

ZONING ORDINANCE

for the

COUNTY OF WARREN, INDIANA

and the

TOWNS OF STATE LINE CITY

PINE VILLAGE

WEST LEBANON

WILLIAMSPORT

REVISION OF 1998

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ARTICLE I

PURPOSE, TITLE, AND DEFINITIONS

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING REGULATIONS FOR THE COUNTY OF WARREN, AND TOWNS OF STATE LINE CITY, PINE VILLAGE, WEST LEBANON, AND WILLIAMSPORT, STATE OF INDIANA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH PROVISIONS OF IC 36-7-4-1 ET. SEQ. FOR AREA PLAN COMMISSION BY THE INDIANA GENERAL ASSEMBLY, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

Section 10. **PURPOSE**

The zoning regulations and districts as herein outlined have been made with these objectives: the securing of adequate light and air, convenience of access, and safety from fire, flood, and other dangers; that congestion in the public streets may be lessened or avoided; that property values may be preserved; that the public health, safety, comfort, morals, convenience, and general public welfare may be promoted.

IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WARREN, INDIANA, AND THE BOARDS OF TOWN TRUSTEES OF THE TOWN OF STATE LINE CITY, PINE VILLAGE, WEST LEBANON, AND WILLIAMSPORT:

Section 11. **SHORT TITLE**

This ordinance shall be known and may be cited and referred to as the "Zoning Ordinance of Warren County."

Section 12. **DEFINITIONS**

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

- 12.01. All words used in the present tense include the future tense. All words in the singular include the plural and all words in the plural include the singular. The word, "shall," is mandatory and not directory. The word, "used," shall be deemed to include "designed, intended, or arranged to be used."
- 12.02. **Accessory Use or Building:** a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.
- 12.03. **Agricultural Uses, Bona Fide:** the growing and harvesting of crops including grass, legume, hay, grain, fruit, and truck or vegetable crops, floriculture, horticulture, growing of mushrooms, nursery and forest planting stock, orcharding, forestry, and the operation of greenhouses; the keeping, raising, and feeding of livestock and poultry, swine, sheep, beef and dairy cattle, pony and horse production; fur, game, fish and wildlife farm operation; farm buildings used for the

- growing, harvesting, and preparing crop products for market roadside stands and signs pertaining to the sale or use of the premises or products produced thereon; farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock and poultry, farm dwellings.
- 12.04. **Alley:** Any public or private way dedicated to public travel and less than thirty-one (31) feet in width.
- 12.05. **Antique Vehicle:** any vehicle displaying current and official State of Indiana Antique Vehicle license plates.
- 12.06. **Auto Wrecking Yard:** any place where one or more motor vehicles not in running condition, or the parts thereof, are stored in the open and are not being restored to operation; or where vehicles are not currently licensed or antique licensed; or any land, building, or structure used for the wrecking of such automobiles or the parts thereof. For the purpose of this ordinance in the open shall be defined as anything less than an enclosed building.
- 12.07. **Bed and Breakfast, Boarding or Lodging House:** a building other than a hotel where meals or sleeping accommodations or both are provided for compensation for not more than twenty persons.
- 12.08. **Building:** any structure constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto.
- 12.09. **Building Line:** a line on a plot between which line and a street, alley, or private place, no building or structure may be erected.
- 12.10. **Camps or Campgrounds:** tracts of land of a design or character suitable for and used for seasonal, recreational, and other similar living purposes. The tracts may have located on them a structure of a seasonable, temporary, or movable nature, such as a cabin, hunting shelter, or tent. Any permanent structures, such as cabins, must comply with the requirements for R-2 Districts.
- 12.11. **Commercial Resort:** a resort furnishing lodging, meals, and such recreational facilities as swimming, boating, shuffleboard, horseback riding, and golf. The recreational facilities shall be incidental to the furnishing of lodging and meals.
- 12.12. **Confinement Feeding, Commercial Feed Lot:** any time 100 or more cattle, 200 or more swine or sheep, or 5,000 or more fowl are housed (or penned) and fed in a confined area.
- 12.13. **Dump:** a lot or tract of land or part thereof used for the disposal by abandonment, dumping, burial, burning, or other means of trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

- 12.14. **Dwelling:** a permanent building used primarily for human habitation but not including mobile homes or facilities for the housing of transient residents.
- 12.141. **Dwelling, Single-Family:** a permanent building, separate and free standing, in itself providing living accommodations for one family.
- 12.142. **Dwelling, Two-Family:** a permanent building designed exclusively for occupancy by two families.
- 12.143. **Dwelling, Multiple-Family:** a permanent building or portion thereof providing separate living accommodations for three or more families.
- 12.15. **Family:** a group of one or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption, or marriage, but no unrelated group shall consist of more than five persons, as distinguished from a group occupying a boarding or lodging house or hotel.
- 12.16. **Farm:** an area used for agricultural operations including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry.
- 12.17. **Farm Vacation Enterprises (Profit or Non-Profit):** farms adapted for use as vacation farms, picnicking, and sports areas, fishing waters, camping, scenery, and nature recreation areas; hunting areas; hunting preserves, and watershed projects.
- 12.18. **Fence:** a structure, including entrance and exit gates, designed and constructed for enclosure or screening.
- 12.19. **Flood (Or Floodwater):** the temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake, or other body of water.
- 12.20. **Flood Control:** the prevention of floods, the control, regulation, diversion, or confinement of flood water or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage, and destruction caused thereby, and, all things incidental thereto or connected therewith.
- 12.21. **Flood Hazard Area:** a flood plain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs, or other works approved by the Indiana Department of Natural Resources Commission.
- 12.22. **Flood Plain:** the relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The flood plain includes the channel, floodway, and floodway fringe.

- 12.23. **Flood, Regulatory (Or Regional):** a flood having a peak discharge which can be expected to be equalled or exceeded on the average of once in a hundred-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The 100-year frequency flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year (a flood magnitude which has a one percent chance of being equalled or exceeded in any given year).
- 12.24. **Floodway:** the channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.
- 12.25. **Frontage:** all the property on one side of a street between two intersecting streets (crossing or terminating) measure along the line of the street, or if the street is dead ended then all the property abutting on one side between an intersecting street and the dead end of the street.
- 12.26. **Garage, Private:** an accessory building housing not more than four motor driven vehicles, the property of and for the use of the occupants of the lot on which the private garage is located.
- 12.27. **Garage, Public:** any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling, or storing motor driven vehicles.
- 12.28. **Garbage:** any odorous, putrescible, or combustible waste materials.
- 12.29. **Garbage Disposal:** collected or community garbage disposal by covered burial or incineration within a fully enclosed building.
- 12.30. **Garbage Farming:** the feeding or storage of community or collected garbage and similar food wastes.
- 12.31. **Group or Row House:** a group or row of not more than eight semi-detached single-family dwellings not more than two rooms deep with access to a street as herein defined.
- 12.32. **Height of Building:** the vertical distance from the established average sidewalk grade, street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.
- 12.33. **Home Occupation:** any use conducted entirely within a dwelling or its attached garage by the occupant of the dwelling and as a secondary use which is clearly incidental to the use of the dwelling for residential purposes. Such a use shall employ not more than one person outside the family resident dwelling. No offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced. All Home Occupational uses must be consistent with the purpose of the Ordinance as set forth in Section 10.

- 12.34. **Institution:** a building occupied by a non-profit corporation or a non-profit establishment for public or private use.
- 12.35. **Junk Yard:** a lot, land, building, or structure, or part thereof, used primarily for the collecting, storage, and/or sale of waste paper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for the sale of parts therefrom.
- 12.36.  **kennel:** any place where house pets are kept for purposes other than those customary and incidental to a household.
- 12.37. **Lot:** a piece, parcel, or plot of land occupied or to be occupied by one principal building and its accessory buildings and including the open spaces required under this ordinance.
- 12.38. **Lot Area:** the area of any lot shall be determined exclusive of street, highway, alley, road, or other rights-of-way.
- 12.39. **Lot of Record:** a lot which is a part of a subdivision, the plat of which has been officially recorded, or a parcel of land described by metes and bounds, the deed or description of which was officially recorded prior to the adoption of this ordinance.
- 12.40. **Maintenance and Storage Facilities:** land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.
- 12.41. **Manufactured Home:** Unless otherwise provided for in the Indiana Statutes, the term "manufactured home" means a dwelling unit designed and built in a factory which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law.
- 12.42. **Manufacturing, Extractive:** any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource.
- 12.43. **Manufacturing, Heavy:** manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibrations, dust, glare, air pollution, and water pollution, but not beyond the district boundary.
- 12.44. **Manufacturing, Light:** manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and not nuisances.

- 12.45. **Mobile Home:** a structure or vehicle designed to be used for human habitation, not having permanent foundation, being constructed so as to be easily equipped with wheels or other devices to be transported from place to place. Neither the removal of the wheels nor the placing of the mobile home on a permanent foundation shall cause it to be classed as a dwelling for the purpose of this ordinance.
- 12.46. **Modular Home:** a factory-fabricated housing unit constructed on the basis of a standard pattern. Modulars are wheelless, have no chassis, and are usually built with perimeter framing. They are always permanently sited on their own foundations and can be hooked together in any horizontal or vertical combination to make multiple family units, or they can become single family detached units. For purposes of this ordinance, they shall be classified as site built homes and subject to the same standards.
- 12.47. **Nursing Home or Rest Home:** a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food and shelter and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.
- 12.48. **Non-conforming Use:** a use of building or land lawful at the time of enactment of this ordinance that does not conform with the "permitted use" provisions of this ordinance.
- 12.49. **Parking Space:** an all-weather surfaced area (paved with bituminous, concrete, crushed stone, gravel, or slag) enclosed in the main building, in an accessory building, or enclosed, sufficient in size to store one standard automobile, and if the space is enclosed, comprising an area of not less than 140 square feet; if enclosed, 20 feet by 10 feet; with an all-weather surface permitting satisfactory ingress and egress of a motor vehicle.
- 12.50. **Planned Unit Development (PUD):** an area of land in which a variety of residential, commercial, and industrial uses are planned and developed as a whole according to comprehensive and detailed plans with more flexible standards, such as lot size and setbacks, than those restrictions that would normally apply under these regulations.
- 12.51. **Public Right-of-Way:** a general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to a transportation facility.
- 12.52. **Public Service Facility:** the erection, construction, alteration, operation, or maintenance of buildings, power plants, or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other



- governmental agency, including the furnishing of electrical, gas, rail transport, communications, water and sewage services.
- 12.53. **Public Uses:** public parks, schools, administrative, cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.
- 12.54. **Public Utility:** any person, firm, or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water, or sewerage systems to the public under public regulation.
- 12.55. **Quasi-Public Use:** Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or non-profit nature.
- 12.56. **Recreational Equipment, Major:** Equipment which must be hauled on a trailer with two or more wheels or which has two or more wheels attached, or which is self-propelled with wheels, including boats, trailers, and recreational vehicles.
- 12.57. **Recreational Facilities:** public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of the use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to, hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, and bowling alleys.
- 12.58. **Recreational Vehicle (RV):** a vehicle primarily designed as a temporary living quarters for recreation, camping, or travel, either with their own motor power or mounted on or towed by another powered vehicle.
- 12.59. **Recreation Campground:** an area of land on which two or more recreational vehicles, including campers, tents, or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure, or fixture of equipment that is used or intended to be used in connection with providing such accommodations.
- 12.60. **Sanitary Land Fill:** a method of disposing of refuse by spreading the refuse and covering it with earth.
- 12.61. **Service Station, Filling Station, Gas Station:** any building or premises used for the dispensing, sale, or offering for sale at retail, of any motor vehicle fuel or oils or electric charging current. When the dispensing, sale, or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

12.62. **Site Diagram:** The term "site diagram" as referred to in this Ordinance means a drawing of the subject real estate which reflects the distance of all improvements or proposed improvements located thereon from all property lines, public roads, streets and alleys. The diagram should also reflect perimeter property line measurements on all sides and all public roads, streets and alleys which abut the real estate should be drawn and named. Although the drawing need not be to scale, all measurements must be accurate.

12.63. **Street:** a general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way. The term "street" also includes the terms highway, parkway, road, thoroughfare, avenue, boulevard, lane, court, place, and other such terms.

The recommended usage is:

- highway or street in urban areas
- highway or road in rural areas

12.631. **Alley:** a street intended to provide access to the rear or side of lots or to buildings in urban areas and not intended for the purpose of through vehicular traffic.

12.632. **Arterial:** a system of streets and roads which form an integrated network of continuous routes primarily for through traffic. The "arterial" system is stratified into "principal" (or major) and "minor" categories.

1. Principal - serves corridor traffic movements having trip length and travel density characteristics indicative of substantial state wide or interstate travel, or connects major population centers in rural areas; or serves major centers of activity and highest traffic volume corridors with the longest trip desired in urban areas.
2. Minor - links other cities, large towns, and traffic generators, and provides a substantial amount of interstate and intercounty service in rural areas; or interconnects and augments with the principal arterials to provide service to trips of moderate length for intracommunity continuity in urban areas.

12.633. **Collector:** a system of streets and roads which generally serve travel of primarily intra-area and intracounty importance with approximately equal emphasis to traffic circulation and land access service. The "collector" system is generally further stratified into "major" and "minor" categories. The system collects and distributes traffic between the arterial and local systems.

- 12.634. **Cul-de-Sac:** a local street open at one end only and with a special provision for vehicles turning around.
- 12.635. **Dead-end:** a local street open at one end only and without a special provision for vehicles turning around.
- 12.636. **Frontage:** a local street or road auxiliary to and located on the side of an arterial for service to abutting property and adjacent areas, and for control of access. (Sometimes called a "marginal access street.")
- 12.637. **Highway:** a term applied to streets and roads that are under the jurisdiction of the Indiana State Highway Commission.
- 12.638. **Private:** a local street that is not accepted for public use or maintenance which provides vehicular and pedestrian access.
- 12.639. **Public:** a street under the control of and kept by the public, established by regular governmental proceedings for the purpose, or dedicated by the owner of the land and accepted by the proper authorities and for the maintenance of which they are responsible.
- 12.64. **Tourist Court or Motel:** an area containing one or more structures designed to provide sleeping, or sleeping and dining, accommodations for transients, in which not more than one unit may be permanently occupied, and that restricted to the family of the owner or operator of the establishment; the remainder of the units being limited to transient occupancy not to be exceeded 30 days in any calendar year for any one person or family group.
- 12.65. **Trailer Court, Mobile Home or Trailer Park:** a plot of ground upon which two or more occupied trailer coaches is located. Such trailer courts hereafter constructed must meet the requirements for the particular district as specified herein.
- 12.66. **Use:** the purpose or activity for which a building, or structure, or land is occupied or maintained.
- 12.67. **Variance:** 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.
- 12.68. **Yard:** an open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings except as otherwise provided in this ordinance.

- 12.681. **Front Yard:** the yard extending across the entire width of the lot between the principal building and the right-of-way line or street line which the building faces.
- 12.682. **Rear Yard:** the yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building.
- 12.683. **Side Yard:** the yard extending along the side lot line from the front yard to the rear yard and lying between the side lot line and the nearest part of the principal building.
- 12.69. **Zoning:** the division of an area into districts and the public regulation of the character and intensity of the use of land, and of the buildings and structures which may be located thereon, in accordance with a comprehensive plan.
- 12.691. **District:** any area of Warren County within the zoning regulations are uniform.
- 12.692. **District Map:** the map setting forth the boundaries of the zoning districts of Warren County, which map is part of these regulations.
- 12.693. **Ordinance:** a legal tool for accomplishing the objectives of a land use plan. It is an effective regulatory measure designed to encourage high standards of development and to foster the most efficient use of land.
- 12.694. **Permit:** a document issued by the zoning inspector authorizing the use of lots, structures, uses of land and buildings, and the characteristics of the uses.

ARTICLE II  
DISTRICT MAPS  
and  
GENERAL PROVISIONS

Section 21. ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, all land situated in Warren County is hereby designated on the Zoning Maps as being in one of the following Districts:

- AG - 1 District - Agricultural
- CO - 1 District - Conservation
- R - 1 District - Country Homes
- R - 2 District - One and Two-Family Residential
- R - 3 District - Multiple-Family Residential
- C - 1 District - General Retail
- C - 2 District - Service Retail
- I - 1 District - Light Industrial
- I - 2 District - Heavy Industrial

Section 22. BOUNDARIES OF DISTRICTS

The boundaries of said districts are hereby established as shown upon the Zoning Maps of Warren County, Indiana, which maps accompany and are hereby made a part of this ordinance. The Zoning Maps of Warren County, Indiana, and all notations, references, and other matters shown thereon shall be as much a part of this ordinance as if they were fully described herein. Unless otherwise indicated on the Zoning Maps, the boundary lines of the districts follow lot lines, center lines of streets, alleys, or railroad rights-of-way, or such center lines extended, center lines of creeks or the corporate limit line as existing at the time of adoption of this ordinance. Such Zoning Maps shall be on file and available for public reference in the office of the Zoning Administrator, complete with amendments which are adopted as provided here.

- 22.01. Any land the classification of which is not shown thereon, and land hereafter disconnected from an incorporated area, shall be classified as the AG-1 Agricultural District until otherwise classified by zoning amendment as provided in Article XIX.
- 22.02. No building shall be erected or altered, nor shall any building or premises be used for any purpose other than a use permitted in the district in which such building or premises is located.
- 22.03. No lot which is now or may hereafter be built upon as herein required may be so reduced in area that the yards and open spaces will be smaller than prescribed by the ordinance; and no yard, court, or open space provided about any building for the purpose of complying with the provisions thereof shall again be used as a yard, court, or other open space for any other building.

22.04. If uncertainty arises with respect to the boundaries of the various Districts as shown on the Zoning Maps, the Zoning Administrator shall determine the boundaries in accordance with the following rules:

22.041. District boundaries, unless otherwise indicated, are the centerlines of streets, highways, roads, alleys, railroads, or easements; or the boundary lines of sections, quarter sections, or an even division thereof; tracts or lots, or such lines extended.

22.042. Where a district boundary line divides a lot in a single ownership, the regulations of either district may apply to the entire lot, providing such lot does not go more than 25 feet beyond the boundary line as indicated on the district maps.

22.043. In areas not subdivided into lots and blocks, the district boundary lines on the Zoning Maps shall be determined by scale to the nearest 50 feet.

### Section 23. GENERAL PROVISIONS

23.01. Except as provided by this ordinance and except after obtaining written permission from the Zoning Administrator, it shall be unlawful in Warren County:

23.011. To establish any use of a building, structure, or land, either by itself or in addition to another use.

23.012. To expand, change or re-establish any non-conforming use.

23.013. To erect a new building or structure or part thereof.

23.014. To rebuild, structurally alter, add to, or relocate any building or structure or part thereof.

23.015. To reduce the open space or plot area required for a building or structure, or to include any part of such open space or plot area as that required for any adjoining building or structure.

23.016. To provide or connect onto water supply or sewage disposal facilities.

23.02. **Accessory Uses.** Unless otherwise prohibited or restricted, a permitted use also allows uses and buildings incidental thereto if located on the same site or building plot. However, such accessory uses and buildings shall not be established or erected prior to the establishment or construction of the principal use or building and shall be compatible with the character of the principal use.

