


**BOARD OF COMMISSIONERS
WAYNE COUNTY, INDIANA
ORDINANCE NO. 2023-01**

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Debra S. Tiemann
Wayne County Recorder IN
Recorded as Presented


An **ORDINANCE** to amend Chapter 54 of the Wayne County Code, more specifically known as the Zoning Ordinance of Wayne County, Indiana.

WHEREAS, the Wayne County Board of Commissioners, Wayne County, Indiana (hereafter “Commissioners”) adopted the Comprehensive Plan of Wayne County, Indiana (hereafter “Comprehensive Plan”) in September 2020; and,

WHEREAS, the Zoning Ordinance of Wayne County, Indiana (hereafter “Ordinance”) was adopted pursuant to said Comprehensive Plan by the Commissioners on March 10, 1993, with subsequent amendments; and,

WHEREAS, the Commissioners recognize the occasional necessity to update and revise the Ordinance; and,

WHEREAS, the Commissioners have received a favorable recommendation from the Wayne County Advisory Plan Commission to amend the Ordinance; and

WHEREAS, the Commissioners have now reviewed the proposal of updates and revisions for said Ordinance; and have determined that the amendments are consistent with the terms of the Comprehensive Plan and that the amendments will update and facilitate the efficient administration of the previously adopted Ordinance and thereby will promote the public health, safety, comfort, morals, convenience and general public welfare of the county;

NOW THEREFORE BE IT ORDAINED BY THE WAYNE COUNTY BOARD OF COUNTY COMMISSIONERS, WAYNE COUNTY, INDIANA, TO AMEND CHAPTER 54 OF THE ZONING ORDINANCE AS FOLLOWS:

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14. Waivers
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1. Plans and Agreements shall include:
 - a. Decommissioning/Restoration Plan and Agreement
 - b. Drainage Agreement
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- H. CONSTRUCTION REQUIREMENTS FOR SES-C**
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APPENDIX A - SOLAR ENERGY SYSTEMS: ZONING DISTRICTS

54.247 – SOLAR ENERGY SYSTEMS SITING REGULATIONS

54.247.1 PURPOSE AND INTENT

A. Purpose

1. The purpose of the Solar Energy Systems Siting Regulations is to regulate the safe, effective, and appropriate development and production of solar-generated electricity within the jurisdiction of the Wayne County, Indiana, Advisory Plan Commission (APC) by the development of standards for solar generated energy. To achieve this goal, these regulations: a) encourage utilization of natural resources and ecologically sound energy sources, b) support Indiana's alternative energy sources potential, and c) maintain economic opportunities for local residents.

B. Intent

1. The intent of the Solar Energy Systems Siting Regulations is to provide a regulatory plan for the development, construction and operation of solar energy systems (SES) within the jurisdiction of the APC; to establish reasonable guidelines and restrictions on SES development, construction, operation, rehabilitation, and decommission (including site restoration); and to preserve the health, safety and general welfare of local residents and the general public, in accordance with the Wayne County, Indiana Comprehensive Plan.

54.247.2 APPLICABILITY

- A. The provisions of 54.247 are applicable to those zoning districts that allow or may allow a solar energy system (SES). See Appendix A.
- B. Provisions of 54.247 that are specifically applicable to a noncommercial solar energy system (SES-NC) shall apply to an SES-NC only.
- C. Provisions of 54.247 that are specifically applicable to a commercial solar energy system (SES-C) shall apply to an SES-C only.
- D. Provisions without reference to a specific type of SES shall apply to either type of SES, unless determined otherwise by the Plan Administrator of the APC.
 1. An applicant for a SES may appeal the requirement, decision, or determination of the Administrator in the manner prescribed by applicable Rules of the Wayne County, Indiana Board of Zoning Appeals (BZA), the Wayne County Zoning Ordinance (Zoning Ordinance), and statute(s).
- E. When any part of the development, construction, rehabilitation, operation, decommissioning, or restoration of a SES requires action, recommendations, hearing and/or decision pursuant to the provisions of the Zoning Ordinance, notice shall be given pursuant to the Zoning Ordinance and the applicable By-Laws of the APC and the Rules of Procedure (Rules) of the BZA.

54.247.3 EXEMPTIONS

- A. An SES-NC with an aggregate collection area of 8 square feet or less is exempt from this ordinance.
- B. An SES constructed prior to the effective date of 54.247 shall not be required to meet the terms and conditions of this Ordinance.
 1. Any physical modifications to an existing SES – even an SES existing prior to the effective date of 54.247 – that materially alters the SES shall require approval under this ordinance.
 2. Routine maintenance or like-kind replacements do not require a permit.

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54.247.4 PROHIBITIONS

- A. No person shall construct, operate, or locate an SES within the jurisdiction of the APC without having fully complied with the provisions of 54.247 and all other applicable provisions of said Zoning Ordinance and any applicable Rules of the BZA and By-Laws of the APC.
- B. A Concentrated Solar Thermal Power System is prohibited and is not considered an SES-C for the purposes of this Ordinance.

54.247.5 CONFLICT WITH OTHER REGULATIONS

- A. Nothing in 54.247 is intended to pre-empt other applicable state and federal laws or regulations. Nor shall any provisions of 54.247 interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law.
- B. If any provision of 54.247 imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provision which is more or most restrictive or which imposes the higher or the highest standard(s) shall take precedence.
- C. Standards specified in 54.247 that conflict with standards found in other Articles of the Wayne County Zoning Ordinance take precedence, as 54.247 relates to a solar energy system.

54.247.6 DISTRICT REGULATIONS

- A. An SES-NC or an SES-C, as defined in 54.247, is allowed, may be allowed by special exception, or shall not be allowed in zoning districts as prescribed by Appendix A of 54.247.

54.247.7 NONCOMMERCIAL SOLAR ENERGY SYSTEM (SES-NC) GENERAL REGULATIONS

A. PERMITTED ACCESSORY USE FOR SES-NC

- 1. A noncommercial solar energy system that meets the requirements of 54.247 is a permitted accessory use in all zoning districts where structures of any sort are allowed. See Appendix A.
- 2. A solar carport is a permitted accessory use, including on a surface parking lot, in all districts regardless of the existence of another building.

B. SAFETY, DESIGN, AND INSTALLATION STANDARDS FOR SES-NC

1. Interference from Adjacent or Nearby Properties

- a. When selecting a site for solar panels, an applicant shall take into consideration the potential maximum allowable structure height and possible landscaping of the adjacent and nearby properties to avoid interference and potential loss of efficiency from the sun to the solar panel surface.
- b. As part of the application process, a written disclaimer is required acknowledging an issued permit does not imply any solar access rights. See 54.247.7.D "Disclaimer and Solar Easement For SES-NC".

2. Roof-mounted and Wall-mounted SES-NC

- a. A roof-mounted or wall-mounted SES-NC may be located on a principal or accessory building.
 - i. Any such system shall be installed in accordance with applicable building codes.
- b. A roof-mounted system on a flat roof that is visible from the nearest edge of the building's front right-of-way shall not be more than five feet in height above the finished roof.

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3. Building-integrated Photovoltaic SES-NC

- a. A building-integrated photovoltaic SES-NC may be utilized in the construction of a principal or accessory building.
- b. Any such system shall be installed in accordance with applicable building codes.

4. Ground-Mounted SES-NC

- a. A ground-mounted SES-NC shall not be placed:
 - i. within any legal easement or right-of-way location,
 - ii. within any storm water conveyance system or flood plain,
 - iii. in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system. This includes but is not limited to state, county and privately owned waterways, ditches, drainage tiles, retention areas, and designed swells.
- b. A solar energy system must meet the accessory structure setback for the zoning district and principal land use associated with the lot on which the system is located.
- c. In a nonresidential district, a ground-mounted SES-NC shall not exceed 15 feet in height above the ground elevation surrounding the system, when oriented at maximum vertical tilt.
- d. In a residential district, a ground-mounted SES-NC shall not exceed 10 feet in height above the ground elevation surrounding the system, when oriented at maximum vertical tilt.
- e. Safety/warning signage as required by applicable law concerning voltage shall be placed at ground-mounted electrical devices, equipment, and structures.

5. Variance

- a. In the event any provision in 54.247.7 has the effect of prohibiting the installation of a solar energy system, the applicant shall have the right to petition the BZA for a variance from the development standards.
 - i. A site plan shall be submitted with the variance request.

6. Electrical Components Standards

- a. Electrical system components of an SES-NC shall conform to applicable local, state, and federal safety codes for similar SES-NCs.
- b. Electric system components of an SES-NC shall have an Underwriters Laboratory (UL), or equivalent listing and a solar hot water system must have a Solar Rating & Certification Corporation (SRCC) or equivalent rating.
- c. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
- d. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed and maintained as required by applicable law.

7. Utility Interconnection

- a. An SES-NC, if interconnected to a utility system, shall meet the requirements for interconnection and operate as required by applicable law.

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8. Visibility

- a. Visibility standards do not apply to a system in a non-residential district.
- b. A solar energy system in residential district shall be designed to minimize visual impacts from the public right-of-way to the extent that doing so does not affect the cost or efficacy of the system, consistent with IC 36-7-2-8.
- c. A building-integrated photovoltaic solar energy system is exempt from any visibility standard.

9. Aesthetic Restrictions

- a. A roof-mounted or ground-mounted solar energy system shall not be restricted for aesthetic reasons.
- b. A roof-mounted system on a flat roof is exempt from any screening requirement for aesthetic reasons.

10. Lot Coverage

- a. A ground-mounted system shall meet the existing lot coverage restrictions as defined for the zoning district.

11. Color, Finish, and Glare

a. Color and Finish

- i. To the extent reasonably possible, an SES-NC shall be designed using such features as color, material, texture, screening, and landscaping to blend into its setting and avoid significant visual impact.
- ii. An SES-NC shall remain painted or finished in the color and/or finish that was originally applied by the manufacturer.
- iii. The exterior surface of any visible components shall be a non-reflective, neutral color (e.g., white, gray) or another non-obtrusive color.
- iv. Finishes shall be matte or non-reflective.

b. Glare

- i. To the extent reasonably possible, solar energy panels, regardless of how they are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties and streets.
- ii. An SES-NC using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties, roads, or streets.
- iii. The applicant has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent land uses. NOTE: Mitigation can be accomplished by panel siting, panel orientation, landscaping and/or other means.)

12. Signage

- a. No portion of an SES-NC shall contain or be used to display advertising.
 - i. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of an SES-NC provided it complies with the prevailing Sign Ordinance.
 - ii. Appropriate warning signs will be allowed.

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13. Trees and Landscaping

- a. Trees or other landscaping required by a county ordinance or attached as a condition of approval to any non-SES-NC plan, application, or permit shall not be removed for the installation or operation of an SES-NC.

C. PERMIT APPLICATION REQUIREMENTS FOR SES-NC

1. Ground-Mount SES-NC

- a. An application for a ground-mounted solar energy system requires an Improvement Location Permit, Electrical Permit, and any other required permit or approval from Wayne County and any other agency having jurisdiction shall include a site plan for review and approval.
 - i. The site plan may be a mechanical drawing or hand-drawn sketch, but the plan shall show the location of the proposed system, property lines, lot dimensions, and setback distances, and the maximum height above grade of the proposed system.
- b. Plan approval does not indicate compliance with applicable building codes or electric codes.

2. Roof-Mount or Wall-Mount SES-NC

- a. An application for a roof-mounted or wall-mounted SES-NC requires an Electrical Permit and shall include an engineering certification from a qualified registered professional engineer that the structure to which the solar technology will be affixed will tolerate the installed weight and wind load of said technology.

3. Description of SES-NC

- a. The description of the proposed SES-NC shall include at a minimum the following:
 - i. Type of solar technology (e.g., solar panels, thermal solar, solar shingles)
 - ii. Solar panel mounting technique (e.g., ground-mount, roof-mount, wall-mount)
 - iii. Solar panel installation height
 - iv. Name plate generating capacity
 - v. The means of interconnecting with the electrical grid, if applicable
 - vi. Any accessory structure required by the installation (e.g., equipment shed)

D. DISCLAIMER AND SOLAR EASEMENT FOR SES-NC

1. Disclaimer

- a. Prior to the issuance of an Improvement Location Permit, the applicant(s) must acknowledge - in writing - that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its-his-her-their successors and assigns in title, or create in the property itself:
 - i. the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other properties, or the growth of any trees or vegetation on such property(s); or
 - ii. the right to prohibit the development on adjacent or other properties, or the growth of any trees or vegetation on such properties.

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2. Solar Easement

- a. This disclaimer is subordinate to any solar easement agreement entered into with another landowner(s).
 - i. A solar easement is a private agreement between landowners and does not fall under the purview of this ordinance.
 - ii. Any term or condition stated in a solar easement agreement that conflicts with any requirement set forth in the Wayne County Zoning Ordinance (e.g., minimum setback requirements, height restrictions) does not supersede the ordinance.

54.247.8 COMMERCIAL SOLAR ENERGY SYSTEM (SES-C) GENERAL REGULATIONS

A. APPLICABILITY FOR SES-C

1. The provisions of 54.247.8 are applicable to those zoning districts that allow or may allow a solar energy system (SES). See Appendix A.

B. SAFETY, DESIGN, AND INSTALLATION STANDARDS FOR SES-C

1. Horizontal extension

- a. The furthest horizontal extension of an SES-C, excepting the SES-C collection system, SES-C transmission lines, point(s) of ingress/egress and SES-C perimeter access roads/lanes:
 - i. shall not extend into a setback which is otherwise required for the zoning district in which the SES-C is located, and
 - ii. shall not extend into a setback required for an adjacent zoning district, and
 - iii. shall not be less than fifteen (15) feet from any structure or public right-of-way easement for any above-ground telephone line, electrical transmission line, electrical distribution line or other above-ground communication or transmission line.

2. Height

- a. Ground-mounted SES-C arrays shall not exceed twenty-five (25) feet in height when oriented at maximum tilt.

3. Setback Requirements

a. Minimum Setbacks

- i. The minimum setbacks for an SES-C's above-ground equipment and structures are measured in a straight-line distance from the outer edge of said equipment or structure that is nearest to the point of concern, as defined in Table 1.
- ii. Setbacks apply to solar panels, racking, accessory buildings, and other power equipment. These do not apply to underground cabling, fencing, point(s) of ingress/egress or perimeter access roads/lanes.

b. SES-C Substation

- i. The substation setbacks shall be the same as those of an SES-C. An adjacent landowner may waive this set back requirement by execution of a written waiver.

c. Poles and Underground Wiring

- i. For all poles carrying overhead wiring and for any underground wiring connecting the racks and components of an SES-C and/or to connect an SES-C to a substation for connection to or other direct connection to a utility's electric transmission line, there

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are no setback requirements from property lines of adjoining landowners so long as the poles and underground wiring are located within a recorded easement for such purpose or within a right-of-way.

d. Ground-mounted SES-C

- i. Ground-mounted SES-C shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or floodplain, or in any other manner that would alter or impede storm water runoff from collecting in, and/or conveyance through, and/or discharge from, a constructed storm water conveyance system (including, without limitation any swale, legal drain, water course or drainage tile) except as permitted in writing by the Wayne County Surveyor and/or Wayne County Drainage Board, and/or Floodplain Administrator, and owner of the land and/or right-of-way and/or easement. This would include, but not be limited to, state, county and/or privately owned waterways, ditches, drainage tiles, retention areas and designed swells.
 1. Notwithstanding the foregoing, nothing in the preceding paragraph (d.i) shall prevent the replacement, repair, reconstruction and/or relocation of any such water conveyance system as necessary to develop and install the SES-C with any necessary approvals from the County Surveyor and/or County Drainage Board.
- e. Any inverter shall be a minimum of two hundred fifty (250) feet from any dwelling.
- f. Any point of ingress/egress into an SES-C shall be no closer than fifty (50) feet to the property line of an adjoining nonparticipating parcel.
 - i. The fifty (50) feet is measured from the edge of the entrance at the road that is nearest to the property line.
- g. An SES-C is not permitted on a parcel of less than 40 acres, nor in residential subdivisions, campgrounds, recreational area, wildlife preserves, and conservation areas.

[See next page for TABLE 1 – MINIMUM SETBACKS]

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TABLE 1 MINIMUM SETBACKS	
Straight-line distance from:	Minimum Setback
Nearest outer edge of SES-C's above-ground equipment and structures ¹ to middle of any road bordering the property	Must conform to setback requirement of zoning district but at least 45 feet ²
Nearest outer edge of SES-C's above-ground equipment and structures ¹ to any side or rear property line ^{3,4}	20 feet (Buffer)
Nearest outer edge of SES-C's above-ground equipment and structures ¹ to nearest point of the outer wall of a dwelling or public use building of a nonparticipating property	250 feet
Point(s) of ingress/egress to any adjoining nonparticipating property	50 feet
<p>¹ e.g., Setbacks apply to solar panels, racking, accessory buildings, and other power equipment. Fences are exempt.</p> <p>² In no case may any above-ground feature of the SES-C be within a designated right-of-way, including fences.</p> <p>³ Where two participating parcels adjoin in A-1, no setbacks to the property lines are required.</p> <p>⁴ Required fences may be placed on the property line in A-1.</p>	

4. Ground Cover, Trees, and Landscaping

- a. A natural vegetative ground cover shall be maintained under and around the solar arrays.
 - i. Only non-invasive species shall be used, and native species are recommended.
 - ii. In interest of protecting pollinators seed mixes consisting of native meadow grasses and pollinator-friendly wildflower and/or clover species shall be used in consultation with a USDA Farm Bill biologist or local Soil and Water Conservation District professional on the area under and around the solar arrays.
 - iii. Maintenance shall include eradication of all noxious weeds and plants prior to the weeds seeding and spreading.
- b. No trees or other landscaping otherwise required by County ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of an SES-C.
- c. The setback from the middle of the road or from a side or rear property line constitutes a buffer. The landscaping, screening, and vegetation within a buffer shall comply with the following design and developmental standards:
 - i. A natural vegetative ground cover shall be maintained within the buffer.
 - 1. Only non-invasive species shall be used, and native species are recommended.
 - 2. Maintenance shall include eradication of all noxious weeds and plants prior to the weeds seeding and spreading.

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- ii. Where a 250-foot setback is required, a visual barrier will be required in the buffer to screen the residential use or public use building from the SES-C.
 - 1. A Visual Barrier shall provide a year-round barrier of evergreens or other similar plantings.
 - 2. The visual barrier shall extend along the length of the shared property line between the SES-C and the nonparticipating property.
- iii. Only the following improvements shall be permitted within the buffer:
 - 1. Vehicular point(s) of ingress/egress which tie into approved access points as determined by INDOT and/or Wayne County Highway Department
 - 2. Landscaping and landscaping fixtures
 - 3. Lighting
 - 4. Fencing
 - 5. Signage
 - 6. Underground utility lines
 - 7. Overhead utility lines
 - 8. Drainage or storm water detention or retention areas
- iv. The perimeter access road/lane shall be adjoining the fence which shall adjoin the buffer strip. The visual order of placement shall be solar panels, perimeter access road/lane, fence then buffer strip (extending to the property line or right-of-way).

d. Visual Barrier

- i. A right-of-way in A-1 does not require a visual barrier. A right-of-way in all other districts, except C-3, M-1, and M-2 require a forty-five (45) foot buffer with a visual barrier.
 - 1. Applicant may receive a reduction in density with a Landscaping and Screening Plan approved by the BZA, with proper notice and hearing.
- ii. Visual Barrier Requirements
 - 1. A visual barrier shall be provided for any adjacent residential or public use building within 400 feet of solar equipment.
 - 2. A parcel that has an existing residential use and/or is parceled to five acres or less with the intent of future residential use shall be provided a visual barrier.
 - a. The five-acre maximum dimension required to be landscaped along any one side of a residential or public use property line shall be 726 feet (726' x 300' = 5 acres).
 - 3. Landscaping/screening shall be placed on all sides adjacent to the SES-C.
 - a. If the property owner is unresponsive within 60 days of the mailing of a certified letter to the taxing address informing them of their choice (and said 60-day limit) then the location of the visual barrier along the property line shall be made by the developer.
 - 4. A visual barrier is intended to exclude visual contact with the solar equipment from any protected property.

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- a. A visual barrier may be composed of landscaping, landscaped berm, or combination thereof.
 - b. Solid fencing shall not be used as part of the visual barrier where the adjacent zoning is Residential, C-1, or C-2.
 - c. The density, buffer width, and method of screening may be waived by the adjacent property owner(s).
5. Natural areas on the same parcel as the solar farm may also be used to meet screening requirements. A natural area is an existing vegetated area. The natural area:
 - a. shall be within or include the required buffer;
 - b. shall be of sufficient height, length, and depth;
 - c. and contain adequate and sufficient healthy vegetation to provide a visual barrier where required.
 - d. The Administrator may determine that further screening improvements shall not be required.
6. The developer may choose to enter into a waiver agreement with the adjoining landowner to place the visual barrier on the adjoining property.
- iii. Buffers adjoining C-1 and C-2 districts and parcels where C-1 and C-2 permitted uses exist, may use a visual barrier composed of landscaping, landscaped berm, or any combination thereof to screen from those districts as approved by the Administrator.
 1. The Administrator should take into consideration the design wishes of the adjacent property owner/operator.
 2. Fencing and walls shall not be used for screening; however, this requirement may be waived by the adjoining property owner(s).
 3. The width and density requirements may be waived by the adjacent property owner(s) to a reduction of landscaping no less than that required in transition yard density for the district and/or a reduction of width equal to the greater of 50% of the required buffer width shown in Table 1 (see 54.247.8.B.3), or the required transition yard width for the district (an SES-C shall be considered a M-1 use as it pertains to transition yards and screening in 6.07, 6.10 and 6.12).
- iv. Landscaping required within buffer strips shall be done in accordance with a certified landscape plan that shows a visual barrier for which a predicted minimum height of seven (7) feet within three (3) years will be achieved by the selected species and planting size and density during normal growing conditions.
 1. A minimum height of fifteen (15) feet is to be maintained over the life of the project.
 2. Height is measured from original grade.
- v. Grass or ground cover shall be planted on all portions of the required buffer areas not occupied by other landscaped material.
 1. Only non-invasive species shall be used, and native species are recommended.
 2. All noxious weeds and plants shall be eradicated prior to the weeds seeding or spreading.

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- vi. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures.
 - 1. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
- vii. Unhealthy and dead plants shall be replaced within one (1) year of being provided written notice from the Administrator of the violation.
 - 1. The determination of whether a plant is unhealthy shall be at the discretion of the Administrator or a recognized landscape professional.
- viii. The effectiveness of screening shall be maintained as the plant materials mature.
- ix. A clear line of sight shall be maintained at all intersections and point(s) of ingress/egress.

5. Equipment Type

- a. An SES-C shall be constructed of commercially available equipment and in conformance with 54.247.8.B.7.
 - i. Material Safety Data Sheets and/or Safety Data Sheets shall be submitted for each model of solar panel to be used.
- b. Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the BZA after notice and hearing pursuant to the variance procedures of this Zoning Ordinance.
- c. When solar storage batteries are included as part of the solar energy collector system, these must be placed in a secure container or enclosure meeting the requirements of the Indiana Building Code and IDEM regulations when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.
- d. An SES-C shall conform to applicable industry standards, as well as all local, state, and federal regulations.
 - i. An applicant shall submit certificate(s) of design compliance that solar manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyed Solar Energie, or an equivalent third party.

6. Electrical Components

- a. Electrical components of an SES-C shall conform to applicable local, state, and national safety codes for similar SES-Cs.
- b. Cables and Lines:
 - i. All cables and lines on site within the fenced area shall follow the current Indiana Electric Code (identified in 675IAC 17).
 - ii. Transmission cables and lines outside the fenced site shall be buried no less than forty-eight (48) inches underground with a warning mesh located at thirty-six inches (36) deep.
 - 1. No plow type installations are permitted, only open trenching or boring installations.
 - iii. All underground cabling will be marked at road crossings, creeks, riverbeds and property lines with a metal or fiberglass post at least 5 feet in height.

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- iv. For any installation method of cables and lines except as provided herein, the applicant shall apply for a variance before the BZA, pursuant to this Zoning Ordinance.

7. Color, Finish, and Glare

- a. In addition to any applicable FAA requirements that now exist and are amended from time to time, the following shall also apply:
- b. The solar energy systems shall remain painted or finished in the color or finish that was originally applied by the manufacturer provided the exterior surface of any visible components are non-reflective, a neutral color like white, grey or another non-obtrusive color. Finishes shall be matte or non-reflective.
- c. To the extent reasonably possible, solar energy panels, regardless of how these are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties, structures, and roadways.
- d. The applicant has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent uses. Mitigation is accomplished by panel siting, panel orientation, landscaping and/or other means.

8. Materials Handling, Storage, And Disposal

- a. **Solid wastes** - All solid wastes whether generated from supplies, equipment, parts, packaging, operation, maintenance, rehabilitation, decommissioning, restoration of the facility, or otherwise, including, but not limited to, old parts and equipment related to the maintenance, rehabilitation, decommissioning, or restoration of any SES-C shall be removed from the site promptly and disposed of in accordance with all local, state, and federal regulations, laws and ordinances. The SES-C owner and SES-C operator shall have the same responsibility for compliance hereof.
- b. **Hazardous materials** - All hazardous materials or hazardous waste related to the construction, operation, maintenance, rehabilitation, decommissioning, or restoration of any SES-C or otherwise generated by the facility shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal regulations and laws. The SES-C owner and the SES-C operator shall have the same responsibility for compliance hereof.

9. Sewer and Water

- a. An SES-C facility shall comply with the septic system and well regulations as currently required or as hereinafter amended, of the Wayne County Health Department and the State of Indiana Department of Public Health.

10. Utility Interconnection

- a. An SES-C, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the interconnection agreement with the electrical utility, as any applicable local, state, and federal regulations now exist and as the same are from time to time amended.

11. Signage

- a. Signs will comply with the Sign Standards provided in applicable Articles of the Zoning Ordinance.
- b. Development Signs: An identification sign relating to an SES-C may be located on each side of the fenced facility area, provided that there shall be no more than one (1) sign

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located on any side of the SES-C fenced facility area, unless additional identification signs are required to provide reasonable notice to the general public.

- c. A sign shall be securely posted on each gate entry point clearly displaying an emergency telephone number(s) and other contact information.
- d. Each point of ingress/egress to an SES-C shall have posted in a conspicuous location a 911 address road sign indicating the assigned address for that location.
- e. Warning signs shall comply with applicable laws.
- f. No portion of the SES-C shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the SES-C provided these comply with the prevailing sign regulations.
- g. All signage required or permitted by this Article shall be made of materials and constructed in a manner to be durable and long lasting. The same shall be painted or made of material with a distinct, high contrast background and be weatherproof paint or other weatherproof material to promote safety and protect the public from hazards and potential hazards.

12. Collection Cables/Lines

- a. Collection cables, collection lines, and communication lines installed as part of any SES-C shall not be considered essential services.

13. Other Appurtenances

- a. No appurtenances other than those associated with the SES-C construction, operations, maintenance, repair, replacement, rehabilitation, decommissioning, restoration, removal, and permit requirements shall be connected to the SES-C area except after notice of hearing and the hearing before the BZA pursuant to the applicable Article(s) of this Zoning Ordinance.

14. Fencing

- a. For security, all ground-mounted SES-C shall be completely enclosed by a minimum six (6) foot high fence with a locking gate accessed by a keypad or lock box with key.
- b. Signage will be permitted as specified in 54.247.8.B.10.
- c. The fence should be located immediately adjacent to the perimeter access road/lane and between any required landscaping in the buffer and said access.
- d. A fence installed on the property line is the sole responsibility of the SES-C owner/operator.

15. Noise

- a. No operating SES-C shall produce noise that exceeds any of the following limitations except during construction. Adequate setbacks, barriers, enclosures, use of quieter equipment, or other effective means of reducing noise shall be used to comply with these limitations:
 - i. Fifty (50) dBA, as measured at the property line of any adjacent residentially zoned lot;
 - ii. Forty-five (45) dBA, as measured at any existing adjacent residence between the hours of 9 P.M. and 7 A.M.

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- iii. Sixty (60) dBA, as measured at the property lines of the project boundary, unless the owner of the affected property agrees to a higher noise level, as follows:
 1. The owner of an adjacent property that would otherwise be protected by the sixty (60) dBA noise limitations may voluntarily agree, by written waiver, to a higher noise level.
 - a. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the landowner (including assignees in interest) and the solar energy system developer, effective for the life of the project.
 2. This waiver must be recorded and cross-referenced with the affected property (properties).

16. Point(s) of Ingress/Egress and Perimeter Access Road/Lane

- a. At a minimum:
 - i. A twenty (20) foot wide point of ingress/egress must be provided from a public street, legally established access drive, road, or other roadway into the site.
 1. Each point of ingress/egress shall be graveled or paved, and must meet all local, state, and federal regulations.
 - ii. A minimum twelve (12) foot wide perimeter access road/lane shall be provided in the buffer around the perimeter of the SES-C between the solar arrays and required fence to allow access for maintenance vehicles and emergency management vehicles, including fire apparatus and emergency vehicles.
 1. The perimeter access road/lane may be a mown, well-maintained grass lane.

17. Lighting

- a. Ground-mounted SES-C shall not be artificially lit except to the extent required for safety or applicable local, state, or federal authority.
 - i. Such lighting shall be shielded and downcast so as not to affect adjacent properties.

C. OPERATION AND MAINTENANCE FOR SES-C

1. Repair

- a. The SES-C owner and/or operator shall repair, maintain, and replace the SES-C and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the SES-C in good repair and operating condition.

2. Operation and Maintenance Plan

- a. The applicant shall submit a plan for the operation and maintenance of the SES-C, which shall include measures for maintaining safe access to the installation, storm water controls, general procedures for operation and maintenance of the installation as well as maintenance of vegetation within the buffer strip and underneath the ground-mounted solar arrays.

3. Physical Modifications

- a. Any physical modification to any SES-C or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by all appropriate regulatory authorities.

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- i. Like-kind replacements shall not require re-certification, unless required by a regulatory authority.
- b. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such SES-C shall confer with the Wayne County Building Commissioner, Plan Administrator of the APC, Wayne County Surveyor, Wayne County Highway Department Superintendent, and any other appropriate regulatory authority as to whether the proposed physical modification requires re-certification of such SES-C.

4. Declaration of Public Nuisance/Unsafe Premises

- a. An SES-C declared a public nuisance/unsafe premises by the County Commissioners, acting as the Unsafe Hearing Authority, (UHA hereafter in Section 54.247.8, C, 4) by being in breach of, or, out of compliance with its SES-C permit(s) may seek to be rehabilitated and declared safe by appropriate repair(s) and other essential steps necessary to eliminate the breach(es) so as to be in compliance with such SES-C permit(s).
- b. An SES-C declared a public nuisance/unsafe premises by the UHA by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, abandonment, or as provided herein, is hereby declared to be a public nuisance/unsafe premises. A Rehabilitation Plan should be submitted to the UHA within sixty (60) days.
 - i. This plan shall provide procedures to rehabilitate the SES-C in a time not to exceed three hundred sixty-five (365) days except in the event of force majeure, including but not limited to unavailability of components or parts, strikes, and moratoriums which said majeure extends said time to 18 months total or a reasonable extension agreed to by the UHA.
 - ii. In the absence of an approved Rehabilitation Plan or meeting the agreed to time schedule(s), or failure to execute the required repair(s) in the time determined reasonable by the UHA, such SES-C shall be demolished and removed in accordance with the Decommissioning-Restoration Plan and Agreement.

5. Public Nuisance/Unsafe Premises Waiver

- a. In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or most of the SES-C, the three hundred sixty-five (365) day public nuisance/unsafe premises removal timeline will be waived so long as the SES-C owner and/or SES-C operator provides a Rehabilitation Plan to remedy the damage and said plan is submitted to, and approved by, the County Commissioners, acting as the Unsafe Hearing Authority, (UHA hereafter in Section 54.247.8, C, 5).
 - i. Said plan will outline the necessary protocol and time schedule for returning the SES-C to energy production and must be submitted to the UHA within sixty (60) days of the date the damage was incurred, or a time determined reasonable by the UHA.

6. Contact Information

- a. The SES-C owner and/or operator shall maintain a phone number and identify a person responsible for accepting calls of inquiries and complaints from the public throughout the life of the project.
 - i. This number and the name of the responsible person shall be provided to the Administrator.
 - ii. The SES-C owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

D. APPLICATION FOR SES-C

1. Contact Information of SES-C Applicant

- a. The name(s), address(es), telephone number(s), and email address(es) (if available) of the applicant(s), together with a description of the applicant's business structure and overall role in the proposed project.

2. Contact Information of SES-C Owner

- a. The names(s), address(es), telephone number(s), and email address(es) (if available) of the SES-C owner(s), together with a description of the owner's business structure and overall role in the proposed SES-C, and documentation of real estate ownership of any real property upon which any part of the proposed SES-C is to be located.
 - i. The SES-C owner shall inform the Plan Administrator of the APC of any change of SES-C ownership, in whole or in part, and shall furnish the required information regarding such owner.

