance. Failure, by any person, to abide by any provision of this Ordinance shall be deemed a violation of this Ordinance and shall be guilty of a Class C Infraction. Upon conviction, a violator shall be responsible for reasonable attorney fees and fines of not less than \$250 and not more than that which is allowed as per IC 36-1-3-8 per violation, and for each day that the violation continues unabated, a separate offense shall be deemed to have been committed.

904.01 For and on behalf of the Commission, the Board of Zoning Appeals, the Department, or the County as their interests may appear, the Commission Attorney may institute, in a court of appropriate jurisdiction, causes of action against any person who violates any of the terms of this Ordinance. Said causes of action shall include, but not be limited to, the filing of a charge of Class C Infraction; filing suit for temporary or permanent restraining order; or filing suit against the maintenance of a common nuisance. In addition, the Department may pursue any other action, or remedy, authorized by the laws of Indiana, all of the foregoing actions shall be cumulative.

904.02 The Commission may, as deemed prudent or necessary under the circumstances, enter into any compromise or settlement involving a violation of this Ordinance, providing such compromise or settlement is in the best interest of the enforcement of this Ordinance.

904.03 Applications for improvement location permits or petitions to the Board of Zoning Appeals or Tipton County Plan Commission will not be accepted by the Administrator from any person or entity that has been notified that they are in violation of the zoning ordinance, except if it is required to effect remedial action pursuant to such violation. The ban on accepting applications from persons or entities in violation of the Ordinance extends

beyond the specific property in violation of the Ordinance and includes applications or petitions upon any property within the jurisdiction of the Ordinance.

905 AMENDMENTS: In preparing and considering amendments to this Ordinance and the adoption or amendment of a Planned Unit Development District Ordinance, the Plan Commission must prepare the amendment in accordance with I.C. 36-7-4-600 series and the following procedures.

905.01 Textual amendments to this Ordinance may be initiated by the Tipton County Plan Commission or the Tipton County Commissioners. Zone Map Amendments may be initiated by the Tipton County Plan Commission, by the Tipton County Commissioners, or by owners of 50% or more of the area involved in the petition. The adoption of a Planned Unit Development District Ordinance may be initiated by the single owner, or in the case of multiple owners, all owners acting jointly and united in interest, who are owners of all real property included in the legal description submitted with the application. The amendment of an established Planned Unit Development District Ordinance may be initiated by the single owner, or in the case of multiple owners, all owners acting jointly and united in interest, or a legally established owners' association acting on behalf of a majority of property owners in the PUD district as constituted in the recorded by-laws of the association.

905.02 Where a proposal is initiated by a party other than the Tipton County Plan Commission or the Tipton County Commissioners, the party shall pay a fee as prescribed in the duly adopted fee schedule.

905.03 The Plan Commission shall cause notice of public hearing to be published and notice to interested parties be given and hold public hearing in accordance with I.C. 5-3-1 and the Tipton County Plan Commission By-laws and Rules of Procedure.

905.04 The Plan Commission shall pay reasonable regard to the following matters:

- A. the Tipton County Comprehensive Plan and I.C. 36-7-4-600 series;
- B. current conditions and the character of current structures and uses in each district;
- C. the most desirable use for which the land in each district is adapted;
- D. the conservation of property values throughout the jurisdiction; and
- E. responsible development and growth.

905.05 Within ten day business days after the Plan Commission determination, the Plan Commission shall certify the amendment to the Tipton County Board of Commissioners with a favorable, unfavorable, or no recommendation. Written commitments may be permitted or required for a zone map amendment or Planned Unit Development District Ordinance as specified in I.C. 36-7-4-615 and Article Six of this Ordinance.