23.03. **Exemptions.** The powers effectuated by this ordinance shall not be exercised so as to:

- 23.031. Deprive the owner of any existing property of its use or maintenance for the purpose to which it is lawfully devoted at the time of enactment of this ordinance or subsequent amendments thereto.
- 23.032. Specify or regulate the type or location of any poles, wires, cables, conduits, vaults, laterals, or any other similar distributing equipment of a public utility.
- 23.04. **General Exceptions.** The exceptions, variations, and regulations of Section 28 shall be applicable in all districts, and special reference in the various articles of this ordinance to these particular articles is not required.
- 23.05. **Emergency Exceptions.** At the discretion of the Zoning Administrator, emergency permits may be granted to meet special circumstances for periods of up to six months and renewable for an additional six months by the Board of Zoning Appeals.

#### Section 24. CONTINUANCE OF NON-CONFORMING USES

Any lawful use of land, building, or structure existing at the time of adoption of this ordinance, or subsequent amendment of this ordinance, may be continued with the following limitations.

- 24.01. **Non-conforming Use Not To Expand.** Any building or structure containing a non-conforming use may not be expanded nor substantially remodeled. The Board of Appeals may approve any remodeling and incidental repairs which do not tend to prolong the life of the non-conforming use.
- 24.02. **Non-conforming Use Not To Rebuild.** Any building or structure containing a non-conforming use, which has been damaged to the extent of 50% of its current fair value, as estimated immediately prior to damage, shall not be repaired or reconstructed except in conformity with this ordinance.
- 24.03. **Discontinued Non-conforming Use Not To Re-establish After Six Months.** No non-conforming use shall be re-established after having been discontinued for six (6) consecutive months. Vacating of premises or building or non-operative status shall be evidence of a discontinued use.
- 24.04. **Non-conforming Uses Not To Be Substituted.** A non-conforming use may not be substituted for any other non-conforming use or any conforming use.
- 24.05. **Change.** Whenever a non-conforming use has been changed to a conforming use, it shall not thereafter revert to a non-conforming use.
- 24.06. **Temporary Permits.** Temporary buildings and structures incidental to construction work are permitted but must be removed upon completion of the construction.

Section 25. OFF-STREET PARKING

- 25.01. All-weather off-street automobile parking paved with bituminous, concrete, crushed stone, gravel, or slag, shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or alley. Following are minimum requirements for specific uses:
- 25.011. Airports and landing fields, golf courses and golf driving ranges, greenhouses, gun clubs, fish and game preserves, boat liveries, kennels, public parks, picnic grounds, television and radio stations, riding academy or commercial stable, veterinary establishment, truck gardening, home occupations, and all other places of similar use - at least one off-street parking space for each two patrons, clients, or members using the facility. The number of parking spaces shall be determined by the greatest number of patrons, clients, or members to use the facility at the time of its peak use.
- 25.012. Dwellings - two spaces for each dwelling unit.
- 25.013. Hospitals, including sanitariums, asylums, orphanages, convalescent homes, home for the aged and infirm, institutions of a charitable or philanthropic nature, and all other similar institutions, at least one off-street parking space for each two patient beds, plus at least one additional off-street parking space for each doctor employed by the hospital or who is on the active medical staff authorized to practice at the hospital, plus at least one additional off-street parking space for each three employees (including nurses).
- 25.014. Hotels, including clubs, lodging houses, summer resorts and cabins, boarding and rooming houses, dormitories, sororities, fraternities, and all other similar places offering overnight accommodations - at least one off-street parking space for each guest room.
- 25.015. Office uses - at least one parking stall for each employee in the office.
- 25.016. Places of Public Assembly, including private clubs, lodges and fraternal buildings not providing overnight accommodations, assembly halls, theaters, exhibition halls, town halls, convention halls, auditoriums, skating rinks, dance halls, bowling alleys, athletic fields, sports arenas, stadiums, gymnasiums, amusement parks, race tracks, fair grounds, circus grounds, churches, morgues, mortuaries, mausoleums, crematories, community buildings, libraries, museums, and all



other similar places of relatively infrequent public assembly - at least one off-street parking space for each five seats provided for patrons' use, or at least one off-street parking space for each 200 square feet of gross floor area used or intended to be used for service to the public as customers, patrons, students, members, communicants or clients, whichever requires the greater number of parking spaces.

25.017. Retail establishments - one space for each 400 square feet of gross floor area.

25.018. Schools, in addition to the requirement of Section 25.015 including academies, colleges, universities, elementary schools, junior high schools, high schools, and all other similar institutions of learning - nunneries, religious retreats, fire and police stations, cemeteries, demonstration and experimental proving grounds, grain storage, public utility substations, booster stations, radio and television relay towers, repeater stations, sawmills, seed processing plant, sewage treatment plant, waterworks - at least one off-street parking space for each three employees including administrators, teachers, and building maintenance personnel.

25.019. Tourist accommodations - one space for each room offered for tourist accommodations.

25.020. Retail establishments - one space for each 400 square feet of gross floor area.

25.02. If off-street parking space for non-residential uses as required above cannot be provided on the same lot on which the principal use is conducted, the Zoning Administrator may permit such space to be provided on other off-street property provided such space is within 400 feet of an entrance to such principal use. Such off-street parking space shall thereafter be deemed to be required open space associated with this permitted use and shall not be reduced nor encroached upon in any manner.

25.03. Whenever there is a change in use, or an increase in floor area, or in the number of employees, and such change or increase creates a need for three or more off-street parking spaces, then additional off-street parking spaces shall be provided on the basis of the requirements for the new use.

#### Section 26. OFF-STREET LOADING

Every building or structure used for other than residential uses, except those in the existing developed part of the county which are adapted or constructed after the adoption of this ordinance, shall provide adequate space for loading and unloading of vehicles off the street or alley.

Section 27. **OBSTRUCTIONS TO VISION AT INTERSECTIONS PROHIBITED**

At street intersections, no obstructions of any kind to visibility shall be erected within a triangle formed by extending lines 75 feet from the center line intersection in each direction.

Section 28. **EXCEPTIONS AND VARIATIONS OF HEIGHT AND AREA**

The district regulations hereinafter set forth in this Section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance.

- 28.01. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not to exceed 60 feet; and churches and temples may be erected to a height not exceeding 75 feet, if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.
- 28.02. No accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises, when such use is permitted in the district.
- 28.03. For the purpose of the yard regulations, a two-family house, a group house, or a multiple dwelling shall be considered as one building occupying one lot.
- 28.04. When a lot which is an official lot of record at the time of adoption of this ordinance does not comply with the area, yard, or other requirements of this ordinance, an application may be submitted to the Board of Appeals for a variance from the terms of this ordinance in accordance with the procedure outlined in Article XII "Board of Appeals." Such lot may be used as a building site, provided that, in the opinion of the Board of Appeals, the yard and other requirements of the district are complied with as closely as possible.
- 28.05. **Exceptions to Yard Requirements**
- 28.051. **Allowable Projections of Residential Structures Into Yards.** Architectural features of residential buildings such as window sills, cornices, roof overhangs may project into the required yard provided such projection is not more than four feet and does not reach closer than four feet to any lot line.
- 28.052. **Allowable Projections of Business Structures Over Sidewalk.** Signs, awnings, canopies, marquees, are permitted to overhang the sidewalk in the C-1 General Retail District only, providing that overhanging signs are a minimum of eight feet above the sidewalk at any point and that all other structures are a minimum of six feet eight inches above the sidewalk at any point.

28.053. Allowable Projection of Accessory Building Into Rear Yard. One-story accessory buildings may project into only rear yards abutting on an alley providing such projection extends not closer than five feet to the rear lot line.

## ARTICLE III

### PROVISIONS GOVERNING AGRICULTURAL (AG-1) DISTRICTS

**Purpose:** The purpose of the AG Districts is to encourage the preservation of a proper setting for the pleasant approaches to the populated areas of the county; to provide an area for agricultural pursuits protected from infringement of unguided urban development; to create and preserve a setting for rural small estate residential development; to conserve areas physically unsuitable for intensive development, and to provide in the area immediately surrounding corporate areas, an environment capable of accommodating future expansion of the corporate areas in an orderly and efficient manner.

#### Section 31. BONA FIDE AGRICULTURAL USES

Bona fide agricultural uses shall consist of any use which is consistent with or covered by the term "agricultural operation" as set forth in Indiana Code 34-1-52-4. It is the policy of the Warren County Area Plan Commission and Board of Zoning Appeals to conserve, protect and encourage the development and improvement of the agricultural resources of Warren County. Bona fide agricultural land uses and applications in Agricultural Districts shall have a preference over nonagricultural land uses and applications. All applicants seeking a permit to locate a nonagricultural land use in an Agricultural District shall be required to sign an "Agricultural District Acknowledgment" in a form approved by the Area Plan Commission.

#### Section 32. USES PERMITTED IN THE AG-1 AGRICULTURAL DISTRICT

- 32.01. Other than bona fide agricultural uses within any AG-1 Agricultural District, no building or premises shall be used or arranged or designed to be used except for one or more of the following uses, which shall be subject to all regulations and requirements for permit of this ordinance.
- 32.011. Churches.
  - 32.012. Community Buildings (Grange Halls, etc.).
  - 32.013. Contractor's equipment storage.
  - 32.014. Dwellings, single-family or two-family.
  - 32.015. Golf Courses and Golf Driving Ranges.
  - 32.016. Grain Storage, commercial, if not nearer than 300 feet to any residence other than that of the owner or lessor of the site.
  - 32.017. Greenhouses.
  - 32.018. Home Occupations, provided that not more than one sign with a maximum of ten square feet may be displayed setting forth such occupation and that a gravel, crushed rock, or other improved access road shall be provided off the public right-of-way.

- 32.019. Hospitals and institutions of an educational, charitable, or philanthropic nature, provided that such buildings shall not be located upon sites containing an area of less than five acres, may not occupy over 30% of the total area of the lot, that the building shall be set back from all yard lines a distance of not less than two feet for each foot of building height.
- 32.020. Lakes (artificial).
- 32.021. Libraries, museums.
- 32.022. Local Governmental Meeting Places.
- 32.023. Monasteries, nunneries, religious retreats, homes for the aged, orphanages.
- 32.024. Picnic Grounds, provided that the minimum area of such tract shall be 10,000 square feet, and that one sign with an area of not more than 20 square feet may be displayed thereon, that a gravel, crushed stone, or other improved access road shall be provided.
- 32.025. Radio and television stations.
- 32.026. Railroad trackage, team tracks, but not roundhouses and repair shops.
- 32.027. Riding Academy, or commercial stables for retail rental and/or boarding of horses.
- 32.028. Schools.
- 32.029. Signs (unilluminated or unlighted) as follows:
- 32.0291. Bulletin boards for churches, and identification signs for schools or other permitted uses, not exceeding 36 square feet in area when located on the premises of such use.
  - 32.0292. Illumination of any sign shall be permitted only as a Special Use, after a public hearing and approval by the Warren County Board of Appeals.
  - 32.0293. Nameplates not exceeding 144 square inches in area on either side for each dwelling unit.
  - 32.0294. Signs offering land for sale, lots, houses, livestock, seed corn, not exceeding 50 square feet in area.

32.0295. Signs permitted by law within highway right-of-way.

32.0296. Signs shall conform to the yard requirements of the District in which placed.

32.030. Water Works.

Section 33. SPECIAL EXCEPTIONS IN THE AG-1 AGRICULTURAL DISTRICT

33.01. To provide for the location of special classes of uses which are deemed desirable for the public welfare within this district, but which are potentially incompatible with uses herein permitted in it, a classification of "special exceptions" is hereby established. Such special exceptions shall be subject to the guidelines and conditions identified in Article X of this Ordinance.

33.011. Airports, public and private, subject to the requirements of the State of Indiana.

33.012. Archery. Indoor and outdoor archery ranges and similar type ranges where target shooting is conducted by means of a bow for commercial purposes or made available to the public.

33.013. Cemeteries, mausoleums, crematories, or columbariums, in cemeteries of not less than 50 acres.

33.014. Child day care centers, facilities and residential structures which do not otherwise qualify as home occupational uses under the Ordinance.

33.015. Children's fairgrounds, including pony riding and miniature railroads.

33.016. Circuses, provided that they shall not operate more than 15 consecutive days, nor sell beer or alcoholic beverages, and that they shall be located not closer than 1000 feet to any dwelling except that of the owner or lessor of the site.

33.017. Commercial resort and campgrounds.

33.018. Commercial storage buildings for private storage of personal property by the general public, provided the storage units are totally enclosed and contents of the storage units are completely obscured from the public view.

33.019. Extraction of clay, coal, dirt, gravel, peat, sand, stone, top soil, oil, and other natural resources. Maintenance of a buffer zone of 50 feet must be maintained along adjacent property.

33.018.1

Ethanol and other

Similar Bio-processing

Plants

- 33.020. Fairgrounds, race tracks, and county farms.
- 33.021. Feeding or other disposal of community collected garbage.
- 33.022. Feeding yards for animals in farm-to-market transit or stockyards confinement feeding of livestock where the yard is less than one mile from a residential, commercial, or industrial district, or a residence other than the residence of the owner or lessor of the lot.
- 33.023. Fertilizer Plants for storage, blending, and distribution of gaseous, liquid, and solid chemicals for agricultural production.
- 33.024. Fishing, commercial, in artificial or existing lakes or ponds, including sale of food and fishing fees, soft drinks, non-illuminated for night use.
- 33.025. Flea Markets. Commercial flea markets and similar type facilities where new, used and second hand items are, from time to time, offered for sale to the general public. Provided, however, that the operation of such facility is not on a continuous or daily basis, such as a retail variety store or secondhand store which is open to the public on a daily basis.
- 33.026. Hunting, fishing and game preserves, boat liveries, and similar game and wildlife land uses and applications which are for commercial purposes or made available to the public.
- 33.027. Junk yards or auto wrecking yards. Automobile wrecking and salvage operations if located not less than 400 feet from any R-District; provided such operation is conducted within an area enclosed on all sides with a tight painted fence not less than eight feet high and provided further that such operation shall not be visible from the nearest street or road.
- 33.028. Lagoons for the collection of animal waste.
- 33.029. Landfills, monofills, dumps or any other type of depository for waste or by products of any nature or description.
- 33.030. Livestock auction barns and yards.
- 33.031. Mobile homes, provided each unit contains a gross floor area of 720 square feet or more, and further provided that all other area regulations for dwellings in this district be observed, in addition to sewage disposal and water supply regulations for residential use.

- 33.032. Motels and tourist courts, provided that gravel or other improved surface access roads shall be constructed to parking areas and that parking areas off the public right-of-way shall be furnished at the rate of one parking space for each dwelling unit.
- 33.033. Open air illumination for outdoor games such as baseball, football, or other uses where glare and noise might unreasonably affect surrounding property or highway traffic.
- 33.034. Private clubs and lodges.
- 33.035. Private pistol or rifle ranges.
- 33.036. Public parks and forest reserves.
- ~~32~~.037. Public Utility Substations, booster stations, radio and television relay towers, repeater stations, etc., but not including power generation or gas manufacturing plants.
- 33.038. Removal of ledge rock with required approval for blasting, quarrying, and crushing stone.
- 33.039. Rooming and boarding or tourist houses providing lodging and/or meals for more than six persons.
- 33.040. Sanitariums.
- 33.041. Sanitary land fill and dumps.
- 33.042. Sawmills.
- 33.043. Seed processing plants.
- 33.044. Sewage treatment plants.
- 33.045. Skeet or trap shooting if not closer than 1,320 feet to any residence or farm group.
- 33.046. Temporary asphalt plants, and crushed rock storage.
- 33.047. Veterinarian office, animal hospitals, animal boarding and kennels, and animal training facilities.
- 33.049 *Service + Repair of motor vehicles*

*33.048  
Wind Turbines  
with conditions*

Section 34. REQUIRED LOT AREA AND LOT WIDTHS IN AG-1 AGRICULTURAL DISTRICT

- 34.01. Each dwelling structure, modular home or mobile home shall be located on a lot or tract in such manner as to comply with the yard regulations of this district and such lot or tract shall have a minimum area of one acre and a minimum width at the setback or front yard line, whichever is applicable, of 125 feet with the following exceptions which shall be deemed to conform with the regulations of this district:



34.011. Any dwelling existing at the time of passage of this ordinance.

34.012. Any dwellings existing or constructed as farm dwellings which have been or may be transferred as dwellings (non-farm); or

34.013. Lots or tracts of record at the time of passage of this ordinance, which are less than one acre in area of less than 150 feet in width, may be used for the erection of a single-family dwelling or two-family dwelling, provided that two or more contiguous lots in common ownership of record at the time of passage of this ordinance shall be combined in one parcel to approach the required area insofar as possible, that the intent of the yard regulations of this district be reasonably observed, and that the area of parcel so obtained is not reduced in transfer.

**Section 35. HEIGHT REGULATIONS IN AG-1 AGRICULTURAL DISTRICT**

No dwelling shall exceed 30 feet in height unless each side yard is increased over the required minimum by five feet for every five feet or fraction thereof of additional height over 30 feet. Dwellings shall not have a height of less than 8 feet over a majority of the area of the ground floor except that the 8-foot requirement shall not apply until two years after the start of construction.

**Section 36. YARDS REQUIRED IN AG-1 AGRICULTURAL DISTRICT**

Roadside frontage shall be governed by Setback Regulations, Article XII. Adjacent property line setback is a minimum of 15 feet or one foot for each foot of building height, whichever is the greater.

**Section 37. PARKING REGULATIONS FOR AG-1 AGRICULTURAL DISTRICT**

Not less than two parking spaces shall be provided per dwelling unit on the lot or in a building.

**Section 38. GROUND FLOOR AREA REQUIRED IN AG-1 AGRICULTURAL DISTRICT**

One-story dwellings shall have a total ground floor area of not less than 1,000 square feet measured from the exterior faces of exterior walls, including utility rooms, but excluding open porches, garages, and terraces. Dwellings having more than one story shall have not less than 850 square feet of ground floor area measured as prescribed for one-story dwellings.

**Section 39. ADVERTISING DEVICES AS A SPECIAL USE**

Posters, painted bulletins and advertising signs, hereafter called advertising devices, may be established in the AG-1 Agricultural District after obtaining written permission, when applicable, from the State Highway Commission and after a public hearing and approval by the County Board of Zoning Appeals subject to the following general requirements, and such other requirements as the Board of Appeals believes proper for the individual circumstances.