3. Contact Information of SES-C Operator

- a. The name(s), address(es), telephone number(s), and email address(es) (if available) of the operator(s), as well as a description of the operator's business structure and overall role in the proposed project.
 - i. The SES-C operator shall inform the Plan Administrator of the APC of any change of the SES-C operator and furnish the required information regarding such operator.

4. Legal Description

- a. The legal description and the 911 Emergency Address of the real property upon which the SES-C is to be located.

5. SES-C Description

- a. The SES-C description and information including, but not limited to, the following:
 - i. Type of solar technology (e.g., solar panels, solar shingles)
 - ii. Solar panel mounting technique (e.g., ground-mount, roof-mount)
 - iii. Solar panel installation height
 - iv. Name plate generating capacity
 - v. The means of interconnecting with the electrical grid
 - vi. The potential equipment manufacturer(s); including information sheets and installation manuals
 - vii. Accessory structures and other appurtenances

6. Preliminary Site Plan

- a. A site plan, drawn to scale, including distances pertaining to all applicable setback and buffer requirements. All drawings shall be at a scale of one (1) inch equals thirty (30) feet (1 inch = 30 feet). Any other scale must be approved by the Plan Administrator of the APC. No individual sheet or drawing shall exceed twenty-four (24) inches by thirty-six (36) inches (24 inches by 36 inches) without the prior consent of said Plan Administrator.
- b. The preliminary site plan shall illustrate the following:
 - i. Property lines upon tract(s) subject to the application, together with property lines and with the names of owners of record of each adjacent tract(s)
 - ii. Location and name/number of public roads surrounding, abutting, and/or traversing the SES-C and any SES-C point(s) of ingress/egress
 - iii. Substations: location

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- iv. Location of electrical cabling outside of fenced areas
- v. Ancillary equipment
- vi. Location and height of fencing, perimeter access roads/lanes, berms and landscaping associated with any buffer zone
- vii. Location and spacing of panels/arrays and key components
- viii. Setback lines: Distances from the solar energy system to each setback requirement defined in Table 1 in 54.247.8.B.3.
- ix. Any structure within one quarter (1/4) mile of the proposed SES-C boundary
- x. The location of any airport within one (1) mile of the proposed SES-C boundary
- xi. 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 SES-C
- xii. 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 SES-C
- xiii. All other information reasonably requested by the BZA, APC and Plan Administrator of the APC

7. Topographic Map

- a. A United States Geological Survey (USGS) topographical map, or map with similar data, of the property and the surrounding area, with contours of not more than five (5) foot intervals.

8. Landowner Agreements

- a. A Memorandum of Agreement for all agreements of any description signed by participating landowners authorizing the placement of the identified SES-C on landowner's property.
- b. Fully executed Setback Waiver Agreements, if applicable, signed by adjacent landowners.
- c. An executed copy of any other waiver agreement signed by adjacent landowner(s).
- d. A copy of any recorded Solar Easements from adjacent landowners.

9. Engineering Certification

- a. For an SES-C, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the Building Permit Application, that all structural aspects of the SES-C design are within accepted professional standards, and the structure or substrate the solar technology will be affixed to will tolerate the installed weight of said technology (e.g., roof structure, soils).

10. Proof of Correspondence and Cooperation with Wildlife Agencies

- a. For the purposes of demonstrating compliance with required permits, the applicant shall provide written documentation that the applicant is in direct correspondence, cooperation and in compliance and shall remain in compliance with all applicable regulations and requirements of the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.

11. Disclaimer

- a. Prior to the issuance of an Improvement Location Permit (ILP), SES-C applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself : (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other property or the growth of any trees

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or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

- i. This disclaimer is subordinate to any solar easements entered into with adjacent landowners and subject to the terms agreed to therein.

12. Solar Easement

- a. Solar Easement may be entered into between affected parties (see 54.247.8.F.1.e) and must be submitted with the SES-C application.

13. Additional Required Documents

- a. Prior to the issuance of an Improvement Location Permit (ILP) and a Building Permit, and in addition to all other application requirements and any other requirements for the applicant, owner and/or operator to be in compliance with the Zoning Ordinance, the following shall be submitted to the Plan Administrator of the APC:
 - i. Form, Content and Title of Agreements. NOTE: The plans and agreements set forth in subsections may be merged into one or more agreements.
 1. Decommissioning-Restoration Plan and Agreement (see 54.247.8.F.1.a.)
 2. Drainage Agreement (see 54.247.8.F.1.b.)
 3. Road Use and Maintenance Agreement (see 54.247.8.F.1.c.)
 4. Erosion Control Plan (see 54.247.8.F.1.d.)
 5. Pre-Construction Requirements (see 54.247.8.G.)
 6. Construction Requirements (see 54.247.8.H.)
 7. Any agreement title or document name/designation made by the parties shall be sufficient provided such plans and agreements are in compliance with the requirements of the Zoning Ordinance and all other requirements of applicable local, state, and federal laws, rules, regulations, and ordinances.

14. Waivers

- a. All waiver agreements shall be in writing and follow the requirements specified in Definitions. Copies of all waivers are required as part of the SES-C application.

15. Aggregated SES-C Applications

- a. Aggregated SES-Cs may be jointly submitted as a single application and be reviewed under joint proceedings, including notices, hearing, and reviews, and as appropriate, approvals.
- b. All permits shall be issued pursuant to 54.247.8.E.

E. REQUIRED PERMITS FOR SES-C

1. **Issuance of Permits:** All application requirements as set forth in 54.247.8.D, together with all other applicable requirements of this Article and the Zoning Ordinance, shall be completed and approved by all required authorities (local, state, and federal) before an Improvement Location Permit, Building Permit, or Electrical Permit is issued.
 - a. For an aggregated SES-C, Improvement Location Permits, Building Permits, and Electrical Permits shall be issued individually per parcel.
2. An **Improvement Location Permit (ILP)** is required for the following:
 - a. An SES-C facility, accessory buildings and structures
 - b. Meteorological Tower
 - c. Operational Support Meteorological Tower

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- d. Application for and acceptance of an ILP is an agreement by the applicant to be bound by the terms of this Ordinance.
3. A **Building Permit** is required for the following:
 - a. An SES-C accessory building and/or structure
4. An **Electrical Permit** is required for an SES-C facility.
 - i. More than one permit may be required.

F. PLANS AND AGREEMENTS FOR SES-C

1. Plans and agreements for a single SES-C or in aggregate must be approved by the County Commissioners and shall include all the following:
 - a. **Decommissioning/Restoration Plan and Agreement**
 - i. Prior to receiving an Improvement Location Permit and Building Permit, under this Ordinance, the applicant, owner, and operator shall submit and shall enter into a Decommissioning-Restoration Plan and Agreement with the County.
 - ii. Commissioners outlining the anticipated means, costs, and method of payment of all costs in carrying out such Decommissioning-Restoration Plan and Agreement at the end of the SES-C life or the life of any part of an SES-C, upon becoming an abandoned use, or being declared a public nuisance (see 54.247.8.C.4 and 54.247.8.C.5).
 - iii. **Discontinuation and Abandonment**
 1. Owner operator shall give written notice of intent to abandon use of an SES-C facility 60 days prior to the discontinuation of electrical production to the County Commissioners and Advisory Plan Department.
 2. An SES-C or portion of an SES-C shall be considered an abandoned use after one (1) year without energy production, unless a Rehabilitation Plan developed by the SES-C owner and SES-C operator is submitted to and approved by the County Commissioners outlining the necessary procedures and time schedule for commencing or returning the SES-C to energy production (see 54.247.8.C.4 and 54.247.8.C.5).
 3. Failure by the SES-C owner and/or operator to commence energy production at such SES-C or return such SES-C to energy production within the time schedule which has been approved by the County Commissioners, said SES-C or portion of SES-C shall be considered an abandoned use and/or a public nuisance (see 54.247.8.C.4 and 54.247.8.C.5).
 - iv. **Removal and Restoration**
 1. The SES-C owner and/or the SES-C operator is required to remove all physical material pertaining to the SES-C above-ground level and all improvements of said SES-C below-ground level to a depth of thirty-six (36") inches for an SES-C declared irreparably damaged, and/or an abandoned use and/or a public nuisance.
 2. All materials shall be so removed, and the SES-C site restored within 365 days of the discontinuation of energy production, or in accordance with agreements developed under 54.247.8.C.4 and 54.257.8.G.1.b.
 3. An SES-C which is irreparably damaged, abandoned or declared to be a public nuisance shall, within said time limit (365 days), require the SES-C owner and/or

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SES-C operator to have completed restoration of the SES-C site to as near as practicable to the original condition of the SES-C site prior to the development of such SES-C.

4. If any portion of the SES-C is found to be hazardous in nature by state, or federal regulatory agency(s) or required to be recycled, the SES-C owner and/or SES-C operator is required to remove said portion in a manner as prescribed by law.

v. Identification and Removal of Hazardous Materials

1. During removal and restoration, the SES-C owner and/or operator shall identify all hazardous materials and non-hazardous materials, and indicate the appropriate handling, storage and transport during disposal and/or diversion of both kinds of material.
 - a. Hazardous materials are identified by and regulated by state and federal regulatory agencies, such IDEM and the EPA.

vi. Performance Guarantee

1. Prior to issuance of an ILP or Building Permit, the applicant must provide the County with a performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the County Commissioners in the amount of 125% of the estimated decommission and restoration cost minus the salvageable value, or \$50,000 whichever is greater. Estimates shall be determined by a licensed engineer.
2. Unless otherwise agreed to by all parties, every five (5) years a new engineer's estimate of probable cost of Decommissioning and Restoration shall be submitted for approval in the same manner as the initial submission, and the bond, letter of credit, or other financial security acceptable to the county shall be adjusted upward or downward as necessary. A new estimate will be submitted to the Commissioners prior to the sale of any portion of the SES-C and the Performance Guarantee adjusted appropriately and made part of the sales contract.
3. All expenses involved in such removal and restoration shall be paid by the SES-C owner and SES-C operator, or removal and restoration will be completed by Wayne County at the SES-C owner's expense and SES-C operator's expense as specifically provided by the Decommissioning-Restoration Plan and Agreement.

vii. Written Notices

1. Prior to implementation of any procedures or remedy for the resolution of any SES-C owner's and/or operator's failure to decommission the SES-C pursuant to the Decommissioning-Restoration Plan and Agreement, and/or Rehabilitation Plan and/or the Ordinance, the County Commissioners shall first provide written notice to the owner and/or operator, setting forth the alleged default(s).
2. Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, except upon such longer time to which all said parties agree, for good faith negotiations between the SES-C owner and/or operator and the County Commissioners or its duly appointed representative, to resolve the default(s).
3. In the event the negotiations fail to resolve the default issue(s), either party may pursue any and all remedies available by the terms of the Zoning Ordinance and/or Decommissioning-Restoration Plan and Agreement and/or Rehabilitation Plan.

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viii. Costs incurred by the County

1. In the event, after written notice, the owner and/or operator shall fail to enter into a Rehabilitation Agreement (54.247.8.C.4) or decommission the SES-C in accordance with the Zoning Ordinance and the Decommissioning-Restoration Plan and Agreement, the owner and/or operator shall pay all reasonable cost, including reasonable attorney fees, incurred by the County to remove the SES-C. The County shall be entitled to apply the salvage value of the SES-C to the costs of removal, subject to any rights of the SES-C Owner's lenders.

b. Drainage Agreement

- i. A Drainage Agreement approved by the Wayne County Drainage Authority, or their designees must prescribe or reference provisions to address field tile damages and repairs thereof for any field tile owned by Wayne County.
- ii. Except as otherwise allowed by IC 36-7-4-1109, all damages to waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of an SES-C must be completely repaired by the project owner or remedied with the installation of new drainage infrastructure so as to not impede the natural flow of water.
 1. All repairs must be completed within a reasonable period of time and:
 - a. to the satisfaction of the Wayne County Drainage Board;
 - b. as stated in an applicable lease or another agreement with the landowner; and
 - c. subject to applicable local, state, and federal drainage laws and regulations.

c. Road Use and Maintenance Agreement

- i. A Road Use and Maintenance Agreement shall be submitted for approval and include the requirements of 54.247.8.G.1 and 54.247.8.I.1.
 1. Said plan shall be approved by the County Commissions and/or the County Highway Department.

d. Erosion Control Plan

- i. An erosion control plan developed in accordance with the Natural Resources Conservation Services (NRCS) guidelines, and any storm water quality management plan adopted by the applicable jurisdiction(s).
- ii. The area beneath a ground-mounted SES-C is considered pervious cover, therefore, natural (pervious) ground covers are required beneath the solar arrays.

e. Solar Easements

- i. Where a land development proposes an SES-C, solar easements may be provided. Said easements and any subsequent amendments shall be in writing and shall be subject to the conveyance and instrument recording requirements prescribed in IC 32-23-2-5.
- ii. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:
 1. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees at which the solar easement extends over the

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real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant;

2. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
 3. Enumerate any terms and conditions under which the easement is granted and may be revised or terminated.
- iii. If necessary, an SES-C owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s). Copies of such easements shall be submitted as part of the application process with proof of appropriate recording in the Wayne County Recorder Office.

G. PRE-CONSTRUCTION REQUIREMENTS FOR SES-C

1. Avoidance and Mitigation of Damages to Public Infrastructure

- a. In addition to complying with the approved Road Use and Maintenance Agreement, an applicant, owner, and/or operator proposing to use any county road(s) for the purposes of transporting any component of an SES-C, substation, and/or any other equipment for the construction, operation or maintenance of an SES-C shall comply with the following pre-construction requirements:
 - i. **Identification of roads and services**
 1. All roads and services, to the extent that all proposed routes that will be used for transportation of construction materials, construction of the SES-C, and/or maintenance of the SES-C shall be identified. If the route includes a public road, such route shall be approved by the Wayne County Highway Department Superintendent. To the extent possible State or Federal Highways shall be utilized for the purposes of transporting any component of an SES-C, substation and/or any other equipment for the construction, operation, or maintenance of an SES-C.
 - ii. **Pre-construction survey**
 1. The applicant, owner and/or operator shall conduct a pre-construction baseline survey in coordination with, and acceptable to, the Wayne County Highway Superintendent and such survey shall be a part of the Road Use and Maintenance Agreement to determine existing road conditions for assessing current needed improvements and potential future damage.
 2. The survey shall include, but not be limited to, photographs, and/or video, or a combination thereof, and a written agreement to document the condition of the public facility as the same exists on the date of the baseline survey.
 3. This survey shall be the basis for determining the minimum width of roads (not platted width) when repair or replacement is required in the Road Use and Maintenance Agreement (54.247.8.F.1.c).

2. Amendments and Changes to the Preliminary Site Plan

- a. Any material change of location of the SES-C fenced boundary and any material change in the location of SES-C facilities outside of the SES-C fenced boundary shall be furnished to the Plan Administrator of the APC, Building Commissioner, Highway Superintendent, County Surveyor, and any other person(s) designated and authorized by the County Commissioners.

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- b. It shall be the duty and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change.
 - i. Any variance required by this Section shall be obtained prior to construction or implementation of such change.

H. CONSTRUCTION REQUIREMENTS FOR SES-C

- 1. During construction, the applicant shall demonstrate and document to the satisfaction of the Building Commissioner, Highway Superintendent, County Surveyor, Plan Administrator of the APC, and any other person(s) designated and authorized by the County Commissioners, that the following requirements are being met:
 - a. **Dust control**
 - i. All reasonable dust control measures required by the County Commissioners during construction of the SES-C are being followed together with any additional steps or adjustments for dust control which may from time to time be required by the County Commissioners.
 - b. **Drainage**
 - i. Reasonable storm water best management practices as required by the approved Drainage Plan/Agreement.
 - c. **Noise**
 - i. Near a residence or public use parcel noise shall be kept to a minimum during the hours of 7 pm to 7 am.

I. POST-CONSTRUCTION REQUIREMENTS FOR SES-C

- 1. Post-construction, the applicant shall comply with the following provisions:
 - a. **Road Repairs**
 - i. Any road damage caused by the transport of any matter or material utilized in any way regarding the SES-C, in the construction of the SES-C, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Wayne County Highway Department Superintendent and the Wayne County Engineer.
 - ii. The Superintendent or Engineer may choose to require either remediation of road(s) upon completion of the SES-C or said Superintendent is authorized to collect fees for oversized load permits.
 - iii. A surety bond or letter of credit in an amount to be determined by a professional highway engineer selected by the Wayne County Commissioners may be required by the County to ensure that future repairs are completed to the satisfaction of the Superintendent and/or Engineer.
 - 1. The cost of such bond or letter of credit shall be paid by the SES-C owner and said bond shall remain in full force and affect until the decommissioning and restoration is fully completed as prescribed by this Zoning Ordinance and the Decommissioning-Restoration Plan and Agreement.

54.247 – SOLAR ENERGY SYSTEMS SITING REGULATIONS

b. As-Built Plans Requirement

- i. Where upon completion of all development, the exact measurements of the location of utilities, structures, and components erected during the development are necessary for public record and shall, therefore, be recorded.
- ii. The applicant, owner, and/or operator shall submit a copy of the final as-built survey to the Plan Administrator of the APC with the locations of the SES-C facilities shown thereon.
- iii. Said Plan Administrator, after being satisfied that the locations of the SES-C facilities are substantially similar to the locations on the originally approved final plan(s) or as the same were from time to time amended, shall approve, date, and sign said as-built survey for the SES-C.
- iv. Once the Plan Administrator approves the as-built survey, the survey will then be reviewed by the Wayne County Drainage Board for its approval.
- v. The applicant, owner, and/or operator shall then record and provide to the Plan Administrator a copy of said recorded Plans.

c. Change in Ownership

- i. It is the duty and responsibility of the SES-C applicant, SES-C owner, and/or SES-C operator and any subsequent SES-C owner and SES-C operator, in addition to the notice requirements of any SES-C plan(s) and SES-C agreement(s) to notify by written notice the Wayne County Commissioners and the Plan Administrator of the APC of any change in the ownership of the SES-C or any part of the ownership thereof to and through the time that the final Decommissioning Restoration Plan and Agreement are concluded and all applicable acceptances, releases and performance standards of any description have been met and concluded and accepted by the appropriate local, state, federal or private authority, department, agency, and person(s) and all financial payments or other financial obligations are fully satisfied and all appropriate parties are in receipt thereof.
- ii. The written notice shall be sent by certified mail with certified funds for any required recording fees and any other applicable fee(s) to:
 1. Wayne County Board of County Commissioners, 401 E. Main Street, Richmond, IN 47374, and
 2. Plan Administrator of the Advisory Plan Commission of Wayne County, 401 E. Main Street, Richmond, IN 47374, or
 3. Personally delivered to said County Commissioners and Plan Administrator.

54.247 – SOLAR ENERGY SYSTEMS SITING REGULATIONS

54.247.9 DEFINITIONS

1. **Adjacent:** Lying near, close; contiguous; adjoining; neighboring.
2. **Adjoining:** Being in contact at some point or line; contiguous; bordering.
3. **Battery Back-Up:** A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. A battery back-up system is common in off-grid systems and hybrid systems.
4. **Building-integrated Photovoltaic System:** A solar energy system that is an integral part of a principal or accessory building rather than a separate mechanical device. This type of system replaces or substitutes for an architectural or structural component of the building. A building-integrated system includes, but is not limited to, a photovoltaic or hot water solar energy system that is contained within roofing materials, windows, skylights, and awnings.
5. **Buffer:** The required space between the solar energy equipment and structures and a property line or right-of-way on the SES-C site.
6. **Concentrated Solar Thermal Power System:** A solar energy system that uses lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant or a power conversion unit.
7. **Glare, Solar Glare:** The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
8. **Ground-Mount System:** A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home, building or utility. A ground-mount system may be applicable when insufficient space, structural and shading issues, or other restrictions prohibit a rooftop solar system.
9. **Hybrid Solar Photovoltaic System (aka, grid-tied PV with battery back-up):** A solar photovoltaic electricity generation system designed to serve the electricity needs of the building to which it is connected, thus offsetting a dwelling or business's electricity usage, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down.
10. **IAC:** Indiana Administrative Code
11. **Indiana Electric Code:** Identified in 675 IAC 17
12. **Indiana Building Code:** Identified in 675 IAC 13
13. **Inverter:** A device that converts the direct current (DC) electricity produced by a solar photovoltaic system into usable alternating current (AC).
14. **Large-Scale Solar Energy System:** A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system will have a project size of not less than 40 acres and is the principal land use for the parcel(s) on which it is located. It can include collection and feeder lines, substations, ancillary buildings, solar monitoring stations and accessory equipment or structures thereto, that capture and convert solar energy into electrical energy, primarily for use in locations other than where it is generated.

54.247 – SOLAR ENERGY SYSTEMS SITING REGULATIONS

15. **Off-Grid Solar Photovoltaic System with Battery Back-up:** A solar photovoltaic electricity system designed to operate independently from the local utility grid and provide electricity for noncommercial uses. This system typically requires a battery bank to store the solar-generated electricity for use during nighttime or cloudy weather.
16. **Passive Solar:** Techniques, design, and materials designed to take advantage of the sun's position throughout the year (and the local climate) to heat, cool, and light a building with the sun.
17. **Passive Solar Energy System:** A structure specifically designed to retain heat that is derived from solar energy.
18. **Photovoltaic (PV) System:** A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.
19. **Plan Administrator:** The departmental head of the Wayne County Planning and Zoning Office.
20. **Pollinator-Friendly Solar Energy:** A community or large-scale solar energy system that meets the requirements of the 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard, developed by Purdue University as a solar-pollinator standard designed for Midwestern ecosystems, soils, and habitat.
21. **Racking:** A system of installation that securely attaches and anchors a solar energy system to structural sections of a roof-mounted or pole-mounted system.
22. **Roof-Mount System (aka rooftop mounted, building mounted):** A solar energy system consisting of solar panels installed directly on the roof of a home, commercial building, and/or an accessory structure. Solar panels are mounted and secured using racking systems. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.
23. **SES-C:** See Solar Energy System, Commercial (SES-C)
24. **SES-NC:** See Solar Energy System, Non-Commercial (SES-NC)
25. **SES-C Owner:** The person or entity who has legal ownership of the SES-C facility.
26. **SES-C Operator:** The authorized person or entity responsible for the operation of the SES-C facility. The operator may or may not also be the SES-C Owner.
27. **Solar Access:** The ability of one property to continue to receive sunlight across property lines without obstruction from an adjacent property's buildings, foliage, or other impediment.
28. **Solar Array:** Multiple solar panels combined to create one system.
29. **Solar Carport:** A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.
30. **Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
31. **Solar Easement:** An easement recorded pursuant to IC 32-23-4, obtained to ensure exposure of a solar energy device or a passive solar energy system to the direct rays of the sun.
32. **Solar Energy:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

54.247 – SOLAR ENERGY SYSTEMS SITING REGULATIONS

33. **Solar Energy Device:** An instrument or the equipment designed to receive the direct rays of the sun and convert the rays into heat, electricity, or another form of energy to provide heating, cooling, or electrical power.
34. **Solar Energy System (SES):** - The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer, and landscaping. The term applies to, but is not limited to, a solar photovoltaic (PV) system, solar thermal system, and solar hot water system. A regulated system fits into one of two system types: Commercial (SES-C) or Noncommercial (SES-NC).
35. **Solar Energy System, Commercial (SES-C):** A utility-scale commercial facility that converts sunlight into electricity with the primary purpose of wholesale or retail sales of generated electricity. (See Large-Scale Solar Energy System.)
36. **Solar Energy System, Noncommercial (SES-NC):** A photovoltaic, solar thermal, or solar hot water device that is accessory to, and incorporated into the development of an authorized use of the property, and which is designed for the purpose of reducing or meeting on-site energy needs.
37. **Solar Hot Water System:** See Solar Thermal System.
38. **Solar Photovoltaic (Solar PV) System:** A solar energy system consisting of photovoltaic cells, made with semiconducting materials, which produce electricity when exposed to sunlight.
39. **Solar Panel:** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).
40. **Solar Thermal System** (aka, Solar Hot Water or Solar Heating System): A solar energy system that directly heats water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.
41. **Wall-Mounted System:** A solar energy system consisting of solar panels installed directly on the exterior wall(s) of a home, commercial building, and/or an accessory structure. Wall-mounted solar panels are typically installed as modules on a south-facing wall.
42. **Visual Barrier:** A density of landscaping equal to Thuja Green Giant Arborvitae spaced four feet apart which initial planting size and density is expected to attain a height of seven feet in three years under normal growing conditions. A minimum height of fifteen feet is to be maintained thereafter. The intent is to completely exclude visual contact with solar panels and equipment.

**APPENDIX A
SOLAR ENERGY SYSTEMS: ZONING DISTRICTS**

Zoning District	A-1	A-2	R-S,1,2,3	C-1	C-2	C-3	M-1	M-2	M-3
SES-C ^{1,2}	SE ³	SE ³	X	SE ³	SE ³	SE ³	SE ³	SE ³	SE ³
SES-NC	P	P	P	P	P	P	P	P	P

KEY:


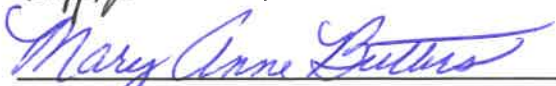
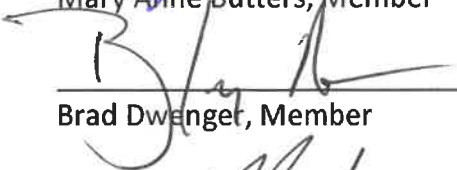
- P:** permitted use
- SE:** special exception use
- X:** not permitted, no variance allowed

¹ An SES-C is not permitted on a parcel of less than 40 acres

² An SES-C is not permitted in residential subdivisions, campgrounds, recreational area, wildlife preserves, and conservation areas.

³ The provisions of Section 54.247, including but not limited to, those set out in 54.247.8(G), are subject to limitation, waiver, modification, or variance pursuant to the provisions of Indiana Code (IC) 36-7-4-918.2 and IC 36-7-4-918.5, as part of the BZA's exercise of its authority to impose reasonable conditions on the granting of Special Exceptions, as well as on the granting of Variances from the Development Standards, and after compliance with the applicable provisions of the Wayne County Zoning Ordinance and the Ordinance for Flood Hazard Areas for Wayne County, Indiana.

ADOPTED by the Wayne County Board of Commissioners, Wayne County, Indiana, this 12th day of April 2023.

	<u>Yes</u>	<u>No</u>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jeffrey E. Plasterer, President		
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mary Anne Butters, Member		
	<input type="checkbox"/>	<input type="checkbox"/>
Brad Dwenger, Member		

ATTEST: 
Mark A. Hoelscher, Auditor

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

NAME Laura Miller

WAYNE COUNTY, INDIANA

ZONING ORDINANCE

Adopted March 10, 1993

Amended December 21, 1994

Amended February 5, 1997

Amended July 1, 1997

Amended April 12, 1999

Amended July 24, 2001

Amended March 26, 2003

Amended December 23, 2003

Amended January 21, 2004

Amended August 11, 2004

Amended December 14, 2005

Amended May 23, 2007

Amended November 18, 2009

Amended August 20, 2014

Amended March 18, 2015

Amended December 7, 2016

Amended August 21, 2019

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ARTICLE I GENERAL PROVISIONS

54.10 PURPOSE AND SCOPE

This Ordinance is enacted for the purpose of promoting public health, safety, comfort, morals, convenience, and general public welfare by classifying, regulating and restricting that location, bulk, and height of buildings and structures and of premises to be used for trade, industry, residence or other specified uses, all in accordance with a comprehensive plan for the desirable future development of the county and to provide a method of administration and to prescribe penalties for the violations of provisions hereafter described.

54.11 TITLE

This Ordinance shall be known and may be cited and referred to as the Wayne County, Indiana, Zoning Ordinance.

54.12 INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Wherever this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or resolutions, the provisions of this Ordinance shall govern.

ARTICLE II DEFINITIONS

Section 54.25 Definitions

ARTICLE II DEFINITIONS

54.25 DEFINITIONS

The following words and terms, unless a contrary meaning is required by the context or specifically otherwise prescribed, shall have the following meaning:

Words used in the present tense include the future and vice versa; words in the singular number include the plural number and vice versa. The word shall be mandatory and not discretionary.

1. **“ABANDON”** means to intentionally cease all business activity associated with a wireless support structure for a minimum period of one (1) year or more. (*Amended Ord. No. 2019-012, 8/21/2019.*)
2. **“ABANDONMENT”** An intent to abandon or to relinquish by some overt act, or some failure to act which carries the implication that the owner neither claims or retains any interest in the subject matter of the abandonment.
3. **“ACCESSORY BUILDING, STRUCTURE OR USE”** A building, structure, or use subordinate to the principal use of a building, structure or principal use of land, located on the same lot as such principal use and serving a purpose customarily incidental to the use of the principal building, structure or land use.
4. **“ACCESSORY EQUIPMENT”** (In reference to a Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure.) Includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, guy wires, equipment buildings, cabinets and storage sheds, shelters or other similar structures. (*Amended Ord. No. 2019-012, 8/21/2019.*)
5. **“ACREAGE”** Any tract or parcel of land which has not been subdivided and platted.
6. **“ADMINISTRATIVE APPROVAL”** means the zoning approval that the Administrator or the Administrator’s designee is authorized to grant after Administrative Review. (*Amended Ord. No. 2019-012, 8/21/2019.*)
7. **“ADMINISTRATIVE REVIEW”** means the non-discretionary evaluation of an application by the Administrator or designee, without a public hearing. (*Amended Ord. No. 2019-012, 8/21/2019.*)
8. **“AGRICULTURE”** The use of five (5) or more acres of land for agriculture purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, aquaculture, and animal or poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce raised on the premises, provided however, that the operation of such accessory uses shall be secondary to the normal agriculture activities. The term “agriculture” shall not include stockyards, slaughterhouses and confined feeding operations, concentrated animal feeding operations and both large and medium satellite manure storage structures.

9. **“AGRICULTURE, PRIME (Prime Farmland)”** Prime farmland has the soil quality, growing season, and moisture supply needed to produce substantial high yields of crops economically when treated and managed, including water management, according to modern farming methods. (U.S.D.A.).
10. **“AIR POLLUTION”** Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to property, or which unreasonably interfere with the comfortable enjoyment of life and property.
11. **“AIRPORT OR AIRSTRIP”** Any runway, landing area or other facility designed, used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tie-down areas, hangers and other necessary buildings and open spaces.
12. **“ALLEY”** A public or private way not more than twenty (20) feet wide, at the rear or side of property, affording only a secondary means of access to abutting property.
13. **“ALTERATIONS”** As applied to a building or structure, a change or rearrangement in the structural parts or in exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
14. **“AMENDMENT”** A change of the Zoning Regulations, district boundaries, or classification of property as shown on the Zoning Map. The authority for any amendment lies solely with the County Commissioners.
15. **“ANIMAL HUSBANDRY”** The keeping, grazing, feeding and care of animals other than household pets.
16. **“ANTENNA”** means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service. *(Amended Ord. No. 2019-012, 8/21/2019.)*
17. **“APARTMENT”** A suite of rooms or a room in a multi-family building arranged, designed, and intended for a place of residence of a single family.
18. **“APARTMENT, GARDEN”** A group of buildings not more than two and one-half (2 ½) stories in height, each building containing not less than two (2) or more than twelve (12) dwelling units.
19. **“APARTMENT, HOTEL”** An apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels.

20. **“APARTMENT, HOUSE”** A building or portion thereof designed for or used exclusively for residence purposes by three (3) or more families living independent of each other.
21. **“AQUACULTURE”** The propagation, cultivation, and marketing of aquatic plants and animals. Aquaculture shall not include retail sales of aquatic plants and animals, fee fishing, or aquaculture facilities that require a National Pollution Discharge Elimination Standard (NPDES) permit. *(Amended Ord. No. 2009-013, 11/18/2009.)*
22. **“AREA (Lot, Net Sites)”** The total area within the property line.
23. **“AREA, COMMON”** Space reserved for use by any and all residents of a housing development such as halls, stairways and landings in apartment houses.
24. **“ATTIC”** That space of a building which is immediately below and wholly or partially within the roof framing.
25. **“AUTOMOBILE BODY SHOP (MOTOR VEHICLE)”** A building on a lot that is used for the repair or painting of bodies, chassis, wheels, fenders, bumpers, and/or accessories of automobiles and other motor vehicles.
26. **“AUTOMOBILE GARAGE, MAJOR (Motor Vehicle)”** A building on a lot designed and/or used primarily for mechanical and/or body repairs, storage, rental servicing of automobiles, trucks or similar motor vehicles.
27. **“AUTOMOBILE, GARAGE, MINOR (Motor Vehicle)”** An accessory building for the storage of one or more automobiles and/or other vehicles, accessory and incidental to the primary use of the premises, provided that no business, occupation, or service is conducted for profit therein.
28. **“AUTOMOBILE REPAIR, MAJOR (Motor Vehicle)”** General repair, rebuilding or reconstruction of engines, motor vehicles, or trailers; collision services including body, fender, or frame straightening or repair; overall painting or paint shop, vehicle steam cleaning.
29. **“AUTOMOBILE REPAIR, MINOR (Motor Vehicle)”** Incidental repairs, replacement of parts, and motor service to motor vehicles, but not including any operation specified under “Automobile, Repair, Major” or any other similar thereto.
30. **“AUTOMOTIVE SALES – MOBILE HOME, TRAILER, RECREATION VEHICLES AND FARM IMPLEMENT”** An open lot, used for the outdoor display, sale, or rental of new or used motor vehicles, mobile homes, trailers, recreation vehicles, or farm implements.