- A. Commitments shall be recorded in the Office of the Tipton County Recorder and take effect upon the approval of the zone map amendment or Planned Unit Development District Ordinance. Unless modified or terminated by the Tipton County Plan Commission, a commitment is binding on the owner of the property, each subsequent owner, and each other person acquiring interest in the parcel. A commitment is binding on the owner of the parcel even if it is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.
- B. By permitting or requiring a written commitment, the Plan Commission does not obligate itself to make a favorable or unfavorable recommendation.
- C. A new commitment may be made or a commitment may be modified or terminated only by a decision of the Tipton County Plan Commission made at a public meeting after proper notification has been made in accordance with the Tipton County Plan Commission By-laws and Rules of Procedure.
- D. A commitment must be in substantially the form set forth in the Tipton County Plan Commission By-laws and Rules of Procedure.
- E. The owner of the property shall be required to notify the Office of the Plan Commission of his timely compliance with such commitments by filing an affidavit to such effect. This affidavit must be submitted before any development or construction begins.
- F. Written commitments shall be enforced in accordance with Section 904 and Section 905 of this Ordinance.

905.06 Upon receipt of said certification the Tipton County Board of Commissioners shall vote on the amendment within 90 days. Final action by the Board of Commissioners shall be in accordance with I.C. 36-7-4-600 series. Final action by the Board of Commissioners on a Planned Unit Development District Ordinance shall be in accordance with I.C. 36-7-4-608 and I.C. 36-7-4-1512.

- 905.07 If the proposal is adopted, the Plan Commission shall update the Ordinance and the zoning maps accordingly. If the proposal or amendment for a Planned Unit Development District Ordinance is adopted the Plan Commission shall update the Ordinance and the zoning maps to reflect the designation and requirements of the parcel as a Planned Unit Development District.
- 906 SCHEDULE OF FEES: Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by a filing fee. Such fees and deposits shall be set by the Tipton County Commissioners, and a schedule shall be kept on file in the Office of the Zoning Administrator.
- 907 ADMINISTRATIVE DECISIONS: Whenever, in the course of administration and enforcement of this Ordinance, it is necessary to make an administrative decision which is not clearly governed by standards contained herein, such decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the area affected.
- 908 RULES: The Plan Commission shall adopt rules which may not conflict with the Zoning Ordinance or the Indiana Code concerning:
- 908.01 Improvement Location Permits, Certificates of Occupancy, and site plan application and approval procedures;
- 908.02 Planned Unit Development application and approval procedures;
- 908.03 Zoning text and Zone Map Amendment application and approval procedures;
- 908.04 Enforcement procedures;
- 908.05 Hearing Officer Procedures; and
- 908.06 All other procedures necessary for the proper administration and enforcement of this Ordinance.
- 909 PLAN COMMISSION: The Tipton County Plan Commission is established in accordance with I.C. 36-7-4-200 series and shall have the duties and powers prescribed in I.C. 36-7-4-400 series and all other procedures necessary for the proper administration and enforcement of this Ordinance. The Tipton County Plan Commission shall adopt rules for the purpose of its supervision and administration and investigations and hearings which may not conflict with the Zoning Ordinance or the Indiana Code.
- 909.01 The powers and duties prescribed to the Plan Commission in regard to Article Six, Planned Unit Development shall include, but not be limited to:

- A. the application, procedures and documentation for Planned Unit Development;
- B. the authorization to hear and decide secondary plan for Planned Unit Development;
- C. the authorization to impose and enforce written commitments;
- D. the authorization to hear and decide minor modifications to Planned Unit Development;
- E. the authorization to enforce the Planned Unit Development District Ordinance and plans.

910 **PLANNED UNIT DEVELOPMENT ADMINISTRATIVE OFFICER:** The Planned Unit Development Administrative Officer shall be appointed by the Plan Commission. The Planned Unit Development Administrative Officer shall have the following duties:

- 910.01 to administer the procedures of Article Six, Planned Unit Development, of this Ordinance, in accordance with its provisions;
- 910.02 to hold advisory meetings in accordance with Article Six;
- 910.03 to conduct and grant approvals for secondary reviews in accordance with the provisions of Article Six;
- 910.04 to make determinations of and administer minor modifications to Planned Unit Developments as provided for in Article Six.