- 39.01. No advertising sign shall front on any road designated "Scenic Road or Highway" in the approved Warren County Comprehensive Plan. Advertising signs fronting on other roads shall be placed not closer than 300 feet from the right-of-way line of the nearest highway, except within two miles of the limits of incorporated towns where such setback distance may be reduced to 100 feet.
- 39.02. No advertising devices shall be placed closer than 500 feet to the property line of any church, school, hospital, or similar public or semi-public property existing at time advertising device is placed.
- 39.03. No advertising devices shall be placed closer than 500 feet to the nearest dwelling existing at time device is placed.
- 39.04. The advertising copy shall be placed on one device only, and not continued to two or more.
- 39.05. The advertising device shall be placed in a manner to respect the public interest in respect to natural scenery and with discretion and good taste with respect to frequency and concentration.
- 39.06. All devices must be placed on property properly leased or owned by the company placing its devices.
- 39.07. Permits for any device placed as a Special Use shall be for a period not to exceed three years for wooden structures and five years for steel structures. All devices shall be properly maintained by painting and structural repair.
- 39.08. Before a special permit is issued, the applicant shall submit a copy of the contract showing right to maintain device on the property for a length of time not to exceed that approved by the Board of Appeals. This contract shall be filed in the office of the Zoning Administrator together with the permit signed by the applicant setting forth special conditions relative to the Special Use required by the Board of Appeals.
- 39.09. Exceptions: signs designating time of meeting, location, or notice of meetings pertaining to the Chamber of Commerce, Kiwanis, Rotary, Lions International, 4-H clubs, churches, or other similar organizations and groups may be placed as separate signs in the AG-1 Agricultural District under requirements specified above, or these signs may be incorporated into one sign and placed in the AG-1 Agricultural District at a distance of not less than 50 feet from the right-of-way line of the highway with approval of the Board of Appeals without a public hearing.

ARTICLE IV

PROVISIONS GOVERNING CO-1 CONSERVATION DISTRICT

**Purpose:** the Conservation District is designed to promote and protect the preservation of natural features and scenic beauty, the public health, safety, comfort, and general welfare by reducing the hardships and financial burdens imposed upon the county by the periodic flooding and overflow of streams and rivers. The designation of areas zoned Conservation are taken from the "Flood Hazard Boundary Maps" prepared by the Federal Insurance Administration, Department of Housing & Urban Development, effective date November 19, 1978.

Section 41. **USES PERMITTED IN THE CO-1 CONSERVATION DISTRICT**

Within any CO-1 Conservation District, except for bona fide agricultural uses as defined in Section 12.03, no building or premises shall be used or arranged, or designed to be used except for one or more of the following uses which shall be subject to all regulations and requirements for permit of this ordinance including written approval from the Indiana Department of Natural Resources.

- 41.01. Camps or campgrounds.
- 41.02. Lakes (artificial).
- 41.03. Public picnic grounds, marinas, and beaches.
- 41.04. Public parks and forest preserves.
- 41.05. Radio and television relay towers and repeater stations, but not including power generation or gas manufacturing plants.

Section 42. **YARDS REQUIRED IN CO-1 CONSERVATION DISTRICT**

- 42.01. Roadside frontage shall be governed by Setback Regulations, Article XII. Adjacent property line setback is a minimum of 15 feet or one foot for each foot of building height, whichever is the greater.
- 42.02. Any building shall be so placed as to offer the minimum obstruction to flow of waters and shall be firmly anchored to prevent the building from being moved or destroyed by the flow of water.

ARTICLE V

PROVISIONS GOVERNING R-1 COUNTRY HOME DISTRICT

Purpose: the purpose of the Country Home District is to provide areas for rural type living.

Section 51. USES PERMITTED IN THE R-1 COUNTRY HOME DISTRICT

- 51.01. Agriculture, but not including the disposal or feeding of garbage, and provided that no poultry or livestock shall be housed or confined within 100 feet of any dwelling except that of the owner or lessor of the tract.
- 51.02. Churches.
- 51.03. Dwellings, single-family.
- 51.04. Golf Courses.
- 51.05. Home Occupations, provided that no more than one nameplate, attached to the dwelling structure and unlighted, with a maximum area of four square feet may be displayed setting forth such occupation.
- 51.06. Lakes (artificial).
- 51.07. Radio and television relay stations, booster stations, repeater stations, and public utility substations, etc., but not including power generation or gas manufacturing plants.
- 51.08. Schools, except business or commercial schools.
- 51.09. Signs, one per tract, but not more than 20 square feet in area, pertaining only to the lease or sale of a building or premises.

Section 52. SPECIAL EXCEPTIONS IN THE R-1 COUNTRY HOME DISTRICT

In addition to the uses listed above, the buildings and premises may be used for the following purposes provided that they are secondary to the primary use only and not carried on as business:

- 52.01. Broadcasting towers, transmitting and relay stations.
- 52.02. Child day care centers, facilities and residential structures which do not otherwise qualify as home occupational uses under the Ordinance.
- 52.03. Commercial amusement or recreational development for temporary or seasonal periods.
- 52.04. Greenhouses.
- 52.05. Guest Houses.
- 52.06. Hobby or play structures.

- 52.07. Kennels, if not within 100 feet of any dwelling other than that of the owner or lessor of the site.
- 52.08. Mobile homes, consistent with those guidelines identified in Article XI.
- 52.09. Servant Quarters.
- 52.10. Stables, if not within 50 feet of any property line.

**Section 53. REQUIRED LOT AREA AND LOT WIDTHS IN COUNTRY HOME DISTRICT**

Every tract of land or lot upon which a single-family dwelling, modular home or mobile home is to be constructed shall have an area of not less than one and one-half acres and a width at the setback or front yard line of not less than 100 feet, except that a smaller lot officially of record at the time of passage of this ordinance may be occupied by a single-family dwelling, provided that two or more contiguous lots in common ownership of record at the time of passage of this ordinance shall be combined in one parcel to approach the required area insofar as possible, that the intent of the yard regulations of this district be reasonably observed, and that the area of parcel so obtained is not reduced in transfer.

**Section 54. BUILDING HEIGHT REGULATIONS IN COUNTRY HOME DISTRICT**

Dwellings, guest houses, or servant quarters, greenhouses, and stables shall not exceed 35 feet in height.

**Section 55. YARDS REQUIRED IN COUNTRY HOME DISTRICT**

Except as required in the Setback Regulations, Article XI, no building shall be constructed within 50 feet of a street, road, or highway right-of-way line or within 15 feet or one foot for each foot of building height, whichever is the greater, of any lot line.

**Section 56. GROUND FLOOR AREA REQUIRED IN COUNTRY HOME DISTRICT**

Ground floor area per dwelling as required in AG-1 Agricultural District.

ARTICLE VI

PROVISIONS GOVERNING RESIDENCE (R-2 AND R-3) DISTRICTS

**Purpose:** the purpose of the Residential District is to provide an area for residential uses and those public and semi-public uses normally considered an integral part of the residential neighborhood they serve.

Section 61. USES PERMITTED IN THE R-2 DISTRICT

- 61.01. Accessory buildings and uses.
- 61.02. Churches, public schools, libraries, museums and art galleries, parks, playgrounds, community centers, cemeteries, public services, utility buildings.
- 61.03. Home agricultural uses, including nurseries and raising of farm products (not to include livestock or sale of products on premises).
- 61.04. Real estate signs, church signs, or home occupational signs, subject to the following restrictions:
  - 61.041. The sign shall not be lighted.
  - 61.042. The sign shall not exceed 12 square feet of sign area.
  - 61.043. The sign shall not impede vehicular or pedestrian traffic or obstruct the view of the public way.
  - 61.044. The sign shall not be offensive to the public safety or welfare.
  - 61.045. The sign shall pertain to the property on which it is placed.
- 61.05. Single-family and two-family residential dwellings, leasing of rooms to not more than two families, and home occupations providing meeting the minimum ground floor area requirements as expressed in Section 38.

Section 62. USES PERMITTED IN THE R-3 DISTRICT.

- 62.01. Any use permitted in the R-2 District.
- 62.02. Clubs, lodges, hospitals, sanitariums, medical and dental clinics, rest homes, and nursing homes.
- 62.03. Multiple-family dwelling, with no more than 32 units.
- 62.04. Tourist homes and lodging uses with accommodations for not more than 15 persons.

Section 63. SPECIAL EXCEPTIONS IN THE R-2 AND R-3 DISTRICTS

The following uses are permitted as special exceptions in the R-2 and R-3 Districts when authorized by the Board of Appeals after a public hearing in accordance with procedures specified in Article X, Special Exceptions. Such special exceptions shall be subject to the following requirements and any other requirements the Board of Appeals feels necessary to further the purpose of the Residence Districts as stated in the preamble.

- 63.01. Any public building erected and used by a department of a municipal, county, state, or federal government.
- 63.02. Broadcasting towers, transmitting and relay stations.
- 63.03. Child day care centers, facilities and residential structures which do not otherwise qualify as home occupational uses under the Ordinance.
- 63.04. Commercial amusement or recreational development for temporary or seasonal periods.
- 63.05. Funeral Homes.
- 63.06. Hospitals, clinics and institutions, except institutions for criminals and those for persons that are insane or have contagious diseases; provided, however, that such buildings may occupy not over 50% of the total area of the lot or tract and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all minimum yard lines heretofore established an additional distance of not less than two feet for each foot of building height. Specific requirements for these buildings in any district regulations shall take precedence over the above regulations.
- 63.07. Mobile homes.
- 63.08. Mobile home parks with permanent accommodations for mobile homes providing that (a) such mobile home park will have permanent accommodations for a minimum of five trailers, (b) trailer accommodations will include for each trailer individual underground sewer and water connections, concrete trailer platform, hard-surfaced drives to be shared by not more than two trailers leading directly to an improved street, (c) the plan of development will provide a minimum of 2400 square feet per trailer space, and (d) trailer spaces will not be located any closer to the bounding property lines of the park than the appropriate yard requirements for the district would allow.
- 63.09. Parking lots on land not more than 300 feet from the boundary of any commercial, business, or industrial district under such conditions as will protect the character of surrounding property.

Section 64. REQUIRED LOT AREA AND LOT WIDTH IN THE R-2 AND R-3 DISTRICTS (EXCEPT FOR TRAILER PARKS OF FIVE OR MORE MOBILE HOMES)

IN THE R-2 DISTRICT . . .

	Min. Lot Area Per Family (Square Feet)	Min. Lot Width Per Structure (Feet)
<b>Single-Family Dwelling</b>		
with both public water and public sewer	12,000	85
with either public water or public sewer	15,000	85
with neither public water nor public sewer	20,000	100
<b>Two-Family Dwelling</b>		
with both public water and public sewer	7,500	100
with either public water or public sewer	10,000	125
with neither public water nor public sewer	15,000	150

IN THE R-3 DISTRICT . . .

All dwellings in this district must be served with both public water and public sewer unless a request for private water and sewage disposal systems is approved by the Board of Appeals.

	Min. Lot Area Per Family or Rental Unit	Min. Lot Width Per Structure at Front Bldg. Line
Single-Family Dwelling	7,500	75
Two-Family Dwelling	4,500	75
Multiple-Family Dwelling	2,500	100
Rooming or Lodging House	1,500	50



Section 65. **BUILDING HEIGHT REGULATION IN RESIDENCE DISTRICTS**

No building shall exceed two stories or 30 feet in height unless each side yard is increased over the required minimum by five feet for every five feet, or fraction thereof, of additional height over 30 feet. In no case shall the building height exceed 50 feet.

Section 66. **YARDS REQUIRED IN RESIDENCE DISTRICTS**

Except as required in the Setback Regulations, Article XI, all structures to be constructed, altered, or moved in the R-2 and R-3 Districts shall provide yards of the following minimum depths.

66.01. Front Yard - 30 feet.

66.02. Rear Yard - 10 feet.

66.03. Side Yard - 6 feet minimum, one side yard; 15 feet minimum, sum of two side yards.

66.04. Yards of Corner Lots - corner lots shall provide a front yard on each street side, not, however, to reduce the buildable width of the lot below 32 feet.

Section 67. **OFF-STREET PARKING**

There shall be provided in the R-2 and R-3 Districts adequate off-street parking in accordance with the schedule in Article II.

## ARTICLE VII

### PROVISIONS GOVERNING COMMERCIAL DISTRICTS

**Purpose:** the purpose of the C-1 General Retail District is to provide for a wide range of retail facilities.

The purpose of the C-2 Service Retail District is to provide for those retail businesses and services which require a location other than in densely developed commercial areas, being either highway oriented, requiring large tracts of land not normally available in the central business district, or to provide local neighborhood retail shopping facilities of a nature compatible with and serving nearby residential properties.

#### Section 71. USES PERMITTED IN THE C-1 GENERAL RETAIL DISTRICT

- 71.01. Business and advertising signs pertaining to the business on the property on which the sign is located providing that (a) illumination of all signs shall be diffused or indirect and shall be arranged so as not to reflect direct rays of light into adjacent residential districts or into the public way, and (b) that any sign located in the direct line of vision of any traffic control signal shall not have flashing intermittent red, green, or amber illumination.
- 71.02. Business and professional offices: medical and dental offices and clinics, law offices, insurance and real estate offices, banks, finance, travel agencies, and utility companies.
- 71.03. Churches, schools, libraries, museums and art galleries, parks, playgrounds, community centers, cemeteries, public services, utility buildings.
- 71.04. Clubs, lodges, hospitals, sanitariums, medical and dental clinics, rest homes, and nursing homes.
- 71.05. Food, drug, and beverage: grocery stores, supermarkets, meat markets, drug stores, liquor stores, bakery in conjunction with retail sales, restaurants, and ~~taverns~~, including food processing incidental thereto, frozen food lockers, and dairies.
- 71.06. Home agricultural uses, including nurseries and raising of farm products (not to include livestock or sale of products on premises.)
- 71.07. Major Retail Outlets: furniture, department, clothing, shoe and variety stores, hardware, appliance, paint and wallpaper stores.
- 71.08. Service and recreation: Laundromat, dry cleaning and laundry pick-up stations, barber and beauty shops, shoe repair and

tailor shops, mortuaries, printing shop with not more than ten full-time regular employees, places of amusement and assembly.

- 71.09. Specialty Shops: gift shops, magazine, book and stationary outlets, florist shops, camera and photography shops, sporting goods.

**Section 72. USES PERMITTED IN THE C-2 SERVICE RETAIL DISTRICT**

- 72.01. Building trades or equipment: building concrete, electrical, masonry, sheet metal, plumbing and heating shops, building material establishments (providing no construction, millwork, or concrete block manufacture is done on premises).
- 72.02. Farm implement sales, drive-in restaurants and refreshment stands.
- 72.03. Landscape gardener's sales area or business, provided no odor, dust, noise, or glaring light is noticeable outside any lot in this district.
- 72.04. Laundry and dry cleaning plants; linens, towels, diapers, and similar supply services; animal pounds, kennels, and veterinary establishments.
- 72.05. Any use permitted in the C-1 General Retail District.

**Section 73. SPECIAL EXCEPTIONS IN THE C-1 AND C-2 DISTRICTS**

- 73.01. Any public building erected and used by a department of a municipal, county, state, or federal government.
- 73.02. Apartment houses, apartment units, and similar residential uses, including single family dwellings, where sufficient off-street parking is available. (Excluding the towns of ~~Williamport, West Lebanon~~ and Pine Village.)
- 73.03. Automatic Car Wash.
- 73.04. Broadcasting towers, transmitting and relay stations.
- 73.05. Commercial amusement or recreational development for temporary or seasonal periods.
- 73.06. Commercial storage buildings for private storage of personal property by the general public, provided the storage units are totally enclosed and contents of the storage units are completely obscured from the public view.
- 73.07. Funeral Homes.
- 73.08. Heavy service and processing facilities.

- 73.09. Hospitals, clinics and institutions, except institutions for criminals and those for persons that are insane or have contagious diseases; provided, however, that such buildings may occupy not over 50% of the total area of the lot or tract and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all minimum yard lines heretofore established an additional distance of not less than two feet for each foot of building height. Specific requirements for these buildings in any district regulations shall take precedence over the above regulations.
- 73.10. New and used car sales, service, and repair, gasoline filling stations, motorcycle and bicycle shops.
- 73.11. Painting and repainting of vehicles.
- 73.12. Parking lots on land not more than 300 feet from the boundary of any commercial, business, or industrial district under such conditions as will protect the character of surrounding property.
- 73.13. Vehicle drive-in and heavy vehicle service, express, cartage and trucking facilities, large item machinery or bulk sales and storage not including outdoor unfenced storage.
- 73.14. Any land use or application not otherwise specifically provided for elsewhere in the Zoning Ordinance which is similar in nature to the ~~uses~~ listed in the zoning ordinance for C-1 and C-2 Districts. Such use must be commercial in nature and must involve retail sales or services to the general public. The Board of Zoning Appeals shall determine whether or not a particular land use is commercial in nature if not specifically listed in the Zoning Ordinance.

73.15 TAVENS

Section 74. BUILDING HEIGHT REGULATION IN COMMERCIAL DISTRICTS

- 74.01. In the C-1 General Retail District, no building shall exceed three stories or 45 feet.
- 74.02. In the C-2 Service Retail District, no building shall exceed two stories or 30 feet.

Section 75. YARDS REQUIRED IN THE COMMERCIAL DISTRICTS

Except as required in the Setback Regulations, Article XII, all buildings to be constructed, altered, or moved in the Commercial Districts shall meet the following minimum requirements:

- 75.01. Yards Required in the C-1 General Retail District:

Front Yard - no minimum yard required.

Rear Yard - 20 feet. Where a rear lot line abuts an alley, one-half of the width of such alley may be considered toward meeting the rear yard requirements.

Side Yard - no minimum yard required, except lots adjoining a residential district shall provide a side yard on that adjoining side equal to that required in the adjoining Residence District.

75.02. Yards Required in the C-2 Service Retail District:

Front Yard - 25 feet.

Side Yard - 10 feet.

Rear Yard - 20 feet. Where a rear lot line abuts an alley, one-half of the width of such alley may be considered toward meeting the rear yard requirement.

Section 76. OFF-STREET PARKING AND LOADING

There shall be provided in the C-1 and C-2 Commercial Districts off-street parking in accordance with the schedule in Article II, and off-street loading in accordance with the following:

**Off-Street Loading**

Every building or structure used for other than residential uses and constructed after the adoption of this ordinance shall provide space on the property to be used **exclusively** for loading and unloading of automobiles, motor buses, motor trucks, tractors, or other such conveyances. Such space shall be in accordance with the following schedule.

Required Spaces	Building Gross Floor Area
1	0- 8,000 sq. ft.
2	8,000- 24,000
3	25,000- 40,000
4	40,000-100,000
5	100,000-250,000
6	250,000-400,000

For buildings over 400,000 sq. ft., six spaces plus one additional space for each additional 200,000 sq. ft.

For the purpose of determining adequacy of loading area, each space shall be not less than 10 feet in width, 45 feet in length, and 14 feet in height.

ARTICLE VIII

PROVISIONS GOVERNING INDUSTRIAL DISTRICTS

**Purpose:** the purpose of the I-1 Light Industrial District is to provide for storage, and any manufacturing use not normally creating a nuisance discernible beyond its property.

The purpose of the I-2 Heavy Industrial District is to provide for industrial uses not allowed in any other district providing that, within this district, uses of a hazardous nature or those producing extensive smoke or odor shall not be located so that the general hazard or nuisance affects a large segment of the county.