31. **“AUTOMOTIVE SALES GARAGE – MOBILE HOME, TRAILER, RECREATION, VEHICLES AND FARM IMPLEMENT”** A building on a lot designed and used primarily for the display, sale or rental of new or used motor vehicles, mobile homes, trailers, recreation vehicles, or farm implements, where mechanical repair and body work may be conducted as an accessory use incidental to the primary use.
32. **“AUTOMOBILE SERVICE STATION (Motor Vehicle or Filling)”** A building or place where gasoline or other motor fuel, lubricants, tires, batteries, accessories, and supplies for operating and equipping motor vehicles are sold at retail to the public and deliveries are made directly into motor vehicles, including incidental battery, brake, muffler, and tire service, washing and polishing.
33. **“AUTOMOBILE WASH”** A structure or building designed for cleaning, washing, waxing, simonizing, or similar treatment of automotive vehicles as its principal function.
34. **“AUTOMOBILE WRECKING OR SALVAGE YARD (Motor Vehicle)”** Any land, building, or structure where motor vehicles are disassembled, dismantled, junked, or wrecked, or where two or more motor vehicles not licensed or in operable condition or used parts of motor vehicles are stored.
35. **“BASE STATION”** means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station. (*Amended Ord. No. 2019-012, 8/21/2019.*)
36. **“BASEMENT”** A story whose floor is more than twelve (12) inches but not more than half of its story height below the average level of the adjoining grounds (as distinguished from a “cellar” which is more than one-half below such level).
37. **“BLOCK”** Property having frontage on one side of a street and lying between two nearest or intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way or waterway.
38. **“BOARD”** The Board of Zoning Appeals of Wayne County, Indiana.
39. **“BOAT LIVERY”** A lakeside or stream side operation and premises where boats for lease, storage, and service may be conducted; this service shall include supplies and accessories as are customarily used in such business.

40. **“BROADBAND”** (or **High-Speed Internet Access**) is a transmission technique using a wide range of frequencies that enables messages, including voice, video and data, to be sent digitally, simultaneously, used in fast Internet connections over a minimum of five different platforms: Fiber Optic Cable (transmits through glass fibers), Digital Subscriber Line (DSL transmits through existing copper telephone lines), Cable Modem (transmits through TV cables), Wireless (fixed or mobile, connects to local Internet service via electromagnetic waves) and Satellite (transmits through 2’-3’ dish, modem and clear line of sight to a satellite). Broadband service is one of many kinds of Communications Services classified by the Federal Communications Commission. Broadband equipment can be installed on a Wireless Support Structure, a building, structure (silo, grain elevator, water tower, etc.), a dedicated pole, a light pole, electrical poles/transmission lines and telephone pole/lines. *(Amended Ord. No. 2019-012, 8/21/2019.)*
41. **“BUILDABLE AREA”** The portion of a lot remaining after required yards have been provided.
42. **“BUILDING”** Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, chattels, or property. When such a structure is divided into separate parts by one or more un-pierced walls extending from the ground up, each part is deemed a separate building.
43. **“BUILDING AREA”** The maximum horizontal projected area of a building or structure at or above grade, excluding cornices, eaves, gutters, unenclosed porches, terraces, balconies or steps.
44. **“BUILDING COVERAGE”** The percentage of the plot or lot area covered by the building area.
45. **“BUILDING DETACHED”** A building having no structural connection with another building.
46. **“BUILDING HEIGHT”** The vertical distance measured from the average elevation of the proposed finished grade at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.
47. **“BUILDING LINE”** That line established by the minimum setback from the street right-of-way for buildings or structures for the distance involved. The building line shall be the point at which the lot width shall be measured.
48. **“BUILDING PRINCIPAL”** A building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of the wall of a principal building is shared by an accessory building or where an accessory building is attached to the principal building in other substantial manner as by roof, such accessory building shall be counted as a part of the principal building.

49. **“BUSINESS (COMMERCIAL)”** The engaging in the purchase, sale, barter, exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.
50. **“BUSINESS, LARGE SCALE DEVELOPMENT”** A large scale commercial development is a tract of land not less than five (5) acres for non-residential development, which is planned for development as units under single ownership and control and which includes two or more non-residential principal buildings.
51. **“BUSINESS, NEIGHBORHOOD OR LOCAL”** Commercial establishments which cater to and can be located in close proximity to residential districts without creating excessive congestion, noise, or other objectionable influence.
52. **“BUSINESS, OFFICE”** Office or agencies which conduct service establishment, without a stock of goods such as real estate, insurance, etc.
53. **“BUSINESS, SERVICE”** Any profit-making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in business and homes.
54. **“CAMPING GROUNDS”** A parcel of land used or intended to be used for temporary occupancy by campers, or for temporary occupancy by or of recreational vehicles, tents, cabins, or other temporary accommodations.
55. **“CARRIER ON WHEELS OR CELL ON WHEELS”** (“COW”) or Mobile Stations means a portable self-contained Wireless Communications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna wireless support structure. (*Amended Ord. No. 2019-012, 8/21/2019.*)
56. **“CELLAR”** A story having more than one-half of its height below the average level of the finished grade of the adjoining ground.
57. **“CEMETERY”** Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in connection with and within the boundaries of such cemetery.
58. **“CENTERLINE”** The centerline of the road or street as applied in this ordinance, shall be the centerline of the traveled roadway.
59. **“CERTIFICATE OF OCCUPANCY”** A document issued by the Zoning Inspector certifying that a building, structure, and/or its use or the use of the premises conform with the provisions of this Ordinance or, in case of a ‘Non-Conforming Use’ that it constitutes such use under terms of this Ordinance.

60. **“CHANNEL (STREAM BED)”** A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduce continuously or periodically flowing water.
61. **“CLINIC”** A place used for the care, diagnosis, and treatment of sick, ailing, infirm, and injured persons, but who are not provided with board or rooms nor kept overnight on the premises.
62. **“CLUB”** A non-profit association of persons who are bona fide members organized for some common purposes and paying regular dues; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.
63. **“CLUB, COUNTRY”** A club for golfing, tennis, hunting, fishing, horseback riding or similar sports.
64. **“CLUB, PRIVATE”** A non-profit social organization whose premises are restricted to its members and their guests.
65. **“CLUSTER DEVELOPMENT”** A planned development in which lots are restricted to its members and their guests.
66. **“COLLOCATION or CO-LOCATION”** is the placement or installation of Wireless Communications Facility on existing structures that include a Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of Wireless Communications Facility within an approved equipment compound. (*Amended Ord. No. 2019-012, 8/21/2019.*)
67. **“COMMERCIAL DOG BREEDER”** is a person who maintains more than twenty (20) unaltered female dogs that are at least twelve (12) months of age. (*Amended Ord. No. 2015-002, 3/18/2015.*)
68. **“COMMERCIAL DOG BROKER”** is a person who is a class B licensee under 9 CFR 1.1 and sells five hundred (500) dogs or more in a calendar year. (*Amended Ord. No. 2015-002, 3/18/2015.*)
69. **“COMMERCIAL ENTERTAINMENT FACILITY”** Any profit-making activity which is generally related to the entertainment field, such as a motion picture theater, carnival, cocktail lounge, nightclub and similar entertainment activities.
70. **“COMMISSION”** The Plan Commission of Wayne County, Indiana.
71. **“COMMISSIONERS, COUNTY”** The Board of Commissioners of the County of Wayne, State of Indiana.

72. **“COMMUNICATIONS SERVICE PROVIDER”** means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332). (*Amended Ord. No. 2019-012, 8/21/2019.*)
73. **“CONCEALED WIRELESS COMMUNICATIONS FACILITY”** means any Wireless Communications Facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed so that the purpose of the facility or wireless support structure for providing wireless services is not readily apparent to a casual observer. (Also known as a stealth or camouflaged wireless communications facility.) (*Amended Ord. No. 2019-012, 8/21/2019.*)
74. **“CONCENTRATED ANIMAL FEEDING OPERATION” (CAFO)** The terms “confined feeding operation” (CFO) and “concentrated animal feeding operation” (CAFO) relate to the size of the CFO. All farms with 300 or more cattle, 600 or more swine or sheep, 30,000 or more poultry, or 500 or more horses in confinement are CFOs. CAFOs are larger in animal numbers. For the purpose of this ordinance a CFO and CAFO are synonymous.
75. **“CONDOMINIUM”** A multi-family project of one-family dwelling units which may consist of one, a part, or more than one building wherein the real property title and ownership are vested in an owner, who has undivided interest with others in common usage area and facilities which serve the development (I.C. 32-1-6-1).
76. **“CONFINED FEEDING”** The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where: (1) animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and (2) ground cover or vegetation is not sustained over at least fifty (50%) of the animal confinement area. The term does not include (1) a livestock market where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision; or (2) A livestock sale barn or auction market where animals are kept for not more than ten (10) days. *Statutory reference 327 IAC 16-2-4 “confined feeding”.* (*Amended Ord. No. 2005-009, 12/14/2005.*)
77. **“CONFINED FEEDING OPERATION” (CFO)** Any confined feeding of at least three hundred (300) cattle; six hundred (600) swine or sheep or thirty thousand (30,000) fowl; or animal feeding operations electing to be subject to IC 13-18-10; or animal feeding operations that causes a violation of the Indiana water pollution control laws or any rules of the Water Pollution Control Board or of IC 13-18-10. The confined feeding operation includes (1) manure storage structures; (2) manure treatment systems; (3) feedlot; (4) confinement buildings; (5) or waste liquid handling, storage and treatment systems. *Statutory reference 327 IAC 16-2-5 “confined feeding operation” and 327 IAC 16-2-44 “waste management system”.* (*Amended Ord. No. 2005-009, 12/14/2005.*)

78. **“CONSTRUCTION, BEGINNING OF”** Shall mean a substantial change or alteration in the physical properties of a zoning lot or structure and where the incorporation of labor and material upon said lot or within said structure will incur liabilities for labor and materials.
79. **“COVERAGE”** That percentage of the plot or lot area covered by the building, or structure, including accessory buildings and structures.
80. **“DAIRY”** A commercial establishment for the manufacture or processing of dairy products.
81. **“DENSITY”** Number of living units permitted per gross acre of land, exclusive of lands, lying within the boundary of any public highway.
82. **“DEVELOPMENT”** The construction of a new building or other structure on a zoning lot, or the use of a tract of land for a new one.
83. **“DISTRICT OR ZONE”** That portion of the unincorporated territory of Wayne County within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.
84. **“DOMESTIC PETS”** are animals commonly used as household pets, protection, companions and for assistance to disabled persons. For the purposes of this ordinance, domestic pets are dogs and cats. (*Amended Ord. No. 2015-002, 3/18/2015.*)
- “Domestic pets” are a permitted use in all zone districts so long as the animals are maintained healthy and humanely within the confines of a dwelling unit or within the confines of a dwelling unit lot and so long as the frequency of breeding is limited to one (1) litter per year per household (i.e., not one (1) litter per animal). Domestic pets maintained to the confines of the dwelling unit or dwelling unit lot shall not exceed more than five (5) animals over the age of six (6) months.
85. **“DOMESTIC PET GROOMING FACILITY”** is any lot or premises on which is located a facility to primarily groom domestic pets. The domestic pets brought to the facility to be groomed would typically be held at the facility for less than 24 hours. Should the typical holding time for a domestic pet at a grooming facility more often than not exceed a 24 hour period, the facility shall be considered a boarding facility. (*Amended Ord. No. 2015-002, 3/18/2015.*)
86. **“DOMESTIC PET STORE”** is any lot or premises on which domestic pets are primarily sold for remuneration. It may include animal food and other domestic pet supplies for sale to the general public. A Domestic Pet Store does not include the breeding or boarding of domestic pets. (*Amended Ord. No. 2015-002, 3/18/2015.*)
87. **“DORMITORY”** A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

88. **“DRIVE-IN ESTABLISHMENT”** An establishment which is designed to provide either wholly or partly, service to customers while in their automobile parked upon the premises.
89. **“DRIVE-IN MOVIE”** An open lot or part thereof, with appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or outdoor seats.
90. **“DRIVE-IN RESTAURANT”** Any place or premises used for sale, dispensing, or serving food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food refreshments, or beverages on the premises.
91. **“DUMP”** A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.
92. **“DWELLING”** Any building or portion thereof, designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, boarding or lodging house, motel, hotel, and tourist home.
93. **“DWELLING CODE, ONE AND TWO FAMILY”** The nationally recognized model Building Code prepared by the Council of American Building Officials, as adopted by the Indiana Administrative Building Council (A.B.C.) and, which includes those supplements and amendments promulgated by the A.B.C.
94. **“DWELLING, DETACHED”** A dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.
95. **“DWELLING, MULTI-FAMILY”** A building or portion thereof designed for or used exclusively for residential purposes by three (3) or more families living independently of each other.
96. **“DWELLING, ONE FAMILY OR SINGLE FAMILY”** A building designed for or used exclusively for residence purposes by one (1) family only.
97. **“DWELLING, TWO FAMILY”** A building designed for or used exclusively for residence purposes by two (2) families living independent of each other.
98. **“DWELLING, SPECIAL PLACEMENT”** Any building or premises occupied by three or more persons not related to the owner, lessee, or operator by blood, marriage or adoptions, who upon their release as patients from any recognized mental institution, treatment ward for alcoholism, treatment center for narcotic addicts or as an inmate of any correctional penal institution, use such building or premises as living facilities in order to secure non-institutionalized care in their attempt to re-enter society.

99. **“EDUCATIONAL INSTITUTION”** Public or parochial pre-primary, primary, grade, junior high, high, preparatory school or academy; junior college, college, or university, if public, or founded or conducted by or under the sponsorship of a religious or charitable organization.
100. **“EASEMENT”** A strip of land to be used by the general public, a corporation, a utility company, or a certain person(s) for a specific reason, for purposes of providing services to property.
101. **“ELECTRICAL TRANSMISSION TOWER”** means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole. *(Amended Ord. No. 2019-012, 8/21/2019.)*
102. **“EQUIPMENT COMPOUND”** means the area that surrounds or is near the base of a Wireless Support Structure and encloses a Wireless Communications Facilities with Wireless Support Structure. *(Amended Ord. No. 2019-012, 8/21/2019.)*
103. **“EXISTING STRUCTURE”** Previously erected Wireless Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Wireless Communications Facilities can be attached. The term does not include a utility pole or an electrical transmission tower. *(Amended Ord. No. 2019-012, 8/21/2019.)*
104. **“EXTRACTION OPERATION”** The removal of soil, gravel, sand or dirt for purposes unrelated to excavation for construction where the excavation for construction where the extractive operation is conducted; this shall include the extraction of mining of minerals or the extraction of oil or other hydrocarbons.
105. **“FALL ZONE”** is the area within which the Wireless Support Structure may be expected to fall in the event of a structural failure, as certified by engineering standards. *(Amended Ord. No. 2019-012, 8/21/2019.)*
106. **“FAMILY”** A person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a boarding or lodging house, motel or hotel, fraternity, or sorority house.
107. **“FAMILY, GROUP HOME”** A residential facility, licensed by the Indiana State Board of Health, that provides residential services for not more than eight (8) developmentally disabled persons, none of whom has a history of violent or antisocial behavior, and such staff, not to exceed two (2) at any one (1) time, as are necessary to adequately manage the home.
108. **“FARM”** A tract of five (5) or more acres land which is devoted to agriculture use and including necessary farm buildings or structures essential to the operation of the farm.

109. **“FARM, ALCOHOL, PRODUCTION SYSTEM”** The equipment and facilities necessary to produce alcohol for fuel or as an additive to other fuels, production not to exceed 100,000 gallons annually.
110. **“FARM BUILDING”** Any building used for the housing of agriculture equipment, produce, livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is necessary to the operation of the farm. The term “Farm Building” shall not include “Farm Dwelling.”
111. **“FARM DWELLING”** A building or dwelling unit designed for or occupied exclusively by a farm family with the usual accessory buildings.
112. **“FILTER STRIP”** A filter strip is a relatively uniform and maintained vegetated area used for collecting sediment and cleansing run-off. *Statutory reference 327 IAC 16-2-12 “filter strip”. (Amended Ord. No. 2005-009, 12/14/2005.)*
113. **“FLEA MARKET”** Any area where individual stands or spaces are assigned to two (2) or more individuals for the purpose of selling, buying, or exchanging goods.
114. **“FLOOD”** The water of any river or stream which is above the bank and/or outside the channel and banks of such river or stream; and also the water of any lake which is above and outside the banks thereof.
115. **“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 the destruction caused thereby, and all things incidental thereto or connected therewith.
116. **“FLOOD HAZARD AREA”** The part of the flood plain not adequately protected from flooding by means of structural improvements.
117. **“FLOOD, HUNDRED YEAR”** A flood having an average frequency of occurring in the order of one in one hundred (100) years, or a one percent chance of occurring in any given year.
118. **“FLOOD PLAIN”** The area adjoining a stream that has been or may be covered by floodwater including the floodway and floodway fringe.
119. **“FLOODWAY”** The channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to efficiently carry and discharge the flood water or flood flow of any river or stream.

120. **“FLOODWAY FRINGE”** That part of the flood hazard area lying outside the floodway.

A. SPECIAL DEFINITION PERTAINING TO FLOODWAY AND FLOOD FRINGE DETERMINATIONS ONLY:

1. Building - See “structure.”
2. Development – Any man-made change to improved or unimproved real estate including but not limited to:
 - a. construction, reconstruction, or placement of a building or any addition to a building valued at more than \$1,000.00;
 - b. installing a manufactured home on a site, preparing a site for a manufactured home or installing a travel trailer on a site for more than 180 days;
 - c. installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - d. construction of flood control structures such as levees, dikes, channel improvements, etc.;
 - e. mining, dredging, filling, grading, excavation, or drilling operations;
 - f. construction and/or reconstruction of bridges or culverts;
 - g. storage of materials; or
 - h. any other activity that might change the direction, height, or velocity of flood or surface waters:

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

3. Existing manufactured home park or subdivision – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
4. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

5. FHBM – means Flood Hazard Boundary Map.
6. FIRM – means Flood Insurance Rate Map.
7. Flood – a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the run-off of surface waters from any source.
8. Floodplain – the channel proper and the area adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood, the floodplain includes both the floodway and the floodway fringe districts
9. Flood Protection Grade or the “FPG” – means the elevation of the regulatory flood plus two feet and any given location in the SFHA.
10. Lowest Floor – means the lowest of the following:
 - a. the basement floor:
 - b. the garage floor, if the garage is the lowest level of the building:
 - c. the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings: or
 - d. the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 1. the walls are designated to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above the enclosed area’s floor.
 2. such enclosed space shall be usable for non-residential purposes and building access.
11. Manufactured Homes: See definition of Manufactured Homes Type I, Type II and Type III, Number 154, 155, 156. See definition of Manufactured Home Park of Subdivision Number 161.
12. Recreational Vehicles: See definition of Recreational Vehicles Number 204.
13. Mobile Home Tie Down: See tie down provision for Manufactured Homes Article XI Section Number 54.250(f).

14. Regulatory Flood – means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The “Regulatory Flood” is also known by the term “Base Flood”.
 15. SFHA or Special Flood Hazard Area – means those lands within the jurisdiction of the County that are subject to inundation by the regulatory flood. The SFHAs of the county are generally identified as such on the Flood Insurance Rate Map of the County prepared by the Federal Emergency Management Agency and dated September 2, 1982. The SFHAs of those parts of unincorporated Wayne County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Wayne County by the Federal Emergency Management Agency and dated September 2, 1982.
 16. Structure – means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles and travel trailers to be installed on a site for more than 180 days.
 17. Substantial Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 40 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a “historic structure”, provided that the alteration will not preclude the structures continued designation as a “historic structure”.
121. **FLOOR AREA** The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured to the outside surface of exterior walls. Said areas shall not include cellars or attics not used or intended to be used for human occupancy or other use, garage space, or accessory buildings.
 122. **FLOOR AREA RATIO** The quotient of the floor area of a building divided by the lot area.
 123. **FOUNDATION** A foundation shall consist of a substructure which has a continuous wall of cement blocks, poured concrete or masonry equivalent, enclosing and supporting the bottom of the structure, excluding windows and doors.
 124. **FRONTAGE** All the property abutting on one side of a public right-of-way.

125. **“FUNERAL HOME”** A structure used and occupied by a professional licensed mortician for burial preparation and funeral services.
126. **“GARAGE, PARKING”** A principle or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service is provided.
127. **“GARAGE, PRIVATE”** A garage used for storage purposes only and having a capacity of not more than three (3) motor vehicles or not more than two (2) motor vehicles per family housed in the building to which such garage is accessory, whichever is greater.
128. **“GARAGE, PUBLIC”** Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
129. **“GARAGE SALES”** Any sale of goods or merchandise by one or more people which is conducted within or adjacent to a garage, patio or porch.
130. **“GOVERNING BODY”** The body of local government having the power to adopt and/or amend ordinances.
131. **“GRADE”** The percent of slope that a proposed or existing surface makes with the horizontal. Also, the elevation of an existing or proposed surface.
132. **“GRADE, FINISHED”** The completed surface of lawns, walks and roads brought to grades as shown on official plans on designs related thereof.
133. **“GRAVEL PIT”** A lot or land or part thereof used for the purpose of extracting stone, sand or gravel for sale as commercial operations.
134. **“HEALTH FACILITY”** Any building, structure, institution, or other place for the reception, accommodation, board, care or treatment of more than two (2) unrelated individuals requiring, in apparent need of, or desiring such services or combination of them, by reason of age, senility, physical or mental illness, infirmity, injury, incompetency, deformity, or any physical, mental or emotional disability or other impairment, illness or infirmity, including institutions commonly known as nursing homes, homes for the aged, retirement homes, boarding homes for the aged, sanitariums, convalescent homes, homes for the chronically ill, homes for the indigent. The term “Health Facility” does not include hotels, motels or mobile homes when used as such; hospitals, mental hospitals, institutions operated by the federal government; boarding homes for children; schools for the deaf or blind; day schools for the retarded; day nurseries; children’s homes or child placement agencies or those defined in I. C. 16-10-2-3.
135. **“HEALTH OFFICER”** The Wayne County, Indiana, Health Officer or his authorized representative.

136. **“HEIGHT”** The vertical distance from the highest point on a structure, excepting any chimney or antenna on a building, to the average grade where the walls or other structural elements intersect the ground.
137. **“HEIGHT OF BUILDING”** The vertical distance measured from the average ground level of the grade line about the building to the mean height between eaves and ridge for pitched roofs, and to the highest part of the roof for flat roofs.
138. **“HISTORIC AND CULTURAL LANDMARK”** A building, structure, object, district, land use, area, or site of historical significance and designated as a historical landmark on the Register of Historic and Cultural Landmarks.
139. **“HOME OCCUPATION”** An accessory use of a service character customarily conducted within a dwelling by only the residents thereof, which is clearly secondary to the use of the dwelling for living purposes, does not change the character thereof, and of which there is no exterior evidence other than a name plate, with less than one square foot area and which does not involve the keeping of a stock-in-trade in connection therewith. The practice of a single physician, surgeon, dentist, or other professional person, including an instructor in violin, piano, or other individual musical instrument limited to single student at a time, dressmaker, milliner, seamstress, each with not more than one paid assistant and who offers skilled services to clients and is not professionally engaged in the purchase or sale of goods, shall be deemed Home Occupations; beauty shops, barber shops in residential and agricultural districts shall be deemed Home Occupations provided; that the exterior of the residence is not changed; no sign larger than one square foot in area is displayed; not more than twenty-five (25) percent of the first floor area or one room, whichever is less, shall be used for said beauty shop; and not more than one paid assistant shall be employed. The sale of related items shall be permitted in beauty and barbershops. Dancing instructions, band instrument instruction in groups, tea room, tourist homes, or bed and breakfast, real estate offices, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be Home Occupations.
140. **“HOSPITAL”** An institution licensed by the Indiana State Board of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, emergency care facilities, training facilities, central service facilities and staff offices which are an integral part of the facility provided such institution is operated by, or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease, and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.
141. **“HOSPITAL, ANIMAL OR VETERINARY CLINIC”** An area designated for the specific use of hospitalization and treatment of both large and small animals, including the housing of diagnostic equipment including radiographic instruments, and facilities for attending to the medical and surgical needs for animals in general.

142. **“HOTEL”** Any building or portion thereof used as a temporary abiding place for remuneration, with or without meals, containing twelve (12) or more guest rooms or suites with no provisions for cooking in any individual room or suite.
143. **“HOUSE BOARDING (OR LODGING HOUSE)”** A dwelling or part thereof where meals and/or lodging are provided, for compensation, for five (5) or more persons, not transients.
144. **“HOUSE, FRATERNITY (OR SORORITY HOUSE)”** A building occupied and maintained exclusively for students affiliated with an academic or professional college or university, or other recognized institution of higher learning.
145. **“HOUSE ROOMING”** A dwelling or other residential structure in which lodging facilities are supplied for pay over an extended period of time and distinguished from Tourist Home.
146. **“HOUSE, TOURIST – BED AND BREAKFAST”** A building or part thereof, other than a hotel, boarding house, lodging house, resort or motel, where lodging is provided by a resident family for compensation mainly for transients.
147. **“IMPROVEMENT LOCATION PERMIT”** A document issued by the Zoning Inspector authorizing buildings, structures, or uses consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provisions.
148. **“INSTITUTION”** A corporate body or establishment instituted or organized for an educational, medical, charitable or similar purpose.
149. **“INDUSTRY OR INDUSTRIAL”** The manufacturing, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes. The specific classification of Light and General Industrial uses are designated by M-1 and M-2 Industrial Zone Districts.
150. **“INDUSTRIAL, LARGE SCALE DEVELOPMENT”** A large scale industrial development is a tract of land not less than ten (10) acres for non-residential development, which is planned for development as units under single ownership and control and which includes two (2) or more non-residential principal buildings.
151. **“INDUSTRIAL PARK”** A special or exclusive type of planned, industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.
152. **“JUNK”** Junk includes scrap metals and their alloys, bones, used materials and products (such as rags and cloth, rubber, rope, bottles, old tools and machinery, automobiles, fixtures, appliances, lumber, boxes or crates, pipe and pipe fittings), and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled for sale of parts.

153. **“JUNK OR SALVAGE YARD”** Any area where waste, discarded or salvaged materials are brought, sold, exchanged, baled, packed, stored, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including establishments where such uses are conducted entirely within a completely enclosed building, and not including establishments for the sale, purchase or storage of used cars in operable condition, or storage of materials incidental to manufacturing and agricultural operation.
154. **“JURISDICTIONAL AREA”** The unincorporated territory of Wayne County, Indiana that the County Plan Commission has jurisdiction of for Planning and Zoning.
155. **“KENNEL”** Any lot or premises or portion thereof on which more than five (5) domestic pets over six (6) months of age are kept; or on which more than three (3) such animals are maintained, bred, or cared for, in return for remuneration; or are kept for the purpose of sale. The term “kennel” does not include the boarding or keeping of animals at a facility where the animal has received veterinary medicine services. (*Amended Ord. No. 2015-002, 3/18/2015.*)
- a. **Kennel, Small** is any lot or premises on which there are located up to and including ten (10) runs, cages, pens and/or domestic pets over six (6) months of age and where the primary use of the facility is to breed and/or board the animals, whether on a temporary or long-term basis. The number of domestic pets over six (6) months of age shall not exceed ten (10).
 - b. **Kennel, Large** is any lot or premises on which there are located more than ten (10) but less than twenty (20) runs, cages, pens and/or domestic pets over six (6) months of age and where the primary use of the facility is to breed and/or board the animals, whether on a temporary or long-term basis. The number of domestic pets over six (6) months of age shall not exceed twenty (20).
 - c. **Kennel, Unlimited** is any lot or premises on which there are located more than twenty (20) runs, cages, pens and/or domestic pets over six (6) months of age and where the primary use of the facility is to breed and/or board the domestic pets, whether on a temporary or long-term basis.
156. **“LABORATORY”** A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly, or packing of products is not included within this definition.
157. **“LANDFILL, SANITARY”** A method of disposing of refuse on land without creating nuisance or hazard to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with compacted layer of suitable material at the conclusion of each day and at more frequent intervals as necessary.
158. **“LIVESTOCK SALES YARD”** A tract of land, which is used for the sale of domestic animals such as cattle, sheep, horses and hogs.

159. **“LIVING AREA”** The area comprised of the enclosed occupied living accommodations within a residence exclusive of basements, garages and open porches.
160. **“LOADING SPACE”** An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.
161. **“LOT”** A parcel of land occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this Ordinance, having at least the minimum area required by this Ordinance for a lot in the zone in which lot is situated and having its principal frontage on a public street or road.
162. **“LOT AREA”** The computed area contained within the lot’s lines.
163. **“LOT, CORNER”** A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the corner.
164. **“LOT, COVERAGE”** The percentage of the lot area that is occupied by the ground area of a building and its accessory buildings.
165. **“LOT, DEPTH”** The mean horizontal distance between the front and rear lot lines measured in the general direction of the side lot lines.
166. **“LOT, FRONTAGE”** The linear distance of a lot measured at the front lot line where said lot abuts a street, measured between side lot lines.
167. **“LOT INTERIOR”** A lot other than a corner lot.
168. **“LOT, LINES”** The lines separating the lot from a street, alley or other lots.
169. **“LOT LINE, FRONT”** The line separating the lot from the street on the established or proposed right-of-way lines, whichever is the greater, but in no case shall the line be less than twenty-five (25) feet from the centerline of the existing or proposed street.
170. **“LOT LINE, REAR”** The lot line opposite and most distant from the front lot line.
171. **“LOT LINE, SIDE”** Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.
172. **“LOT LINE, STREET OR ALLEY”** A lot line separating the lot from a street or alley.

173. **“LOT, THROUGH”** A lot having frontage on two parallel or approximately parallel streets.
174. **“LOT WIDTH”** The mean horizontal distance between the side lot lines measured at right angles to its depth at the building line.
175. **“LOTS OF RECORD”** A lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Wayne County, Indiana, or a lot described in a deed by metes and bounds which has been recorded in said office prior to the effective date of this Ordinance.
176. **“MAJOR HIGHWAY PLAN”** The part of the Master Plan, now or hereafter adopted by Wayne County, Indiana, which sets forth the location, alignment, dimensions, identifications and classification of existing and proposed public streets, highways, and other thoroughfares.
177. **“MANUFACTURED HOME”** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation and connected to the required utilities, including, but not limited to plumbing, sanitation and electric. The structure shall bear the label of a HUD Manufactured Home that indicates the home has been inspected in accordance with the requirements of Housing and Urban Development and is constructed in conformance with the Federal Manufactured Home Constructions and Safety Standards in effect on the date of manufacture. (*Amended Ord. No. 2003-002, 3/26/2003.*)
178. **“MANUFACTURED HOME TYPE II”** (*Deleted, Ord. No. 2003-002, 3/26/2003.*)
179. **“MANUFACTURED HOME TYPE III”** (*Deleted, Ord. No. 2003-002, 3/26/2003.*)
180. **“MANUFACTURED HOME OR MOBILE HOME ADDITION”** The reconstruction, extension or alteration of an existing manufactured home or mobile home meeting the following: the addition shall be factory designed for the existing manufactured home or mobile home meeting the standards of the Manufactured Housing Association, or meet the requirements of the Building Code of Wayne County for a single family dwelling.
181. **“MANUFACTURED HOME OR MOBILE HOME, DOUBLE WIDE”** (*Deleted, Ord. No. 2003-002, 3/26/2003.*)
182. **“MANUFACTURED HOME OR MOBILE HOME, EXPANDABLE”** (*Deleted, Ord. No. 2003-002, 3/26/2003.*)
183. **“MANUFACTURED HOME OR MOBILE HOME LOT”** A designated site within a manufactured home or mobile home park for the exclusive use of the occupants of the home.