Section 81. **USES PERMITTED IN THE I-1 LIGHT INDUSTRIAL DISTRICT**

- 81.01. Aircraft factory or hangar, not including wind tunnel and testing field.
- 81.02. Boat building.
- 81.03. Box factory.
- 81.04. Building materials sales establishment and storage area./
- 81.05. Building-mover and wrecker's establishment.
- 81.06. Cleaning and dyeing establishment.
- 81.07. Contractor's equipment storage.
- 81.08. Dispensary, only with emergency facilities incident to an industry.
- 81.09. Distribution plant, including parcel delivery, ice and cold-storage plant, bottling plant, and food commissary or catering establishment.
- 81.10. Feed mixing plant.
- 81.11. Foundry, casting of only lightweight non-ferrous metal.
- 81.12. Grain elevator.
- 81.13. Iron, steel, or other metal fabrication (no foundry or drop hammer and no punch press over 50 ton capacity).
- 81.14. Laboratories - experimental, photo or motion picture, film or testing.
- 81.15. Laundry.
- 81.16. Light industrial uses that are not obnoxious or offensive by reason of the emission of odor, dust, smoke, noise, gas, fumes,

cinders, vibration, refuse matter or water-carried waste, including retail sale of products when such sale is clearly incidental and essential to the permitted industrial use.

- 81.17. Lumber storage, millwork.
- 81.18. Machine shop.
- 81.19. Machinery repairing and display.
- 81.20. Manufacture, fabrication, and maintenance of electric and neon signs, billboards, commercial advertising structures, light sheet metal products including heating and ventilating ducts and equipment; cornices, eaves and the like, and also including plumbing, heating or electrical contracting business.
- 81.21. Manufacturing, fabricating, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, yarns, wood and paint not employing a boiling process.
- 81.22. Manufacture, fabricating, compounding, canning, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, soft drinks, toiletries and food products, not including the following: fish and meat products, sauerkraut, vinegar and yeast, except in conjunction with a general food products manufacturing company; and not including the rendering of fats and oils or slaughter of animals.
- 81.23. Manufacture of: appliances, electrical or mechanical; instruments, electronic, musical, precision or the like; machines, electric or mechanical, for home or office and the like, phonographs, radios, telephones or other instruments or machines for receiving, reproducing or transmitting sound; watches and clocks, toys, novelties and rubber and metal hand stamps.
- 81.24. Planing mill.
- 81.25. Printing, lithographing, type composition, ruling and binding establishment.
- 81.26. Processing, canning, packaging, or treatment of fish and meat products, sauerkraut, vinegar, yeast but not including the following: fish smoking, curing or canning; rendering of fats and oils; or slaughter of animals.
- 81.27. Public utility facilities and installations for electricity, gas, oil, steam, telegraph, telephone (including telephone exchange building) and water; (not including railroads).

- 81.28. Railroad or other mass transportation company freight and/or passenger and supporting facilities, limited receiving and distribution yards, right-of-way, trackage and sidings, with accessory poles and overhead wires, signal or other operating devices, shelters, and comfort stations incident to the use thereof, including private off-street turn-around and layover areas for mass transit vehicles and parking areas for buses, car houses, yards, and headquarters for operating and maintenance employees.
- 81.29. School, industrial trade, when not objectionable due to noise, odor, vibration, dust, smoke, or other similar causes.
- 81.30. Solid fuel such as coal, coke and wood, storage and sales.
- 81.31. Stable.
- 81.32. Stone or monument works.
- 81.33. Structure or equipment for landing, mooring, or boat docking.
- 81.34. Veterinary establishment.
- 81.35. Wholesale business.
- 81.36. Accessory use and structure customarily incident to any of the above uses, located within the buildable area of the lot, unless otherwise specified and including:
  - 81.361. Fence or enclosure wall.
  - 81.362. Loading space.
  - 81.363. Lunchrooms for employees.
  - 81.364. Minor garage or minor parking area.
  - 81.365. Recreation area, non-profit.
  - 81.366. Signs, related to or advertising the use being conducted on the premises.

Section 82. **USES PERMITTED IN THE I-2 HEAVY INDUSTRIAL DISTRICT**

Only the following uses shall be permitted:

- 82.01. Aircraft factory, landing field, or hangar.
- 82.02. Alcohol manufacture.
- 82.03. Ammonia, bleaching powder or chlorine manufacture.
- 82.04. Asphalt manufacture or refining.
- 82.05. Blast furnace or coke oven.



- 82.06. Boat building.
- 82.07. Boiler works.
- 82.08. Box factory.
- 82.09. Brick, tile or terra cotta manufacture.
- 82.10. Building materials sales establishment and storage area.
- 82.11. Building-mover and wrecker's establishment.
- 82.12. Concrete or cement products manufacture.
- 82.13. Contractor's equipment storage.
- 82.14. Distribution plant, including parcel delivery, ice and cold storage plant, bottling plant and food commissary or catering establishment.
- 82.15. Drop forge industry manufacturing forgings with power hammers.
- 82.16. Feed mixing plant.
- 82.17. Grain elevator.
- 82.18. Hospital, only with emergency facilities incident to an industry.
- 82.19. Iron or steel or other metal manufacture or processing, foundry or fabrication plant and heavy weight casting, including galvanizing and other treatment.
- 82.20. Laboratories - experimental, photo or motion picture, film or testing.
- 82.21. Landscape gardener's sales area or business.
- 82.22. Lumber storage, millwork and sales.
- 82.23. Machinery repairing, sales and display.
- 82.24. Machine shop.
- 82.25. Manufacture, fabrication and maintenance of electric and neon signs, billboards, commercial advertising structures, sheet metal products including heating and ventilating ducts and equipment; cornices, eaves and the like, and also including plumbing, heating, or electrical contracting business.
- 82.26. Manufacturing, fabricating, compounding, assembling or treatment of bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, yarns and wood, or articles of merchandise made therefrom.

- 82.27. Manufacture, fabricating, compounding, canning, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, soft drinks, toiletries and food products, including fish and meat products, sauerkraut, vinegar and yeast, but not including the following: fish smoking, curing or canning; rendering of fats and oils; or slaughter of animals.
- 82.28. Manufacture of: appliances, electrical or mechanical; instruments, electronic, musical, precision or the like; machines, electric or mechanical, for home or office and the like; phonographs, radios, telephones or other instruments or machines for receiving, reproducing, or transmitting sound; watches and clocks, toys, novelties, and rubber and metal hand stamps.
- 82.29. Planing mill.
- 82.30. Printing, lithographing, type composition, ruling and binding establishment.
- 82.31. Public utility facilities and installations for electricity, gas, oil, steam, telegraph, telephone (including telephone exchange building), and water.
- 82.32. Quarry, gravel pit, stone mill or slag crusher.
- 82.33. Railroad or other mass transportation company freight and/or passenger facilities, right-of-way, trackage and sidings, with accessory poles and overhead wires, signal or other operating devices, shelters and comfort stations incident to the use thereof, including private off-street turn-around and layover areas for mass transit vehicles and parking areas for buses, car houses, repair shops, yards and headquarters for operating and maintenance employees.
- 82.34. Railroad repair shop, receiving, distribution, and classification yards and supporting facilities.
- 82.35. Rock, sand, slag or gravel distribution.
- 82.36. Rolling mill.
- 82.37. School for industrial trades.
- 82.38. Solid fuel such as coal, coke and wood, storage and sales.
- 82.39. Stable.
- 82.40. Stone or monument works.
- 82.41. Stove or shoe polish manufacture.
- 82.42. Structure or equipment for landing, mooring or other like purposes and the use of the same for land or water transportation interchange.

- 82.43. Tool manufacture.
- 82.44. Truck terminals.
- 82.45. Veterinary establishment.
- 82.46. Wholesale business.
- 82.47. Wool pulling or scouring.
- 82.48. Accessory use and structure customarily incident to any of the above uses including:
  - 82.481. Fence or enclosure wall.
  - 82.482. Loading space.
  - 82.483. Lunchrooms for employees.
  - 82.484. Offices.
  - 82.485. Parking garage.
  - 82.486. Recreation area, non-profit.
  - 82.487. Signs related to or advertising the use being conducted on the premises.
- 82.49. Any use permitted in the I-1 Light Industrial District.

Section 83. SPECIAL EXCEPTIONS IN THE I-1 AND I-2 DISTRICTS

- 83.01. Any public building erected and used by a department of a municipal, county, state, or federal government.
- 83.02. Areas for the dumping or disposal of trash or garbage by the land fill process.
- 83.03. Automobile sales, servicing, painting, upholstering, tire retreading or recapping, battery manufacturing and automobile and gasoline service station.
- 83.04. Automobile wrecking and salvage operations if located not less than 400 feet from any R-District; provided such operation is conducted within an area enclosed on all sides with a tight painted fence not less than eight feet high and provided further that such operation shall not be visible from the nearest street or road.
- 83.05. Broadcasting towers, transmitting and relay stations.
- 83.06. Chemical Manufacture.
- 83.07. Commercial amusement or recreational development for temporary or seasonal periods.
- 83.08. Extraction of gravel, sand, clay, dirt, topsoil, coal, oil, and other natural resources.

83.07.1  
Ethanol and  
Similar  
Bio Processing  
Plants

- 83.09. Hospitals, clinics and institutions, except institutions for criminals and those for persons that are insane or have contagious diseases; provided, however, that such buildings may occupy not over 50% of the total area of the lot or tract and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all minimum yard lines heretofore established an additional distance of not less than two feet for each foot of building height. Specific requirements for these buildings in any district regulations shall take precedence over the above regulations.
- 83.10. Killing, dressing, storing and/or packaging of poultry, rabbits, swine, sheep and cattle.
- 83.11. Parking lots on land not more than 300 feet from the boundary of any commercial, business, or industrial district under such conditions as will protect the character of surrounding property.
- 83.12. Storage and distribution of any merchandise or material other than: explosives or inflammables, garbage, offal or dead animals, paper, exclusive of rolled newsprint and other similar rerolled paper, petroleum and petroleum by-products in excess of an amount necessary for use on the premises, and rags, metal, or junk.
- 83.13. Storage of explosives or inflammables and/or the distribution of Anhydrous Ammonia not in excess of that determined by the Board of Appeals to be not hazardous.
- 83.14. Transfer stations and recycling centers for temporary storage, sorting and transfer of trash, garbage, junk and offal, but not to include dead animals or hazardous materials, hazardous chemicals and hazardous waste, and provided the storage, sorting and transfer of such items is conducted in a totally enclosed structure or building where such items are obscured from the public view.
- 83.15. Any land use or application not otherwise specifically provided for elsewhere in the Zoning ordinance which is similar in nature to the uses listed in the Zoning Ordinance for I-1 and I-2 Districts. Such use shall include any land use or application which has the potential for creating smoke, noise or offensive odors which are expected to emanate beyond confines of the property on which the use is to occur. The Board of Zoning Appeals shall determine whether or not a particular land use is industrial in nature if not specifically listed in the zoning ordinance.

Section 84. **REQUIRED LOT AREA AND LOT WIDTH IN INDUSTRIAL DISTRICTS**

Each use to be established in the I-1 or the I-2 District shall provide a minimum lot area of 5,000 square feet and a minimum lot width of 50 feet.

Section 85. **BUILDING HEIGHT REGULATION IN INDUSTRIAL DISTRICTS**

No building in the I-1 or I-2 Districts shall exceed 50 feet in height unless the front, side, and rear yards required in Section 85 are increased five feet for every five feet or fraction thereof of additional height over 50 feet.

Section 86. **YARDS REQUIRED IN INDUSTRIAL DISTRICTS**

All structures to be constructed, altered, or moved, in the I-1 and I-2 Districts shall provide yards of the following minimum depths.

86.01. Front Yard - 100 feet.

86.02. Unless otherwise stated - Side Yard - 35 feet except where a side yard abuts a residential district in which case a side yard of 75 feet shall be provided.

86.03. Rear Yard - 25 feet.

86.04. Parking lots may extend 60 feet into a front yard and 20 feet into the side and rear yards providing the parking lot is adequately screened with plant material from adjoining property or streets.

Section 87. **OFF-STREET PARKING AND LOADING**

There shall be provided in the I-1 and I-2 Districts adequate off-street parking in accordance with the schedule in Article II, and off-street loading in accordance with the off-street loading portion of Article VII, Section 77.

## ARTICLE IX

### PLANNED UNIT DEVELOPMENT PLAN

**Purpose:** the purpose of this section is to provide regulation for Planned Unit Developments (PUD), which are of a significantly different character than traditional land developments. Specific standards and exceptions have been developed to govern the actions and recommendations of the Plan Commission regarding such developments.

#### Section 91. GENERAL

It shall be the policy of Warren County to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve:

- 91.01. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements.
- 91.02. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services.
- 91.03. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns.
- 91.04. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
- 91.05. A development pattern in harmony with land use density, transportation facilities, and community facilities objectives of the comprehensive plan.

#### Section 92. PLANNED UNIT DEVELOPMENT RESTRICTIONS

Whenever there is a conflict or difference between the provisions of this section and those of the other sections of this ordinance, the provisions of this section shall prevail. Subjects not covered by this section shall be governed by the respective provisions found elsewhere in this ordinance.

A planned unit development shall conform to the following:

- 92.01. The number of dwelling units erected shall not exceed the number permitted by the regulations of the district in which it is located unless a density increase is permitted.
- 92.02. All uses that may be allowed within the land use district may be permitted within a PUD.

- 92.03. Up to 10% of the gross land area in a residential district may be directed to commercial, industrial, public and quasi-public uses that are not allowed within the land use district, provided there is a favorable finding by the Plan Commission:
- 92.031. That the uses permitted by such exceptions are necessary or desirable and are appropriate with respect to the primary purpose of residential development.
- 92.032. That the uses are not of such nature or so located as to exercise a detrimental influence on the development nor on the surrounding neighborhood.
- 92.033. That the uses are intended to serve principally the residents of the PUD.
- 92.034. That the uses are planned as an integral part of the PUD.
- 92.035. That the uses be located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard.
- 92.04. A minimum parcel area of ten acres is required for PUD.
- 92.05. There shall be at least 10% of the land area in the development provided for park and recreational purposes which shall not be covered by buildings, parking lots, driveways, or streets. No more than 50% of this useable open space shall be covered by water.
- 92.06. If any open space or recreational facility is to be used solely by the residents of the project, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.
- 92.07. All utilities, including communication and electric systems, shall be placed underground within the limits of the development. Appurtenances to these systems which can be effectively screened may be excepted.
- 92.08. The design and designation of private streets shall be subject to the approval of the Plan Commission and the Engineer.
- 92.09. The development plan shall include a common water supply and distribution system, either public or private, which shall meet the approval of the Plan Commission and County Engineer and shall be built at no expense to the local government.
- 92.10. The development plan shall include a sanitary sewer system connected to a public sewer system, if available within a reasonable distance from the project, or it shall provide for

a central collection and treatment system in accordance with the requirements of the Plan Commission and County Engineer.

- 92.11. The plan of the project may provide for the integral and harmonious design of buildings in commercial and industrial areas, and the parcels shall be developed in parklike surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas, and other such features from the adjoining and surrounding residential areas.
- 92.12. No building is permitted to exceed the height limit of the district in which it is located by more than 10%.
- 92.13. All previously noted parking standards shall remain in effect for all PUD's.
- 92.14. Non-residential areas must be developed in equal ratio to residential areas. This is required to avoid the total development of residential structures without the accompanying services.

#### Section 93. INCREASED RESIDENTIAL DENSITY THROUGH DESIGN INCENTIVES

To provide for an incentive for quality PUD, the Plan Commission may authorize an increased residential density of up to 20% of the allowable number of dwelling units. In allowing for density increase, the Commission shall be guided by the following criteria:

- 93.01. If open space provided exceeds 20% of land area, additional 5% increase in residential density allowed.
- 93.02. If land donated or dedicated for public purposes such public buildings, schools, and parks, additional 5% increase in residential development allowed.
- 93.03. If there is significant landscaping, screening, and site planning in development, additional 5% increase in residential development allowed.
- 93.04. If community facilities and amenities as trails, lakes, plaza fountains, tennis courts, etc. are provided in PUD, additional 5% increase in residential development allowed.

#### Section 94. PROCEDURE FOR APPROVAL OF PUD

- 94.01. Submit a preliminary site plan in triplicate to the Plan Commission in sketch form which includes, but is not restricted to, the following information:
  - 94.011. Location and boundaries of tract to be developed, showing the general layout of streets and the existing and proposed zoning of all areas.



- 94.012. Tentative placement of all improvements on the site, showing how recommendations of this ordinance and any requirements of the Board of Zoning Appeals and/or Plan Commission have been utilized.
- 94.013. General proposals on densities on both residential and other uses. (To allow for sufficient flexibility, the Commission may allow minor shifts in use locations and densities, provided, however, that the general overall plan is adhered to.)
- 94.014. Proposed schedule for the development of the site.
- 94.02. If the Plan Commission after public hearing approves the preliminary development plan, the plan, together with the recommendations of the Plan Commission, shall be embodied in a report to the Board of Zoning Appeals and the County Commissioners stating the reasons for the approval of the plan and application, and specific evidence and facts showing that the proposed PUD plan has considered and made provision for the following essential elements:
- 94.021. That the appropriate use of property adjacent to the area included in the plan will be fully safeguarded.
- 94.022. That the plan is consistent with the intent of this ordinance to promote public health, safety, and the general welfare.
- 94.023. That the tract, collectively, meets the minimum space requirements for the specific district(s).
- 94.03. The Plan Commission shall give notice of acceptance or rejection of the proposal within 60 days. Reasons for rejection, along with suggestions for revisions, shall be given. The developer may resubmit plans after the suggested corrections or additions are made.
- 94.04. The developer shall submit a final site plan.
- 94.05. The Plan Commission shall give notice of acceptance or rejection of the final proposal within 60 days. Reasons for rejection, along with suggestions for revisions, shall be given along with any rejection by the Commission. Developer may resubmit plans after corrections. After final approval, developer may proceed with construction.

ARTICLE X

SPECIAL EXCEPTIONS

- Section 101. The Board of Zoning Appeals, after a public hearing, shall grant an application for a special exception provided the applicant has submitted to the Board a written application for a special exception setting forth the name, address and phone of the applicant (and owner, if other than the applicant), a legal description of the property, and a description of the special exception applied for.
- Section 102. Prior to approval of any application for a special exception, the Board of Zoning Appeals must first make the following findings of fact based upon evidence presented to the Commission at the hearing:
- 102.1. The special exception is a listed special exception within the Ordinance for the particular zoning classification of the subject real estate;
- 102.2. Approval of the special exception will not have a substantial adverse impact upon the character of the neighborhood, traffic conditions, public utilities and such other matters as relate to the public health, public safety and general welfare;
- 102.3. Approval of the special exception will not otherwise frustrate the purposes of the Ordinance or the Comprehensive Plan adopted by the County;
- Section 103. A special exception is for a specific use and does not constitute a special exception for any other use.
- Section 104. In granting a special exception, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this ordinance. Such conditions may include but shall not be limited to requiring the applicant to enter into a written commitment reciting the description of the real estate and the nature of the restriction or commitment. The written commitment may be recorded in the office of the Recorder of Warren County, IN and the recording fee shall be paid by the applicant.
- Section 105. A violation of a written commitment entered into by the applicant shall be deemed as a violation of the Ordinance and shall be subject to the same fines, penalties and enforcement measures as any other violation of the Ordinance.