184. **“MANUFACTURED HOME OR MOBILE HOME PARK”** An area of land upon which two (2) or more homes are harbored for the purpose of being occupied as principal residences and includes all real and personal property used in the operation of the home park.
185. **“MANUFACTURED HOME OR MOBILE HOME SUPPORT SYSTEM”** A combination of footers, piers, caps, and shims that will, when properly installed, support a house.
186. **“MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODES”** Title VI of the 1974 Housing and Community Development Act (Public Law 93-383, U.S. C. 5401 et sequential), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder, which include information supplied by the home manufacturer, (which has been stamped and approved by a Design Approval Primary Inspection Agency, who is an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the Indiana Administrative Building Council. *(Amended Ord. No. 2005-009, 12/14/2005.)*
187. **“MANURE”** Manure means any liquid or solid animal excreta or waste liquid or contaminated runoff and any other materials commingled with the manure.
188. **“MASTER PLAN, COMPREHENSIVE”** The complete plan, or any of its parts, for the development of Wayne County, prepared by the Commission and adopted in accordance with I. C. 36-7-4-501, et seq, and all acts amendatory thereto; and are now or may hereafter be in effect.
189. **“MICRO WIND ENERGY CONVERSION SYSTEM”** A structure-mounted wind system that is mounted on an existing structure that has a nameplate capacity (manufacturer’s rating) of less than ten (10) kilowatts and projects no more than fifteen feet (15’) above the highest point of the roof; such building-mounted wind systems shall not be considered a *wind energy conversion system*. *(Amended Ord. No. 2016-010, 12/7/2016.)*
190. **“MICRO WIRELESS FACILITY”** means a small cell facility to which both of the following apply:
- 1) The small cell facility is not larger in dimension than:
 - A) twenty-four (24) inches in length;
 - B) fifteen (15) inches in width; and
 - C) twelve (12) inches in height.
 - 2) If the small cell facility has an exterior antenna, the exterior antenna is not longer than eleven (11) inches. *(Amended Ord. No. 2019-012, 8/21/2019.)*

191. **“MINOR MODIFICATION”** means any improvement to existing structures that do not qualify as substantial modifications, do not result in an increase to the fall zone to an extent that would result in a violation of the setback requirement and that is eligible for administrative review and approval. (*Amended Ord. No. 2019-012, 8/21/2019.*)
192. **“MOBILE HOME”** A vehicle which is so constructed as to permit it being used as a conveyance upon public streets or highways by either self-propelled or not self-propelled means, and is designed, constructed, reconstructed, or added to by means of an enclosed addition or room, to permit the occupancy as a dwelling. The vehicle may be placed upon a permanent foundation, when required by this Ordinance, or occupied as a dwelling having no foundation, other than wheels, jacks, skirting or other temporary supports when permissible by Ordinance. The vehicle shall bear the label of *Indiana Mobile Off-site Fabricated Structure, certified under 675 IAC 22-15-4-2, and subsequent amendments.* (*Amended Ord. No. 2003-002, 3/6/2003.*)
193. **“MODEL”** A structure placed or erected for the purpose of showing room arrangements and/or other factors valuable in promoting lot sales.
194. **“MODULAR HOME”** A structure to be used as a dwelling that is constructed or prefabricated, in part or in whole, at a place other than the permanent foundation site. The structure is to be constructed to the Residential Code for One and Two-Family Dwellings in effect on the date of construction and shall be placed upon a permanent foundation and shall be connected to the required utilities, including, but not limited to plumbing, sanitation and electric. The structure shall bear the label of *Indiana Modular Off-site Fabricated Structure, certified under 675 IAC 22-15-4-1, and subsequent amendments.* (*Amended Ord. No. 2003-002, 3/6/2003.*)
195. **“MONOPOLE”** means a single, freestanding pole-type structure supporting one or more antenna. For purposes of this Ordinance, a Monopole is not a Tower. (*Amended Ord. No. 2019-012, 8/21/2019.*)
196. **“MOTEL OR MOTOR HOTEL”** A series of attached, semi-attached, or detached sleeping or living units, for the accommodation of transient guests and not customarily including cooking or kitchen facilities, said units having convenient access to off-street parking spaces for the exclusive use of guests or occupants.
197. **“NATURAL AREAS”** A non-renewable resource of specific biotic communities which are indigenous to Wayne County.
198. **“NON-CONFORMING BUILDINGS OR STRUCTURE”** A building or structure, legally existing at the time of adoption of this Ordinance or any amendments thereto, which is designed or located upon a lot and intended for a use which does not conform to the regulations of the district in which it is located.
199. **“NON-CONFORMING BULK”** A lot of record existing at the time of adoption of this Ordinance which does not have the minimum width or contain the minimum area for the Zone in which it is located.

200. **“NON-CONFORMING USE”** The use of a building, structure or land legally existing at the time of adoption of this Ordinance or any amendments thereto, or any previously existing Ordinance and amendment thereto, and which does not conform with the use regulations of the district in which it is located.
201. **“NURSERY, PLANT MATERIALS”** Land, buildings, structure or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening and landscaping.
202. **“NURSING HOME”** A facility licensed by the Indiana State Board of Health which (1) provides nursing services on a continuing basis; (2) admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; (3) provides for licensed physicians service or supervision; (4) maintains medical records; (5) such facilities may also provide other similar medical or health services. Examples of nursing home facilities that provide health services may include, if they comply with all the above criteria, nursing homes, convalescent homes, rest homes, homes for the aged, and the like but not including a hospital or mental health center.
203. **“OBSTRUCTION”** Any dam, wall, embankment, levee, dike, pile, protection, excavation, channel, rectification, bridge, conduit, culvert, building, wire fence, rock, gravels, refuse, fill structure or matter in, along, across or projecting into any channel, watercourse, or encroachment area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of the water might carry the same downstream.
204. **“OFF SITE MANURE”** For the purpose of this ordinance, the term “off site manure” means manure that is produced by an animal or poultry husbandry activity, or by a CFO or CAFO and is used or stored at a location that is not owned or under the control of the same person or entity whose CFO, CAFO, animal or poultry husbandry produced the manure.
205. **“ORDINANCE”** The Wayne County, Indiana, Zoning Ordinance, and all amendments thereto.
206. **“ORDINARY MAINTENANCE”** means ensuring that Wireless Communications Facilities, Wireless Communications Facilities with Wireless Support Structure and Wireless Support Structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example, the strengthening of a Wireless Support Structure’s foundation or of the Wireless Support Structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing Wireless Communications Facility with Wireless Support Structure and relocating the antennas of approved Wireless Communications Facilities to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include minor and substantial modifications. (*Amended Ord. No. 2019-012, 8/21/2019.*)

207. **“PARK, PLAYGROUND OR GAME COURT”** An open air recreational facility which is not accessory to any other use on the same or any other lot, but excluding amusement parks and play grounds.
208. **“PARK, PLAYGROUND OR GAME COURT, COMMERCIAL”** Recreation facilities operated as a business and open to the general public for a fee.
209. **“PARK, PLAYGROUND OR GAME COURT, PRIVATE”** Recreational facilities operated for restricted use in conjunction with a particular housing development or private residence, open only to the residents and guests of said development or private residence.
210. **“PARK, PLAYGROUND OR GAME COURT, RESTRICTED”** Recreational facilities operated as a non-profit enterprise by a government or non-profit organization, and open to the general public.
211. **“PARKING AREA, PRIVATE”** An open, surfaced area, other than a street or public way, designed, arranged, and made available for the temporary parking of motor vehicles, of occupants of the building or buildings for which the parking area is developed and is accessory.
212. **“PARKING AREA, PUBLIC”** An open, surfaced area, other than a street or public way, designed, arranged, and made available for the temporary parking of motor vehicles, and available to the public, whether for compensation, free, or as an accommodation for clients or customers.
213. **“PARKING SPACE”** An area, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a single motor vehicle.
214. **“PARKING SPACE, OFF-STREET”** An off-street area suitable for vehicular parking and having access to a street or public way.
215. **“PERFORMANCE, STANDARD”** A criterion established in the interest of public health and safety for the control of noise, odor, smoke, noxious gases, and other objectionable or dangerous elements generated by and inherent in, or incidental to, certain uses and activities.
216. **“PERSON”** A corporation, firm, partnership, association, cooperative organization or any other group acting as a unit, as well as a natural person.
217. **“PERSONAL SERVICES”** Any enterprise conducted for gain which primarily offers services to the general public as shoe repair, watch repair, barber shops, beauty shops and similar activities.
218. **“PLANNED DEVELOPMENT (DEVELOPMENT UNIT PROJECT)”** A residential, commercial, industrial, or community development on a parcel of land in single ownership and consisting of two (2) or more buildings having any yard, court, parking, or loading space in common.

219. **“POOL, SWIMMING (PRIVATE)”** A swimming pool, used only by the owner of the pool and friends, as an accessory use at a private residence.
220. **“POOL, SWIMMING (PUBLIC)”** Any swimming pool other than a private swimming pool, public or semi-public in character: (1) Club Swimming Pool – a swimming pool used by any group or institution on a non-commercial basis for members and friends only; (2) Commercial Swimming Pool – a public swimming pool which is operated on a commercial basis or primarily for gain.
221. **“PORCH”** A roofed-over structure projecting from the front, side, or rear wall of a building.
222. **“PORCH, ENCLOSED”** A porch which contains jalousies, permanent glass or louvered windows, screens, panels, or any other material on one side or all of its sides projecting from the building.
223. **“PORCH, UNENCLOSED (OPEN)”** A porch that is not enclosed in any way by screens, glass, panels, or any other material, with the exception of a balustrade or railing not to exceed three (3) feet in height above the floor of such porch.
224. **“PREMISES”** One or more lots which are in the same ownership and are contiguous, or separated only by a right-of-way or water body, including all buildings, structures and improvements.
225. **“PRIMARY COMMUNICATION TOWER”** A tower that is used for public communication purposes. These types of towers include towers for, but are not limited to (1) cellular communication, (2) broadband Internet service, (3) micro data transmissions, (4) emergency services, and (5) commercial satellite television transmitters. (*Amended Ord. No. 2009-012, 11/18/2009.*)
226. **“PRINCIPAL BUILDING”** A building in which is conducted the main or principal use of the lot on which said building is located.
227. **“PROFESSIONAL ACTIVITIES”** The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, attorneys, engineers, and similar professions.
228. **“PROPERTY LINE”** The division line between properties of different owners.
229. **“PUBLIC”** Owned, operated, or controlled by a governmental agency; Federal, State or Local.
230. **“PUBLIC UTILITY”** Any person, firm, corporation, governmental department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, steam, transportation, water or telephone service.

231. **“PUBLIC WATER SUPPLY SURFACE INTAKE STRUCTURE”** Any structure used for the purpose of providing water through a public water supply system. *Statutory reference 327 IAC 16-2-31” public water supply surface intake structure” (Amended Ord. No. 2005-009, 12/14/2005.)*
232. **“RAILROAD RIGHT-OF-WAY”** A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train shed, warehouses, car shops, car yards, locomotive shops, or water towers.
233. **“RECREATION, COMMERCIAL”** Recreation facilities operated as a business and open to the general public for a fee.
234. **“RECREATION EQUIPMENT, MAJOR”** Shall include but not limited to travel trailers, campers, pickup coaches, vans, motorized homes, boats and boat trailers.
235. **“RECREATION, NON-COMMERCIAL, PRIVATE”** Clubs or recreation facilities operated by a non-profit organization and open only to bona fide members and guests of such non-profit organization.
236. **“RECREATION VEHICLE”** A temporary dwelling for travel, recreation and vacation use, including, but not limited to
- (A.) Travel Trailer: A vehicle, identified by the manufacturer as a trailer, built on a chassis eight (8) feet or less wide and thirty-five (35) feet or less long, and designed to move on the highway.
 - (B.) Pick-up Coach: Structure designed to be mounted on a truck chassis or cut down car or truck
 - (C.) Fifth-Wheel Coach: Structure designed to be mounted in a truck bed and pulled on the highway, built on a chassis eight (8) feet or less wide and forty (40) feet or less long.
 - (D.) Motor Homes: A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle or so altered.
 - (E.) Camping Trailers: A folding structure built on a chassis with wheels and designed to move on the highway.
237. **“RECREATION VEHICLE PARK”** Any lot, parcel or tract of land approved for the location of two or more recreational vehicle sites, established for maintained for occupancy by recreation vehicles of the general public as temporary living quarters for recreation or vacation purposes.
238. **“RELIGIOUS INSTITUTION”** A church, temple, chapel, synagogues, convent, seminary, monastery, nunnery, rectory, parsonages, parish houses, and religious retreats.
239. **“REPAIR”** Any construction which replaces materials but does not change the height, number of stories, size or location of a building or other structure.

240. **“REPLACEMENT”** means removing the pre-existing Wireless Support Structure and constructing a new Wireless Support Structure of proportions and of equal height or such other height that would not constitute a substantial modification to a pre-existing Wireless Support Structure in order to support a Wireless Communications Facility or to accommodate co-location. (*Amended Ord. No. 2019-012, 8/21/2019.*)
241. **“RESIDENCE”** A building, or any part of a building, which contains living and sleeping accommodations for permanent occupancy. This includes all single-family and multi-family dwellings.
242. **“RESTAURANT”** Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises.
243. **“ROADSIDE STAND”** A wholly or partially enclosed shed for the sale of neighborhood agricultural products or other products produced on the premises, which stand shall be located so as to permit customers to drive completely off of the highway while dealing.
244. **“SANITARIUM, SANATORIUM”** A private hospital, whether or not such facility is operated for profit.
245. **“SATELLITE MANURE STORAGE STRUCTURE (Large)”** A large satellite manure storage structure (LSMSS) means a structure and any associated structures that are designed to store manure, and having a storage capacity of 1,000,000 gallons or more of liquid manure or 5,000 cubic yards or more of solid manure. An LSMSS includes, but is not limited to a building, a pad, a lagoon, a pit, a pond or a tank.
246. **“SATELLITE MANURE STORAGE STRUCTURE (Medium)”** A medium satellite manure storage structure (MSMSS) means a structure and any associated structures that are used to store off site manure and having a storage capacity of less than 1,000,000 gallons of liquid manure or less than 5,000 cubic yards of solid manure. An MSMSS includes, but is not limited to a building, a lagoon, a pad, a pit, a pond or a tank. The staging of manure is not synonymous with the storage of manure.
247. **“SCHOOL”** An institution consisting of teachers and pupils, irrespective of age, gathering together for instruction in any branch of learning arts or the sciences.
248. **“SCHOOL, COLLEGE”** Same as elementary and secondary school except general education is provided above the level of the secondary school and may include junior college, college, or university.
249. **“SCHOOL, NURSERY”** A school designed to provide daytime care in instruction of two or more children from two to five years of age inclusive, and operated on a regular basis.
250. **“SCHOOL, VOCATIONAL”** Same as elementary school and secondary school except that the primary activity is training in a trade or vocation.

251. **“SCHOOL AND EDUCATIONAL SERVICES”** A business college, trade school, music conservatory, art or dance school, or similar organization offering training in a specific field.
252. **“SCREEN”** A fence, wall, row of evergreen hedges or shrubs, row of supported evergreen vines, or in applicable cases, an accessory building, with components so located, spaced and maintained that it provides an effective visual barrier, six (6) feet or more in height.
253. **“SCREENED, EFFECTIVELY”** A particular use shall be considered effectively screened when barriers of sufficient height and density are provided so as to reduce the transmission of light and sound into adjacent property.
254. **“SENSITIVE AREA”** A sensitive area is a site where conditions poses a specific water quality threat to one (1) or more of the following (1) Public water supply wells; (2) Wellhead protection areas; (3) Drinking water supply reservoirs; (4) Identified wetlands, except for wetlands constructed for manure management; (5) Karst terrain; (6) habitat of an endangered species; and (7) Natural areas including parks, natural preserves as regulated under IC 14-31, historic sites as defined by IC 14-8-2-125, and public lands as defined by IC 14-38-1-5. *Statutory reference 327 IAC 16-2-34 “sensitive area”, 327 IAC 16-2-21 “karst terrain” (Amended Ord. No. 2005-009, 12/14/2005.)*
255. **“SETBACK”** The required distance between a structure or accessory structure and any lot line on which structure is located.
256. **“SETBACK, FRONT”** The distance from the centerline of the right-of-way to the front wall or that part of the structure nearest the street line, measured at right angles from the street line, not including steps or open porches.
257. **“SETBACK, REAR”** The distance from the rear lot line of the nearest part of the structure, measured from the rear lot line.
258. **“SETBACK, SIDE”** The distance from the side lot line to the nearest part of the structure, measured from the side lot line.
259. **“SEWERS, CENTRAL OR GROUP”** An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.
260. **“SEWERS, ON SITE”** A septic tank or similar installation on an individual lot for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of the Wayne County Health Department.
261. **“SHADOW FLICKER”** The shadow on the ground and surrounding structures that is caused by the rotating blades of the *WECS*. *(Amended Ord. No. 2009-012. 11/18/2009.)*
262. **“SHOPPING CENTER”** A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking on the property, and related in its location, size, and type of shops to the trade area which the unit serves.

263. **“SIDEWALK”** That portion of the road right-of-way, which is improved for the use of pedestrian traffic.
264. **“SIGN”** Any writing, pictorial representation, emblem, flag, or any other figures of similar character which is a structure or part thereof or is attached or painted on or in any manner represented on a building or structure; and is used to announce, direct attention to, or advertise; and is visible from outside a building. The word “sign” includes the word billboard, but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event. Further, this definition shall not be held to include any board, sign or surface used to display any official notices issued by any court or public office or posted by a public officer in the performance of a public duty.
265. **“SIGN, AREA OF”** The total exterior surface computed in square feet of a sign having but one exposed exterior surface; one-half (1/2) the total of the exposed exterior surface computed in square feet of a sign having more than one surface.
266. **“SIGN, ADVERTISING”** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises where displayed or only incidentally on the premises.
267. **“SIGN, BUSINESS”** A “sign” which directs attention to an activity, business or profession conducted on the premises where displayed. A real estate sign advertising the sale, rental, or lease of the premises on which it is maintained, institutional bulletin boards, and a professional or announcement sign accessory to a “home occupation”, or dwelling shall not be deemed a “business sign”.
268. **“SITE PLAN”** A plan of a lot on which is shown location of all existing or proposed buildings, structures, right-of-ways, boundaries and all essential dimensions.
269. **“SMALL CELL FACILITY”**
(a) A “small cell facility” means:
(1) a personal wireless service facility (as defined by the Federal Telecommunications Act of 1996 as in effect on July 1, 2015); or
(2) a wireless facility that satisfies the following requirements:
(A) Each antenna, including exposed elements, has a volume of six (6) cubic feet or less.
(B) The primary equipment enclosure located with the facility has a volume of twenty-eight (28) cubic feet or less.
(b) For purposes of subsection (a)(2)(B), the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure: electric meters, concealment equipment, telecommunications demarcation boxes, ground based enclosures, back-up power systems, grounding equipment, power transfer switches and cut-off switches. (*Amended Ord. No. 2019-012, 8/21/2019.*)
270. **“SMALL CELL NETWORK”** means a collection of interrelated small cell facilities designed to deliver wireless service. (*Amended Ord. No. 2019-012, 8/21/2019.*)

271. **“SPECIAL EXCEPTION”** A use permitted within a district other than a principally permitted use requiring approval of the Board of Zoning Appeals because of its unusual nature.
272. **“STAGING”** Staging means the temporary placement of manure in a pile at the site where the manure will be land applied. *Statutory reference 327 IAC 16-2-37 “staging”*. (Amended Ord. No. 2005-009, 12/14/2005.)
273. **“STORY”** That portion of a building, including between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.
274. **“STORY, FIRST”** The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average level of the adjoining ground at the exterior walls of the building; except that any basement or cellar used as a dwelling shall be deemed the first story.
275. **“STORY, HALF”** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story; provided, however, that any partial story used as a dwelling shall be deemed a full story.
276. **“STORY, HEIGHT OF”** The vertical distance from the top surface of the floor to the top surface of the floor next above. The height of the topmost story is the distance from the surface of the floor to the top surface of the ceiling joists.
277. **“STORY, MEZZANINE”** A story which covers one-third (1/3) or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full story in case it covers more than one-third (1/3) of the area of the story directly underneath it.
278. **“STREET”** An area which primarily serves or is intended to serve as a vehicular or pedestrian access to abutting property or to other streets.
279. **“STREET, APPROVED”** Any street, whether public or private, meeting the standards and specifications of Wayne County, Indiana.
280. **“STREET, PRIVATE”** Any street which is under the jurisdiction of an individual, corporation, or trustee or any street which is privately owned, established, and maintained.
281. **“STREET, PUBLIC”** Any right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any other such right-of-way more than twenty (20) feet in width and less than fifty (50) feet in width provided it existed prior to the enactment of this Ordinance which is or will be dedicated for public use.
282. **“STREET, RIGHT-OF-WAY LINE”** A line determining the limit of the highway rights of public, either existing or contemplated.

283. **“STRUCTURE”** Anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground excluding fences. A pond or lake including a dam or constructed retainer and any impounded liquid to normal water line shall also be considered a structure within this definition. (*Amended Ord. No. 1997-5, 7/1/1997.*)
284. **“STRUCTURALLY ALTERED”** Changes which increase, extend or enlarge the building or convert the existing building into a different structure or affect the form of character of an existing building or structure.
285. **“SUBDIVIDE - SUBDIVISION”**
- A. **“SUBDIVIDE”**. The division for developmental purposes of any tract or parcel into a maximum of two (2) separate parcels. To subdivide one time, any parcel existing at the time of the adoption of this ordinance is permissible and exempt from the control of the Subdivision Ordinance. To subdivide parcels where all resulting parcels exceed twenty (20) acres is also exempt from the Subdivision Ordinance. All divisions of parcels are subject to the requirements of the Zoning Ordinance District in which the division occurs.
 - B. **“MINOR SUBDIVISION”**. The division for developmental purposes of a parcel into not more than three (3) lots where there is not an opening of a new public way and it otherwise complies with the Zoning Ordinance is permitted by following the minor plat provisions of the Subdivision Control Ordinance.
 - C. **“MAJOR SUBDIVISION”**. All other divisions for developmental purposes into legally described parcels or lots, including the division of parcels whenever a new street or major utility is constructed or extended or whenever drainage improvements utilizes adjoining parcels, may be made only after complying with the major plat provisions of the Subdivision Control Ordinance.
286. **“SUBSTANTIAL IMPROVEMENT”** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the fair market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.
287. **“SUBSTANTIAL MODIFICATION”** of a Wireless Support Structure means the replacement of a Wireless Support Structure and/or the mounting of a Wireless Communications Facility on a Wireless Support Structure in a manner that: (1) increases the height of the Wireless Support Structure by the greater of: (A) ten percent (10%) of the original height of the Wireless Support Structure; or, (B) twenty (20) feet; (2) adds an appurtenance to the Wireless Support Structure that protrudes horizontally from the Wireless Support Structure more than the greater of: (A) twenty (20) feet; or, (B) the width of the Wireless Support Structure at the location of the appurtenance; (3) increases the square footage of the equipment compound in which the Wireless Communications Facility is located by more than two thousand five hundred (2,500) square feet; or, (4) any improvement that results in a structure which fails to meet the General Standards and Design Requirements for Wireless Communications Facilities set forth in Article X Special

Provisions of this Ordinance. The term does not include the following: (1) Increasing the height of a Wireless Support Structure to avoid interfering with an existing antenna; (2) Increasing the diameter or area of a Wireless Support Structure to: (A) shelter an antenna from inclement weather; or, (B) connect antenna to the Wireless Support Structure by cable. (*Amended Ord. No. 2019-012, 8/21/2019.*)

288. **“SUITABLY LANDSCAPED”** Landscaped with vegetation of a type sufficient to effectively screen differing uses, enhance the quality of the environment, limit erosion, and protect the general welfare.
289. **“SURFACE WATER”** Surface water means water present on the surface of the earth including (1) streams, (2) lakes, (3) ponds, (4) rivers, (5) swamps, (6) marshes, or identified wetlands except for wetlands constructed for manure management. *Statutory reference 327 IAC 16-2-39 “surface water”. (Amended Ord. No. 2005-009, 12/14/2005.)*
290. **“SWEPT AREA”** The outer most diameter of the circle created by a turning rotor(s) or blade(s) of a *WECS*. (*Amended Ord. No. 2009-012, 11/18/2009.*)
291. **“TEMPORARY TRACT OFFICE”** A structure, placed or constructed for the purpose of housing personnel and equipment required for development or sale of the development, which shall be removed when no longer needed.
292. **“TERRACE”** An open porch without a permanent roof.
293. **“THEATER”** A building or part of a building devoted to showing moving pictures or stage productions on commercial basis.
294. **“TOTAL HEIGHT”** Regarding *WECS*, the distance measured from the ground level at the base of the tower to the highest extension of the blade or rotor. (*Amended Ord. No. 2009-012, 11/18/2009.*)
295. **“TOURIST CABINS”** A group of buildings, including separate cabins which contain living and sleeping accommodations for transient occupancy.
296. **“TOWER”** means a lattice-type structure, guyed or freestanding, that supports one or more Antennas. (*Amended Ord. No. 2019-012, 8/21/2019.*)
297. **“TOWN HOUSE”** A building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit, and utilizing common open space and parking.
298. **“USE”** The specific purpose for which land or a building or structure is arranged, designed or intended, or for which either land or a building, or a structure is, or may be occupied or maintained.
299. **“USE, PERMITTED”** Any building, structure, or use which complies with applicable regulations of this Ordinance, governing uses of the Zone District in which such building, structure, or use is located.

300. **“USE, PERMITTED FIRST IN ‘X’ DISTRICT”** A use which in the sequence of successively less restricted districts occurs as a permitted use for the first time in the “X” district.
301. **“USE, PRINCIPAL”** The main or primary purpose of which a building, structure, or land is designed, arranged or intended, or for which they may be used, occupied or maintained under this Ordinance. The use of any other building, or structure on the same land and incidental or supplemental thereto and permitted under this Ordinance shall be considered an accessory use.
302. **“USE, PROHIBITED”** A use of a building, structure, lot or land or part thereof which is not listed as a permitted or Special Exception Use.
303. **“USE, PUBLIC”** Public parks, schools, fire and police stations, libraries, museums, city and town halls, county courthouses, utility complexes, fairgrounds and other administrative and cultural buildings and structures, but not including public land or buildings devoted solely for the storage and maintenance of equipment and materials and public service facilities.
304. **“USE, QUASI, PUBLIC”** Churches, Sunday Schools, private and parochial schools, colleges, hospitals, cemeteries, and other facilities of an educational, religious, charitable, philanthropic, or non-profit nature.
305. **“USE, TEMPORARY”** An activity conducted for specific limited period of time which may not otherwise be permitted by the provisions of this Ordinance.
306. **“UTILITY POLE”** means a structure that is owned or operated by public utility, communications service provider, municipality, electric membership corporation, or rural electric cooperative and that is designed and used to carry lines, cables, or wires for telephony, cable television, or electrical transmission, or to provide lighting. The term does not include a Wireless Support Structure or an electrical transmission tower. (*Amended Ord. No. 2019-012, 8/21/2019.*)
307. **“VEGETATIVE MANAGEMENT SYSTEM”** A vegetative management system is an area with vegetation designed to accept contaminated runoff or waste liquid after settling for the purpose of treatment or infiltration into the soil. *Statutory reference 327 IAC 16-8-10 “vegetative management system”.* (*Amended Ord. No. 2005-009, 12/12/2005.*)
308. **“VICINITY MAP”** A small drawing located on the plat which sets forth the relationship of a proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.
309. **“WALL”** A structure of wood, stone, or other materials or combination thereof intended for defense, security, screening, or enclosure, or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.

310. **“WALL, PARTY”** A wall starting from the foundation and extending continuously through all stories to or above the roof which separates one building unit from another and is in joint use by each building unit.

311. **“WIND ENERGY CONVERSION SYSTEM (WECS)”** The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, *wind tower*, transformer, turbine, vane, wire, or other component used in the system. *WECS* shall be classified as either a:

Large Wind Energy Conversion System. A *WECS* that has a nameplate capacity (manufacturer’s rating) of more than 50 kilowatts per *wind tower*, or a *total height* of more than 100’, or a *swept area* of more than 30’. Any *WECS* meeting one or more of these criteria shall be considered a *large wind energy conversion system*.

Small Wind Energy Conversion System. A *WECS* that has a nameplate capacity (manufacturer’s rating) of 50 kilowatts or less per *wind tower*, and a *total height* of 100’ or less, and a *swept area* of 30’ or less shall be considered a *small wind energy conversion system*. (Amended Ord. No. 2009-012, 11/18/2009.)

312. **“WIND FARM”** Two or more *large wind energy conversion systems* on a single property or aggregated properties. (Amended Ord. No. 2009-012, 11/18/2009.)

313. **“WIND TOWER”** The monopole, freestanding, or guyed structure that supports the energy capture, conversion, storage and transfer components of a *WECS*. These *wind towers* are not attached to any building. (Amended Ord. No. 2009-012, 11/18/2009.)

314. **“WIRELESS COMMUNICATIONS FACILITY”** (Referenced as WCF.) means the set of equipment and network components that are: (1) owned and operated by a communications service provider; (2) necessary to provide wireless communications service and (3) outside of a dedicated right-of-way. The term does not include a Wireless Support Structure. **For purposes of this ordinance the term also includes Micro Wireless Facility, Small Cell Facility and Small Cell Network.** (Amended Ord. No. 2019-012, 8/21/2019.)

315. **“WIRELESS COMMUNICATIONS FACILITY WITH WIRELESS SUPPORT STRUCTURE”** (Referenced as WCFWWSS.) Examples include a lattice or self-supporting tower, a guyed tower and a monopole, along with accessory equipment, antenna(s), co-located equipment, ground equipment, including all electrical work, boxes, panels, electrical platforms with/without canopies, equipment shelter buildings, etc. all within a security fenced compound with locking gate, outside of a dedicated right-of-way. The term also includes a concealed Wireless Communications Facility with or without a security fence depending on the design. (Amended Ord. No. 2019-012, 8/21/2019.)

316. **“WIRELESS COMMUNICATIONS SERVICE”** means services, whether mobile or at a fixed location, that are provided using Wireless Communications Facilities through licensed or unlicensed spectrum. (Amended Ord. No. 2019-012, 8/21/2019.)

317. **“WIRELESS SUPPORT STRUCTURE”** (Referenced as WSS.) means a freestanding structure that is designed to support or is capable of supporting Wireless Communications Facilities, outside of a dedicated right-of-way. The term does not include a utility pole or an electrical transmission tower. (*Amended Ord. No. 2019-012, 8/21/2019.*)
318. **“YARD”** An open space other than a court, on a lot, unoccupied and obstructed from the ground upward except as permitted in this Ordinance.
319. **“YARD, FRONT”** A yard extending across the full width of the lot between any part of a building not hereafter excepted and the front lot line; and the depth of a front yard is the minimum horizontal distance between any part of the building, other than such parts as hereinafter excepted, and the front lot line.
320. **“YARD, FRONT DEPTH, HOW MEASURED”** Yard measurement, for property abutting a public thoroughfare, shall be made from the centerline of said street or roadway.
321. **“YARD, REAR”** A yard extending across the full width of the lot between a building and the rear lot line; and the depth of a rear yard is the minimum horizontal distance between any part of the building, other than such parts as hereinafter excepted, and the rear lot line.
322. **“YARD, SALES, PRIVATE OR RUMMAGE”** A sale of used clothing and/or household items conducted only by the immediate members of one or two families in a residence, private garages, porch, or yard.
323. **“YARD, SIDE”** A yard extending between the front yard and the rear yard between a building and the nearest side lot line; and the width of a side yard is the minimum horizontal distance between any part of a building, other than such parts as hereinafter excepted, and the nearest side lot line.
324. **“YARD, SIDE WIDTH, HOW MEASURED”** Side yard width shall be measured from the nearest side lot line and, in case such lot line is a side street lot line, from the right-of-way line of the existing street; provided, however, that if a proposed right-of-way line of such street has been officially established, then the required side yard least width shall be measured from such proposed right-of-way line.
325. **“YARD, SUPPLY”** A commercial establishment storing and offering for sale building supplies, steel, coal, heavy equipment, feed and grain and similar goods.
326. **“ZONING INSPECTOR”** The Zoning and Subdivision Administrator of Wayne County, Indiana or his authorized representative.
327. **“ZONING MAP”** The Zoning Map or Maps of Wayne County, Indiana, together with all amendments subsequently adopted.

ARTICLE III DISTRICTS AND BOUNDARIES

Section	54.30	Establishment of Districts
	54.31	Zoning Maps
	54.32	District Boundary Interpretation
	54.33	Procedures for Annexed or Vacated Areas
	54.34	Unidentified Property

ARTICLE III DISTRICTS AND BOUNDARIES

54.30 ESTABLISHMENT OF DISTRICTS.

Wayne County is hereby divided into seventeen categories of zoning districts as follows:

CONSERVATION DISTRICT

GB-1	Conservation District
GB-2	Flood District
GB-3	Restricted District

AGRICULTURAL – RESIDENCE DISTRICTS

A-1	Agricultural District
A-1-CP	Residential Unit Community Project
A-2	Agricultural Big-Lot
A-3	Limited Agricultural District
A-4	Agricultural Preservation District
R-S	One-Family Suburban Residence District
R-1	One-Family Residence District
R-2	Multi-Family Residence District

NON-RESIDENCE DISTRICTS

C-1	Neighborhood Business District
C-2	Community Business District
C-3	General Business District
M-1	Light Industrial District
M-2	General Industrial District
M-3	Rural Industrial District

54.31 ZONING MAPS.

District and boundaries established: Said several districts and boundaries thereof are hereby adopted and established as shown on the Township Zoning Maps of Wayne County, Indiana, collectively known as the Wayne County Zoning Map, which maps, labeled Exhibit A, Adopted March 10, 1993, together with all amendments, notation, references, data, district boundaries and other information, shown thereon shall be and are hereby made a part of this Ordinance. Said Township Zoning Maps properly attested shall be and remain on file in the office of the Zoning Administrator. (*Amended Ord. No. 2004-002, 1/21/2004.*)

54.32 DISTRICT BOUNDARY INTERPRETATION

- A. Except where referenced on the zoning map to a street or alley lines or other designated line by dimensions shown on said map, the district boundary lines follow lot lines or the center lines of streets or alleys as they existed at the time of the original adoption of the Zoning Ordinance; however, where a district line obviously does not coincide with the lot lines or such center lines or where it is not designated by dimension, it shall be determined by scaling.
- B. Where a district boundary line divides a lot which was in single ownership at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within twenty-five (25) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- C. All questions concerning the exact location of district boundary lines shall be determined by the Board according to rules and regulations which may be adopted by it.