ARTICLE XI

MOBILE HOME GUIDELINES

Section 111. The provision of mobile homes shall be treated as a special exception in each of the three residential districts, as well as the Agricultural District. As such, the following procedures will be followed:

- 111.01. Within 30 days after application for the special permit, a notice of public hearing shall be published in a newspaper having county-wide circulation stating time and location of a public hearing and the nature of the request for which the hearing is held.
- 111.02. Concurrent with the newspaper publication, all adjacent landowners will be notified by certified mail as to the mobile home location request.
- 111.03. At least five days prior to the public hearing, all letters of objection will be required to be filed in the office of the Zoning Administrator.
- 111.04. A special exception to locate a mobile home, regardless of age or size, is a permit for that specific mobile home approved and does not permit the location of any other mobile home.

Section 112. All mobile homes will be governed by the following construction control standards.

- 112.01. All mobile homes shall require a special exception. No mobile home which is over ten years old may be moved into Warren County for residential purposes without also obtaining a variance from the Board of Zoning Appeals. Proof of age must be established with the title or certificate of origin.
- 112.02. All mobile homes shall be mounted on a suitable foundation, such as a concrete pad or runner pad.
- 112.03. All mobile homes shall be securely anchored to the permanent foundation.
- 112.04. All mobile homes shall, within 60 days of its placement, have skirting around the entire unit. Such skirting shall reach from the ground to the bottom of the mobile home and shall be placed on all sides of the unit.
- 112.05. Each mobile home shall have provisions for the covered storage of personal goods and articles stored outside the unit.

Section 113. All mobile homes will additionally be required to meet the guidelines of the particular zoning district in which they are located. This shall not include, however, the guidelines related to gross floor area.

Instead , the gross floor area for all mobile homes shall be a minimum of 720 sq. ft.

Section 114. The provision of mobile homes in the four (4) Incorporated Towns of Williamsport, West Lebanon, Pine Village and State Line, in the County of Warren, shall be governed by the following regulations as previously approved by their respective Town Boards.

- 114.01. That no additional mobile homes be placed in the Towns of Williamsport, West Lebanon, Pine Village or State Line other than in a mobile home park as approved by the State of Indiana by Acts 195, Chapter 321, as amended.
- 114.02. That any existing mobile homes may be replaced within 6 months by mobile homes of equivalent or better size and quality.
- 114.03. That existing mobile homes of dilapidated condition may be razed and replaced therewith a mobile home of good condition and quality, provided that the existing mobile home exists at the time of application for the mobile home.
- 114.04. That mobile homes be located only on improved streets with required sanitary facilities and city water.

ARTICLE XII

SETBACK REGULATIONS

Section 121. Except within the C-1 Commercial Districts, no building, structure, concrete or masonry wall, shall be erected or structurally altered so that any part thereof is nearer than 50 feet to the right-of-way of any federal highway route, nearer than 75 feet to the centerline of any state route, or nearer than 60 feet to centerline of any other public road. If there is conflict between the setback regulations and the yard regulations, the more restrictive regulations shall govern.

Except within the C-1 Commercial Districts, no obstructions of any kind to visibility shall be erected at the street intersections within a triangle formed by extending lines 75 feet from the centerline intersection in each direction.

121.01. Locations for advertising signs and billboards must be approved for line of sight safety by the County Highway Department. If compliance with the setback regulations is not originally required, a waiver shall be given stating that if the necessity for compliance arises, the company constructing the sign will move it without expense to the county.

121.02. This regulation shall not be interpreted to reduce the buildable width or depth of a lot in a single ownership subdivided and recorded by law at the time of the passage of this ordinance to less than 35 feet. In locations where the building line restrictions set forth herein will create an undue hardship or in locations wherein the majority or existing buildings are not in conformity with these restrictions, appeals may be made for a variation in which the setback regulation may be modified.

## ARTICLE XIII

### BOARD OF ZONING APPEALS

#### Section 131. CREATION, MEMBERSHIP, AND OFFICERS

A Board of Zoning Appeals is hereby authorized to be established. Such Zoning Board shall consist of five (5) members appointed as follows: one citizen member appointed by the Area Plan Commission from its membership; one citizen member who is not a member of the Area Plan Commission appointed by the Executive of the Town of Williamsport; one citizen member who is a member of the Area Plan Commission and one citizen member who is not a member of the Area Plan Commission appointed by the County Commissioners; and, one citizen member who is not a member of the Area Plan Commission appointed by the executive of the second largest participating town.

In the event a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. Each appointing authority may designate an alternate member to participate in any hearing where a regular member has been disqualified because of a conflict of interest. A conflict of interest occurs whenever a member has a direct or indirect financial interest in the outcome of a matter before the Board.

Terms shall expire on the first day of January of the first, second, or third year, respectively, following appointment. Thereafter, as terms expire, each new appointment shall be for a term of four years. At the first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice-chairman. All members of the Board of Appeals shall serve without compensation.

#### Section 132. GENERAL PROCEDURE

A majority of the entire membership of the Board of Zoning Appeals shall constitute a quorum. No action of the board is official, however, unless concurred in by a majority of the entire membership of the board. The Board of Zoning Appeals may appoint a secretary and such employees as are necessary for the discharge of its duties and within its budget fix their compensation.

The Plan Commission shall provide suitable offices for the holding of Board of Zoning Appeals' hearings and the preservation of records, documents, and accounts. The county council shall appropriate such funds to the Area Plan Commission as are necessary to carry out the duties of the Board of Zoning Appeals. The members of the Board of Zoning Appeals shall serve without salary or reimbursement for travel expenses.

The Board of Zoning Appeals shall adopt general rules governing the filing of appeals, the publication of notices, the application for variances and exceptions, and the conduct of hearings. The Board shall keep minutes of its proceedings, investigations, and other official actions and in all cases heard by it, prepare findings and record the

vote on all actions taken. All minutes and records shall be filed in the office of the Board and shall be public records.

Section 133. **APPEALS: HOW TAKEN**

- 133.01. Any person aggrieved by any officer, department, board, or bureau of the county may appeal to the Board of Zoning Appeals to review any order, requirement, decision, or determination made by the Zoning Administrator.
- 133.02. Such appeal shall be made by filing with the Zoning Administrator and the Board of Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals papers constituting the record upon which the action appealed from was taken.
- 133.03. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a Circuit or Superior Court of the county in which the premises affected are situated, on notice to the officer or board from whom the appeal is taken, and the owner of the premises affected, and on due cause shown.
- 133.04. The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal. Public notice shall be given of the hearing and due notice shall be given additionally to the affected parties as determined by the Board. The Board of Zoning Appeals shall require the party making the appeal to assume the cost of public notice and due notice to interested parties. Upon the hearing, any party may appear in person, by agent, or by attorney. The executive director or his representative may appear before the Board in any appeal, variance, or exception proceeding and present facts and arguments relating to the matter at issue.

Section 134. **POWERS OF THE BOARD OF APPEALS**

The Board of Appeals shall have the following powers:

134.01. **Interpretation and Administrative Review.**

To hear and decide appeals where it is alleged that there is an error in any action by the Zoning Administrator or other administrative official in carrying out the provisions of this ordinance; and for the interpretation of the Zoning Maps.

134.02. **Variances.** To hear and decide on applications for variances in cases where there are practical difficulties or

particular hardship in the way of carrying out the provisions of this ordinance other than use. Nothing contained herein shall be construed to give the Board of Zoning Appeals the power to grant a use variance from a zoning classification or district. Any such use variance must be sought through a re-zoning application unless the use is a listed special exception within the zoning classification.

A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Administrator and the Board of Zoning Appeals containing:

- 134.021. Name, address, and phone number of applicants.
- 134.022. Legal description of property.
- 134.023. Description of nature of variance requested, including a site diagram.
- 134.024. A narrative statement demonstrating that the requested variance conforms to the following standards:
  - a. That special conditions and circumstances exist which are unique to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - c. That granting the variance will not be injurious to the public health, safety, morals and general welfare of the community and will not substantially adversely affect the use and value of the adjacent properties;
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings.
  - e. In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this ordinance, including but not limited to requiring the applicant to enter into a written commitment reciting the legal description and the nature of the restriction or commitment, which written commitment may be recorded in the Office of the Recorder of Warren County, IN. The recording fee for any written commitment shall be paid by the applicant. Violation of any of these conditions or safeguards shall be deemed as violation of this ordinance.



A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by Subsection 134.024 of this section have been met by the applicant.

All final administrative decisions of the Board of Appeals shall be subject to judicial review as provided by Statute.

ARTICLE XIV

AREA PLAN COMMISSION

Section 141. PROCEEDINGS OF THE AREA PLAN COMMISSION

The Plan Commission shall continue to operate under its existing rules of operation. Meetings shall be held monthly, and special meetings may be called by at least two members of the Commission upon written request to the Secretary. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be of public record and be immediately filed in the office of the Commission.

Section 142. DUTIES OF THE AREA PLAN COMMISSION

- 142.01. Initiate proposed amendments to this ordinance.
- 142.02. Review all proposed amendments to this ordinance and make recommendations to the Board of County Commissioners or appropriate legislative bodies.
- 142.03. Review all planned unit developments and grant primary and secondary approval for the same.
- 142.04. Review all proposed subdivision developments and make recommendations to the Board of County Commissioners or appropriate legislative bodies.
- 142.05. Review all rezoning requests and make recommendations to the Board of County Commissioners or appropriate legislative bodies.
- 142.06. Initiate legal action to enforce the provisions of the Zoning Ordinance.

Section 143. MEMBERSHIP OF THE AREA PLAN COMMISSION

The Area Plan Commission shall consist of seven (7) members as follows: the County Superintendent of Schools; the County Agricultural Agent; the County Surveyor; one citizen member who is a resident of the unincorporated area of the County, appointed by the County Commissioners; one citizen member who is a resident of the unincorporated area of the County, appointed by the County Council; one citizen member appointed by the Town Board of Williamsport; and, one member appointed by the Advisory Council on Town Affairs from its membership.

In the event a vacancy occurs among the members of the Area Plan Commission, the appointing authority shall appoint a member for the

unexpired term of the vacating member. A member of the Area Plan Commission may not participate in any decision in which the member has a direct or indirect financial interest. When an initial term of office of a citizen member expires, each new appointment shall serve a term of four years. No citizen member may hold other executive or appointive office.

Section 144. **GENERAL PROCEDURE OF THE AREA PLAN COMMISSION**

A majority of the entire membership of the Area Plan Commission shall constitute a quorum. No action of the Area Plan Commission is official unless it is authorized by a majority of the entire membership of the Commission at a regular or special meeting. At the first regular meeting of each year, the Commission shall elect a president and a vice-president from its membership. The vice-president shall act as president during any absence of the regular president.

Section 145. **ADVISORY COUNCIL ON TOWN AFFAIRS**

There is hereby created the Advisory Council on Town Affairs. The legislative bodies of the Towns of Pine Village, State Line and West Lebanon shall each select one of its members to serve on the Advisory Council. Meetings shall occur in the Town Hall of the largest of those towns. At the first meeting of the Advisory Council, a chairman shall be elected from its membership. The Advisory Council shall also elect a representative to serve on the Area Plan Commission.

The Advisory Council shall adopt its own rules and regulations for meetings. The purpose of the Advisory Council is to provide a forum for the various Town Boards to discuss their concerns and to provide a voice on the Area Plan Commission for those Towns not otherwise represented on the Commission.

ARTICLE XV

PUBLIC HEARING BY THE BOARD OF ZONING APPEALS

Section 151. INITIATION OF PUBLIC HEARING

The Board of Zoning Appeals shall hold a public hearing within 45 days after the receipt of an application for an appeal from the Building Commissioner or a variance from an applicant. However, the public hearing shall not be held sooner than 15 days after its receipt.

Section 152. NOTICE OF PUBLIC HEARING IN NEWSPAPER

Before holding the public hearing required in Section 151, notice of such hearing shall be given in the newspaper of general circulation of the county at least 15 days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.

Section 153. NOTICE TO PARTIES IN INTEREST

Before holding the public hearing required in Section 151, written notice of such hearing shall be mailed by the Applicant, by certified mail, at least ten days before the date of the hearing to each person who owns an interest in real estate, abutting the property involved in such petition including owners of real estate at corners, across streets, alleys or easements, as well as others who may share a common boundary; all other persons who in the opinion of the applicant have an interest in the outcome of the petition; and any owner of real estate who did not join as an original petitioner or who did not file a waiver of notice of hearing prior to the date of public hearing.

Section 154. ACTION BY BOARD OF ZONING APPEALS

Within 30 days after the public hearing required in Section 151, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 134.024(e), or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reason set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure.

ARTICLE XVI

PERMITS, FEES, AND PENALTIES

Section 161. PERMITS PROCEDURE

- 161.01. Applications for permits shall be filed in written form with the Zoning Administrator and shall state the legal description of the property, the name and address of the owner, the applicant, the contractor, estimated costs, and shall describe the uses to be established or expanded, and shall give such information as may be required by this ordinance for its proper enforcement.
- 161.02. All applications shall be accompanied by a dimensioned drawing of the building plot showing the location of buildings and structures, lot area to be used, auto parking area, and water supply and sewage disposal facilities.
- 161.03. Concrete, stone, wood, masonry, or other fences in a required front yard, exceeding 48 inches in height, and which cannot be viewed through, shall require permits. The Zoning Administrator shall require permits for any fences or other structures within the sight triangle established by the center of intersection and two points 75 feet from it, each point being on the centerline of an intersection road, and shall deny permits for those which could obstruct vision in said sight triangle.
- 161.04. Each permit issued for a main building, accessory structures or buildings, shall be posted in plain sight on the premises for which it is issued, until completion of construction or occupancy.
- 161.05. Any work or change in use authorized by permit but not substantially started within 90 days shall require a new permit. A permit shall be revoked by the Zoning Administrator when he shall find from personal inspection or from competent evidence that the rules or regulations under which it has been issued are being violated.
- 161.06. All applications and a copy of all permits issued shall be systematically filed and kept by the Zoning Administrator in his office for ready reference.
- 161.07. To partially defray the costs of administering the ordinance, a fee shall be charged for each permit and collected by the County Treasurer, who shall account for the same to the County of Warren. Such fees are as follows:
- 161.071. A fee of Ten Dollars (\$10.00) shall be paid and collected upon the first One Thousand Dollars

(\$1,000.00) expended for proposed construction, reconstruction, or structural alteration.

- 161.072. An additional fee of Two Dollars (\$2.00) per thousand dollars or fraction thereof shall be paid and collected in excess of One Thousand Dollars (\$1,000.00) expended for proposed construction, reconstruction, or structural alteration.
- 161.08. No permit shall be required for:
- 161.081. Routine maintenance or repair of buildings, structures, or equipment, such as repainting or re-roofing a building.
- 161.082. Construction of a service connection to a municipally owned and operated utility.
- 161.09. Failure to obtain a building permit shall be a violation of this ordinance and will be punishable under the provisions of Section 162 of this ordinance.
- 161.10. Building permits of occupancy issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use or arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance and be punishable under the provisions of Section 162 of this ordinance.
- 161.11. Any person may notify the Zoning Office whenever an alleged violation of this ordinance occurs. The complaintant shall state fully and accurately the causes and basis thereof, and be filed with and recorded by the Zoning Administrator. The Zoning Administrator shall investigate within two (2) working days and take action upon such complaint as provided in this ordinance.

**Section 162. PENALTIES FOR VIOLATION OF ORDINANCE**

Any structure erected, raised, or converted, or premises used, in violation of this ordinance is a common nuisance; and each person in possession and the owner of the structure, land, or premises may be held liable. Each day of a continued violation shall constitute a separate offense.

Penalty - A person who violates this ordinance commits a Class C infraction, punishable by a fine not to exceed Five Hundred Dollars (\$500.00) per day for each such violation.

Section 163. SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Area Plan Commission shall, by ordinance or resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, amendments, appeals, variances, conditional use permits, plan approvals, and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, legal, advertising, postage, and other expenses. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

All applications for variances, planned unit developments, special use permits, plan approval, and other matters relative to the administration and enforcement of this ordinance shall require a Twenty Dollar (\$20.00) filing fee; provided, however, a Twenty-Five Dollar (\$25.00) filing fee shall be required for all applications for amendment of the zoning ordinance.

No petition shall be considered by the Plan Commission or Board of Zoning Appeals without the fees having been paid in advance. The fees shall include the costs for all mailing and legal advertising costs. No fees for special permits shall be refunded.

Refiling of applications after being denied by the Area Plan Commission and/or Board of Zoning Appeals shall be accepted only after a ninety (90) days waiting period and shall include all applicable fees and charges.

Section 164. An application may be dismissed if an applicant fails to appear without prior notification.

ARTICLE XVII

ADMINISTRATION

Section 171. ENFORCEMENT OF THE ORDINANCE

It shall be the duty of the Zoning Administrator, designated by the County Commissioners, to enforce this ordinance. He shall receive applications required by this ordinance, issue permits, and furnish the prescribed certificates. He shall examine areas for which permits have been issued, and shall make necessary inspections to see that the provisions of this ordinance are being upheld. He may be provided with the assistance of the County Sheriff and local Town Marshalls in enforcing orders and the County Attorney in prosecuting violations.

For the purpose of this ordinance, the Zoning Administrator shall have the following duties:

- 171.01. Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation.
- 171.02. Order discontinuance of illegal uses of land, buildings, or structures.
- 171.03. Order removal of illegal buildings or structures or illegal additions or structural alterations.
- 171.04. Order discontinuance of any illegal work being done.
- 171.05. Take any other action authorized by this ordinance to ensure compliance with or to prevent violation(s) of this ordinance. This may include the issuance of and action on building and certificate of occupancy permits and such similar administration duties as are permissible under the law.



ARTICLE XVIII

BUILDINGS UNDER CONSTRUCTION

Section 181. To avoid undue hardship, nothing in this ordinance shall be deemed to require change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, providing that work shall be diligently carried on until completion of the building involved.

ARTICLE XIX

AMENDMENTS

The Board of Commissioners and/or the participating legislative bodies may amend, supplement, change, modify, or repeal the regulations, restrictions, and boundaries as herein contained.

Section 191. PROCEDURE

Amendments to the zoning ordinance may be proposed by:

- (1) A member of a participating legislative body, to that body;
- (2) An Area Plan Commission to a participating legislative body in the county; or
- (3) By petition of the owners of property of 50% or more of the area involved in the petition, either to the body having legislative authority over the land, or to the Area Plan Commission.

Any proposed ordinance for the amendment, supplement, change, or repeal of the zoning ordinance shall be referred to the Commission for consideration and report before any final action is taken by a legislative body.

Prior to the adoption of a zoning ordinance amendment, the Commission shall give ten days notice by publication in a newspaper of general circulation within the county and hold a public hearing.

Upon the adoption of the Zoning Ordinance by the Commission, and amendments thereto, the secretary shall certify a copy of the ordinance, maps, and reports to each participating legislative body, and recommend the adoption of that portion of the proposal which is within the authority of the legislative body to adopt.

ARTICLE XX

LEGAL STATUS PROVISIONS

Section 201. INTERPRETATION IN CASE OF CONFLICT  
WITH OTHER ORDINANCES AND PRIVATE DEEDS

In the interpretation and application of this ordinance, the provisions contained herein shall be held to be minimum requirements, adopted for the promotion of public health, morals, safety, and general welfare.

Any existing ordinance or part thereof which conflicts with the whole or any part of this ordinance is hereby repealed.

In the case of any direct conflict between procedures under this ordinance and the whole or part of any existing or future state statute, the state statute shall apply.

In the case of any conflict between this ordinance, or part thereof, and the whole or part of any existing or future private covenants or deeds, the most restrictive shall apply.

Section 202. VALIDITY

If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of the ordinance which is not in itself invalid or unconstitutional.

Section 203. EFFECTIVE DATE

This ordinance shall be in force and effect from and after the passage, approval, and publication as required by law.

APPROVED BY THE COUNTY COMMISSION OF THE COUNTY OF WARREN, INDIANA - APRIL 6, 1998

APPROVED BY THE TOWN COUNCILS OF THE TOWNS OF:

WILLIAMSPORT	PINE VILLAGE	WEST LEBANON	STATE LINE
April 4, 1998	April 7, 1998	April 13, 1998	May 12, 1998

**ORDINANCE NO. 2020-1116 <sup>b</sup>**  
**AN ORDINANCE REGULATING SITING OF**  
**COMMERCIAL SOLAR ENERGY CONVERSION SYSTEMS**  
**IN WARREN COUNTY, INDIANA**

WHEREAS, the generation of electricity from solar resources must by practicality be located where sufficient solar resources exist;

WHEREAS, solar energy projects may be undertaken in differing sizes ranging from large scale projects intending to deliver wholesale electricity to the grid (commercial), to smaller installations on one or more contiguous parcels and intended to deliver electricity for use onsite (non-commercial), to installations on a single parcel designed to generate supplemental electricity, for use or credit, for the parcel on which it is sited (private);

WHEREAS, the County desires to regulate the permitting and approval of commercial solar energy projects;

WHEREAS, development of solar energy projects may result in substantial economic investment in the county to the benefit the County and its residents through lease payments, tax payments, and temporary and permanent employment opportunities;

WHEREAS, construction of commercial scale solar energy projects involves the use of heavy equipment and the transport of heavy loads that have the potential of damaging public and private infrastructure of the County, including roads, bridges, and drainage structures and for disruption on public roads;

WHEREAS, the failure to complete a commercial solar project after the commencement of construction, the failure to continue in operation, and/or the failure to remove the solar energy facility at the end of its useful life create significant risks of damage to the value of the property of adjacent landowners, the environment, and the safety and security of persons in the County;

WHEREAS, the adoption of an ordinance regulating the location, construction, and operation of commercial solar projects is necessary and appropriate to achieve and secure the benefits of these projects and to avoid and/or minimize the risks, dangers, and inconvenience to health, safety and general welfare of the County;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Warren County that the following standards are required for the approval and permitting of a commercial solar energy project in Warren County, Indiana.

I. DEFINITIONS

- A. "Commercial Solar Energy Conversion System" ("CSECS") means all necessary devices that together convert solar energy into electricity and deliver that electricity to a utility's transmission lines, including but not limited to solar panels, arrays of multiple solar panels on ground-mounted

racks or poles, electrical components, and electrical cabling from the CSECS Array to the Substation(s) and other required facilities and equipment, as related to the CSECS project.

- B. "Applicant" means the entity or person who submits to the County, pursuant to Section IV of this Ordinance, an application for the siting of any CSECS or Substation or thereafter operates or owns a CSECS.
- C. "Financial Assurance" means reasonable assurance from a credit-worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.
- D. "Operator" means the entity responsible for the day-to-day operation and maintenance of the CSECS, including any third party subcontractors.
- E. "Owner" means the entity or entities with an equity interest in the CSECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the CSECS (unless the property owner has an equity interest in the CSECS); or (ii) any person holding a security interest in the CSECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the CSECS(s) within one year of such event.
- F. "CSECS Project" means the collection of CSECS panels and arrays and Substations as specified in the siting approval application pursuant to Section IV of this Ordinance.

## II. APPLICABILITY

This Ordinance governs the siting of CSECSs and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of CSECSs with an aggregate generating capacity of 3MW or less who locate the CSECS(s) on their own property must obtain a variance to this Ordinance. CSECS may be sited and operated in all Warren County townships.

## III. PROHIBITION

No entity shall construct or operate a commercial solar energy conversion system (CSECS) without having fully complied with the provisions of this Ordinance.

## IV. APPLICATION REQUIREMENTS

Prior to the construction of a CSECS, the Applicant shall obtain approval for the following: (1) a Conditional Use Permit, also known as a Special Exception Permit, from the Warren County Board of Zoning Appeals ("BZA") to permit a CSECS in any zone

other than R-1, R-2, R-3 or R-4 (Residential) zoned land, as described below and in § 101 of the Warren County Zoning Code (the “Code”), (2) a Request for Variance for any variances anticipated on the CSECS Project, as described below and in § 134.02 of the Code, and (3) an Improvement Location Permit from the Warren County Building Commissioner, as described below and in § 161 of the Code.

A. The Application for a Conditional Use Permit

1. The application shall be filed with the Building Commissioner’s Office for the BZA and include the following items:

- a. A CSECS Project summary, including, to the extent available: (1) a general description of the project, including its approximate name plate; generating capacity; the potential equipment manufacturer(s), type(s) of CSECS(s), number of CSECS(s), the maximum height and width of the CSECS panel(s); the general location of the project; and (2) a description of the Applicant, Owner, and Operator, including their respective business structures;
- b. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with CSECS on their properties, if known;
- c. Written consent from the proposed property owners where CSECS may be located;
- d. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals;
- e. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual array site not greater than 1 inch equals 20 feet): the proposed location of the solar energy facility (including planned locations of each CSECS Array (if possible)); Substations; electrical cabling; and ancillary equipment. In addition, the site plan shall show: Primary Structures within one quarter of one mile of any CSECS; property lines, including identification of adjoining properties; setback lines; public roads; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines;
- f. Location of all existing underground utility lines associated with the CSECS site;
- g. Assurance that no portion of the CSECS will contain or be used to display advertisements;
- h. Certification that layout, design and installation conform to and comply with all applicable industry standards;
- i. A Drainage Plan approved by the Drainage Board;
- j. A Transportation Plan approved by the Warren County Commissioners and the Warren County Highway Superintendent; and
- k. An Economic Development Agreement approved by the Warren County Commissioners.

2. In determining whether to approve the Application for Conditional Use, the BZA shall determine whether the Application satisfies each of the three (3) criteria set forth in § 102 of the Code, and make written findings thereof.

3. The Conditional Use Permit granted by the BZA for a CSECS Project shall be valid for a period of one (1) year, after which the Conditional Use shall terminate and be of no further force or effect if construction in earnest of the approved CSECS has not commenced. The Applicant shall be granted a one (1) year extension to two (2) years from the date of the BZA approval if the Applicant presents its request for an extension to the BZA and provides a report to the BZA which shows the progress made on the CSECS Project. Thereafter, an additional extension shall be at the BZA's discretion.

4. The fee for the Conditional Use shall be payable at the time of submission of the Application. The fee shall be \$20,000.00, of which 50% shall be applied toward fees for Improvement Location Permits. In the event that the Improvement Location Permit fees are less than \$10,000.00, the County shall retain the unused Improvement Location Permit fees. The Application fee shall be used to defray the costs associated with the Application for a Conditional Use, including professional fees and expenses.

B. The Application for Variance

1. Contemporaneously with the Application for a Conditional Use, the Applicant shall submit an Application for Variance for any variances sought as part of the CSECS Project. A single Application for Variance may be submitted for all variances sought.

2. In determining whether to approve the Application for Variance, the BZA shall determine whether the Application satisfies each of the five (5) criteria set forth in § 134.024 of the Code, and make written findings thereof.

3. The fee for any variances is included in the Application fee.

C. The Application for Improvement Location Permit

1. The Applicant shall apply to the Zoning Administrator for an Improvement Location Permit, as described in § 161.01 of the Code. In addition to the information required on the Improvement Location Permit Application, the Applicant shall provide the following information to the Zoning Administrator prior to the issuance of an Improvement Location Permit:

a. Location of all underground utility lines associated with the CSECS site.

b. Dimensional representation of the structural components of the array construction including the base.

c. Schematic of electrical systems associated with the CSECS including all existing and proposed electrical connections.

d. Manufacturer's specifications and installation and operation instructions or specific CSECS design information.

e. All arrays shall be new equipment commercially available. Used, experimental or prototype equipment still in testing shall be approved by the BZA as per the normal special exception process.

f. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Warren County Building Commissioner.

g. A revegetation plan for restoring areas temporarily disturbed during construction.

h. Any other item reasonably requested by the BZA.

i. An erosion control plan must be developed in consultation with the Warren County Soil and Water Conservation District.

2. Each CSECS array shall require an Improvement Location Permit. The fee for each Improvement Location Permit shall be \$2,500.00 per megawatt, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Improvement Location Permits.

## V. DESIGN AND INSTALLATION

### A. Minimum Lot Size

Minimum property size for any CSECS shall be five (5) acres situated in either a single parcel or contiguous parcels.

### B. Height

The height of any CSECS ground mounted solar equipment is limited to twenty-five (25) feet, as measured from the highest natural grade below each solar panel.

### C. Visibility

The planting of evergreens or use of opaque fencing along the perimeter of the CSECS, including along road frontage, shall be required, as determined by the Board of Zoning Appeals.

### D. Security

#### 1. Fencing

a. All CSECS's must provide security fencing around the CSECS Compound.



- b. Said fencing must provide limited and secured access to prevent entry by unauthorized personnel.
- c. Fencing and access gates shall be eight (8) feet tall as measured from the average grade below the fence to the tallest point of the fence.
- d. Razor wire is prohibited on all fences.

2. Signage

- a. "No Trespassing" signs shall be attached to any perimeter fence.
- b. "Danger" and "High Voltage" signs shall be posted at the height of five (5) feet on or near arrays and on accessory structures.
- c. At the locked entrance to the facility, a sign showing the names and phone numbers of the electric utility provider, the site operator and an emergency contact, as well as the facility's 911 address and GPS coordinates shall be provided. Additionally, a sign should be posted containing the name and phone number of a person for the public to contact with the inquiries and complaints throughout the life of the project.

E. Noise

- 1. A noise study shall be performed and included in the application.
- 2. At no point within 200 feet of a primary residence may the sound pressure levels from a solar array exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI).

Octave Bands for Warren County in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) measured 200 feet from edge of any Primary Structure.
2 through 8000	45

F. Glare

Glare from a CSECS is prohibited from being directed towards vehicular traffic and any habitable portion of an adjacent inhabited structure.

G. Electrical Components

1. All electrical components of the CSECS shall conform to applicable local, state, and national codes, and relevant national and international standards.
2. Electrical Collection Cables. All CSECS electrical collection cables between each CSECS shall be located underground unless they are located on public or utility rights-of-way or with prior County approval. All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designate until the same reach the property line or a substation adjacent to the property line.

H. Waste Management

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

I. Compliance with Additional Regulations

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

VI. SETBACKS

- A. Solar farms shall meet the minimum zoning setbacks for the zoning district in which located.
- B. County regulated drains, or right-of way to a solar panel must have a setback of seventy-five (75) feet measured from the center of the right-of-way.
- C. CSECS Equipment must be set back a minimum of two hundred (200) feet from the property line of a primary dwelling unit located on a parcel adjoining the CSECS.

- D. CSECS inverters must be set back an additional three hundred (300) feet, for a total of five hundred (500) feet, from the property line of a primary dwelling unit adjoining the CSECS.
- E. These setbacks may be waived in writing by property owners adjacent to the CSECS.

VII. OPERATION

A. Maintenance / Inspection

- 1. The Owner or Operator of the CSECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests.
- 2. Any physical modification to the CSECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with the Building Commissioner to determine whether the physical modification requires re-certification.
- 3. The Warren County Building Commissioner staff, along with licensed third party professionals retained by the County for the specific purpose of conducting inspections of the CSECS shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his agent, on the premises where a CSECS has been constructed, to inspect all parts of said CSECS installation and to require that repairs or alterations be made. The owner or operator of a CSECS may retain a licensed 3rd party professional engineer familiar with CSECS systems to prepare and submit to the Warren County Building Commissioner staff a written report which addresses the repairs or alterations requested, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the Warren County Building Commissioner staff that repairs or alterations are requested, or within a longer period of time mutually acceptable to both parties. The Warren County Building Commissioner staff will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report. In the event of a dispute between the Warren

County Building Commissioner staff and the owner or operator, or a 3rd party professional engineer retained by them, as to the repairs or alterations which are required, the decision of the Building Commissioner shall be final.

4. Site inspections of zoning code requirements may be undertaken by the Warren County Building Commissioner, as he or she may determine, for a fee of Sixty Dollars (\$60.00) per hour plus expenses, to be paid by the applicant or owner, no more than once annually.
5. The owner or operator of any CSECS shall maintain a current general liability policy covering pollution, bodily injury and property damage and naming Warren County as an additional insured with dollar amount limits per occurrence in the aggregate, and a deductible which is suitable to the County Commissioners. Proof of such insurance shall be provided annually to the Warren County Surveyor and Auditor.

B. Road Use

1. Any necessary, temporary closures and proposed detours shall be made known to the Highway Department and the County Emergency Management Agency at least twenty-four (24) hours prior to the temporary closure or as otherwise agreed.
2. The CSECS operator or owner shall sign an affidavit indicating they will compensate Warren County for any and all damage to public roads caused by CSECS construction vehicles or traffic.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the CSECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
2. All hazardous materials or waste related to the construction, operation and maintenance of the CSECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

## VIII. DECOMMISSIONING PLAN

Prior to receiving siting approval under this Ordinance, the County and the Applicant, Owner, and/or Operator must formulate a Decommissioning Plan to ensure that the CSECS Project is properly decommissioned. The Decommissioning Plan shall include:

- A. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months.
- B. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Applicant's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of a building permit, the Applicant shall provide a contractor cost estimate for demolition and removal of the CSECS facility and will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the County, for the cost of decommissioning each array to be constructed under that building permit, which security shall be released when such array is properly decommissioned as determined by the Warren County Building Commissioner.
  - 1. In the event of abandonment by the owner or operator, the Applicant will provide an affidavit to the Warren County Building Commissioner representing that all easements for solar arrays shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.
  - 2. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Warren County Commissioners for review.
  - 3. If the owner fails to dismantle and/or remove the CSECS within the established timeframes, the County may complete the decommissioning at the owners' expense.
- C. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.
- D. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).

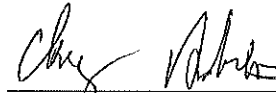
- E. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern.
  
- IX. Requirements of these ordinance may be waived by the Warren County Board of Zoning Appeals upon application and after public hearings.

So Ordained this 16 day of November, 2020.

BOARD OF COMMISSIONERS OF  
WARREN COUNTY

  
\_\_\_\_\_

W. Brian Jordan

  
\_\_\_\_\_

Clay Andrews

  
\_\_\_\_\_

Adam Hanthorne

ATTEST:

  
\_\_\_\_\_

Robin Weston-Hubner, Auditor

**ORDINANCE NO. 2019-0903**

**An Ordinance Amending the Warren County Zoning Ordinance's Wind Energy Conversion Systems (WECS) Siting Regulations**

WHEREAS, the Warren County Area Plan Commission, following a duly noticed meeting on June 3, 2019, has provided "no recommendation" to amend the Warren County Zoning Ordinance's Wind Energy Conversion Systems (WECS) Siting Regulations ("WECS Siting Regulations"); and

WHEREAS, the Board of Commissioners of Warren County, following a duly noticed meeting on July 1, 2019, proposed changes to the proposed Amendment 2 and proposed Amendment 4, and sent that proposal to the Warren County Area Plan Commission for an additional hearing; and

WHEREAS, the Warren County Area Plan Commission declined to set a hearing on the proposal within forty-five (45) days of receiving the proposed Amendment 2 and proposed Amendment 4;

WHEREAS, pursuant to Indiana Code 36-7-4-607(f)(4), if the Warren County Area Plan Commission fails to act within the forty-five (45) day period, the ordinance containing Amendment 2 and Amendment 4 stands as passed by the Board of Commissioners of Warren County as of the end of the forty-five (45) day period.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of Warren County, that the Warren County Zoning Ordinance Wind Energy Conversion Systems (WECS) Siting Regulations ("WECS Siting Regulations") are amended to provide as follows:

**Amendment 2:** Amend Section 1.5.1 of the WECS Siting Regulations to increase the setback from adjoining property lines as follows:

FROM: "Distance from a property line, measured from the center of the WECS to the property line: Seven Hundred fifty (750) feet for non-participating landowners Subject to BZA approval, the setback requirement may be waived, in writing, by participating landowners."

"Distance from a residential dwelling, measured from the center of the WECS to the nearest corner of the structure: One thousand two hundred fifty (1,250) feet for non-participating landowners.<sup>1</sup> Subject to BZA approval, the setback requirement may be waived, in writing, by participating landowners.

<sup>1</sup>The setback for residential dwellings shall be reciprocal in that no residential dwelling shall be constructed within one thousand two hundred fifty (1,250) feet of a COMMERCIAL WECS."

TO: "Wind Turbines must be 1,550 feet from adjoining property lines unless the adjoining property owner signs a waiver allowing a lesser distance. In that case the wind turbine must still be 1,550 feet from the property line of any property owner who does not sign a waiver."

**Amendment 4:** Amend Section 1.7.3 of the WECS Siting Regulation, repealing and replacing the existing Noise and Vibration standards as follows:

FROM: Noise Standard that apply to Commercial WECS:

At no point within two hundred (200) feet of a residential dwelling may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI).

Octave Bands for Warren County in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (In decibels) measured 200 feet from edge of any residential dwelling
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

TO: Noise Standard that apply to Commercial WECS:

At no point on an adjoining property, including within a dwelling on that property, may the sound pressure levels from a wind turbine exceed the following sound levels unless the adjoining property owner signs a waiver allowing a greater sound level. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI).

Octave Bands (Hz) decibels	Maximum Permitted Sound Level in (dbA or dbC Leq (1 hr) as appropriate)
2 through 8000	45

This Ordinance shall be in full force and effect from August 15, 2019, and after its adoption by the Warren County Board of Commissioners, and publication as required by law.

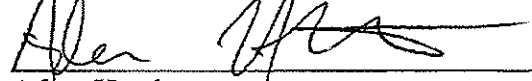


ORDAINED this 3<sup>rd</sup> day of September, 2019.

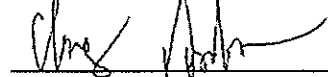
BOARD OF COMMISSIONERS OF  
WARREN COUNTY



W. Brian Jordan, President

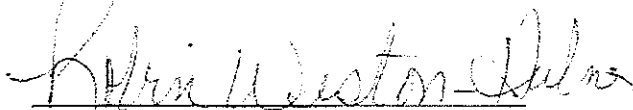


Adam Hanthorne



Clay Andrews

ATTEST:



Robin Weston-Hubner  
Warren County Auditor

RESOLUTION 2016-018

WHEREAS, on July 26, 2016, the Warren County Area Plan Commission made a favorable recommendation on a proposal to amend the zoning ordinance of Warren County in the following particulars:

**AMENDMENT ONE:**

An amendment to Section 1.7.3 of the Wind Energy Conversion Systems (WECS) Siting Regulations entitled "Noise and Vibration" repealing the existing provision and stating as follows:

Noise Standards that apply to COMMERCIAL WECS:

At no point within two hundred (200) feet of a residential dwelling may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI).