54.33 PROCEDURES FOR ANNEXED OR VACATED AREAS.

- A. Territory detached from an incorporated city or town subsequent to the effective date of this Ordinance shall, upon the effective date of such disannexation, become a part of the A-1 District. Such districting shall be continued until modified. The Commission shall recommend to the County Commissioners, within a period of not to exceed six (6) months from such date of disannexation, a final zoning districting plan for such property, if any change is desired.
- B. Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning district adjoining the side of such public way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall henceforth be subject to all regulations of the extended district or districts.

54.34 UNIDENTIFIED PROPERTY

In every case where property has not been specifically included within a district, the same is hereby declared to be in the A-1 District.

ARTICLE IV EFFECTS OF DISTRICTING AND GENERAL REGULATIONS

Section	54.45	District, More Restricted or Less Restricted
	54.46	Conformance Requirements
	54.47	Additional Uses – Commission Determination
	54.48	Additional Prohibited Uses – Commission Determination
	54.49	Yard Requirements Along Zoning Boundary Line in the Restricted District
	54.50	Street Frontage Requirements
	54.51	Required Area or Space Cannot be Reduced
	54.52	Off-Street Parking and Loading
	54.53	Encroaching Doors
	54.54	Essential Services
	54.55	Unsafe Buildings
	54.56	Pending Applications for Building Permits
	54.57	Extraction of Minerals and Oil Drilling – Prohibited

NON-CONFORMING USES

Section	54.58	Prior Uses - Non-Conforming Permitted to Continue
	54.59	Minimum Living Area of a Residence

ARTICLE IV EFFECTS OF DISTRICTING AND GENERAL REGULATIONS

54.45 DISTRICT, MORE RESTRICTED OR LESS RESTRICTED.

Each of the districts in the following list shall be deemed to be more restricted than any of the districts succeeding it, and each shall be deemed to be less restricted than any of the districts preceding it: GB-1, GB-2, GB-3, A-1, CP, A-2, R-S, R-1, R-2, C-1, C-2, C-3, M-1 and M-2.

54.46 CONFORMANCE REQUIREMENTS.

Except as hereinafter specified, no land, buildings, structure, or premises shall hereafter be used, and no building, or part thereof, or other structure shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located. Regulations include: (A) Structures or land, including performance standards for the control of any “dangerous and objectionable elements”, as defined herein, in connection with such use; (B) the height, size or dimensions of buildings or structures, the size or dimensions of lots, yards, and other open spaces surrounding buildings; (C) the provision, location, size, improvement, and operation of off-street parking, loading, and unloading spaces.

54.47 ADDITIONAL USES – COMMISSION DETERMINATION.

Uses other than those specifically mentioned in this ordinance as permitted uses in each of the districts may also be allowed therein, except for uses prohibited therein or which are first permitted in a less restrictive district and provided that, in the judgment of the Board as evidenced by decision of record that such other uses are of similar character to those mentioned and will have no adverse influence on adjacent properties or the neighborhood or the community than the permitted uses specifically mentioned for the district.

54.48 ADDITIONAL PROHIBITED USES – COMMISSION DETERMINATION.

Uses other than those specifically prohibited in this Ordinance in any district shall also be prohibited therefrom, provided that in the judgment of the Board, as evidenced by decisions of record, such other uses are similar in character to those specifically prohibited in that they would have similar or more serious adverse influence on adjacent properties or the neighborhood or the community than the uses specifically mentioned as prohibited in the district.

54.49 YARD REQUIREMENTS ALONG ZONING BOUNDARY LINE IN THE RESTRICTED DISTRICT.

Along any zoning boundary line on a lot in the less restricted district, a front yard facing a lot in the more restricted district and any side yard, rear yard or court abutting said zoning boundary line, unless subject to greater restrictions or requirements stipulated by other provisions of this ordinance, shall have a minimum depth and width equal to the average of the required minimum depth or width for such front yards, side yards, rear yards, or courts in the two districts on either side of such zoning boundary line. In cases where the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more

restricted district, the minimum depth or width of the side yard, rear yard or court for such structure shall be determined by increasing the minimum depth or width for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

54.50 STREET FRONTAGE REQUIREMENTS.

Except as permitted by other provisions of this ordinance, no lot shall contain any building used in whole or in part for residential purposes unless such lot abuts for at least forty (40) feet on a street; and there shall be not more than one, single-family dwelling for such frontage. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.51 REQUIRED AREA OR SPACE CANNOT BE REDUCED.

No lot, yard, court, parking area or other space shall be reduced in area or dimension so as to make said area or dimension less than the minimum required by this ordinance. No part of a yard, court, parking area, or other space provided about, or for any building or structure for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, court, parking area or other space required under this ordinance for another building or structure.

54.52 OFF-STREET PARKING AND LOADING.

In every district spaces for off-street parking and for off-street loading and unloading shall be provided in accordance with the provisions of Sections 54.240 and 54.241.

54.53 ENCROACHING DOORS.

Every garage building or portion of a main building used for garage purposes shall be so equipped that the doors when open or being opened will not project beyond any lot line of the lot on which such building is located, and when said doors open to an alley the wall or portion thereof containing said doors shall be at least six (6) feet from the line forming the common boundary between said lot and the alley.

54.54 ESSENTIAL SERVICES.

A. Definition: The erection, construction, alteration, or maintenance, by communication companies, public utilities, or governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment for the furnishing of adequate service by such companies, public utilities, or municipal or other governmental agencies if not occupied by personnel, and does not provide toilet facilities, shall be permitted for the above in any zone district provided that the structure is at least ten (10) feet from side property lines, twenty (20) feet from rear property line and set back from the right-of-way the minimum distance as required in the zoning district where the structure is to be located, and adequate off-street parking is provided for service cars or trucks.

B. Exemption for Ordinance: Essential services shall be permitted as authorized and regulated by law and other provisions of Wayne County, it being the intention hereof to exempt such essential services from the application of this ordinance.

54.55 UNSAFE BUILDINGS.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

54.56 PENDING APPLICATION FOR BUILDING PERMITS.

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approvals and required building permits have been granted before the enactment of this Ordinance, the construction of which shall have been completed within twelve (12) months after the effective date of this Ordinance.

54.57 EXTRACTION OF MINERALS AND OIL DRILLING – PROHIBITED.

The extraction or mining of minerals or the extracting of oil or other hydrocarbons are expressly prohibited within lands which are used for residential purposes and where there are eight (8) or more residences within a quarter mile square area. Such extraction or mining is also expressly prohibited within any R-1 or R-2 Districts which are contiguous to any incorporated city or town since these areas have been planned for residential development.

NON-CONFORMING USES.

54.58 PRIOR USES – NON-CONFORMING PERMITTED TO CONTINUE.

- A. Except as hereinafter specified, any use, building or structure, existing at the time of the enactment of this Ordinance may be continued, even though such use, building or structure may not conform with the provisions of this Ordinance for the district in which it is located.

- B No existing building or lot devoted to a use not permitted by this Ordinance in the district in which such building or lot is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located and except as follows:
 - (1) When authorized by the Board, in accordance with the provisions of Section 54.440 through 54.448, the substitution for a non-conforming use of another not more objectionable non-conforming use or an extension or a non-conforming use may be made, but not both a substitution and an extension.

 - (2) When authorized by the Board in accordance with the provisions of Section 54.440 through 54.448, the extension or completion of a building devoted to a non-conforming use upon a lot occupied by such building or on a lot in question on the date the use of such building became non-conforming and where such extension is necessary and identical to the existing use of such building.

- (3) When authorized by the Board in accordance with the provisions of Section 54.440 through 54.448, a non-conforming use may be extended throughout those parts of a building which were manifestly designed and arranged for such use prior to the date when such use of said building became non-conforming, if no structural alterations, except those required by law, are made therein.
- A. Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming use.
 - B. No building, structure, or lot where a non-conforming use has ceased for one (1) year or more shall again be put to a non-conforming use.
 - C. Such repairs and maintenance work as required to keep it in sound condition may be made to a non-conforming building or structure, provided no structural alterations shall be made except such as are required by law or authorized by the Board.
 - D. Variances may be authorized by the Board of Zoning Appeals in the event that a non-conforming use existed on October 30, 1967 and the use has ceased for a period of one continuous year. The variance can include the use in effect on October 30, 1967 or a substitution of a use not less restrictive than that use that was non-conforming on October 30, 1967. While a substitution of a non-conforming use that is less restrictive may be granted, and an extension of a non-conforming use that has ceased to exist for one continuous year cannot be granted or approved.

54.59 MINIMUM LIVING AREA OF A RESIDENCE

The minimum living area of a residence (excluding attached garages, patios, porches, decks and unfinished basements) shall exceed nine hundred fifty feet (950 ft.). (*Amended Ord. No. 2003-002, 3/26/2003.*)

ARTICLE V CONSERVATION DISTRICT

GB-1 CONSERVATION DISTRICT

Section	54.60	Purpose
	54.61	Location
	54.62	Permitted Uses
	54.63	Special Exceptions
	54.64	Subdivision

GB-2 FLOOD DISTRICT

Section	54.70	Permitted Uses
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GB-3 RESTRICTED DISTRICT

Section	54.72	Purpose
	54.73	Restrictions

ARTICLE V CONSERVATION DISTRICT

GB-1 CONSERVATION DISTRICT

54.60 PURPOSE

It is the purpose of this district to protect and preserve areas of the County having recognized aesthetic or historical value or other unique characteristics.

54.61 LOCATION

Conservation District is intended to apply to land having aesthetic or historic qualities or other natural or unique features which are deserving of special protection.

54.62 PERMITTED USES

- A. Agricultural Uses where the tract of land contains five (5) or more acres.
- B. Public Parks, playgrounds and recreational areas and private recreational developments.

54.63 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the GB-1 Conservation District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.64 SUBDIVISION

Subdivision is not permitted in this zone.

GB-2 FLOOD DISTRICT

54.70 PERMITTED USES

Those uses allowed in GB-1 as restricted by applicable Flood Control Laws.

GB-3 RESTRICTED DISTRICT

54.72 PURPOSE

It is the purpose of this district to preserve areas of any size in the county having special resources of a nature that are environmentally sensitive, unique, aesthetic, significantly rare, or of an endangered biological productivity.

54.73 RESTRICTIONS

- A. Use Restrictions. Except in extraordinary cases of an overriding public need or interest, uses shall only be permitted that are consistent with intent to protect conservation districts from any use that is inconsistent with protecting the character of the environmentally sensitive, significantly rare, or endangered biological productivity or character, or of other unique qualities.
- B. Development Restricted. There may be no activity, construction, or development, or use of the land in this zone that will endanger, destroy or modify the current environmentally sensitive uses, or which would significantly alter the ecological integrity, balance, character, except in the case of overriding public need or interests. These areas might include marshes, bogs, woodlands, wetlands, waterways and other areas of significant biological productivity or uniqueness.
- C. Conservation Easement. This zone may at the time of rezoning, include an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open or wooded condition; retaining such areas as suitable habitat for fish, plants or wildlife; or maintaining existing land uses.

ARTICLE VI - AGRICULTURAL DISTRICTS

A-1 AGRICULTURAL DISTRICT

Section	54.75	Principal Permitted Uses
	54.76	Special Exceptions
	54.77	Accessory Uses
	54.78	Height Regulations
	54.79	Lot Area, Width and Yard Requirements
	54.80	Minimum Setback Requirements
	54.81	Subdivision

A-1-CP RESIDENTIAL UNIT COMMUNITY PROJECT

Section	54.82	Establishment of a Residential Unit Community Project
	54.82.1	Effect of the Residential Unit Community Project
	54.82.2	General Requirements
	54.82.3	Procedure for Development
	54.82.4	Submission of Plans
	54.82.5	Principal Permitted Uses
	54.82.6	Special Exceptions
	54.82.7	Accessory Uses
	54.82.8	Residential Unit Community Project Requirements and Standards
	54.82.9	Courts

A-2 AGRICULTURAL BIG-LOT DISTRICT

Section	54.90	Principal Permitted Uses
	54.91	Special Exceptions
	54.92	Accessory Uses
	54.93	Height Regulations
	54.94	Lot Area, Width and Yard Requirements
	54.95	Subdivisions

A-3 LIMITED AGRICULTURE DISTRICT

Section	54.100	Purposes
	54.101	Subdivision

A-4 AGRICULTURE PRESERVATION DISTRICT

Section	54.105	Purposes
	54.106	Permitted Uses
	54.107	Subdivision

ARTICLE VI AGRICULTURAL DISTRICTS

A-1 AGRICULTURAL DISTRICT

54.75 PRINCIPAL PERMITTED USES

- A. On tracts of five (5) acres or more the following agricultural uses will be permitted and, buildings or structures or land may be erected, altered, enlarged which is arranged or designed for the following uses. (*Amended Ord. No. 2015-002, 3/18/2015.*)
1. Agricultural and the usual agricultural buildings, structures, farm office buildings, commercial and non-commercial nurseries and greenhouses.
 2. A single one family dwelling per parcel.
 3. Churches, schools, and colleges for academic instruction, public buildings, structures, and properties of the recreational, cultural, administrative, or public service type.
 4. Non-commercial, recreation areas and centers including country clubs, swimming pools, golf courses, and summer camps, public and private forests and wild-life preserves, and similar conservation areas.
 5. Domestic Pets, Small Kennel and Large Kennel
 6. Cemetery.
 7. All signs in accordance with provisions of Section 54.270 through 54.274.
 8. Sawmill. (Cutting timber grown primarily on the premises.)
 9. Essential services as permitted in Section 54.54.
 10. Community Development Unit Projects in accordance with the provisions of Section 54.300 through 54.306.
 11. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)
 12. None of the foregoing may be used in excess of any of the other restrictions or prohibitions of this Ordinance.
 13. All non-conforming uses, pursuant to Section 54.58.
- B. On tracts of three (3) acres or more animal husbandry of not to exceed two (2) animals shall be permitted.

54.76 SPECIAL EXCEPTIONS

- A. Those uses listed as Special Exception for the A-1 Agricultural District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.
- B. On tracts of less than five (5) acres animal husbandry is not permitted except as a Special Exception in accordance with the provisions of Section 54.345 through 54.349, or as a Principal Permitted use in accordance with Section 54.75 paragraph "B".
- C. Confined Feeding Operation, Concentrated Animal Feeding Operation and a Satellite Manure Storage Structure are not permitted except by Special Exception in accordance with the provisions of Section 54.345 through 54.349.
- D. A ***Small Wind Energy Conversion System (WECS)*** is permitted by Special Exceptions in accordance with the provisions of Section 54.345 through 54.349. A ***Large Wind Energy Conversion System (WECS)*** is not a permitted use. (*Amended Ord. No. 2016-010, 12/7/2016.*)
- E. Commercial Dog Breeder, Unlimited Kennel and Domestic Pet Grooming Facility. (*Amended Ord. No. 2015-002, 3/18/2015.*)

54.77 ACCESSORY USES

Those uses, buildings, or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use, including the following:

- A. Fall Out Shelter.
- B. Living quarters of persons employed on the premises.
- C. A private garage or parking area subject to provisions of Section 54.241 through 54.245.
- D. Home occupations.
- E. Rooming or boarding house (lodging house).
- F. Temporary roadside stands, offering for sale only neighborhood agricultural products or other products on the premises.
- G. Advertising signs, business signs, real estate signs, professional or announcement signs, institutional bulletin boards, subject to the provisions of Section 54.270 through 54.274.
- H. Temporary buildings incidental to construction.
- I. All accessory structures for other than farm use shall require a building permit acquired pursuant to Wayne County Building Code.

54.78 HEIGHT REGULATIONS

No principal structure shall exceed two and one half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 54.385 – 54.386. (Amended Ord. No. 2003-002, 3/26/2003.)

54.79 LOT AREA, WIDTH, AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.405. (Amended Ord. No. 2109-012, 8/21/2019.)

	MINIMUM LOT AREA	MINIMUM LOT WIDTH	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH – EACH	MINIMUM REAR YARD DEPTH
	ACRES	FEET	FEET	FEET	FEET
Dwellings	1 ½	250	100	50	50
Dwelling*	1	200	100	40	40
Small Kennel**	5	275	100	50	50
Large Kennel***	10	275	100	50	50
WCFWWSS, WSS **	3	275	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Other Permitted Uses	3	275	100	50	50

* Minimum requirements if located on public sewer and water systems.

** A 225 foot minimum setback is required from an existing off premises business, residence or accessory structures of the off premises residence. (Amended Ord. No. 2015-002, 3/18/2015.)

*** A 325 foot minimum setback is required from an existing off premises business, residence or accessory structures of the off premises residence. (Amended Ord. No. 2015-002, 3/18/2015.)

Exception: The minimum setback distance may be reduced upon having a written agreement with the owner(s) of the affected off premises structures. The written agreement shall be in a format approved by the Plan Administrator, and the agreement shall be recorded in the office of the Wayne County Recorder.

54.80 MINIMUM SETBACK REQUIREMENTS

The minimum setback requirements for any permitted use on lots with a width of less than 200 feet as shown in the records of the Recorded of Wayne County on March 19, 1973 are as follows:

- | | | |
|-----|------------------------|--------|
| (A) | Front yard depth | 65 ft. |
| (B) | Rear yard depth | 40 ft. |
| (C) | Side yard depth (each) | 20 ft. |

Accessory structures may be located in the rear yard within three (3) feet of rear or side lot lines.

Accessory structures may be located in the side yard provided they meet the minimum setback requirements for a principal permitted use.

Accessory structures may be located in the front yard provided they meet the minimum setback requirements for a principal permitted use. Exception: Front yard placement is not permitted in a platted and recorded subdivision. (*Amended Ord. No. 2009-014, 11/18/2009.*)

54.81 SUBDIVISION

- A. Subdivision of land for residential purposes is not permitted in this zone.
- B. Subdivision of land for commercial or individual purposes is not permitted in this zone.

A-1-CP RESIDENTIAL UNIT COMMUNITY PROJECT*

54.82 ESTABLISHMENT OF A RESIDENTIAL UNIT COMMUNITY PROJECT

A Residential Unit Community Project is hereby established as an “overlay district” on a 33 acres tract of land having a legal description as being a part of the Northwest Quarter of Section 8, Township 14 North, Range 1 West in Wayne Township, Wayne County, Indiana and being more particularly described as follows:

Beginning at the northeast corner of the Northwest Quarter of said Section Number 8 and running thence south, along the east line of said Northwest Quarter, 990.0 feet to a marked stone; thence west 1212.09 feet, more or less, to the middle of the former Richmond and Newport Turnpike Road; thence north 26 degrees and 15 minutes west, along the middle of said turnpike road, 799.92 feet; thence north 24 degrees and 20 minutes west, along the middle of said turnpike road, 295.75 feet; thence north 89 degrees 53 minutes 40 seconds east 1687.85 feet, more or less, to the place of beginning, containing an area of 33 acres.

Subject to the right-of-way United States Highway Number 27 across the entire west side of the above described tract, also subject to any easements of record.

The underlying zoning classification is A-1 Agricultural District.

54.82.1 EFFECT OF THE RESIDENTIAL UNIT COMMUNITY PROJECT

The imposition of the Residential Unit Community Project District upon the tract of land described will be subject to all of the basic requirements of the primary zoning in addition to any of the conditions that are imposed by reason of the Development Plan. In the event there is a conflict between the primary zoning and the conditions of the Development Plan, the conditions of the Development Plan shall apply.

54.82.2 GENERAL REQUIREMENTS

The general requirements of the Development Plan shall:

- (A) Provide for a public water supply and public sanitary sewer facilities;
- (B) Abut and have access to a federal or state highway or principal thoroughfare as designated on the Indiana Major Highway Plan;
- (C) Be consistent with the Comprehensive Master Plan;
- (D) Not adversely affect neighboring property;
- (E) Meet all the requirements of the zoning ordinance, unless specifically varied or waived by conditions attached to the Development Plan;
- (F) Be subject to all conditions on the Development Plan approval;
- (G) Satisfy any requirement of written assurances or financial responsibility to assure the completion of the proposed improvements; and
- (H) The streets within the Development Unit Project shall be paved according to Wayne County specifications, maintained in good condition and lighted at night. The County Engineer shall determine the minimum width.

54.82.3 PROCEDURE FOR DEVELOPMENT

The procedure for review and approval of the Development Plan will be identical to that procedure imposed for a subdivision and will be administered by the Plan Commission.

54.82.4 SUBMISSION OF PLANS

An application for a Development Plan for a Residential Unit Community Project shall be filed with the Zoning Administrator and must be accompanied by scale drawings certified by a registered engineer or surveyor. In additions to the requirements of the Subdivision Control Ordinance and conditions of the Development Plan, such drawings shall contain the following information.

- A. Accurate dimensions of the Residential Unit Community Project;
- B. Topographic data, including, but not limited to, watercourses, marshes, wooded areas, and other natural or man-made features which would affect the Project. U.S. Geological Survey topographic data may be used;
- C. Streets and right-of-ways on or adjoining the site, including but not limited to, dedicated right-of-way widths, roadway widths, approximate gradients, types and widths of pavements, curbs, sidewalks or other pertinent data, and
- D. A general layout of the proposed structures and related facilities.

54.82.5 PRINCIPAL PERMITTED USES

No building, use, structure, or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses except as provided herein and in Section 54.58.

- A. Any uses permitted and as regulated in the A-1 and R-1 Districts except as modified herein.
- B. Multi-family dwellings, apartment hotels.
- C. Non-commercial clubs and lodges.
- D. Non-commercial recreation facilities.
- E. Town-house dwelling units.
- F. Subdivision of land for residential purposes is permitted. No subdivision of land for commercial or industrial is permitted.

54.82.6 SPECIAL EXCEPTIONS.

The Special Exceptions as found in the A-1 and R-2 Districts are not permitted.

Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.82.7 ACCESSORY USES.

The Accessory Uses as found in the A-1 and R-2 Districts are not permitted unless otherwise approved by the Commission.

54.82.8 RESIDENTIAL UNIT COMMUNITY PROJECT REQUIREMENTS AND STANDARDS

- A. The minimum site area of a Residential Community Unit Project shall be thirty-three (33) acres. The site shall abut for a distance of not less than one thousand (1,000) feet on a Federal or State Highway, or a principal thoroughfare as designated on the Indiana Major Highway Plan.
- B. Any of the uses permitted as regulated in the R-2 District, except as stipulated in this Section, provided that the number of dwelling units in such multi-family buildings as are first permitted in the R-2 District may not exceed twenty-five (25) percent of the total number of dwelling units in the entire development project.
- C. The overall residential density in any community unit project shall not exceed ten (10) dwelling units per gross acre, excluding rights-of-way of public roads.
- D. The height of one-family homes, two-family, three-family, and four-family dwellings and town houses shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, and of any other residential buildings six (6) stories or sixty (60) feet.
- E. Yards and courts for one and two family dwellings and related uses shall be the same as required in the R-2 District.
 - (1) All multi-family dwellings on a collector street shall have a front yard not less than thirty-five (35) feet in depth, and those fronting on a principal or secondary thoroughfare, not less than forty-five (45) feet in depth.
 - (2) The distance between principal buildings, front to front, shall not be less than the sum of the heights of the buildings, but in no case less than eighty (80) feet, and the distance between such buildings, back to back, shall not be less than twenty (20) feet. The distance between buildings in any other relationship to one another shall not be less than ten (10) feet. The setback distance from the edge of the street shall not be less than twenty (20) feet.
- F. There shall be provided at least one and one-half (1½) off-street parking spaces, in buildings or parking areas, for each dwelling and attached garage unit in the development project; service drives and other facilities in connection therewith shall be located entirely within the project area, and all such parking areas and related facilities shall be maintained in good order by the owner of the development or a properly constituted neighborhood association.
 - (1) Off-street parking and service facilities for other than residential uses shall meet the requirements in Section 54.240 through 54.245.
- G. At least ten (10) percent of the gross area of the project shall be developed and property equipped as playgrounds, playfields, parks, or other recreation areas. Such area and facilities shall be maintained in good order by the owner of the development or by a properly constituted neighborhood association, or, if accepted by the Commission may be dedicated to the County.

- H. In case the site of the proposed Residential Unit Community Project, (a) contains all or a part of a proposed school site, shown on the Master Plan, or (b) when, in the judgment of the Commission, provisions for a school site within the site of the development project is or will be needed to serve the anticipated population – such school site or part thereof shall be conveyed to the School Corporation within whose jurisdiction the site is located.
- I. All infrastructure, including streets (not including the final asphalt application and sidewalks), water, sewer, electric, and street lights shall be installed in each section prior to the issuance of a building permit for that section.

54.82.9 COURTS.

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard, a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- A. An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 54.140 (B).
- B. An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet. (*Amended Ord. No. 2007-004, 5/23/2007.*)

A-2 AGRICULTURAL BIG-LOT DISTRICT

54.90 PRINCIPAL PERMITTED USES

No building, structure, or land shall be erected, altered, enlarged, or used which is arranged or designed for other than one of the following uses, except as provided herein and the Section 54.58.

- A. The agricultural uses permitted in A-1 and agricultural buildings and structures including farm dwellings, farm office buildings, commercial and non-commercial nurseries and greenhouses.
- B. Public and private grounds, golf courses, summer and winter resorts, game preserves, and the like, for the purpose of preserving and enjoying the natural resources of the property. (*Amended Ord. No. 2009-013, 11/18/2009.*)
- C. Watershed protection works, hydroelectric plants. (*Amended Ord. No. 2009-013, 11/18/2009.*)

- D. A single one family dwelling per parcel.
- E. Essential services as defined in Section 54.54.
- F. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.91 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the A-2 Big-Lot District in Section 54.349 may be permitted in accordance with the provisions of Section 54.343 through 54.348.

A *Small Wind Energy Conversion System (WECS)* is permitted by Special Exception in accordance with the provisions of Section 54.345 through 54.349. A *Large Wind Energy Conversion System (WECS)* is not a permitted use. (*Amended Ord. No. 2016-10, 12/7/2016.*)

54.92 ACCESSORY USES

Accessory uses, buildings, or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.

54.93 HEIGHT REGULATIONS

No principal structure shall exceed two and one-half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 54.385 – 54.386. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.94 LOT AREA, WIDTH, AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.406. (*Amended Ord. No. 2019-012, 8/21/2019.*)

	MINIMUM LOT AREA	MINIMUM LOT WIDTH	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	ACRES	FEET	FEET	FEET	FEET
Dwellings	3	275	100*	50	50
	2***	275***	110**	50	50
WCFWWSS, WSS ****	5	300	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Other Permitted Uses	5	300	100*	100	50
			110**		

- * On roads with 50 feet established right-of-way.
- ** On roads with less than 50 feet established right-of-way.
- *** Minimum requirements if located on public sewer and water systems.
- **** A 225 foot minimum setback is required from an existing off premises business, residence or accessory structures of the off premises residence. Exception: The minimum setback distance for WCFWWSS and WSS may be reduced upon having a written agreement with the owner(s) of the affected off premises structures. The written agreement shall be in a format approved by the Plan Administrator, and the agreement shall be recorded in the office of the Wayne County Recorder.

Accessory structures may be located in the rear yard within three (3) feet of rear or side lot lines.

Accessory structures may be located in the side yard provided they meet the minimum setback requirements for a principal permitted use.

Accessory structures may be located in the front yard provided they meet the minimum setback requirements for a principal permitted use. Exception: Front yard placement not permitted in a platted and recorded subdivision. *Amended November 18, 2009. Ordinance No. 2009-014.*

54.95 SUBDIVISIONS

- A. Subdivision of land for residential purposes is not permitted. *Amended April 12, 1999.*
- B. Subdivision of land for commercial or industrial purposes is not permitted.

A-3 LIMITED AGRICULTURE DISTRICT

54.100 PURPOSES

All of the uses and conditions applicable to A-2 District (54.90 through 54.95) are applicable to this district except for subdivision of land.

54.101 SUBDIVISION

Subdivision of land for residential, commercial or industrial property is not permitted in this district.

A-4 AGRICULTURE PRESERVATION DISTRICT

54.105 PURPOSES

It is the purpose of this district as established to permit intensive agricultural and certain related activities as the principal use of the land. Specifically, the interest is to facilitate the most efficient use of lands best suited to agriculture by disallowing those uses which remove land from production and/or contribute to the premature termination of agricultural enterprises.

54.106 PERMITTED USES

- A. All uses permitted in A-1, A-2 and A-3 except that residential uses are permitted only where the occupants are persons who are engaged in agriculture on the premises.
- B. Accessory uses or structures:
 - 1. All accessory uses or structure permitted in A-1.
 - 2. Home occupation.
 - 3. Living quarters such as tenant house or rooms for persons employed on the premises and not rented or otherwise used as a separate dwelling.
 - 4. Non-commercial garages and non-commercial greenhouses.

STRUCTURAL LOCATION SPECIFICATIONS:

- 1. Front Yard
 - a. On four (4) lane Federal and State highways, a distance of 120 feet from the centerline of the right-of-way.
 - b. On two (2) lane Federal and State highways, a distance of 120 feet from the centerline of the right-of-way.

- c. On all numbered county roads, as provided for in the separate districts.
- d. On all other roads and streets, a distance of one hundred (100) feet from the centerline of the right-of-way.
- 2. Side Yard.
 - a. The side yards shall have a minimum width of twenty-five (25) feet on each side.
- 3. Rear Yard
 - a. The rear yard shall have a minimum setback of twenty-five (25) feet.
- 4. Lot Coverage.
 - a. No greater than one (1) percent of the land shall be covered by the structures on the parcel.
- 5. Lot Frontage.
 - a. Parcel frontage in the A-4 district shall be no less than six hundred and sixty (660) feet.
- 6. Lot Area.
 - a. Each lot in the A-4 Agricultural Preservation District shall contain twenty (20) acres or more in order to be permitted in this district. Smaller parcels may be included in this district only when they are adjacent to other "A3C" districts.
- 7. Accessory Structures.
- 8. After a rezone to A-4, no rezoning is permitted for 10 years.

54.107 SUBDIVISION

The subdivision of land in this district is not permitted.

ARTICLE VII RESIDENTIAL DISTRICTS

R-S ONE-FAMILY SUBURBAN RESIDENCE DISTRICT

Section	54.110	Principal Permitted Uses
	54.111	Special Exceptions
	54.112	Accessory Uses
	54.113	Height Regulations
	54.114	Lot Area, Frontage and Yard Requirements
	54.115	Courts

R-1 ONE FAMILY RESIDENCE DISTRICT

Section	54.120	Principal Permitted Uses
	54.121	Special Exceptions
	54.122	Accessory Uses
	54.123	Height Regulations
	54.124	Lot Area, Frontage and Yard Requirements
	54.125	Courts

R-2 MULTI-FAMILY RESIDENCE DISTRICT

Section	54.135	Principal Permitted Uses
	54.136	Special Exceptions
	54.137	Accessory Uses
	54.138	Height Regulations
	54.139	Lot Area, Frontage and Yard Requirements
	54.140	Courts

RESIDENTIAL DISTRICTS, GENERAL REGULATIONS

Section	54.141	Rear Dwellings in R-District
	54.142	Transitional Uses in R-District
	54.143	Accessory Uses in R-Districts
	54.144	Side Yards
	54.145	Traffic Visibility Across Corner Lots
	54.146	Parking of Trucks in R-Districts
	54.147	Yards, Sales, Private or Rummage
	54.148	Measurements of Basement and Cellars

ARTICLE VII RESIDENTIAL DISTRICTS

All residential structures and uses shall be subject to the specifications and regulations of the following specific sections for R-S One-Family Suburban Residence District; R-1 One-Family Residence District; R-2 Multi-Family Residence District, and general specifications as set out herein, pertaining to all use districts.

R-S ONE-FAMILY SUBURBAN RESIDENCE DISTRICT

54.110 PRINCIPAL PERMITTED USES

No building, use, structure, or improvements on land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58.

- A. Agricultural, but not including animal and poultry husbandry, dairying, large and small kennels. (*Amended Ord. No. 2015-002, 3/18/2015.*)
- B. A single one-family dwelling per parcel
- C. Institutional as follows:
 - (1) Churches, rectories, parish house.
 - (2) Libraries, public.
 - (3) Parks, playgrounds, publicly owned.
 - (4) Schools; elementary, and high, public, private & parochial.
 - (5) Museums.
 - (6) Public cultural recreation and exhibition.
 - (7) Offices of professionals.
- D. Essential services as defined in Section 54.54.
- E. Development Unit Projects in accordance with the provisions of Section 54.300 through 54.306
- F. Subdivision of land for residential purposes is permitted. Subdivision for commercial or industrial purposes is prohibited.

54.111 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the R-S One-Family Residence District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.112 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.
- (B) The keeping of not more than two (2) roomers or boarders by a resident family.
- (C) The keeping of domestic animals exclusively for the use and personal enjoyment of the occupants of the principal building but limited to cats, dogs and smaller animals housed within the principal building but not including a kennel.
- (D) A private garage or parking area subject to the provisions of Section 54.241 through 54.245.
- (E) Private swimming pools.
- (F) Home occupations provided that not more than one-fourth (1/4) the area of one (1) floor of the dwelling is devoted to such use.
- (G) Real estate signs, professional or announcement signs and institutional bulletin boards subject to the provisions of Section 54.273 and 54.274.
- (H) Temporary buildings for uses incidental to construction.

54.113 HEIGHT REGULATIONS

No principal structure shall exceed two and one-half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Section 54.385 – 54.386. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.114 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.406.

	MINIMUM LOT AREA	MINIMUM LOT WIDTH	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Dwellings					
1 & 1 ½ stories (on public sewer and water)	12,000	80	55	10	30
(on septic)	1 acre	100	55	10	30
2 & 2 ½ stories (on public sewer and water)	14,000	80	55	14	35
(on septic)	1 acre	100	55	14	35
Other Principal Permitted Uses	20,000	100	55	20	40

54.115 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard, a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- A. An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 54.115 (B).
- B. An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

R-1 ONE-FAMILY RESIDENCE DISTRICT

54.120 PRINCIPAL PERMITTED USES

No building, use, structure or land shall be erected, altered, enlarged or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58.

- A. Any use permitted and as regulated in the R-S District.
- B. Subdivision of land for residential purposes is permitted. No subdivision for commercial or industrial is permitted.

54.121 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the R-1 One-Family Residence District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.122 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use, including the following:

- A. Fall-out shelter.
- B. Any use permitted and as regulated in the R-S District except as modified herein.

54.123 HEIGHT REGULATIONS

No principal structure shall exceed two and one-half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 54.385 – 54.386. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.124 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.406.

	MINIMUM LOT AREA	MINIMUM LOT WIDTH	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Dwellings					
1 & 1 ½ stories (on public sewer and water)	8,000	65	50	8	30
(on septic)	1 acre	65	50	8	30
2 & 2 ½ stories (on public sewer and water)	10,000	75	50	10	30
(on septic)	1 acre	75	50	10	30
Other Principal Permitted Uses	20,000	100	55	20	40

54.125 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard; a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- A. An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 54.125 (B).
- B. An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

R-2 MULTI-FAMILY RESIDENCE DISTRICT

54.135 PRINCIPAL PERMITTED USES

No building, use, structure, or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses except as provided herein and in Section 54.58.

- A. Any use permitted and as regulated in the R-1 District except as modified herein.
- B. Multi-family dwellings, apartment hotels.
- C. Non-commercial clubs and lodges.
- D. Non-commercial recreation facilities.
- E. Town-house dwelling units.
- F. Subdivision of land for residential purposes is permitted. No subdivision of land for commercial or industrial is permitted.

54.136 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the R-2 Multi-Family Residence District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.137 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.
- (B) The accessory uses permitted and as regulated in the R-1 District except as modified herein.
- (C) Home occupations provided that not more than one-half (1/2) of the area of one (1) floor of the dwelling is devoted to such use.

54.138 HEIGHT REGULATIONS

One-family or two-family dwellings shall not exceed two and one-half (2 ½) stories or thirty (30) feet in height; multi-family dwellings or other principal structures shall not exceed a height of sixty (60) feet; and accessory structures shall not exceed two (2) stories or twenty-five (25) feet except as provided in Section 54.385 and 54.386.

54.139 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.406.

	MINIMUM LOT AREA	MINIMUM LOT AREA PER FAMILY	MINIMM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH - EACH	MINIMUM REAR YARD DEPTH
	SQ. FEET	SQ. FEET	FEET	FEET	FEET	FEET
One & Two Family Dwellings (with public sewer & water)						
1 Family	8,000	8,000	65	50	8	30
2 Family	10,000	5,000	80	50	10	30
One & Two Family Dwellings (with septic)						
1 Family	1 acre	8,000	80	50	8	30
2 Family	1 acre	5,000	80	50	10	30
Multi-Family Dwelling (with public sewer & water)						
1 & 1 ½ stories	12,000	3,000	80	50	10	30
(with septic)	1 acre	3,000	80	50	10	30
2 & 2 ½ stories (with public sewer and water)	12,000	3,000	100	50	12	30
(on septic)	1 acre	3,000	100	50	12	30
3 & 3 ½ stories (with public sewer and water)	12,000	3,000	120	50	14	35
(on septic)	1 acre	3,000	120	50	14	35
4 or more stories (with public sewer & water)	14,000	3,000	140	50	20**	40
(with septic)	1 acre	3,000	140	50	20	40
Other Principal Permitted Uses	20,000		150	50	20**	40

**Two (2) feet for each story in excess of four (4) stories

54.140 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard, a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- A. An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 54.140 (B).
- B. An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

RESIDENTIAL DISTRICTS, GENERAL REGULATIONS

54.141 REAR DWELLINGS IN R-DISTRICT

In any R-District, no building in the rear of a principal building on the same lot shall be used for residential purposes.

54.142 TRANSITIONAL USES IN R-DISTRICT

In any R-S or R-1 District a transitional use shall be permitted on a lot, the side lot line of which adjoins either directly or across an alley any C or M-District. The permitted transitional uses for any such lot in the R-S District shall be any use permitted in the R-1 District, the permitted transitional uses for any such lot in the R-1 District shall be any use permitted in the R-2 District. The requirements governing lot area per dwelling unit, off-street parking, yards and other open spaces shall be those of the R-1 District for any such lot in the R-S District, those of the R-2 District for any such lot in the R-1 District.

54.143 ACCESSORY USES IN R-DISTRICTS

- A. An accessory building may be erected detached from the principal building or may be erected as an integral part of the principal building, or it may be connected therewith by a breezeway or similar structure. Except as provided in Section 54.147 (B), no accessory building shall be erected in any required yard or court, except a rear yard, and shall not occupy more than thirty-five (35) percent of a required rear yard. Accessory buildings shall be distant at least six (6) feet from any dwelling situated on the same lot, unless an integral part thereof, and at least six (6) feet from all lot lines of adjoining lots which are within any R-District unless located more than fifty (50) feet from the front street line.
- B. In any R-District, where a corner lot adjoins in the rear a lot fronting on the side street and located in any R-District, no part of an accessory building on such corner lot within twenty-five (25) feet of the common lot line shall be nearer a side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot; and in

no case shall any part of such accessory building be nearer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.

- C. No necessary use or structure in any R-1 District, except an off-street parking area subject to the provisions of Section 54.241 and 54.242, shall be permitted nearer to any front lot line than fifty (50) feet, unless such use or structure is contained within, or connected to, the principal building.
- D. Except as provided in Section 54.395 through 54.397, an accessory building, if not located in the rear yard shall be an integral part of, or connected with, the principal building to which it is accessory, and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building. Where an accessory building is located more than fifty (50) feet from the front street line it may be located within three (3) feet of the side or rear lot lines.
- E. In any R-District no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal of main building.

54.144 SIDE YARDS

There shall be a side yard on each side of all buildings in the R-District as specified in each district. The side yard on the street side of corner lot shall be six (6) feet more than the side yard required in each district for an interior lot.

54.145 TRAFFIC VISIBILITY ACROSS CORNER LOTS

In any R-District on any corner lot, no fence, structure or planting shall be erected or maintained within twenty (20) feet of the corner (the point of intersection of the right-of-way lines) which interferes with traffic visibility across the corner.

54.146 PARKING OF TRUCKS IN R-DISTRICTS

No moving van, tractor-trailer or similar vehicle of a rated weight of more than one and one-half (1 ½) ton shall be parked on any street or on any residential premises in any R-District for any consecutive period of four (4) hours or more, unless loading and unloading provided that nothing herein shall prevent the parking of such vehicle in a fully enclosed garage of similar permanent structure.

54.147 YARDS, SALES, PRIVATE OR RUMMAGE

No private or rummage yard sales shall be continued for longer than five (5) consecutive days nor more than fifteen (15) days of any calendar year by any of the same persons or on the same property.

54.148 MEASUREMENT OF BASEMENT AND CELLARS

A basement, when used as a dwelling, shall be counted as a story for purposes of height measurement, and as a half-story for purposes of side yard determination. A cellar shall not be considered in determining the height measurements.

ARTICLE VIII BUSINESS DISTRICTS

C-1 NEIGHBORHOOD BUSINESS DISTRICT

Section	54.150	Principal Permitted Uses
	54.151	Special Exceptions
	54.152	Accessory Uses
	54.153	Required Conditions
	54.154	Height Regulations
	54.155	Lot Area, Frontage and Yard Regulations
	54.156	Courts

C-2 COMMUNITY BUSINESS DISTRICT

Section	54.165	Principal Permitted Uses
	54.166	Special Exceptions
	54.167	Accessory Uses
	54.168	Required Conditions
	54.169	Height Regulations
	54.170	Lot Area, Frontage and Yard Requirements
	54.171	Garages and Parking Areas Distance Requirements
	54.172	Courts

C-3 GENERAL BUSINESS DISTRICT

Section	54.180	Principal Permitted Uses
	54.181	Special Exceptions
	54.182	Accessory Uses
	54.183	Required Conditions
	54.184	Prohibited Uses
	54.185	Height Regulations
	54.186	Lot Area, Frontage and Yard Requirements

ARTICLE VIII BUSINESS DISTRICTS

All structures and uses shall be subject to the specifications of the following specific sections relating to C-1, neighborhood business district; C-2, community business districts, and C-3, general business district.

C-1 NEIGHBORHOOD BUSINESS DISTRICT

54.150 PRINCIPAL PERMITTED USES

No building, use, structure or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58. (*Amended Ord. No. 2015-002, 3/18/2015.*)

- A. Any use permitted and as regulated in the R Districts except as modified herein.
- B. Retail and service uses as follows:
 - (1) Antique shops.
 - (2) Art galleries.
 - (3) Barber shops.
 - (4) Beauty shops.
 - (5) Book and stationery stores.
 - (6) Coin and philatelic stores.
 - (7) Camera and photographic supply stores.
 - (8) China and glassware stores.
 - (9) Clothes pressing establishments.
 - (10) Custom dressmaking and millinery shops.
 - (11) Domestic Pet Store
 - (12) Drug stores.
 - (13) Dry cleaning and laundry receiving stations, processing to be done elsewhere.
 - (14) Dry goods stores.
 - (15) Florist shops and conservatories.

- (16) Food stores, including grocery stores, meat markets, bakeries, candy and ice cream shops, delicatessens and frozen food stores including locker rental in conjunction therewith.
 - (17) Garden supply and seed stores.
 - (18) Gift shops.
 - (19) Haberdasheries.
 - (20) Hardware stores.
 - (21) Hobby shops, for retail of items to be assembled or used away from the premises.
 - (22) Jewelry stores, including watch repair.
 - (23) Kennel, Small
 - (24) Laundries, and dry cleaners; automatic, self-service type or hand, provided that laundry machines and dry cleaning machines shall not exceed ten (10) pounds capacity each.
 - (25) Leather goods and luggage stores.
 - (26) Locksmith shops.
 - (27) Medical and dental clinics.
 - (28) Medical and dental offices.
 - (29) Optician shops.
 - (30) Paint and wallpaper stores.
 - (31) Schools; including music, dance or business.
 - (32) Shoe and hat repair stores.
 - (33) Tailor shops.
 - (34) Tobacco shops.
 - (35) Trophy shops.
- C. Public parking areas subject to the provisions of Section 54.240 through 54.245 and 54.171.

- D. Commercial development unit projects in accordance with the provisions of Section 54.300 through 54.306.
- E. Subdivision of land for non-residential and commercial purposes is permitted, but the subdivision of land for residential purposes or for industrial purposes is not permitted.
- F. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.151 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the C-1 Neighborhood Business District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.152 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or Special Exception shall be permitted in accordance with the provisions of Section 54.345 through 54.348, and as follows:

- (A) Accessory uses permitted and as regulated in the R Districts. See Section 54.122.
- (B) Accessory uses and structures customarily accessory and incidental to any of the foregoing permitted C-1 non-residential uses and including off-street parking facilities subject to the provisions of Section 54.240 through 54.245.

54.153 REQUIRED CONDITIONS

- A. All businesses, services or processing shall be conducted wholly within a completely enclosed building except for off-street parking; and such outdoor display or storage of vehicles, materials and equipment as may be authorized by the Commission.
- B. Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by any reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried waste.

54.154 HEIGHT REGULATIONS

No principal structure shall exceed two and one-half (2 ½) stories or thirty (30) feet and no accessory structure shall exceed the height of the principal structure except as provided in Sections 54.385 – 54.386. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.155 LOT AREA, FRONTAGE, AND YARD REGULATIONS

The following minimum requirements shall apply except as provided in Section 54.395 through 54.406. (Amended Ord. No. 2019-012, 8/21/2019.)

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	45	None; except when adjoining an R-District, then not less than twenty (20) feet	None; except when adjoining an R-District, then not less than twenty (20) feet
WCFWWSS, WSS	1 Acre	None	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Residential	Same as required in the R-1 District				

54.156 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side, or rear yard, a court conforming with the provisions of this section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- A. An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 54.156 (B).
- B. An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

C-2 COMMUNITY BUSINESS DISTRICT

54.165 PRINCIPAL PERMITTED USES

No building, use, structure or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58.

- A. Any use permitted and as regulated in the C-1 Districts, except as modified herein.
- B. Retail and service uses as follows:
 - (1) Ambulance service.
 - (2) Amusement establishments, including bowling alleys, pool halls, dance halls, skating rinks, and other similar places of recreation.
 - (3) Art and school supply stores.
 - (4) Auction rooms.
 - (5) Auto accessory stores.
 - (6) Automobile wash.
 - (7) Automotive service station.
 - (8) Bicycle stores, including rental and repair.
 - (9) Blueprinting and photostatting.
 - (10) Catering establishments.
 - (11) Carpet, rug, and linoleum stores.
 - (12) Clothing and costume rental shops.
 - (13) Currency exchanges.
 - (14) Department stores.
 - (15) Drive-in establishment.
 - (16) Drive-in movie.
 - (17) Electrical and household appliance stores, including radio and television sales.
 - (18) Employment agencies.

- (19) Exterminating shops.
- (20) Flea market.
- (21) Funeral home.
- (22) Furniture stores, including upholstering when conducted as part of the retail operations and secondary to the principal use.
- (23) Furrier shops, including the incidental storage and conditioning of furs.
- (24) Hotel.
- (25) Interior decorating shops, including upholstering and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.
- (26) Laundries, employing not more than four (4) persons in addition to one (1) owner or manager.
- (27) Liquor stores, package goods only.
- (28) Loan offices.
- (29) Machinery sales rooms, with no repair or servicing, provided that storage and display of machinery, except of household appliances and office machines such as typewriters, shall be restricted to new floor samples.
- (30) Motel.
- (31) Musical instrument stores, including minor repairs.
- (32) Office supply stores, including minor repairs.
- (33) Orthopedic, medical, and surgical appliance stores, not including the assembly or manufacture of such articles.
- (34) Park, playground, game court.
- (35) Pawn shops.
- (36) Pet shops.
- (37) Photograph developing and processing shops.
- (38) Physical culture and health services, including gymnasiums, swimming pools, reducing salons, masseurs, public baths.

- (39) Picture framing establishments, when conducted for retail trade on the premises only.
- (40) Plumbing showrooms.
- (41) Pool, swimming, public.
- (42) Printing establishments for letter press, business cards, mimeographing, and other similar custom services.
- (43) Professional activities.
- (44) Radio and television service and repair shops.
- (45) Restaurant, hotel and bar fixture stores.
- (46) Restaurants, including live entertainment and dancing and the serving of liquor in conjunction therewith.
- (47) Second hand stores and rummage shops.
- (48) Shoe stores.
- (49) Sporting goods stores.
- (50) Taxidermists shops.
- (51) Telegraph offices.
- (52) Ticket agencies, amusement.
- (53) Toy shop.
- (54) Travel bureaus and transportation ticket offices.
- (55) Variety stores.
- (56) Wearing apparel shops.
- (57) Environmental collection centers.

C. Business and/or professional office; office buildings.

D. Banks, including drive-in banks, savings and loan associations.

E. Motor vehicle service station and garage, display, tire, sales and general automobile repair not including major body or fender repairs, subject to the provisions of Section 54.290.

- F. Drive-in eating and drinking places, provided the principal building is distant not less than one hundred (100) feet from any R-District.
- G. Night clubs and theaters, but not within one hundred (100) feet of any R-District and subject to all applicable regulations and such permits as may be required by law.
- H. Trade or business schools provided machinery which is used for instruction purposes is not objectionable due to noise, fumes, smoke, odor, or vibration; photographic studios, dancing studios, radio, and telecasting studios.
- I. Commercial recreational facility.
- J. Shopping center.
- K. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.166 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the C-2 Community Business District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.167 ACCESSORY USES

Accessory uses, buildings, or structure customarily incidental to any aforesaid principal use or Special Exception shall be permitted in conjunction with such use.

- A. Fall-out shelter.
- B. Accessory uses and structures as permitted and as regulated in the R-2 and C-1 Districts, as well as accessory uses and structures not otherwise prohibited customarily accessory and incidental to any of the foregoing permitted C-2 uses.

54.168 REQUIRED CONDITIONS

- A. All conditions as specified for the C-1 District, except for new merchandise in the case of art and antique shops.

54.169 HEIGHT REGULATIONS

No principal structure shall exceed three (3) stories or forty-five (45) feet and no accessory structure shall exceed the height of the principal structure except as provided in Section 54.385 – 54.386. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.170 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.406. (*Amended Ord. No. 2019-012, 8/21/2019.*)

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	None; except when adjoining an R-District, then not less than Forty-five (45) feet	None; except when adjoining an R-District, then not less than thirty (30) feet	None; except when adjoining an R-District, then not less than thirty (30) feet
WCFWWSS, WSS	1 Acre	None	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Residential Uses	Same as required in the R-2 District				

54.171 GARAGES AND PARKING AREAS DISTANCE REQUIREMENTS

- A. No motor vehicles service station, parking lot for twenty-five (25) or more motor vehicles, or parking garage or motor vehicle repair shop, shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.
- B. No motor vehicles filling station or public garage shall be permitted where any oil draining pit or visible appliance for any such purpose other than filling caps, is located within ten (10) feet of any street lot line or within twenty-five (25) feet of any R-District, except where such appliance or pit is within an enclosed building.

54.172 COURTS

Whenever any room in which persons live or sleep cannot be reasonably and adequately lighted and ventilated from a front, side or rear yard, a court, conforming with the provisions of this Section, shall be provided on which such rooms shall open. Such court need not extend below the lowest story it is required to serve.

- A. An outer court which extends directly to and opens for its full width on a front, side or rear yard, shall be not less than six (6) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than six (6) feet wide. The length of such

court, measured perpendicular to the width, shall not exceed twice such width unless such width conforms to the requirements of Section 54.171.

- B. An inner court which does not extend directly to nor open for its full width on a front, side or rear yard shall be not less than nine (9) inches wide for each foot of height above the sill of the lowest window served by it nor, in any case, less than ten (10) feet.

C-3 GENERAL BUSINESS DISTRICT

54.180 PRINCIPAL PERMITTED USES

No building, use, structure or land shall be erected, altered, enlarged or used which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58.

- A. Any use permitted and as regulated in the C-2 District except as modified herein and except that no dwellings are permitted.
- B. The following uses provide that buildings shall be at least fifty (50) feet from any R-District and shall have no openings adjoining any R-District other than stationary windows and fire escapes:
 - (1) Automobiles, trucks, trailers, farm implements, for sale, display, hire, major or minor repair including sales, lots, used car lots, trailer lots, body and fender shops, paint shops and bus storage.
 - (2) Battery and tire service stations.
 - (3) Building materials, sales.
 - (4) Commercial greenhouses.
 - (5) Contractor or construction shops, such as: building, cement, electrical, roofing, refrigeration, heating, and ventilating, masonry, painting, plumbing, air-conditioning.
 - (6) Dry-cleaning establishments.
 - (7) Frozen food lockers.
 - (8) Garages, model display and sales.
 - (9) House trailer sales.
 - (10) Laundries.
 - (11) Linen, towel, diaper, and other similar supply service.
 - (12) Machinery sales.

- (13) Mail order house.
- (14) Monument sales.
- (15) Motorcycle sales, including servicing and repair.
- (16) Repair of household or office machinery or equipment.
- (17) Trailers for motor vehicles, sales and rentals, not including house trailers or mobile homes.

C. Production and processing, limited to the following uses or products:

- (1) Advertising displays.
- (2) Art needle work and hand weaving.
- (3) Awning, venetian blinds, window shades.
- (4) Bakeries, wholesale.
- (5) Books, hand binding and tooling.
- (6) Brushes and brooms.
- (7) Carpenter shops for custom woodworking and custom furniture making.
- (8) Clothing, custom manufacturing and alterations, for retail only.
- (9) Cosmetics, drugs, and perfumes.
- (10) Dentures.
- (11) Food processing, packaging and distributing (except meat and fish, sauerkraut, vinegar, yeast and the rendering or refinishing of fats or oils).
- (12) Garages and parking lots, other than accessory, for the storage of motor vehicles (but not including truck trailers) and subject to the provisions of Section 54.240 through 54.245.
- (13) Glass cutting and glazing.
- (14) Jewelry (from precious metals).
- (15) Laboratories, medical, dental, research, experimental, and testing, provided there is no danger from fire or explosion nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.

- (16) Light sheet metal products.
 - (17) Optical lenses.
 - (18) Packing and crating.
 - (19) Printing, commercial, including engraving and photo engraving.
 - (20) Soldering and welding.
 - (21) Tool, die and pattern making.
 - (22) Watches.
 - (23) Wholesale offices and storerooms with storage.
- D. Animal hospitals, kennels, display and housing of boarding of pets and other domestic animals, provided that any enclosure or building in which animals are kept shall be at least one hundred (100) feet from any R-District and at least fifty (50) feet from any other C-District. Exercise runs shall be enclosed on four (4) sides by pierced well-maintained fence or wall at least six (6) feet in height.
 - E. Bottling of soft drinks or milk and distribution stations therefore, providing a building uses for such processing and/or distribution shall be at least one hundred (100) feet from any R-District.
 - F. Advertising signs subject to the provisions of Section 54.271 through 54.274.
 - G. Warehouses for the storage of merchandise and materials, trucking or motor freight stations or terminals, carting, expressing, or hauling establishments, contractor and building material yards, providing no such uses are conducted within two hundred (200) feet of any R-District.
 - H. Public utility and communications buildings and structures, including storage yards.
 - I. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.181 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the C-3 General Business District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.182 ACCESSORY USES

Accessory uses, buildings, or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use, including the following:

- (A) Fall-out shelter.
- (B) Accessory uses and structures as permitted and as regulated in the C-2 District and such other accessory uses and structures not otherwise prohibited which are customarily accessory and incidental to any of the foregoing permitted C-3 uses.

54.183 REQUIRED CONDITIONS

Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse, matter, or water-carried waste.

- A. All businesses, services or processing shall be conducted wholly within a completely enclosed building except for incidental display of merchandise, sale of motor vehicles, fuel, lubricants, and other fluids at service stations, loading and unloading operations, parking and the outdoor display or storage of vehicles, materials and equipment
- B. No building customarily used for night operation, such as a bakery or milk bottling and distribution station, shall have any opening, other than stationary windows or required fire exits, within one hundred (100) feet of any A or R- District, and any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within one hundred (100) feet of any A or R-District.

54.184 PROHIBITED USES

- A. Schools, hospitals, clinics, and other institutions for human care; provided, however, that any of the aforesaid uses legally existing in the C-3 District at the time of the adoption of this Ordinance or any amendment thereof, shall not be classified as a non-conforming use.
- B. No use shall be permitted or authorized to be established or maintained which, when conducted under adequate conditions and safeguards, in compliance with the provisions of this Ordinance and any additional conditions or requirements prescribed by the Commission is, or may become, hazardous, noxious, or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, heat frequency, refuse matter or water-carried waste.

54.185 HEIGHT REGULATIONS

No principal structure shall exceed three (3) stories or forty-five (45) feet and no accessory structure shall exceed the height of the principal structure except as provided in Section 54.385 – 54.386. (*Amended Ord. No. 2003-002, 3/26/2003.*)

54.186 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply as provided in Section 54.375 through 54.406.
(Amended Ord. No. 2019-012, 8/21/2019.)

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	45	None; except when adjoining an A or R-District, then not less than thirty (30) feet	35
WCFWWSS, WSS	1 Acre	None	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Residential Uses	Not permitted				

ARTICLE IX INDUSTRIAL DISTRICTS

M-1 LIGHT INDUSTRIAL DISTRICT

Section	54.200	Principal Permitted Uses
	54.201	Special Exceptions
	54.202	Accessory Uses
	54.203	Required Conditions
	54.204	Prohibited Uses
	54.205	Height Regulations
	54.206	Lot Area, Frontage and Yard Requirements

M-2 GENERAL INDUSTRIAL DISTRICT

Section	54.215	Principal Permitted Uses
	54.216	Special Exceptions
	54.217	Accessory Uses
	54.218	Required Condition
	54.219	Prohibited Uses
	54.220	Height Regulations
	54.221	Lot Area, Frontage and Yard Requirements

M-3 RURAL INDUSTRIAL DISTRICT

Section	54.222	Principal Permitted Uses
	54.223	Special Exceptions
	54.224	Accessory Uses
	54.225	Required Condition
	54.226	Prohibited Uses
	54.227	Height Regulations
	54.228	Lot Area, Frontage and Yard Requirements

ARTICLE IX INDUSTRIAL DISTRICTS

M-1 LIGHT INDUSTRIAL DISTRICT

54.200 PRINCIPAL PERMITTED USES

No buildings, use, structure or land shall be erected, altered, enlarged, or permitted which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58.

- A. Any use permitted and as regulated in the C-3 District except as herein modified, except all residential uses are prohibited.
- B. The rendering of service or the manufacturing, compounding, processing, packaging and assembling of products such as:
 - (1) Beverages, non-alcoholic.
 - (2) Blacksmith shop.
 - (3) Boat-building and repair of pleasure craft and other small craft, but not including shipbuilding or ship repair.
 - (4) Bottling works, beverage.
 - (5) Buses, bus bodies.
 - (6) Cameras and other photographic equipment and supplies.
 - (7) Canvas and canvas products.
 - (8) Ceramic products such as pottery and small glazed tile.
 - (9) Electric appliances such as lighting fixtures, items, fans, toasters and electric toys.
 - (10) Electrical equipment assembly such as home radio and television receivers and home movie equipment, but not including electrical machinery.
 - (11) Electrical supplies, manufacturing and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
 - (12) Fur goods, not including tanning or dyeing.
 - (13) Glass products from previously manufactured glass.
 - (14) Hair, felt, and feather products (except washing, curing and dyeing).

- (15) Hat bodies of fur and wool felt.
- (16) Hosiery.
- (17) House trailers.
- (18) Ice, dry, and natural.
- (19) Ink mixing and packaging and inked ribbons.
- (20) Insecticides.
- (21) Leather products, including shoes and machine belting.
- (22) Luggage.
- (23) Meat products.
- (24) Metal finishing, plating, grinding, sharpening, polishing, cleaning, rust-proofing and heat treatment.
- (25) Metal stamping and extrusion of small products such as costume jewelry, pins, and needles, razor blades, bottle caps, buttons and kitchen utensils.
- (26) Musical instruments.
- (27) Orthopedic and medical appliances such as artificial limbs, braces, supporters, and stretchers.
- (28) Paper products, small, such as envelopes and stationery, bags, boxes, tubes, and wallpaper printing.
- (29) Perfumes and perfumed soaps, compounding only.
- (30) Pharmaceutical products, compounding only.
- (31) Poultry and rabbits, slaughtering and retail sale for domestic and family use but not for hotel, restaurant or other commercial use.
- (32) Precision instruments such as optical, medical and drafting.
- (33) Products from finished materials, including plastic, bone, cork, feathers, felt, fiber, paper, fur, glass, hair, horn, leather, precious and semiprecious stones, rubber, shell or yarn.
- (34) Rubber products, small and synthetic treated fabrics, (excluding all rubber and synthetic processing) such as washers, gloves, footwear, bathing caps, and atomizers.

- (35) Silverware, plate and sterling.
 - (36) Soap, and detergents, packaging only.
 - (37) Sporting and athletic equipment such as balls, baskets, cues, gloves, bats, racquets and rods.
 - (38) Statuary, mannequining, figurines, and religious and church art goods, excluding foundry operations.
 - (39) Textiles, including spinning, weaving, manufacturing, dyeing, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
 - (40) Tobacco curing and manufacturing and tobacco products.
 - (41) Tools and hardware such as bolts, nuts, and screws, doorknobs, drills, hand tools and cutlery, hinges, and house hardware, locks, non-ferrous metal castings and plumbing appliances.
 - (42) Toys.
 - (43) Umbrellas.
 - (44) Upholstering (bulk), including mattress manufacturing, rebuilding, and renovating.
 - (45) Vehicles, children's such as bicycles, scooters, wagons and baby carriages.
 - (46) Wood products, such as furniture boxes, crates, baskets, and pencils and cooperage works.
- C. Any other business or industry which is determined by the Commission to be of the same general character as the above principal permitted uses, but not including any use which is first permitted or which is not permitted in the M-2 District except as modified herein.
 - D. Any retail business or service establishment determined by the Commission to have been clearly demonstrated as necessary to serve the needs of the industrial area, including restaurants, cocktail lounges, motels, banks and business or professional offices.
 - E. Industrial park.
 - F. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.201 SPECIAL EXCEPTIONS

- A. Those uses listed as Special Exceptions for the M-1 Light Industrial District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.202 ACCESSORY USES

Accessory uses, buildings or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use.

- A. Fall-out shelter.

54.203 REQUIRED CONDITIONS

Processes and equipment employed in goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste.

54.204 PROHIBITED USES

- A. Hotels, motels, residential uses or dwellings, mobile home parks, schools, hospital, clinics, and other institutions for human care; provided, however, that any of the aforesaid uses legally existing in this M-1 District at the time of the adoption of this Ordinance or any amendment thereto, shall not be classed as a non-conforming use.
- B. No use shall be permitted or authorized to be established or maintained which, when conducted under adequate conditions and safeguards, in compliance with the provisions of this Ordinance and any additional conditions or requirements prescribed by the Commission is, or may become hazardous, noxious, or offensive due to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, heat frequency, refuse matter or water-carried waste.

54.205 HEIGHT REGULATIONS

No structure shall exceed three (3) stories or fifty (50) feet except as provided in Section 54.385 and 54.386.

54.206 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.375 through 54.406. (Amended Ord. No. 2019-012, 8/21/2019.)

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	55	None; except when adjoining an A or R-District, then not less than fifty (50) feet	40
WCFWWSS, WSS	1 Acre	None	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Residential Uses	Prohibited				

M-2 GENERAL INDUSTRIAL DISTRICT

54.215 PRINCIPAL PERMITTED USES

No building, structure or land shall be erected, altered, enlarged or used which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58.

- A. Any use permitted and as regulated in the M-1 District except as modified herein.
- B. Provide no part of a building occupied by such uses shall have any opening other than stationary windows or required fire exits within one hundred (100) feet of any A or R-Districts.
 - (1) Blacksmith, welding or other metal working shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers and other noise-producing machine-operated tools; machine shops.
 - (2) Foundry, casting lightweight nonferrous metals, or electric foundry not causing noxious fumes or odor.
 - (3) Bag, carpet, rag cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.

- (4) Ice manufacturing and cold storage plant; creamery and bottling plant.
- C. The following uses when located not less than two hundred (200) feet from any A or R-District.
- (1) Inflammable liquids, underground storage only, not to exceed twenty five thousand (25,000) gallons.
 - (2) Building material sales yards including concrete mixing; lumber yards including millwork, open yards for storage, sale of feed and/or fuel and contractor's equipment storage.
- D. The following uses are permitted when located not less than three hundred (300) feet from any A or R-District, and not less than one hundred (100) feet from any other district.
- (1) Acetylene manufacturing in excess of fifteen (15) pounds pressure per square inch.
 - (2) Acid manufacture.
 - (3) Asbestos manufacturing.
 - (4) Automobile assembly.
 - (5) Automobile wrecking.
 - (6) Bleaching, cleaning and dyeing plant of large scale production.
 - (7) Boiler shops, machine shops, structural steel fabricating shops, railway car or locomotive shops, including repair, metal working shops employing reciprocating hammers or presser over twenty (20) tons rated capacity.
 - (8) Candle manufacturing.
 - (9) Charcoal and fuel briquettes.
 - (10) Chemicals, including carbide, caustic soda, cleaning and polishing preparations, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins.
 - (11) Coal, coke, and tar products, including gas manufacturing.
 - (12) Coal yards.
 - (13) Cooperage works.