Octave Bands for Warren County in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) measured 200 feet from edge of any residential dwelling
63	75
125	70
250	65
500	59
1000	53
2000	48
4000	44
8000	41

**AMKENDMENT TWO:**

An amendment deleting in its entirety Section 1.11.3.C of the Wind Energy Conversion Systems (WECS) Siting Regulations relating to the noise profile of a COMMERCIAL WECS.

**AMENDMENT THREE:**

An amendment to Section 1.19 of the Wind Energy Conversion Systems (WECS) Siting Regulations entitled "Right to Appeal", repealing the existing provision and stating as follows:

All persons aggrieved by a decision of the Zoning Office to revoke or fail to renew a WECS permit or certificate shall have the right to appeal the decision to the Board of Zoning Appeals within thirty (30) days after the decision. All persons aggrieved by a decision of the Board of Zoning Appeals to approve or deny a WECS Special Use permit application may directly bring an action in the Warren Circuit Court for review of the decision within thirty (30) days after the decision.

**AMENDMENT FOUR:**

An amendment to Section 1.11.5 of the Wind Energy Conversion Systems (WECS) Siting Regulations entitled "Fees", to add Exhibit A stating as follows:

**COMMERCIAL WECS FEES:**

WECS Application Fee	\$20,000.00
WECS Improvement Location Permit	\$1,750.00 per megawatt (MW) capacity, which will be prorated for fractional MW capacity

WHEREAS, August 1, 2016, is the first regularly scheduled meeting of the Warren County Commissioners, the legislative body of said county, after the recommendation of said Area Plan Commission was certified to it and there was sufficient time for notice to be given; and

WHEREAS, notice was given under IC 5-14-1.5-5 of the Warren County Commissioners' intention to consider said proposal at such meeting.

NOW, THEREFORE, IT IS RESOLVED by the Warren County Commissioners, Warren County, Indiana:

That the proposal to amend the zoning ordinances of Warren County in the following particulars:

**AMENDMENT ONE:**

An amendment to Section 1.7.3 of the Wind Energy Conversion Systems (WECS) Siting Regulations entitled "Noise and Vibration" repealing the existing provision and stating as follows:

Noise Standards that apply to COMMERCIAL WECS:

At no point within two hundred (200) feet of a residential dwelling may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI).

Octave Bands for Warren County in Hertz (Hz), per ANSI	Maximum Permitted Sound Level (in decibels) measured 200 feet from edge of any residential dwelling
63	75
125	70
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**AMKENDMENT TWO:**

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**AMENDMENT THREE:**

An amendment to Section 1.19 of the Wind Energy conversion Systems (WECS) Siting Regulations entitled "Right to Appeal", repealing the existing provision and stating as follows:

All persons aggrieved by a decision of the Zoning Office to revoke or fail to renew a WECS permit or certificate shall have the right to appeal the decision to the Board of Zoning Appeals within thirty (30) days after the decision. All persons aggrieved by a decision of the Board of Zoning Appeals to approve or deny a WECS Special Use permit application may directly bring an action in the Warren Circuit Court for review of the decision within thirty (30) days after the decision.

**AMENDMENT FOUR:**

An amendment to Section 1.11.5 of the Wind Energy Conversion Systems (WECS) Siting Regulations entitled "Fees", to add Exhibit A stating as follows:

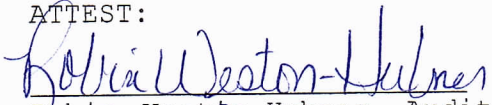
**COMMERCIAL WECS FEES:**

WECS Application Fee	\$20,000.00
WECS Improvement Location Permit	\$1,750.00 per megawatt (MW) capacity, which will be prorated for fractional MW capacity

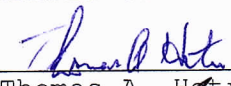
be and is hereby approved.

Resolution adopted this 4<sup>th</sup> day of August, 2016.

ATTEST:

  
Robin Weston-Hubner, Auditor

WARREN COUNTY COMMISSIONERS:

  
Thomas A. Hetrick

  
Steven C. Eberly

  
Anton "Tony" Briles

RESOLUTION

WHEREAS, on January 20, 2015, the Warren County Area Plan Commission made a favorable recommendation on a proposal to amend the zoning ordinance of Warren County in the following particular:

An amendment to Section 1.5.1 of the Wind Energy Conversion Systems (WECS) Siting Regulations revising the setback for road right-of-way, measured from the center of the WECS to the edge of the right-of-way, as follows, to-wit:

The greater of three hundred fifty (350) feet or 1.1 times the total height of the WECS tower where the blade is at its highest point, as measured from the center of the WECS to the edge of the right-of-way.

A copy of the full text of Wind Energy Conversion Systems (WECS) Siting Regulations, together with the proposed amendment, is on file in the office of the Warren County Area Plan Commission and may be inspected or copied upon request.

The revised regulation will apply to all WECS properties situated in Warren County, Indiana.

WHEREAS, February 2, 2015, is the first regularly scheduled meeting of the Warren County Commissioners, the legislative body of said county, after the recommendation of said Area Plan Commission was certified to it and there was sufficient time for notice to be given; and

WHEREAS, notice was given under IC 5-14-1.5-5 of the Warren County Commissioners' intention to consider said proposal at such meeting.

NOW, THEREFORE, IT IS RESOLVED by the Warren County Commissioners, Warren County, Indiana:

That the proposal to amend the zoning ordinances of Warren County in the following particular:

An amendment to Section 1.5.1 of the Wind Energy Conversion Systems (WECS) Siting Regulations revising the setback for road right-of-way, measured from the center of the WECS to the edge of the right-of-way, as follows, to-wit:

The greater of three hundred fifty (350) feet or 1.1 times the total height of the WECS tower where the blade is at its highest point, as measured from the center of the WECS to the edge of the right-of-way.

A copy of the full text of Wind Energy Conversion Systems (WECS) Siting Regulations, together with the proposed amendment, is on file in the office of the Warren County Area Plan Commission and may be inspected or copied upon request.

AMKENDMENT TWO:

An amendment deleting in its entirety Section 1.11.3.C of the Wind Energy Conversion Systems (WECS) Siting Regulations relating to the noise profile of a COMMERCIAL WECS.

AMENDMENT THREE:

An amendment to Section 1.19 of the Wind Energy conversion Systems (WECS) Siting Regulations entitled "Right to Appeal", repealing the existing provision and stating as follows:

All persons aggrieved by a decision of the Zoning Office to revoke or fail to renew a WECS permit or certificate shall have the right to appeal the decision to the Board of Zoning Appeals within thirty (30) days after the decision. All persons aggrieved by a decision of the Board of Zoning Appeals to approve or deny a WECS Special Use permit application may directly bring an action in the Warren Circuit Court for review of the decision within thirty (30) days after the decision.

AMENDMENT FOUR:

An amendment to Section 1.11.5 of the Wind Energy Conversion Systems (WECS) Siting Regulations entitled "Fees", to add Exhibit A stating as follows:

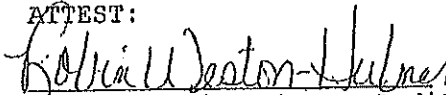
COMMERCIAL WECS FEES:

WECS Application Fee	\$20,000.00
WECS Improvement Location Permit	\$1,750.00 per megawatt (MW) capacity, which will be prorated for fractional MW capacity

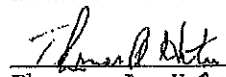
be and is hereby approved.

Resolution adopted this 4<sup>th</sup> day of August, 2016.

ATTEST:

  
Robin Weston-Hubner, Auditor

WARREN COUNTY COMMISSIONERS:

  
Thomas A. Hetrick

  
Steven C. Eberly

  
Anton "Tony" Briles

RESOLUTION 2012-11

WHEREAS, on October 16, 2012, the Warren County Area Plan Commission made a favorable recommendation on a proposal to amend the zoning ordinance of Warren County in the following particular:

An amendment to add Article XXI to the Warren County Zoning Ordinance, which Article is entitled Wind Energy Conversion Systems (WECS) Siting Regulations.

WHEREAS, November 5, 2012, is the first regularly scheduled meeting of the Warren County Commissioners, the legislative body of said county, after the recommendation of said Area Plan Commission was certified to it and there was sufficient time for notice to be given; and

WHEREAS, notice was given under IC 5-14-1.5-5 of the Warren County Commissioners' intention to consider said proposal at such meeting.

NOW, THEREFORE, IT IS RESOLVED by the Warren County Commissioners, Warren County, Indiana:

That the proposal to amend the zoning ordinances of Warren County in the following particular:

An amendment to add Article XXI to the Warren County Zoning Ordinance, which Article is entitled Wind Energy Conversion Systems (WECS) Siting Regulations.

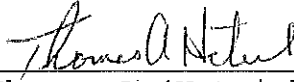
be and is hereby adopted.


Resolution adopted this 5<sup>th</sup> day of November, 2012.

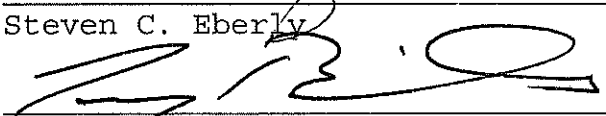
ATTEST:

  
Michelle Hetrick, Auditor

WARREN COUNTY COMMISSIONERS:

  
Thomas A. Hetrick

  
Steven C. Eberly

  
Anton "Tony" Briles



## **WIND ENERGY CONVERSION SYSTEMS (WECS) SITING REGULATIONS**

### **21.0 PURPOSE AND INTENT**

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#### **21.0.1 Purpose**

The purposes of this Ordinance are to:

- A. Assure that any development and production of wind-generated electricity in Warren County is safe and effective;
- B. Facilitate economic opportunities for local residents; and
- C. Promote the supply of wind energy in support of Indiana's alternative energy sources potential and other such economic development tools.

#### **21.0.2 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 county; subject to reasonable restrictions these regulations are intended to preserve the health and safety of the public.

### **21.1 APPLICABILITY**

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The provisions of this Ordinance 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. A reasonable attempt shall be made to notify all property owners within the defined area of the WECS project prior to making application for a WECS permit. Notification may be done by media, separate mailings, or through the public notice requirements prescribed by IC 5-3-1 as amended from time to time. Said notice shall inform land owners of the intent to build a Commercial WECS and/or wind farm.

### **21.2 PROHIBITION**

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No applicant shall construct, operate, or locate a wind energy conversion system (WECS) within Warren County without having fully complied with the provisions of this Ordinance.

### **21.3 CONFLICT WITH OTHER REGULATIONS**

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Nothing in this Ordinance is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Aviation Administration rules and regulations and shall comply with the notification requirements of the FAA. Further, this Ordinance is not 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.

## **21.4 DISTRICT REGULATIONS**

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### **21.4.1 Location**

Commercial, non-commercial, and micro-WECS will be permitted in all zoning districts as a Special Exception only. In addition to the criteria set forth in this Ordinance, all Commercial, non-commercial, and micro-WECS will be required to satisfy the criteria for Special Exceptions as specified in the Zoning Ordinance of Warren County, Indiana.

### **21.4.2 Height**

Any NON-COMMERCIAL WECS or meteorological tower greater than two hundred (200) feet in height shall require a special exception use permit. For COMMERCIAL WECS there is no limitation on height, except those height limitations imposed by FAA rules and regulations. No Micro-WECS shall exceed sixty (60) feet in height.

### **21.4.3 Horizontal extension**

The furthest horizontal extension of a WECS (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 right-of-way easement for any above-ground telephone, electrical transmission or distribution lines.

## 21.5 SETBACK REQUIREMENTS

### 21.5.1 Minimum setback distances for COMMERCIAL Wind Energy Conversion Systems

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS to the property line	Seven hundred fifty (750) feet for non-participating landowners. Subject to BZA approval, the setback requirement may be waived, in writing, by participating landowners
Residential dwellings, measured from the center of the WECS to the nearest corner of the structure	One thousand two hundred fifty (1,250) feet for non-participating landowners. <sup>1</sup> Subject to BZA approval, the setback requirement may be waived, in writing, by participating landowners
Road right-of-way, measured from the center of the WECS to the edge of the right-of-way	One thousand two hundred fifty (1,250) feet <sup>2</sup>
Other rights-of-way, such as railroads and utility easements, measured from the center of the WECS to the edge of the right-of-way	1.1 times the total height (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 to the nearest point of the public conservation land in question	Seven hundred fifty (750) feet
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the WECS to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers
Pine Creek and the Wabash River, measured from the center of the WECS to the shoreline	One-half (1/2) mile
Incorporated limits of a municipality, measured from the center of the WECS to the corporate limits	One thousand five hundred (1,500) feet

<sup>1</sup> The setback for residential dwellings shall be reciprocal in that no residential dwelling shall be constructed within one thousand two hundred fifty (1,250) feet of a COMMERCIAL WECS.

<sup>2</sup> The setback shall be measured from future rights-of-way width if a planned road improvement or expansion is known at the time of application.

**21.5.2 Minimum setback distances for NON-COMMERCIAL Wind Energy Conversion Systems and MICRO-Wind Energy Conversion Systems**

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS to the property line	1.1 times the total height (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, measured from the center of the WECS to the nearest corner of the structure	1.1 times the total height (where the blade tip is at its highest point)
Road right-of-way, measured from the center of the WECS to the edge of the right-of-way	1.1 times the total height (where the blade tip is at its highest point), provided that the distance is not less than the required yard setback prescribed for that district <sup>3</sup>
Other rights-of-way, such as railroads and utility easements, measured from the center of the WECS to the edge of the right-of-way	1.1 times the total height (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 to the nearest point of the public conservation land in question	Seven hundred fifty (750) feet
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the WECS to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers
Pine Creek and the Wabash River, measured from the center of the WECS to the shoreline	One half (1/2) mile

<sup>3</sup>The setback shall be measured from future rights-of-way width if a planned road improvement or expansion is known at the time of application.

**21.5.3 Minimum setback distances for Meteorological Towers**

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS to the property line	1.1 times the total height (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback
Residential dwellings, measured from the center of the WECS to the nearest corner of the structure	1.1 times the total height (where the blade tip is at its highest point)
Road right-of-way, measured from the center of the WECS to the edge of the right-of-way	1.1 times the total height (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback <sup>4</sup>
Other rights-of-way, such as railroads and utility easements, measured from the center of the WECS to the edge of the right-of-way	1.1 times the total height (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback

**21.6 SAFETY DESIGN AND INSTALLATION STANDARDS****21.6.1 Equipment type****A. Turbines**

ALL turbines shall be constructed of commercially available equipment.

**B. Meteorological towers**

Meteorological towers may be guyed.

**C. Experimental, or proto-type equipment**

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.

**21.6.2 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.

<sup>4</sup>The setback shall be measured from future rights-of-way width if a planned road improvement or expansion is known at the time of application.

**21.6.3 Controls and brakes****A. Braking system**

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

**B. Operation mode**

ALL Mechanical brakes shall be operated in a fail-safe mode.

**21.6.4 Electrical components****A. Standards**

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

**B. Collection cables**

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

**C. Transmission lines**

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

**21.6.5 Color and finish**

In addition to all applicable FAA requirements, the following shall also apply:

**A. Wind turbines and towers**

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

**B. Blades**

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

**C. Finishes**

Finishes shall be matte or non-reflective.

**D. Exceptions**

Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

### 21.6.6 Warnings

#### A. Commercial WECS - Towers, transformers, and substations

On all towers, transformers, and substations, a sign or signs shall be posted on the tower, transformer or substation warning of high voltage. Signs with emergency contact information shall also be posted on each turbine or at another suitable point at the turbine site.

#### B. Commercial WECS - Guy wires and anchor points

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

##### 1. Visible or reflective objects

Visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above the ground.

##### 2. Visible Fencing

Visible fencing not less than four (4) feet in height installed around anchor points of guy wires.

#### C. Non-commercial WECS and Micro-WECS

The following notices shall be clearly visible on all Non-commercial WECS, and Micro-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 tower showing an emergency telephone number
4. The manual electrical and/or overspeed shutdown disconnect switch(es) shall be clearly labeled.

#### D. Meteorological towers

Consideration shall be given to paint aviation warning on all Meteorological Towers.

### 21.6.7 Climb prevention

All COMMERCIAL WECS tower designs shall include features to deter climbing or be protected by anti-climbing devices such as:

- A. Fences with locking portals at least six (6) feet in height; or
- B. Anti-climbing devices fifteen (15) feet vertically from the base of the WECS tower; or
- C. Locked WECS Tower doors.

**21.6.8 Blade clearance**

The minimum distance between the ground and any protruding blades(s) utilized on all Commercial WECS 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 remaining WECS shall be a minimum of fifteen (15) feet, as measured at the lowest point of the arc of the blades, provided the rotor blade does not exceed 20 feet in diameter. In either instance, the minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

**21.6.9 Lighting**

A. Intensity and frequency

ALL lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.

B. Shielding

Except with respect to lighting required by the FAA, lighting may require shielding so that no glare extends substantially beyond any WECS structure.

**21.6.10 Materials handling, storage and disposal**

A. Solid wastes

All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the facility, including old parts and equipment related to the construction, operation and/or maintenance of any WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

B. 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.

**21.7 OTHER APPLICABLE STANDARDS**

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**21.7.1 Guyed wire anchors**

No guyed wire anchors shall be allowed within any required setback from road right-of-way.

**21.7.2 Sewer and water**

ALL WECS facilities shall comply with the existing septic and well regulations as required by the Warren County Health Department and/or the State of Indiana Department of Public Health.



### 21.7.3 Noise and vibration

The noise level of NON-COMMERCIAL WECS shall be no greater than sixty (60) decibels measured from the nearest residence. This level may only be exceeded during short-term events such as utility outages and/or severe wind storms. All other noise and vibration levels shall be in compliance with all county, state and federal regulations.

### 21.7.4 Utility interconnection

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as amended from time to time.

### 21.7.5 Signage

The following signage regulations and standards shall also apply. In the event that one of the following regulations or standards conflicts with another sign regulation or standard prescribed by any ordinance, the most restrictive regulation or standard shall apply.

A. Surface area

No sign shall exceed sixteen (16) square feet in surface area.

B. Height

No sign shall exceed eight (8) feet in height.

C. Manufacturer's or owner's company name and/or logo

The manufacturer's or owner's company name and/or logo may be placed upon the compartment containing the electrical equipment.

D. Development signs

An identification sign relating to the wind farm development may be located on each side of the total project area, provided that there are no more than four (4) signs located on any one project site.

E. Other signs and logos

No other advertising signs or logos shall be placed or painted on any WECS.

### 21.7.6 Feeder lines

With the exception of minimum setback distances, feeder lines installed as part of any WECS shall not be considered an essential service. All communications and feeder lines installed as part of any WECS shall be buried underground wherever possible.

### 21.7.7 Other appurtenances

No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board of Zoning Appeals.

## 21.8 OPERATION AND MAINTENANCE

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### 21.8.1 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 Zoning Office and Area Plan Commission to determine whether the physical modification requires re-certification.

### 21.8.2 General Complaints

Either in response to a complaint or in the event of any other cause for concern, inspections of any or all of the WECS may be made by the Warren County Zoning Office. All inspection fees, including any fees incurred to hire experts, shall be paid by the applicant, owner and/or operator.

- A. After construction of the WECS, if the owner or operator receives a written complaint from a person alleging to be aggrieved by a failure to comply with the Safety Design and Installation Standards of this Ordinance, the owner or operator shall take reasonable steps to remedy such complaint.
- B. If the Warren County Zoning Office determines that an owner or operator has failed to take reasonable steps to remedy a complaint within thirty (30) days thereafter, the Warren County Zoning Office may initiate proceedings seeking to revoke the owner or operator's special exception to operate a WECS.

### 21.8.3 Interference Complaints

Prior to construction, applicant shall complete a communications study to minimize interference with any public or public serving utility microwave transmissions. If necessary, the applicant, owner and/or operator shall mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. In addition, the applicant, owner, and/or operator shall comply with the following:

#### A. Pre-construction

The applicant shall notify all existing communication towers within two (2) miles of the proposed WECS upon application to the County for a WECS permit.

#### B. Post-construction

If, after construction of the WECS, the owner or operator receives a written complaint related to interference with the broadcast of residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate said interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant.

#### C. Failure to remedy a complaint

If an agreement to remedy a known interference is not reached within ninety (90) days, appropriate action will be taken, which may result in requiring the WECS to

become inactive. This does not apply to interference with private telecommunications systems.

#### **21.8.4 Declaration of public nuisance**

Any WECS declared to be unsafe by the Warren County Zoning Office 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, or demolition and removal in accordance with the approved Decommissioning Plan.

### **21.9 DECOMMISSIONING PLAN**

Prior to receiving an Improvement Location Permit or Building Permit, or siting approval under this Ordinance, the County and the applicant, owner and/or operator 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.

#### **21.9.1 Content**

A decommissioning plan shall include, at a minimum, language to address the following:

##### **A. Assurance**

Written assurance that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.

##### **B. Cost estimates**

The applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of completing the decommissioning or a person with suitable expertise or experience with decommissioning a WECS. Such estimate shall also include an adjustment factor for inflation.

##### **C. Financial assurance**

Applicant will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the County. Financial assurance shall be required for the cost of decommissioning each tower and related improvements constructed under the permit. Said security will be released when each tower is properly decommissioned as determined by the Warren County Zoning Office.

##### **D. Abandonment by the owner or operator**

The applicant will provide an affidavit to the Warren County Zoning Office representing that all easements for wind turbines shall contain terms that provide financial assurance in the event of abandonment by the owner or operator, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.

### **21.9.2 Discontinuation**

All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Warren County Zoning Office outlining the steps and schedule for returning the WECS to service.

### **21.9.3 Removal**

An applicant'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 facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, or by Warren County at the owner's expense.

### **21.9.4 Written notices**

Prior to implementation of the procedures existing for the resolution of any alleged failure to comply with the decommissioning plan, 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).

### **21.9.5 Costs incurred by the County**

If the County is required to remove a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By obtaining approval of their WECS application, the permittee grants a license to Warren County to enter the property to remove a tower pursuant to the terms of the approved decommissioning plan.

## **21.10 LIABILITY INSURANCE**

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The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and may be required to name Warren County as an additional insured with dollar amount limits per occurrence, in the aggregate, and a deductible, which is suitable to the County.

## **21.11 APPLICATION PROCEDURES**

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Permits and variances shall be applied for and reviewed under the procedures established by this Ordinance, except that the application for a commercial WECS Improvement Location Permit shall also include the following information:

### **21.11.1 Applications for ALL Wind Energy Conversion Systems**

An application for ALL WECS shall include the following information:

#### **A. Contact information of project applicant**

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.

B. 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 Area Plan Commission shall be informed of any changes in ownership.

C. Contact information of project operator

The name(s), address(es), and phone number(s) of the operator(s), as well as a description of the operator's business structure and overall role in the proposed project.

D. Legal description The legal description, address, and general location of the project.

E. Project description

A WECS Project Description, including to the extent possible, information on each wind turbine proposed, including:

1. Number of turbines;
2. Type;
3. Name plate generating capacity;
4. Tower height;
5. Rotor diameter;
6. Total height;
7. Anchor base;
8. The means of interconnecting with the electrical grid;
9. The potential equipment manufacturer(s); and
10. All related accessory structures.

F. A site layout plan

A site plan, drawn to scale<sup>5</sup>, including distances and certified by a registered land surveyor.

G. Engineering certification

For all WECS, the manufacturer's engineer or another qualified registered

<sup>5</sup>All drawings shall be at a scale not smaller than one inch equals fifty feet (1"=50') with a scale of one inch equals thirty feet (1"=30') being preferred. Any other scale must be approved by the Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").

professional engineer shall certify, as part of the building permit application, that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions. An engineering analysis of the 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.

H. 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, the applicant shall provide written documentation that he or she is in direct correspondence and cooperation with the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.

**21.11.2 Applications for NON-COMMERCIAL Wind Energy Conversion Systems**

In addition to the application requirements listed in 1.11.1 for all applications for Wind Energy Conversion Systems, applications for NON-COMMERCIAL WECS shall also include the following information:

A. Demonstration of energy need

The primary purpose of the production of energy from a Non-Commercial WECS shall be to serve the energy needs of that tract. The applicant shall demonstrate how much energy is needed and how the proposed size and number of the WECS fulfills this need. Net-metering may be allowed, but shall not be the primary intent of the WECS.

B. Statement of FAA compliance

A statement of compliance with all applicable FAA rules and regulations, including any necessary approvals for installations within close proximity to an airport.

C. Utility notification

No NON-COMMERCIAL WECS shall be installed until evidence has been given that the local utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

D. 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.

**21.11.3 Applications for COMMERCIAL Wind Energy Conversion Systems**

In addition to the application requirements listed in 1.11.1 for all applications for Wind Energy Conversion Systems, applications for COMMERCIAL WECS shall also include the following information:

A. A preliminary site layout plan

In place of the site layout plan described for applications for all Wind Energy Conversion Systems, an application for a COMMERCIAL WECS shall include a preliminary site layout plan with distances drawn to scale<sup>6</sup> illustrating the following:

1. Property lines, including identification of adjoining properties
2. Identification of the location each individual wind turbine, to include the latitude and longitude of each WECS turbine.
3. Dimensional representation of the structural components of the tower construction including the base and footings.
4. WECS access roads.
5. Substations.
6. Electrical cabling.
7. Ancillary equipment.
8. Primary structures within one quarter (1/4) mile of all proposed WECS.
9. Required setback lines.
10. Location of all public roads which abut, or traverse the proposed site
11. The location of all above-ground utility lines within a distance of two (2) times the height of any proposed WECS structure.
12. 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 one (1) mile of a proposed WECS..
13. 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 one (1) mile of a proposed WECS.
14. A re-vegetation plan for restoring area temporarily disturbed during the construction phase.
13. A rescue and fire protection plan for both the construction phase and the operation of the facility.
14. Any other item reasonably requested by the Board of Zoning Appeals.

<sup>6</sup>All drawings shall be at a scale not smaller than one inch equals fifty feet (1"=50') with a scale of one inch equals thirty feet (1"=30') being preferred. Any other scale must be approved by the Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").

B. Topographic map

A USGS topographical map, or map with similar data, of the property and the surrounding area, including any other WECS within ten (10) rotor distance, but no less than a one quarter (1/4) mile radius from the proposed project site, with contours of not more than five (5) foot intervals.

C. Noise profile, to include without limitation:

1. The make and model of the turbines.
2. Sound Power Levels (Lw) for each turbine for each one-third octave band from 6.3 Hz up through 10,000 Hz.
3. A pre-construction noise study for each proposed Wind Turbine location (ambient noise profile) showing background dBA and dBC sound levels (L90 (10 min)) over one or more valid ten (10) minute continuous measurement periods for each turbine location, nearest dwelling and nearest non-participating owner's property line. The ambient noise levels shall be the L90A sound descriptor measured during a preconstruction noise study during the quietest time of night (10 pm until 4 am).
4. A projection showing the expected dBA and dBC sound levels computed using the one-third octave band sound power levels (Lw) with appropriate corrections for modeling and measurement accuracy tolerances and directional patterns of the WECS for all areas within and to one (1) mile from the project boundary for the wind speed, direction and operating mode that would result in the worst case WECS sound emissions. The projection may be by means of computer model but shall include a description of all assumptions made in the model's construction and algorithms. If the model does not consider the effects of wind direction, geography of the terrain, and/or the effects of reinforcement from coherent sounds or tones from the turbines these should be identified and other means used to adjust the model's output to account for these factors. These results may be displayed as a contour map of the predicted levels, but should also include a table showing the predicted levels at noise-sensitive receptor sites and residences within the model's boundaries. The predicted values must include dBA and dBC values but shall also include un-weighted octave band sound pressure levels from 8k Hz to 10k Hz in data tables.
5. The Zoning Office will refer the applicant's information and sound studies to a Qualified Independent Acoustical Consultant for review and a determination whether the proposed WECS will, based on pre-construction studies and sound modeling, comply with the sound limits set forth in this Ordinance.

D. Location of all known WECS within one (1) mile of the proposed WECS, including a description of the potential impacts on said WECS and wind resources on adjacent properties.

E. Copy of the Communications Study.



#### **21.11.4 Aggregated project applications**

Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, and reviews and as appropriate, approvals.

#### **21.11.5 Fees**

COMMERCIAL WECS, NON-COMMERCIAL WECS, MICRO-WECS, and Meteorological Towers shall be charged fees as prescribed by the County's Official Fee Schedule attached as Exhibit A. Applications will be assessed fees for each construction phase within a single project, as prescribed by the County's Official Fee Schedule attached as Exhibit A .

#### **21.11.6 Permits**

COMMERCIAL WECS, NON-COMMERCIAL WECS, MICRO-WECS, and Meteorological Towers shall each require a permit issued in accordance with this Ordinance. Permits for aggregated projects will be issued by construction phases and recorded separately.

### **21.12 PRE-CONSTRUCTION REQUIREMENTS**

Prior to the issuance of any Building Permit, the following shall be submitted to and reviewed by the Zoning Office, which shall certify that the following are in compliance with all applicable regulations:

#### **21.12.1 FAA permit application**

An FAA permit application.

#### **21.12.2 Decommissioning plan**

A decommissioning plan as described in this Ordinance.

#### **21.12.3 Economic Development, Drainage, and Road Use and Maintenance Agreements**

An Economic Development Agreement, a Drainage Agreement, and a Road Use and Maintenance Agreement approved by the County Commissioners. The agreement shall be developed in conjunction with the Warren County Local Economic Development Organization. This agreement must be signed before any Building Permit is issued. The Drainage Agreement must describe or reference provisions to address crop and field tile damages.

#### **21.12.4 Erosion control plan**

An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS), and a drainage/storm water quality management plan approved by the Warren County Drainage Board.

**21.12.5 Utility plan**

A utility plan drawn to the same scale<sup>7</sup> as the site plan illustrating the location of all underground utility lines associated with the total WECS project.

**21.12.6 Final Site Layout Plan**

Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.

**21.12.7 Avoidance and mitigation of damages to public infrastructure**

In addition to complying with the approved Road Use and Maintenance Agreement, an applicant, owner, or operator proposing to use any county road(s), for the purpose of transporting COMMERCIAL WECS or substation parts and/or equipment for construction, operation or maintenance of a COMMERCIAL WECS or substation, shall comply with the following pre-construction requirements.

**A. Identification of roads and services**

Identify all roads and services, to the extent that any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it shall be approved by the Warren County Highway Department.

**B. Pre-construction survey**

The applicant shall conduct a pre-construction baseline survey acceptable to the Highway Superintendent to determine existing road conditions for assessing potential future damage. The survey shall include photographs, or video, or a combination thereof, and a written agreement to document the condition of the public facility.

**21.13 CONSTRUCTION REQUIREMENTS**

During construction, the applicant shall demonstrate that the following requirements are being met:

**21.13.1 Dust control**

Reasonable dust control measures shall be required by the County during construction of a COMMERCIAL WECS.

**21.13.2 Drainage**

Reasonable storm water best management practices as required in the Drainage Plan Agreement on file with the Zoning Office and the Warren County Surveyor as approved by Warren County Drainage Board.

<sup>7</sup>All drawings shall be at a scale not smaller than one inch equals fifty feet (1"=50') with a scale of one inch equals thirty feet (1"=30') being preferred. Any other scale must be approved by the Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").

### **21.13.3 Damage to real estate**

The applicant shall provide an affidavit to the Warren County Zoning Office representing that all easements for wind turbines contain terms that provide financial assurance in the event damage is caused to real estate during the construction phase, to include damage to crops, private drainage tiles and compaction to the real estate, to ensure that damages are properly repaired within one (1) year of the completion of construction of the project or the discovery of the damage, whichever shall last occur.

## **21.14 POST-CONSTRUCTION REQUIREMENTS**

Post-construction, the applicant shall comply with the following provisions:

### **21.14.1 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 to the satisfaction of the Warren County Highway Superintendent. The superintendent may choose to require either remediation of road repair upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a professional engineer may be required by the superintendent to insure 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.

### **21.14.2 As-Built Plans Requirement**

Upon 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, owner, or operator shall submit a copy of the Final Construction Plans (as-built plans), as amended, to the Zoning Office with the exact measurements thereon shown. The Zoning Office, 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, owner, or operator shall then record.

### **21.14.3 Fire and rescue training**

Upon completion of all construction and development of the WECS, the owner or operator, at their expense, shall conduct a training program with local law enforcement, fire and rescue, and other emergency response departments to ensure that such agencies are familiar with the special challenges and hazards associated with a WECS as relates to any emergency response or action which might be required as a result of the operation of the WECS.

### **21.14.4 Change in ownership**

It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

## 21.15 DEFINITIONS

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For the purposes of administering and enforcing this Ordinance, the following definitions shall apply:

21.15.1 AGGREGATED WECS PROJECT(S): a WECS located on two or more parcels or properties as specified in an application for a WECS Construction or Inspection Certificate pursuant to this Chapter.

21.15.2 APPLICANT: the entity or person who submits to the County, an application for the construction or operation of any WECS or Substation or thereafter operates or owns a WECS.

21.15.3 FINANCIAL ASSURANCE: reasonable assurance from a creditworthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit or combinations thereof.

21.15.4 OPERATOR: the entity responsible for the day-to-day operation and maintenance of a WECS, including any third party subcontractors.

21.15.5 OWNER: the person, firm, corporation, trust or other entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that such person sells the WECS(s) within one year of such foreclosure.

21.15.7 PROFESSIONAL ENGINEER: a qualified individual who is licensed or registered as a professional engineer in any state in the United States.

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

21.15.9 SUBSTATION: the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.

21.15.10 SWEPT AREA: the diameter of the least circle encompassing all blades for a WECS.

21.15.11 SWITCHING STATION: an apparatus or structure in the system similar to a substation but not necessarily increasing voltage into the grid.

21.15.12 WECS CONSTRUCTION PERMIT: the Permit issued by the Building Commissioner for construction of a Wind Energy Conversion System.

21.15.13 WECS METEOROLOGICAL TOWER: a tower, the primary or predominant purpose of which is to provide meteorological information in connection with the siting or operation of a WECS.

21.15.14 WECS PROJECT: two or more WECS on a single property or aggregate properties as specified in an application for a WECS Construction or Operating Permit pursuant to this Chapter.

21.15.15 WECS TOWER: the monopole, freestanding or guyed structure that supports the energy capture, conversion, storage or transfer components of a WECS.

21.15.16 WECS TOWER HEIGHT or TOTAL HEIGHT: the distance measured from the ground level at the base of the WECS Tower to the highest extension of the blades or rotor.

21.15.17 "WECS"; WIND ENERGY CONVERSION SYSTEM: all necessary devices that together convert wind energy into electricity and store or 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, wind farm collection system, WECS Meteorological towers, communications facilities and other required facilities and equipment.

21.15.18 COMMERCIAL WECS or LARGE WIND SYSTEM: a Wind Energy Conversion System which has a nameplate capacity (manufacturer's rating) of more than 50 kilowatts per wind tower, or a total height of more than 140', or a swept area of more than 40'.

21.15.19 NON-COMMERCIAL WECS or SMALL WIND SYSTEM: a Wind Energy Conversion System which has a nameplate capacity (manufacturer's rating) of more than 10 kilowatts per wind tower and less than or equal to 50 kilowatts per wind tower, and a total height of more than 80' but less than or equal to 140', and a swept area of 40' or less.

21.15.20 MICRO WECS: a Wind Energy Conversion System designed to provide electric power to a home or other local site for use by the owner, which has a nameplate capacity (manufacturer's rating) less than or equal to 10 kilowatts per wind tower and a total height of 80' or less, or if building mounted, projects no more than 15' above the highest point of the roof.

21.15.21 SHADOW FLICKER: the condition which occurs when the blades of a Wind Turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment.

21.15.22 SHADOW FLICKER RECEPTOR: any occupied structure, structure permitted for construction, or roadway where the WECS may cause shadow flicker to occur.

## **21.16 RIGHT OF ENTRY FOR INSPECTIONS.**

Upon presentation of proper credentials, the Zoning Office staff, the Warren County Surveyor and the Superintendent of the Warren County Highway Department or their duly authorized representatives may enter at reasonable times any wind energy system,

structure or premises in the county to perform inspections to assure compliance with all requirements of this Ordinance, the Warren County Zoning Ordinance and any conditions of any grant of a special exception.

**21.17 STOP ORDER.**

Whenever work is being done contrary to the provisions of this Ordinance, the Zoning Office staff may order the work stopped by notice in writing, served on any person engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Zoning Office to proceed with the work.

**21.18 VIOLATIONS.**

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any wind energy conversion system or structure, in the county or cause or permit the same to be done, contrary to or in violation of the provisions of this Ordinance. Notwithstanding the foregoing, no WECS permit or certificate shall be revoked without fifteen (15) days prior written notice to applicant and applicant's failure to cure within thirty (30) days thereafter.

**21.19 RIGHT OF APPEAL.**

All persons aggrieved by a decision of the Zoning Office shall have the right to appeal the decision to the Board of County Commissioners within thirty (30) days after the decision. All persons aggrieved by a determination by the Board of County Commissioners to uphold the Zoning Office decision to revoke, deny or fail to renew a WECS permit certificate based on the standards in this Ordinance, may directly bring an action in the Warren Circuit Court for review of the decision to revoke, deny or fail to renew.

**21.20 REMEDIES.**

The Zoning Office shall, in the name of the County, bring actions in the Warren Circuit Court, for mandatory and injunctive relief in the enforcement of and to secure compliance with any provision of this Ordinance or any order or orders made by the Zoning Office, and any such action for mandatory or injunctive relief may be joined with an action to recover penalties in the same manner as other violations of the Zoning Ordinance of Warren County, Indiana, to include fines not to exceed five hundred dollars (\$500.00) per day for each day that a violation exists.

**21.21 SEVERABILITY**

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.