- (14) Dextrin, starch, or glucose manufacturing.
- (15) Disinfectant, insecticide or poison manufacturing.
- (16) Dye and dyestuffs manufacture
- (17) Electric central station power and steam generating plants.
- (18) Emery cloth or sandpaper manufacturing.
- (19) Enameling, lacquering, or japanning.
- (20) Environmental Manufacturing or processing centers.
- (21) Felt manufacturing.
- (22) Film, photographic.
- (23) Flour, feed, and grain, milling and processing.
- (24) Forge or foundry works
- (25) Gas – generation or storage for illumination or heating.
- (26) Gelatin, glue and size, animal.
- (27) Grain drying or poultry feed manufacturing from refuse, mash or grain.
- (28) Hair or hair products manufacturing.
- (29) Ink manufacturing.
- (30) Junk yard.
- (31) Lime or lime products manufacturing.
- (32) Linoleum and oilcloth.
- (33) Linoleum and oilcloth or oiled goods manufacturing.
- (34) Magnesium foundries.
- (35) Match manufacturing.
- (36) Meat packing; but not including stockyards or slaughter houses.
- (37) Metal and metal ores (except precious and rare metals), reduction, refining, smelting and alloying.

- (38) Paint, lacquer, shellac, varnishes, linseed oil and turpentine, enamel.
- (39) Paper and pulp manufacturing.
- (40) Perfume manufacturing.
- (41) Pickle, sauerkraut or sausage manufacturing.
- (42) Plaster manufacturing.
- (43) Poultry, slaughterhouse, including packing and storage for wholesale.
- (44) Radium extraction.
- (45) Sandblasting or cutting.
- (46) Sawmill, the manufacture or excelsior, wood fiber or sawdust products.
- (47) Shoddy manufacturing.
- (48) Shoe blacking or polish or store polish manufacturing.
- (49) Soaps, including fat and oil rendering.
- (50) Starch.
- (51) Steam power plants.
- (52) Stone and monument works employing power-drive tools.
- (53) Storage, drying, cleaning of iron, junk, rags, glass, cloth, paper or clipping, including sorting, refining, baling, wood pulling and scouring.
- (54) Sugar refining.
- (55) Tar or asphalt roofing or water-proofing manufacturing.
- (56) Tar distillation or manufacturing.
- (57) Vinegar manufacturing.
- (58) Wire or rod drawing – nut, screw, or bolt manufacturing.
- (59) Wood pulp and fiber, reduction and processing, including paper mill operation.
- (60) Yeast manufacturing.

- E. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.216 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the M-2 General Industrial District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.217 ACCESSORY USES

Accessory uses, buildings, or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use.

54.218 REQUIRED CONDITION

- A. Any use may be conducted in the M-2 District within or without a building or enclosure, subject only to distance requirements where applicable.
- B. All junk yards shall be enclosed by a well maintained solid fence or wall which will effectively conceal such yard from adjoining property, streets and highways, but in any case, not less than six (6) feet high.

54.219 PROHIBITED USES

Same as specified in the M-1 District.

54.220 HEIGHT REGULATIONS

Within two hundred (200) feet of any A or R-District, no structure shall exceed three (3) stories or fifty (50) feet in height, and no structure in any case shall exceed in height the distance measured to the center line of any adjoining street; except as provided in Section 54.385 and 54.386.

54.221 LOT AREA, FRONTAGE, AND YARD REQUIREMENTS

The following minimum requirements shall apply except as provided in Section 54.144 through 54.151. (*Amended Ord. No. 2019-012, 8/21/2019.*)

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	SQ. FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	55	None; except when adjoining an A or R-District, then not less than fifty (50) feet	1 story, 40 ft.; 2 stories, 50 ft.; 3 stories, 60 ft.; Five (5) feet more each additional story.
WCFWWS, WSS	1 Acre	None	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'
Dwellings or	other	residential	uses	not	permitted

M-3 RURAL INDUSTRIAL DISTRICT
(Amended Ord. No. 1997-1, 2/5/1997.)

54.222 PRINCIPAL PERMITTED USES

No building, structure or land shall be erected, altered, enlarged or used which is arranged or designed for other than one of the following uses, except as provided herein and in Section 54.58, prior uses – non-conforming permitted to continue.

- A. Provide no part of a building occupied by permitted uses shall have any opening other than stationary windows or required fire exits within one hundred (100) feet of any A or R-District.
 - (1) Blacksmith, welding or other metal working shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers and other noise-producing machine-operated tools; machine shops.
 - (2) Foundry, casting lightweight nonferrous metals, or electric foundry not causing noxious fumes or odor.
 - (3) Bag, carpet, rag cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
 - (4) Ice manufacturing and cold storage plant; creamery and bottling plant.
 - (5) Industrial Park.

- B. The following uses when located not less than two hundred (200) feet from any A or R-District.
- (1) Inflammable liquids, underground storage only, not to exceed twenty five thousand (25,000) gallons.
 - (2) Building material sales yards including concrete mixing, lumber yards including millwork, open yards for storage, sale of feed and/or fuel and contractor's equipment storage.
- C. The rendering of service or the manufacturing, compounding, processing, packaging and assembling of products are permitted when located not less than three hundred (300) feet from any A or R-District, and not less than one hundred (100) feet from any other district.
- (1) Acetylene manufacturing in excess of fifteen (15) pounds pressure per square inch.
 - (2) Acid manufacture.
 - (3) Automobile assembly.
 - (4) Beverages, non-alcoholic.
 - (5) Blacksmith shop.
 - (6) Bleaching, cleaning and dyeing plant of large scale production.
 - (7) Boat-building and repair of pleasure craft and other small craft, but not including shipbuilding or ship repair.
 - (8) Boiler shops, machine shops, structural steel fabricating shops, railway car or locomotive shops, including repair, metal working shops employing reciprocating hammers or presses over twenty (20) tons rated capacity.
 - (9) Bottling works, beverage.
 - (10) Buses, bus bodies.
 - (11) Cameras and other photographic equipment and supplies.
 - (12) Candle manufacturing.
 - (13) Canvas and canvas products.
 - (14) Ceramic products such as pottery and small glazed tile.
 - (15) Charcoal and fuel briquettes.

- (16) Cooperage works.
- (17) Dextrin, starch or glucose manufacturing.
- (18) Disinfectant, insecticide or poison manufacturing.
- (19) Dye and dyestuffs manufacturing.
- (20) Electric appliances such as lighting fixtures, items, fans, toasters and electric toys.
- (21) Electric central station power and steam generating plants.
- (22) Electrical equipment assembly such as home radio and television receivers and home movie equipment, but not including electrical machinery.
- (23) Electrical supplies, manufacturing and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
- (24) Emery cloth or sandpaper manufacturing.
- (25) Enameling, lacquering, or japanning.
- (26) Environmental manufacturing or processing centers.
- (27) Felt manufacturing.
- (28) Film, photographic.
- (29) Flour, feed, and grain, milling and processing.
- (30) Forge or foundry works
- (31) Fur goods, not including tanning or dyeing.
- (32) Gas – generation or storage for illumination or heating.
- (33) Gelatin, glue and size, animal.
- (34) Glass products from previously manufactured glass.
- (35) Grain drying or poultry feed manufacturing from refuse, mash or grain.
- (36) Hair, felt, and feather products (except washing, curing and dyeing).
- (37) Hat bodies of fur and wool felt.
- (38) Hosiery.

- (39) House trailers.
- (40) Ice, dry, and natural.
- (41) Ink manufacturing, mixing and packaging and inked ribbons.
- (42) Insecticides.
- (43) Leather products, including shoes and machine belting.
- (44) Lime or lime products manufacturing.
- (45) Linoleum and oil cloth or oiled goods manufacturing.
- (46) Livestock, confined for immediate slaughter only, slaughter houses, meat packing.
- (47) Luggage.
- (48) Magnesium foundries.
- (49) Match manufacturing.
- (50) Meat products processing.
- (51) Metal finishing, plating, grinding, sharpening, polishing, cleaning, rust-proofing and heat treatment.
- (52) Metal and metal ores (except precious and rare metals), reduction, refining, smelting and alloying.
- (53) Metal stamping and extrusion of small products such as costume jewelry, pins, and needles, razor blades, bottle caps, buttons and kitchen utensils.
- (54) Musical instruments.
- (55) Orthopedic and medical appliances such as artificial limbs, braces, supporters, and stretchers.
- (56) Paint, lacquer, shellac, varnishes, linseed oil and turpentine, enamel.
- (57) Paper and pulp manufacturing
- (58) Paper products, small, such as envelopes and stationery, bags, boxes, tubes, and wallpaper printing.
- (59) Perfume manufacturing.

- (60) Perfumes and perfumed soaps, compounding only.
- (61) Pharmaceutical products, compounding only.
- (62) Pickle, sauerkraut or sausage manufacturing.
- (63) Plaster manufacturing.
- (64) Poultry, rabbits, and exotic animal slaughterhouse, including packing and storage for wholesale, also the breeding, raising, and delivery of laboratory animals for laboratory services. *Amended December 23, 2003. Ordinance No. 2004-006.*
- (65) Precision instruments such as optical, medical and drafting.
- (66) Products from finished materials, including plastic, bone, cork, feathers, felt fiber, paper, fur, glass, hair, horn, leather, precious and semiprecious stones, rubber, shell or yarn.
- (67) Radium extraction.
- (68) Rubber products, small and synthetic treated fabrics, (excluding all rubber and synthetic processing) such as washers, gloves, footwear, bathing caps, and atomizers.
- (69) Sandblasting or cutting.
- (70) Sawmill, the manufacture or excelsior, wood fiber or sawdust products.
- (71) Silverware, plate and sterling.
- (72) Shoddy manufacturing.
- (73) Shoe blacking or polish or store polish manufacturing.
- (74) Soap, and detergents, packaging.
- (75) Soaps, including fat and oil rendering.
- (76) Sporting and athletic equipment such as balls, baskets, cues, gloves, bats, racquets and rods.
- (77) Starch.
- (78) Statuary, mannequins, figurines, and religious and church art goods, excluding foundry operations.
- (79) Steam power plants.
- (80) Stone and monument works employing power-driven tools.

- (81) Sugar refining.
- (82) Tar or asphalt roofing or water-proofing manufacturing.
- (83) Tar distillation or manufacturing.
- (84) Textiles, including spinning, weaving, manufacturing, dyeing, printing knit goods, yarn, thread and cordage, but not including textile bleaching.
- (85) Tobacco curing and manufacturing and tobacco products.
- (86) Tools and hardware such as bolts, nuts, and screws, doorknobs, drills, hand tools and cutlery, hinges, and house hardware, locks, non-ferrous metal castings and plumbing appliances.
- (87) Toys.
- (88) Umbrellas.
- (89) Upholstering (bulk), including mattress manufacturing, rebuilding, and renovating.
- (90) Vehicles, children's such as bicycles, scooters, wagons and baby carriages.
- (91) Vinegar manufacturing.
- (92) Wire or rod drawing – nut, screw, or bolt manufacturing.
- (93) Wood products, such as furniture boxes, crates, baskets, pencils and cooperage works.
- (94) Wood pulp and fiber, reduction and processing, including paper mill operation.
- (95) Yeast manufacturing.

D. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure. Subject to the requirements of Section 54.246 through Section 54.246.5 of Article X Special Provisions. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.223 SPECIAL EXCEPTIONS

Those uses listed as Special Exceptions for the M-3 Rural Industrial District in Section 54.349 may be permitted in accordance with the provisions of Section 54.345 through 54.348.

54.224 ACCESSORY USES

Accessory uses, buildings, or structures customarily incidental to any aforesaid principal use or special exception shall be permitted in conjunction with such use.

54.225 REQUIRED CONDITION

- A. Any permitted use may be conducted in the M-3 District within or without a building or enclosure, subject only to distance requirements where applicable.

54.226 PROHIBITED USES

- A. Automotive wrecking yards.
- B. Asbestos manufacturing.

54.227 HEIGHT REGULATIONS

No structure shall exceed ninety-five (95) feet, except as provided in Section 54.385 and 54.386. (Amended Ord. No. 2004-010, 8/11/2004.)

54.228 LOT AREA, FRONTAGE AND YARD REQUIREMENTS (Amended Ord. No. 2019-012, 8/21/2019.)

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM FRONT YARD DEPTH	MINIMUM SIDE YARD WIDTH	MINIMUM REAR YARD DEPTH
	FEET	FEET	FEET	FEET	FEET
Non-Residential Uses	None	None	55	None; except when adjoining an A or R-District, then not less than fifty (50) feet	1 story, 40 ft.; 2 stories, 50 ft.; 3 stories, 60 ft.; Five (5) feet more each additional story.
WCFWWSS, WSS	1 Acre	None	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'	Certified Fall Zone of WSS + 50'

ARTICLE X SPECIAL PROVISIONS

PERFORMANCE STANDARDS

Section 54.230 General Requirements

FLOOD HAZARD

FLOOD DAMAGE PREVENTION – FLOOD HAZARD AREAS

Section 54.235 Purpose of Section

OFF-STREET LOADING AND PARKING REGULATIONS

Section 54.240 Off-Street Loading Space
54.241 Accessory Off-Street Parking Space
54.242 Number of Parking Spaces Required
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**WIRELESS COMMUNICATIONS FACILITY, WIRELESS
COMMUNICATIONS FACILITY WITH WIRELESS SUPPORT STRUCTURE
AND WIRELESS SUPPORT STRUCTURE OUTSIDE OF A DESIGNATED
RIGHT-OF-WAY**

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ARTICLE X SPECIAL PROVISIONS

PERFORMANCE STANDARDS

54.230 GENERAL REQUIREMENTS

No land or structure, in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard, including potential hazards, noise or vibration; smoke, dust, odor, or other form of air pollution, heat, cold, dampness, electrical, or other substance, condition or element (referred to herein as dangerous or objectionable elements); in such manner or in such amount as to adversely affect the adjoining premises or surrounding area; provided that any use permitted or not expressly prohibited by this Ordinance may be undertaken and maintained if it conforms to the provisions of this Section limiting dangerous and objectionable elements provided, however, this section shall not apply to customary and reasonable agriculture uses.

FLOOD HAZARD

FLOOD DAMAGE PREVENTION – FLOOD HAZARD AREAS

54.235 PURPOSE OF SECTION

- A. Statement of Purpose: The development of the areas of the County could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community and since these lands are suitable for open space uses that do not require structure or fill, the following shall apply.
- B. Mobile Home Tie-Down: See Mobile Home Article XI. Section 54.250 F.
- C. Regulation for Wayne County flood control and flood hazard areas, flood plain districts, the uses in flood plain districts, non-conforming uses, the variances, duties of the Zoning Administrator and Administration, elevation determination, national flood insurance program compliance and all other matters pertaining to the flood insurance study of the County of Wayne, Indiana, the administration of Federal insurance for flood areas, and compliance with the Indiana Department of Natural Resources are subject to a separate “Flood Insurance and Flood Hazard Area Ordinance” adopted by Wayne County, June 23, 1993. All sections and sub-sections of this Ordinance are governed by that Ordinance, as they pertain to the Flood Plain or Flood Hazard Ordinance. In the event that any portions of the development or zoning matters for Wayne County are not covered by the Flood Ordinance, then the terms of the Zoning Ordinance will prevail. In the event of conflicting sections of the Ordinances, then the most strict of the sections will apply, unless they effect the compliance with the Federal or State regulation, in which event the section providing for compliance will prevail.

OFF-STREET LOADING AND PARKING REGULATIONS

54.240 OFF-STREET LOADING SPACE

- A. In any district in connection with any building or part thereof, hereafter erected or altered, which is to be occupied by industrial, warehousing, wholesale commercial, retail commercial, service, or other uses requiring the receipt or distribution by truck of materials or merchandise, there shall be provided and maintained off-street loading space in accordance with the following schedule:

Floor Area of Building Square Feet	Required Number of off-street Loading Spaces
Less than 10,000	0
10,000 to 19,999	1
20,000 to 39,999	2
40,000 to 59,999	3
60,000 to 79,999	4
80,000 to 99,999	5

Where the floor area of the building is one hundred thousand (100,000) feet or more the number of off-street loading spaces shall be determined by the Board.

- B. Each loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height.
- C. Loading space shall be on the same lot with the building they are intended to serve and may occupy all or any part of any required yard, provided no such space shall be closer than fifty (50) feet from any other lot located in any R-District unless wholly within a completely enclosed building or enclosed on all sides by a well maintained wall or uniformly painted solid board fence not less than six (6) feet in height.
- D. There shall be adequate provision for ingress or egress. Where a lot does not abut on a public or private street, alley or easement of access, there shall be provided an access drive leading to the loading spaces required hereunder; such access drive shall not be less than eighteen (18) feet in width, and shall not be located in any R-District except where provided in connection with a use permitted in an R-District.

54.241 ACCESSORY OFF-STREET PARKING SPACE

- A. In all districts, in connection with every residential, office, retail commercial, service, wholesale commercial, industrial, institutional, recreational, or other use, there shall be provided, at the time any use and/or building or structure is erected or enlarged, or increased in capacity, off-street parking spaces for automobiles in accordance with the requirements herein. Such spaces may be provided either in garages or parking areas conforming with the provisions of this Ordinance.

B. Accessory off-street parking spaces shall be located in the same or a less restricted district as those in which the principal use is permitted; provided, however, that the Commission may authorize, as a Special Exception subject to the provisions of Section 54.345 – 54.349, the establishment and operation of accessory off-street parking facilities in such sections of any R-District which abut either directly or across an alley, any C or M-District subject to the following requirements:

- (1) Such parking area shall be accessory to one or more business or industrial establishments located in said adjoining C or M-District.
- (2) Each entrance and exit of such parking area shall be distant at least twenty (20) feet from any adjacent lot in any R-District.
- (3) No sign of any kind shall be established and maintained on such parking area except signs used for the direction of traffic
- (4) No motor vehicle repair work or other service shall be conducted on such parking area.
- (5) Such parking area shall be subject to all applicable requirements of this Section and to any additional requirements or conditions which may be determined necessary by the Commission for the protection of adjacent property.

54.242 NUMBER OF PARKING SPACES REQUIRED

A. The number of off-street parking spaces required shall be as set forth in the following:

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
1. Bowling Alleys	5 for each alley
2. Churches, Auditoriums, Theaters, Arenas, Dance and Assembly Halls,	1 for each eight (8) seats or 100 square feet of floor space; whichever is greater
3. Dwellings – One, Two, and Multi-Family	1 for each family or dwelling unit
4. Funeral Home	4 for each parlor or 1 for each 50 square feet of floor area; whichever is greater
5. Hospitals	1 for each four (4) beds
6. Hotels	1 for each two (2) bedrooms

7.	Libraries, Museums, Art Galleries and similar Cultural Facilities	1 for each 500 square feet of floor area
8.	Medical or Dental Clinics	1 for each 200 square feet of floor area
9.	Mobile Home Parks	1 for each mobile home space plus one (1) additional for each four (4) spaces
10.	Motels	1 for each living or sleeping unit
11.	Restaurants, Beer Parlors, and Night Clubs, over 500 square feet In area	1 for each 200 square feet of floor area
12.	Retail Businesses, Service Establishments and Offices under 2,000 square feet in floor area	1 for each 400 square feet of floor area
13.	Retail Businesses, Service Establishments and Offices 2,000 square feet or over in floor area	1 for each 200 square feet of such area
14.	Schools	1 for each three (3) faculty and staff members plus 1 for each ten (10) students at the high school or college level
15.	Wholesale, Commercial, Warehousing Manufacturing and Industrial Uses	1 for each three (3) employed on the maximum shift or for each 3,000 square feet of floor area, whichever is greater

B. In the case of any building, structure, or premises, the use of which is not specifically mentioned herein the provisions for a use which is so mentioned and to which said use is similar shall apply.

C. For the purpose of this Section, the following units of measurement shall apply:

- (1) In the case of offices, merchandising or service types of uses, "floor area" shall mean the gross floor area used or intended to be used by tenants or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for the display or sale of merchandise. It shall not include areas used principally for non-public purposes, such as storage, incidental repair, processing or packing of merchandise, for show windows, for offices incidental to the management of maintenance of stores or buildings, for toilet or rest rooms, for utilities, or for dressing rooms, fitting or alteration rooms.

- (2) In hospitals, bassinets shall not be counted as beds.
 - (3) In places of public assembly in which patrons or spectators occupy benches, pews, or other such seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
- D. Whenever on any lot or in any building there is a change in use or an increase in floor area or in the number of employees or other unit of measurement hereinbefore specified for the determination of required off-street parking spaces, additional off-street parking facilities shall be provided on the basis of the increased requirements of the new use or other unit of measurement; provided, however, that in case such change in use creates a need for increase in off-street parking spaces of less than ten (10) percent of the parking facilities previously required, no additional parking facilities shall be required.
- E. Nothing in the Section shall be construed to prevent collective provision of accessory off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; and further provided that the requirements set forth in Section 54.243 as to the maximum distances between parking areas and establishments served shall apply to each such establishment participating in the collective provision of parking.

54.243 STANDARDS FOR ACCESSORY OFF-STREET PARKING

- A. Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles and shall be of usable shape and condition. Except in the case of dwellings, no parking area provided hereunder shall be less than one thousand (1,000) square feet in area.
- B. There shall be adequate provision for ingress and egress. Where a lot does not abut on a public or private street, alley or easement of access, there shall be provided an access drive leading to the parking areas or spaces required hereunder; such access drive shall not be less than eight (8) feet in width in the case of a dwelling and not less than eighteen (18) feet in width in all other cases; provided, however, that one-way aisles for either egress or ingress for uses other than dwellings may be reduced to not less than ten (10) feet in width. Such access drives shall not be located in any R-District except where provided in connection with a use permitted in an R-District.
- C. Accessory off-street parking facilities shall be located as hereinafter specified; where a distance is specified such distance shall be the walking distance measured from the nearest point of the parking facility to the nearest point of the building such facility is required to serve.
- (1) For one and two-family dwellings – on the same lot with the building they are required to serve.

- (2) For office, retail commercial, service, institutional and other residential uses – not more than three hundred (300) feet from the building they are required to serve.
- (3) For all other uses – no more than one thousand (1,000) feet from the building they are intended to serve.

54.244 DEVELOPMENT AND MAINTENANCE OF OFF-STREET PARKING AREAS

Every lot hereinafter used as a public or private parking area including a public parking lot as well as motor vehicle and trailer sale lots shall be developed and maintained in accordance with the following requirements:

- (A) Off-street parking areas for more than five (5) vehicles shall be effectively screened on each side which adjoins or faces institutional premises or premises situated in any R-District by a masonry wall or solid fence. Such wall or fence shall not be less than four (4) feet in height and shall be maintained in good condition. Where the capacity of the parking area exceeds thirty (30) vehicles, it shall be screened by a masonry wall of at least the height herein above prescribed.
- (B) No part of any parking area for more than five (5) vehicles shall be closer than ten (10) feet to any dwelling, school, hospital, or other institution for human care located on an adjoining lot unless screened by an unpierced masonry wall; provided, however, that parking areas for twenty-five (25) or more automobiles or for trucks and buses shall not have an entrance or exit for vehicles within two hundred (200) feet along the same side of the street of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.
- (C) Any off-street parking area for more than five (5) vehicles shall be surfaced with an asphaltic or Portland cement binder pavement so as to provided a durable, dustless surface; shall be so graded and drained as to dispose of all surface water accumulated within the area; and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of self-propelled vehicles.
- (D) Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises.

54.245 MODIFICATIONS

The Board may, on appeal, authorize a modification, reduction, or waiver of the foregoing requirements if it should find that, in the particular case appealed, the peculiar nature of the residential, office, retail commercial, service, wholesale commercial, industrial, institutional, recreational, or other use, or the exceptional shape or size of the property or other exceptional situation and condition would justify such an action.

**WIRELESS COMMUNICATIONS FACILITY, WIRELESS
COMMUNICATIONS FACILITY WITH WIRELESS SUPPORT STRUCTURE
AND WIRELESS SUPPORT STRUCTURE OUTSIDE OF A DESIGNATED
RIGHT-OF-WAY**

(Amended Ord. No. 2019-012, 8/21/2019.)

54.246 PURPOSE

The Purpose of this Section is to:

1. regulate the design, construction, placement, modification, and removal of Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure;
2. allow the providers of wireless communications services to provide for adequate coverage and capacity while minimizing the overall impact of additional towers and protecting the fundamental characteristics of the various zoning districts;
3. encourage co-location, the use of attached facilities, concealed facilities, and the use of appropriate public and semi-public properties whenever feasible;
4. require designs and parameters compatible with adjacent land uses, and to conserve the scenic, historic, aesthetic and environmental quality of Wayne County and the tourism industry based thereon from the adverse impacts of wireless communications facilities development;
5. promote long-range planning and cooperation between the citizens and property owners of Wayne County, the Wayne County Advisory Plan Commission, the Board of Zoning Appeals, the County Commissioners, and the wireless communications services providers;
6. protect, wherever possible, the public health, safety and general welfare of the community; and,
7. give due regard to the policies of Wayne County's Comprehensive Plan when evaluating proposals for Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure.

54.246.1 PERMITTED USES

A. Permitted Uses without a Special Exception or an Improvement Location Permit.

1. Co-location: Placement of an antenna array, wireless communications facility, micro wireless facility, small cell facility and small cell network, on a legally existing or previously approved Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure, including water towers or other permitted structures, that does not increase the engineer certified fall zone requirement of the Wireless Support Structure or enlarges the size of a compound is exempt from BZA approval and from the requirement to obtain an Improvement Location Permit.

B. Permitted Uses without a Special Exception, but with an Improvement Location Permit.

1. New Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure are permitted uses in the A-1, A-2, C-1, C-2, C-3, M-1, M-2 and M-3 Districts, subject to all requirements of this ordinance.
2. Attached wireless communications facility. An antenna array may be integrated with/within another existing structure (e.g., a building façade or water tower) as long as the attachment would not constitute a substantial modification.
3. Replacement or expansion of a legal, existing Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure that would constitute a substantial modification. This replacement is subject to the application procedures, general requirements and abandonment provisions of this ordinance.
4. The use of Cell on Wheels/Carrier on Wheels (COW) Facilities* shall be permitted in any zone district, outside of a designated floodway, after Administrative Review and Approval, subject to all federal requirements, and meeting the following requirements:
 - a. Non-emergency COWs may be placed for not more than 120 consecutive days.
 - b. Special Event COWs may be installed up to 45 consecutive days before such event, for the duration of the event, and for up to 14 consecutive days thereafter.

***Exception:** After a declaration of an emergency or disaster by federal, state, county government, or a determination of public necessity by the director of planning, COWs are authorized without permitting.

C. Permitted Uses with a Special Exception and an Improvement Location Permit

1. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure are permitted in the A-1-CP, R-S, R-1 and R-2 by Special Exception through the Board of Zoning Appeals or by the Hearing Officer for the Board of Zoning Appeals.

D. Conditions of Approval

The following conditions apply to all permitted uses:

1. Applicants and/or petitioners agree to make a good faith effort on terms consistent with any applicable national agreement or on terms common to the region, to accommodate requests for co-location that originate from a service provider, from the Wireless Communications Facility owner, Wireless Communications Facility with Wireless Support Structure owner, Wireless Support Structure owner, or from the Board of Zoning Appeals;

E. Exemptions

Wireless Communications Facilities that serve police, fire, ambulance and other emergency dispatch; amateur (HAM) radio; antennas used solely for residential household television and radio reception and satellite dishes measuring 2 feet or less in diameter are exempt from the provisions of this Ordinance.

F. Prohibitions

Any Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure not expressly permitted under Subsection A, B or C are prohibited. Speculative construction of towers for future leasing (i.e., without a specific requirement for antennas at the time the application for the tower is submitted) is specifically prohibited.

54.246.2 GENERAL REQUIREMENTS

The following requirements apply to all Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure that are erected or placed within the County's jurisdictional area, outside of a designated right-of-way, upon the adoption of Ordinance No. 2019-12.:

- A. For each application under Section 54.246.1, Subsections A, B and C, the property owners, Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure owners, and wireless communications service provider(s) shall be considered co-applicants and shall be jointly and severally subject to the provisions of this ordinance.
- B. The co-location of Small Cell Facilities on privately owned utility pole, privately owned wireless support structure or private property without the consent of the owner is not permitted.
- C. Each notification to co-locate to an existing Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure shall be accompanied by the following information:

1. A Completed Notification that:
 - a. identifies the property and business owner's names and addresses and points of contact for the applicants;
 - b. includes original signature(s) from the property owners and/or the applicant* acting as the authorized agent of the property owners. *Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure owners or wireless communications service providers.;
 - c. states the location (address if available) of the proposed co-location of a Wireless Communications Facility on an approved Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure;
 - d. states any change in the engineer's certified fall zone requirement of the Wireless Support Structure and/or enlarges the size of a compound.

- D. An application to apply for an Improvement Location Permit, an application for a Special Exception for placement of a new Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure or an application for a Variance from the Development Standards for same, shall be accompanied by the following information:
 1. A Completed Application that:
 - a. identifies the property and business owner's names and addresses and points of contact for the applicants;
 - b. includes original signature(s) from the property owners and/or the applicant* acting as the authorized agent of the property owners. *Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure owners or wireless communications service providers. (Notarized as applicable.);
 - c. states the parcel address (if available), brief legal description, acreage, easements, access to roadways, lot width, length of frontage, a current aerial photograph of the parcel and the site plan drawn to scale with the front, side and rear yard setback distances, the type, height, width and engineer's certified fall zone of the Wireless Support Structure and distances to off premises structures, as may be required, and all other information necessary to demonstrate compliance with this Ordinance.

 2. For new Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure evidence showing that the application complies with the Special Exception criteria set forth in this ordinance.

3. For new Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure that also require variance approval, evidence showing that the application complies with the variance criteria set forth in this ordinance.
- E. If an applicant submits the information required by this Section, the application shall be deemed to be complete.
 - F. An applicant may submit a single Special Exception petition application to establish multiple small cell facilities as part of a single small cell network.

54.246.3 PERFORMANCE STANDARDS

- A. Security. For all Wireless Communications Facility with Wireless Support Structure, excepting attached WCF, a perimeter fence at least eight (8) feet high shall be installed to circumscribe and contain the Wireless Communications Facility with Wireless Support Structure, along with all accessory structures and equipment. Use of razor wire is prohibited.
- B. Lighting.
 1. Security lighting is not required. However, if security lighting is installed it shall be confined to accessory structure(s), directed downward to minimized glare or intrusion into adjoining properties.
 2. Any Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure or antenna array that requires illumination shall meet FAA requirements. When there is a choice between red and white strobe lights on the tower, red lights with maximum intervals between flashes shall be required. All lighting shall be shielded underneath or on the bottom of the bulb, so as to reduce glare on adjoining and nearby uses.
 3. Other illumination is prohibited.
- C. Signage. Identification signage, no more than three (3) square feet in total area, shall be required for each Wireless Communications Facility with Wireless Support Structure. Identification signage shall include the name(s) of the facility owner(s) or operator(s) and a 24-hour emergency telephone number and shall be affixed to a perimeter fence or entrance where possible. Advertising signage is prohibited.
- D. Attached WCF. Attached WCF shall be appropriately integrated with, or within, existing structures with due consideration given to sitting/placement, color, camouflage, size and type of construction. Attached WCF shall be designed to minimize visual impact and antenna arrays shall not exceed the height of the existing structure by more than twenty (20) feet.

E. Color and Camouflage.

1. The Planning Director shall reserve the right to require architectural camouflage, or “stealth design,” if a proposed site is deemed sensitive for any of the following reasons:

a. the prospective site is located in, or within 300 feet of, property officially designated as “Historic” by the State of Indiana or is listed with the Indiana Historic Site and Structures Inventory or listed with the National Register of Historic Places.

b. the prospective site lies in, or within 300 feet of a right-of-way classified as a scenic corridor by the Wayne County Comprehensive Plan or the State of Indiana.

F. Health and Safety.

1. All Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure shall be constructed, operated, maintained and monitored in compliance with all applicable federal (i.e., FCC and FAA) and state standards and requirements.

2. Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure that would be classified as a hazard to air navigation, as defined by the Federal Aviation Administration, shall not be permitted.

54.246.4 TEMPORARY WCF

A. Temporary WCF or antennas shall be permitted for test purposes, emergency communications or in the event of equipment failure for a maximum period of two (2) weeks, subject to the requirements of Section 54.246.2

B. If the application is investigating co-location opportunities for a proposed antenna array and demonstrates with written documentation that good faith co-location negotiations are in process, a temporary WCF may be approved by the Planning Director for a period not to exceed six months subject to the requirements of Section 54.246.2.

C. An Improvement Location Permit shall be required for each Temporary WCF.

54.246.5 ABANDONMENT

A. Any Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure that is no longer needed or used for its intended purpose shall be considered abandoned and shall be reported immediately by the service provider to the Planning Director. All abandoned Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure shall be completely removed by, and at the expense of, the service provider and/or owner within six (6) months from the date of abandonment and the surface of the site shall be restored to a condition suitable for development.

B. The County may remove any discontinued Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure that is not completely removed within six (6) months from the date of abandonment. Costs associated with the dismantling and removal of an abandoned Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure and site restoration shall be paid by the service provider and/or owner as described in Section 54.426 Violations – Injunctive Relief.

**ARTICLE XI MOBILE HOMES AND MOBILE HOME PARK,
MOTEL AND MOTOR HOTELS**

Section	54.250	General Requirements
	54.251	Enlargement
	54.252	Mobile Homes Restrictions
	54.253	Mobile Home Parks, Submission of Plans
	54.254	Mobile Home Parks, Requirements
	54.255	Procedure for Additional Requirements

ARTICLE XI

MOBILE HOMES AND MOBILE HOME PARK, MOTEL AND MOTOR HOTELS

54.250 GENERAL REQUIREMENTS

The regulations prescribed by the State Board of Health or other authority having jurisdiction and as may be otherwise required by law, shall be complied with, in addition to the following regulations:

- (A) Mobile home parks shall comply with all area and yard requirements prescribed herein; motels shall also comply with all area and yard requirements prescribed for such uses in the district in which located.
- (B) The buildings, cabins and mobile homes in any tourist camp, mobile home park, or motel – together with any non-accessory buildings already on the lot – shall not occupy in the aggregate more than twenty-five (25) percent of the area of the lot.
- (C) All areas used for automobile access and parking shall comply with the applicable provisions of this Ordinance.
- (D) No vehicular entrance to or exit from any mobile home park or motel, wherever such may be located, shall be within two hundred (200) feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or another street which the premises in question do not abut.
- (E) All areas not used for access, parking, circulation, buildings and service shall be completely and permanently landscaped and the entire site maintained in good condition. A landscaped strip of land not less than ten (10) feet in width shall be established and maintained within the mobile home park along its exterior boundaries. Such strip of land shall be planted with coniferous or evergreen trees or a privacy-type fence, not less than six (6) feet in height and properly maintained shall be constructed.
- (F) Tie downs: Sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home. At a minimum such anchorage shall consist of (1) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only one additional tie per side; (2) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (3) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (4) any additions to the mobile home be similarly anchored.

54.251 ENLARGEMENT

- A. No enlargements or extensions to any motel, mobile home park or a tourist camp shall be permitted unless the existing one is made to conform substantially with all the requirements for new construction for such an establishment.

54.252 MOBILE HOMES RESTRICTIONS

- A. The placement of Manufactured or Mobile Homes outside of Manufactured Home or Mobile Home Parks is as follows:
- (1) Manufactured Home Type I, is permitted in all zone districts that permit a residence.
 - (2) Manufactured Home Type II and Type III and mobile homes are permitted only by Special Exception as outlined in Section 54.345 through 54.349.
 - (3) The parking of an unoccupied manufactured or mobile home in an accessory private garage, or in a rear yard, in any district, shall be permitted, providing no living quarters are maintained or any business conducted in such unit while so parked or stored, further providing that a maximum of ninety (90) days will be allowed for outside storage of such manufactures or mobile home.
- B. Emergency or temporary stopping or parking of a mobile home shall be permitted on any street, alley or highway for not longer than four (4) hours, subject to any other and further prohibitions, regulations, or limitations imposed by the traffic and parking regulations or laws for such street, alley or highway.
- C. In any mobile home park, the wheels of any mobile home shall not be removed except for repairs, nor shall any mobile home be otherwise permanently fixed to the ground in a manner that would prevent its removal.

54.253 MOBILE HOME PARKS – SUBMISSION OF PLANS

An application for the establishment of a mobile home park in a district where a mobile home park is permitted, shall be filed with the Zoning Inspector and must be accompanied by a scale drawing certified by a registered engineer or surveyor. Such drawing shall contain the following information:

- (A) Accurate dimensions of the proposed mobile home park.
- (B) All roads and approaches and the method of ingress and egress.
- (C) The complete electric service installation, wire service outlets and lighting facilities.
- (D) The complete location of any natural gas facilities to serve the mobile home park.

- (E) A complete layout of unit parking spaces and the number of square feet therein, together with the dimensions thereof.
- (F) The location of electrical power of gas distribution systems, water mains or wells for water supply outlets for domestic water users; location of sanitary facilities, washrooms, garbage disposal units, incinerators, sanitary sewers, or septic tanks, sewer drain lines, leeching beds, and other buildings or structure contemplated to be used by such applicant in connection with said mobile home park.

54.254 MOBILE HOME PARKS – REQUIREMENTS

Mobile home parks shall be designed and maintained in accordance with the following requirements:

- (A) The minimum park area shall be two (2) acres.
- (B) The minimum area of a mobile home unit space within the mobile home park shall be three thousand (3,000) square feet.
- (C) The minimum width of a mobile home unit space within the mobile home park shall be forty (40) feet.
- (D) Each mobile home park shall abut upon a public street and each mobile home unit space shall have direct access to a private, hard surface drive.
- (E) The minimum distance for each mobile home from the exterior property lines shall not be less than fifty (50) feet.
- (F) The minimum distance between neighboring mobile homes shall be not less than twenty (20) feet.
- (G) Each mobile home unit space shall be equipped with concrete slab of sufficient size to support the wheels and the front parking jack. Such slabs shall have a minimum thickness of four (4) inches.
- (H) Each mobile home space shall be equipped with one electric outlet. A sanitary system and water system shall be installed in accordance with applicable County and State specifications, and each mobile home unit space shall be served by such sewer and water systems.
- (I) The minimum roadway width of interior one-way streets with parking permitted on one side shall be twenty (20) feet. The minimum roadway width of two-way streets with parking permitted on one side shall be twenty-six (26) feet. The minimum width of two-way street without parking permitted shall be twenty (20) feet. Such streets shall be paved according to Wayne County's specifications for residential streets, maintained in good condition, and lighted at night.

- (J) There shall be provided within each mobile home park an adequate site or sites for recreation, for the exclusive use of the park occupants. Such recreation site or sites shall have a minimum area in the aggregate of one hundred (100) square feet for each mobile home unit space. The recreation sites shall be appropriate design and provided with appropriate equipment.
- (K) No mobile home shall remain in a mobile home park for a period exceeding five (5) days without connection to the sanitary sewer system and water system of the park.

54.255 PROCEDURE FOR ADDITIONAL REQUIREMENTS

- A. In addition to the foregoing, the Board of Zoning Appeals may impose such other conditions, requirements, or limitations concerning the design, development, and operation of such mobile home parks as it may deem necessary for the protection of adjacent properties and the public interest.
- B. The term “Manufactured Home and/or Mobile Home” as defined and used in this Ordinance have the same connotation.

ARTICLE XII SIGN REGULATIONS

Section	54.270	Signs
	54.271	Advertising Signs
	54.272	Business Signs
	54.273	Real Estate Signs
	54.274	Professional or Announcement Signs and Institutional Bulletin Board

ARTICLE XII SIGN REGULATIONS

54.270 SIGNS

The provisions contained herein shall constitute the minimum acceptable standards for the control of outdoor advertising, signs, displays, and devices where permitted.

54.271 ADVERTISING SIGNS

A. Areas where advertising signs are permitted:

- (1) In A-1 Agriculture Zone.
- (2) In C-2 Community Business, C-3 General Business, M-1 Light Industrial and M-2 General Industrial Zoned Areas.
- (3) In C-1 Neighborhood Business District as a Special Exception in accordance with the provisions of Section 54.345 through 54.349.

B. Setback requirements:

- (1) In A-1 Agriculture Zone District adjacent to the Interstate and Federal Aid Primary System, 660 feet from right-of-way.
- (2) In A-1 Agriculture Zone District adjacent to other than Interstate and Federal Aid Primary System, 50 feet from the right-of-way.
- (3) In A-1 Agriculture Zone District all sign structures shall be located at least twenty (20) feet from adjoining property lines.
- (4) In Commercial and Industrial Zone Districts the minimum setback from established right-of-way lines and adjoining property lines shall be as far as the requirements for a principal building in the district where located.

C. Space of Signs:

- (1) No advertising sign structure shall be permitted within three hundred (300) feet of any building used as a residence or any Resident District.
- (2) No advertising sign or structure shall be within five hundred (500) feet of any of the following: public park entrance, public or parochial school, library, church, any museum or historical monument, any safety rest or recreation area, any sanitary or other facility for the accommodation of the motorist, publicly owned, controlled and maintained.

- (3) On the Interstate and Limited Access Highway.
 - (a) No sign structure shall be erected within five hundred (500) feet of another sign structure on the same side of the highway.
 - (b) No sign structure may be located adjacent to or within five hundred (500) feet of an interchange, intersection at grade, or rest area, said five hundred (500) feet to be measured along the Interstate or Limited Access Highway from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.
- (4) On other routes of the Federal Aid Primary System, no sign structure shall be erected within three hundred (300) feet of another sign structure on same side of the highway.
- (5) Official and on premises signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
- (6) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

D. Size of Signs:

- (1) In A-1 Agriculture Zone District if the sign structure is beyond 660 feet of the right-of-way of Interstate and Federal Aid Primary System the maximum area for any one advertising sign shall be 2,000 square feet exclusive of any border, trim, base, supports, etc. The height shall not exceed thirty (30) feet and the length shall not exceed eighty (80) feet.
- (2) The maximum area for any one advertising sign in other areas adjacent to Interstate and Federal Aid Primary Systems where permitted, shall be 1,000 square feet exclusive of any border, trim, base, support, etc. The maximum height twenty-five (25) feet and the maximum length sixty (60) feet.
- (3) The maximum size of advertising signs where permitted adjacent to highways other than the Interstate and Federal Aid Primary Systems shall not exceed 600 square feet exclusive of any border, trim, base, support, etc. The sign shall not exceed twenty-five (25) feet in height and fifty (50) feet in length.
- (4) The sign structure may contain one or two advertisements per facing, not to exceed the maximum area.
- (5) Double faced structures will be permitted with the maximum area being allowed for each facing.

E. Lighting:

- (1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
- (2) Signs which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled ways, and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any drivers operation of a motor vehicle, are prohibited.
- (3) No sign shall be so illuminated as to obscure or interfere with the effectiveness of an official traffic sign, device or signal.
- (4) All other Indiana Laws relating to lighting of signs presently applicable to highways shall be met.

54.272 BUSINESS SIGNS

A. Exterior business signs shall not exceed in the aggregate three (3) square feet of area for each linear foot of lot frontage.

B. Location:

- (1) Exterior business signs, where permitted, shall be integral with or attached to the principal building and shall not project more than two (2) feet from the front thereof unless attached to a marquee or sidewalk canopy, nor more than three (3) feet above the parapet wall or roof line except as provided in Section 54.272 (C).
- (2) In the case of a principal use involving no building or structure exterior business signs, where permitted, shall be set back from right-of-way line of any street at least one-half (1/2) as far as the required front yard depth for a principal building in the district where located. They shall not be located within less than twenty-five (25) feet of the side of any adjacent lot in any R-District, and shall not project above a horizontal plane twenty (20) feet above the average level of the ground at the front lot line; except as provided in Section 54.272 (C).

C. For any motor vehicle service station, motel, restaurant, or planned commercial development where these are permitted, an exterior business sign displaying only the identifying name or symbol of such use or the planned commercial development as a whole may be supported on a freestanding structure located in front of such use or development but such sign shall not project over the street line and shall not be located within twenty-five (25) feet of the side lot line of any adjoining lot in any R-District. Such freestanding or pedestal signs shall not exceed 125 feet in height and 300 square feet in area.

D. On premise signs means those signs advertising an activity conducted or maintained on the property on which they are located.

54.273 REAL ESTATE SIGNS

Real estate signs advertising the sale, rental or lease of the premises on which they are maintained shall be set back from the right-of-way line of any street at least one-half (1/2) the depth of the required front yard in the districts where located provided, however, that such sign shall not exceed six (6) square feet in area and when attached flat against the building to which it pertains shall be permitted in any case. Such real estate signs on any one lot shall not exceed in the aggregate, fifteen (15) square feet in area.

54.274 PROFESSIONAL OR ANNOUNCEMENT SIGNS AND INSTITUTIONAL BULLETIN BOARD

Professional or announcement signs accessory to a Home Occupation Dwelling shall not exceed one (1) square foot in area. A church, school, community center, or other public or institutional building may have for its own use a bulletin board not over twelve (12) square feet in area, which, if not attached flat against a building, shall be at least ten (10) feet distant from all street right-of-way line.

ARTICLE XIII UNIT DEVELOPMENT PROJECTS

ESTABLISHMENT

Section	54.300	Creation and Effect.
	54.301	Commercial Unit Development/Establishment
	54.302	Residential Unit Development/Establishment
	54.303	Community Unit Development/Establishment
	54.304	Industrial Unit Development/ Establishment
	54.305	Single District Unit
	54.306	Overlay Multiple District Unit
	54.307	Affect of the Unit Development
	54.308	Variance Requirements
	54.309	Additional Requirements

GENERAL REQUIREMENTS

Section	54.310	General Requirements
	54.311	Required Components
	54.312	Permitted Additional Components

PROCEDURE

Section	54.313	Procedure for Development
	54.314	Submission of Plans
	54.315	Commercial Unit Development Project – Requirements and Standards
	54.316	Residential Unit Development Project – Requirements and Standards
	54.317	Residential Unit Community Project – Requirements and Standards
	54.318	Industrial Unit Development Project – Requirements and Standards

ARTICLE XIII UNIT DEVELOPMENT PROJECTS

ESTABLISHMENT

54.300 CREATION AND EFFECT

The Board of County Commissioners may, by ordinance, establish development plan or planned unit development requirements for a described tract of real estate. The procedure for establishing these districts are the same as that for the amendment of the zone map.

54.301 COMMERCIAL UNIT DEVELOPMENT/ESTABLISHMENT

A Commercial Unit Development Project may be established provided the tract of land is located in any commercial zone district.

54.302 RESIDENTIAL UNIT DEVELOPMENT/ ESTABLISHMENT

A Residential Unit Development Project may be established provided it is located in any Residential Zone District.

54.303 COMMUNITY UNIT DEVELOPMENT/ ESTABLISHMENT

A Community Unit Development Project may be established provided the tract of land is located in such part of any A or R-District where public water supply and sanitary sewer facilities are available, and provided it abuts and has access from a Federal or State Highway or a principal thoroughfare.

54.304 INDUSTRIAL UNIT DEVELOPMENT/ ESTABLISHMENT

An Industrial Unit Development Project may be established provided the tract of land is located in an Industrial Zone District

54.305 SINGLE DISTRICT UNIT

The established Unit Development District may be imposed as an addition to a single tract of land with one zoning district for the entire tract. (As an example it could be A-1-DP or A-1-PUD district.)

54.306 OVERLAY MULTIPLE DISTRICT UNIT

The Unit Development District may also be imposed over a tract of land, which has more than one zoning classification in which event this “overlay district” would be in addition to each of the zoning districts in the tract. (For example, there could be A-1-DP and B-1-DP, all in the same ordinance for the same tract.)

54.307 EFFECT OF THE UNIT DEVELOPMENT

After the imposition of the Unit Development District, the land will then be subject to all of the basic requirements of the primary zoning district plus any of the conditions that are imposed by reason of the development plan or PUD.

54.308 VARIANCE REQUIREMENTS

The Unit Development Ordinance may in addition to imposing additional standards, vary or waive certain of the standards of the sub-district including the permission of a different zoning classification of up to 20 percent of the real estate included in the development plan.

54.309 ADDITIONAL REQUIREMENTS

In addition to the foregoing, the Commission may impose such other conditions, requirements or limitations concerning the design, development and operation of such Development Unit Projects as it may deem necessary for the protection of adjacent properties and the public interest.

GENERAL REQUIREMENTS

54.310 GENERAL REQUIREMENTS

The specific development plan or planned unit development requirements shall include the following standards which must be met and must be included in any development plan.

54.311 REQUIRED COMPONENTS

The Development Plan or Planned Unit Development shall:

- (A) Be consistent with the Comprehensive Master Plan;
- (B) Not adversely affect neighboring property;
- (C) Meet all the requirements of the zoning ordinance, unless specifically varied or waived.
- (D) Be subject to all conditions on the approval which are imposed.
- (E) Satisfy any requirement of written assurances or financial responsibility to assure the completion of proposed improvement.

54.312 PERMITTED ADDITIONAL COMPONENTS

In addition to these minimum standards, it is permissible for the ordinance to impose standards relative to the following requirements:

- (A) Zoning Requirements: Prior to submitting any request for Development Unit Projects the tract of land shall be in the proper zone classification for the proposed project.
- (B) Area and Yard Requirements: Development Unit Projects shall comply with all area and yard requirements prescribed herein.
- (C) That the proposed Development Unit Project is at a location where traffic congestion does not exist at present on the streets to be utilized in conjunction therewith, and where undue congestion will not likely be created as a result of the project.
- (D) That the Development Unit Project provides for integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, off-street parking and loading, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from standpoint of the developer as well as from standpoint of the adjoining or surrounding existing or potential developments.
- (E) The streets within the Development Unit Project shall be paved according to Wayne County's specifications, maintained in good condition and lighted at night. The minimum roadway width be determined by the County Engineer.
- (F) The Development Unit Project shall be started within one (1) year of the approval.

PROCEDURE

54.313 PROCEDURE FOR DEVELOPMENT

The procedure development, once the ordinance has been imposed on the land, will be identical to that procedure imposed for a subdivision and will be administered by the Plan Commission. The original creation of the Unit Development District may only be done by ordinance, but thereafter the subdivision procedures and rules relative thereto will prevail in the administration and approval of the districts, where applicable.

54.314 SUBMISSION OF PLANS

An application for a Development Unit Project shall be filed with the Zoning Administrator and must be accompanied by scale drawings certified by a registered engineer or surveyor. Such drawings shall contain the following information:

- (A) Accurate dimensions of the Development Unit Project.
- (B) Topographic date. (a) U.S. Geological Survey topographic date may be used. (b) Water courses, marshes, wooded areas, and other natural or man-made features which would affect the Development Unit Project.

- (C) Streets and right-of-way on or adjoining the site, including dedicated right-of-way widths, roadway widths, approximate gradients, types and widths of pavements, curbs, sidewalks or other pertinent data.
- (D) A general layout of the proposed structures and related facilities.

54.315 COMMERCIAL UNIT DEVELOPMENT PROJECT – REQUIREMENTS AND STANDARDS

If the proposed Development Unit Project is for an integrated Commercial Center, the Commission shall be guided by the following requirements and standards:

- (A) The minimum site area for a neighborhood Commercial Development Project shall be five (5) acres and the minimum site area for a Commercial Center larger than the neighborhood type shall not be less than ten (10) acres.
- (B) The permitted uses in the case of a neighborhood Commercial Center shall be those permitted in the C-1 Neighborhood Business District and also a motor vehicle service station, provided at least three (3) other permitted commercial uses have been completed and occupied in the same center; the uses permitted in larger Commercial Centers shall be those in the C-3 General Business District.
- (C) Building height limits shall be the same as prescribed for the zoning district in which the proposed project is located; provided that no building shall be less than fifty (50) feet distant from any boundary of the site of the center.
- (D) The ground area occupied by all the buildings shall not exceed in the aggregate twenty-five (25) percent of the total area of the site.
- (E) Off-street parking and loading spaces shall meet the requirements in Section 54.240 through 54.245.

54.316 RESIDENTIAL UNIT DEVELOPMENT PROJECT – REQUIREMENTS AND STANDARDS

If the proposed development is to be a Residential Development Unit Project, the Commission shall be guided by the following requirements and standards:

- (A) The minimum site area for a Residential Development Unit Project shall be determined by the Commission.
- (B) Permitted uses shall be those permitted in the district in which the project is located.
- (C) Building height and density requirements shall be the same as in the district in which the project is located, provided, however, that the minimum lot area per family or dwelling unit otherwise required in the district may be reduced by the

Commission by not more than twenty (20) percent when in its opinion justified by superior design and other favorable characteristics or features of the proposed project.

- (D) Yards and courts shall be of such size as to be in concert with and appropriate relative to the requirements in the R-2 Zone District.
- (E) If the project contains twenty (20) acres or more, at least five (5) percent of the acreage of such site shall be developed as a neighborhood playground or playgrounds. If the site contains less than twenty (20) acres, the required area of play lots shall be two thousand (2,000) square feet for the first fifty (50) dwelling units or fraction thereof, plus thirty (30) square feet for each additional dwelling unit in excess of fifty (50). Such recreation areas shall be maintained in good order by the owner of the development.
- (F) There shall be at least one and one-half (1 ½) off-street parking spaces for each dwelling unit. Service drives and other service facilities shall be located entirely within the project site, and all such parking area and related facilities shall be maintained in good order by the owner of the development.

54.317 RESIDENTIAL UNIT COMMUNITY PROJECT – REQUIREMENTS AND STANDARDS

If the proposed development is to be a residential community unit project, the Commission shall be guided by the following requirements:

- (A) The minimum site area of a residential community unit project shall be one hundred (100) acres; the site shall abut for a distance of not less than one thousand (1,000) feet and have access from a Federal or State Highway, or a principal thoroughfare so designated on the Major Highway Plan, and shall be located in such part of an A or R-District where public water supply and sanitary sewage facilities are available in connection with the proposed development.
- (B) Any of the uses permitted as regulated in the R-2 District, except as stipulated in this Section, provided that the number of dwelling units in such multi-family buildings as are first permitted in the R-2 District may not exceed twenty-five (25) percent of the total number of dwelling units in the entire development project.
- (C) The overall residential density in any community unit project shall not exceed ten (10) dwelling units per gross acre, excluding rights-of-way of public roads.
- (D) The height of one-family homes, two-family, three-family, and four-family dwellings and town houses shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, and of any other residential buildings six (6) stories or sixty (60) feet.
- (E) Yards and courts for one and two family dwellings and related uses shall be the same as required in the R-2 District.

- (1) All multi-family dwellings fronting on a collector street shall have a front yard not less than thirty-five (35) feet in depth, and those fronting on a principal or secondary thoroughfare, not less than forty-five (45) feet in depth.
 - (2) The distance between principal buildings, front to front, shall not be less than the sum of the heights of the buildings, but in no case less than eighty (80) feet, and the distance between such buildings, back to back, shall be not less than sixty (60) feet. The distance between buildings in any other relationship to one another shall be not less than thirty (30) feet.
- (F) There shall be provided at least one and one-half (1 ½) off-street parking spaces, in buildings or parking areas, for each dwelling unit in the development project; service drives and other facilities in connection therewith shall be located entirely within the project area, and all such parking areas and related facilities shall be maintained in good order by the owner of the development or a properly constituted neighborhood association.
- (1) Off-street parking and service facilities for other than residential uses shall meet the requirements in Section 54.240 through 54.245.
- (G) At least ten (10) percent of the gross area of the project shall be developed and property equipped as playgrounds, playfields, parks, or other recreation areas. Such areas and facilities shall be maintained in good order by the owner of the development or by a properly constituted neighborhood association, or, if accepted by the Commission may be dedicated to the County.
- (H) In case the site of the proposed residential community development project, (a) contains all or a part of a proposed school site, shown on the Master Plan, or (b) when, in the judgment of the Commission, provisions for a school site within the site of the development project is or will be needed to serve the anticipated population – such school site or part thereof shall be conveyed to the School Corporation within whose jurisdiction the site is located.

54.318 INDUSTRIAL UNIT DEVELOPMENT PROJECT – REQUIREMENTS AND STANDARDS

If the proposed development unit project is for an industrial center, the Commission shall be guided by the following requirements and standards:

- (A) The minimum site area for an industrial unit development shall be five (5) acres.
- (B) The permitted uses in the case of a neighborhood commercial center shall be those permitted in the M-1 and M-2 Zones.

- (C) The building height limits shall be the same as those described in the zoning districts in which the project is located, provided that no building shall be less than fifty (50) feet distance from any boundary of the site of this development.
- (D) The ground area occupied by all of the buildings shall not exceed in the aggregate of fifty percent (50%) of the total area of the site.
- (E) Off-street parking and loading space shall meet the requirements of Section 54.240 through 54.241.
- (F) The Commission may require that in the front yard setbacks along any public road, that appropriate screening and planting may be established as a part of the site plan.
- (G) In establishing an industrial site, the site shall abut for a distance of not less than five hundred (500) feet, and have access to a Federal or State Highway, or principal thoroughfare so designated on the major highway plan. It shall be located where public water and sanitary sewer facilities are available in connection with the proposed project. If this is not available, then it must provide for its own sewer package system, which is acceptable to the State Regulatory authorities and to the Commission.
- (H) There shall be provided at least one (1) off-street parking spaces for each 300 square foot of the building provided; service drives and other facilities connection therewith shall be located entirely within the project area, and all such parking areas and related facilities shall be maintained in good order by the owner of the industrial development or the industrial building located therein.

ARTICLE XIV SWIMMING POOLS

Section	54.325	Types of Pools and Locations
	54.326	General Requirements

ARTICLE XIV SWIMMING POOLS

54.325 TYPES OF POOLS AND LOCATIONS

A. Public swimming pools.

- (1) A public pool in any district may not be located within less than two hundred (200) feet of any other lot in any R-district.

B. Private swimming pools.

- (1) A private pool may be located anywhere on the premises except in required front yards, provided it shall not be located closer than ten (10) feet to any property line of the property on which located; and provided that pump and filter installation shall not be located closer than twenty (20) feet to any such property line.

C. Farm pond or stock tank.

- (1) A farm pond or stock tank shall not be considered to be a swimming pool; however, if such an installation is used for commercial recreational purposes, then, it shall be classified as a swimming pool.

54.326 GENERAL REQUIREMENTS

All swimming pools must comply with the following requirements:

- (A) The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties.
- (B) Adequate provision for drainage shall be made subject to approval by the County Surveyor.
- (C) Any lighting used to illuminate the pool area shall be so arranged as to deflect the light from adjoining properties.
- (D) No person, firm or corporation shall construct or install a swimming pool or make any alteration thereon or in the appurtenances thereof without having first obtained an Improvement Location Permit for such construction, installation or alteration.

ARTICLE XV EXTRACTION OF MINERALS

Section	54.335	Procedures, Application and Public Hearing
	54.336	General Requirements
	54.337	Rehabilitation – Bonds
	54.338	Additional Requirements

ARTICLE XV EXTRACTION OF MINERALS

54.335 PROCEDURES, APPLICATION, AND PUBLIC HEARING

- A. Any owner, lessee, or other person, firm or corporation having an interest in mineral resources within lands where the extraction or mining of such minerals is not prohibited under the provision of Section 54.57 may file with the Board of Zoning Appeals an application for authorization to extract minerals therefrom.
- B. An application for such operation shall set forth the following information:
 - (1) Name of the owner or owners of the land from which removal is to be made.
 - (2) Name of applicant making request for such a permit.
 - (3) Name of the person or corporation conducting the actual removal operation.
 - (4) Location, description, and size of the area from which the removal is to be made.
 - (5) Location of processing plant used.
 - (6) Type of resources or materials to be removed.
 - (7) Proposed method of removal and whether or not blasting or other use of explosives will be required.
 - (8) Description of equipment to be used.
 - (9) Method of rehabilitation to be used.
- C. Upon receipt of such application, the Board of Zoning Appeals shall set the matter for a public hearing in accordance with the provisions of Section 54.440 – 54.448.

54.336 GENERAL REQUIREMENTS

- A. Structures and equipment, their use and operation shall comply with all requirements of the district in which said property is located.
- B. No quarrying operation shall be carried on or any stock pile placed closer than seventy-five (75) feet to any property line, unless a greater distance is specified by the Board of Zoning Appeals where such is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to fifty (50) feet by written consent of the owner or owners of the abutting property.
- C. In the event that the site of the mining or quarrying operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than seventy-five (75) feet to the nearest line of such right-of-way.

- D. Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Board of Zoning Appeals such fencing is necessary for the protection of the public safety, and shall be of a type specified by the County Highway Supervisor.
- E. All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment as may be specified by the County Engineer.
- F. The crushing, washing, and refining or other similar processing may be authorized by the Board of Zoning Appeals as an accessory use; provided, however, that such accessory processing shall not be in conflict with the use regulations of the district in which the operation is located, and shall not be located within two hundred (200) feet of any boundary of the site.

54.337 REHABILITATION - BONDS

To guarantee the restoration, rehabilitation and reclamation of mined-out areas, every applicant granted a mining permit as herein provided shall furnish a performance bond running to Wayne County as a guarantee that such applicant, in restoring, reclaiming and rehabilitation such land, shall within a reasonable time and to the satisfaction of the County Commissioners, meet the following minimum requirements:

- (A) All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below water mark, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids, to secure (a) that the excavated area shall not collect and permit to remain therein stagnant water; or (b) that the surface of such area which is not permanently submerged is graded or back-filled as necessary so as to reduce the peaks and depressions thereof so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
- (B) Vegetation shall be restored by appropriate seeds of grasses or planting of shrubs or trees in all parts of said mining area where such area is not to be submerged under water as herein above provided.
- (C) The banks of all excavations not back-filled shall be sloped to the waterline at a slope which shall not be less than three (3) feet horizontal to one (1) foot vertical and said bank shall be seeded.

54.338 ADDITIONAL REQUIREMENTS

In addition to the foregoing the Board of Zoning Appeals may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such mines, quarries or gravel pits as the Board of Zoning Appeals may deem necessary for the protection of adjacent properties and the public interest. The said conditions and the amount of the performance bond shall be determined by the Board of Zoning Appeals prior to issuance of the permit.

ARTICLE XVI SPECIAL EXCEPTIONS

A. GENERAL PROVISIONS

Section	54.345	Determination by Board of Zoning Appeals
	54.346	Filing Procedure
	54.347	Conformance Requirements
	54.348	Construction Requirements

B. SPECIAL EXCEPTIONS

Section	54.349	Special Exception
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C. IMMATERIAL MODIFICATION OF PRIOR EXISTING NON-CONFORMITY

Section	54.350	Immaterial Modification of Prior Existing Non-Conformity
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D. FARM ALCOHOL (ETHANOL) PRODUCTION

Section	54.360	Application, Contents, Procedure
	54.361	General Requirements
	54.362	Hearing

ARTICLE XVI SPECIAL EXCEPTIONS

A. GENERAL PROVISIONS

54.345 DETERMINATION BY BOARD OF ZONING APPEALS

Special Exceptions may be permitted by the Board of Zoning Appeals after public hearing, only in accordance with procedures set forth in this Section and the requirements listed herein. No Special Exception shall be granted unless the Board shall have first found that the public convenience and welfare will substantially be served and that the proposed use will not be unduly detrimental to the surrounding area. In the exercise of its approval the Board may impose such additional conditions regarding the location, character and other features of the proposed building or structure or use as it may deem advisable in the furtherance of the purpose of this Ordinance.

54.346 FILING PROCEDURE

Special Exceptions filing procedures; a petition for a Special Exception shall be filed with the County Plan Administrator upon such form and accompanied by such information as shall be established by the Board. The Plan Administrator shall then proceed to process the application. The Board shall then proceed with a hearing in accordance with the provisions of this Ordinance.

54.347 CONFORMANCE REQUIREMENTS

The Board may impose conditions to assure that the Special Exception will conform to the intent of this Ordinance. These conditions may include but are not limited to the provisions of the following:

- A. Off-street parking and loading areas, with particular attention to the economic, noise, glare, or odor effects of the Special Exception on adjoining properties.
- B. Refuse and service areas.
- C. Special screening and buffering with reference to type, dimensions and character.
- D. Signs and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the area.
- E. Additional setback distances, yards, and open spaces.
- F. General compatibility with adjoining properties, with reference to site development standards designed for their mutual protection and the environmental harmony of the area.

*A Confined Feeding Operation, a Concentrated Animal Feeding Operation, and a Satellite Manure Storage Structure shall meet any applicable requirements of the federal, state or local government. Also, in addition to those requirements for Special Exceptions found in 54.347 (A) through (F) the following requirements may apply, as determined by the board, to a Confined Feeding Operation, a Concentrated Animal Feeding Operation, and a Satellite Manure Storage Structure:

- G. The minimum lot size on which a Confined Feeding Operation, Concentrated Animal Feeding Operation, and a Satellite Manure Storage Structure may be permitted is 40 acres.
- H. A minimum setback distance of 1,320 feet from any other zone district, including zone districts located in adjoining counties, is required for the placement of a Confined Feeding Operation, a Concentrated Animal Feeding Operation, and a Satellite Manure Storage Structure.
- I. A minimum setback distance shall be 660 feet from any lot line of a parcel containing an existing residence, business, public recreation area, golf course or any non-agricultural principle permitted use in the A-1 Agricultural Zone District for the placement of a Confined Feeding Operation, a Concentrated Animal Feeding Operation, and a Satellite Manure Storage Structure.
 - Exception #1:** The minimum setback distance may be reduced upon having a written agreement with the owner(s) of the existing residence, business, public recreation area, golf course, or any non-agricultural principle use permitted in the A-1 Agricultural Zone District. Any such agreement shall contain the legal description of the property owned by the agreeing property owner(s), be in recordable form, and duly recorded in the office of the county recorder of each county in which that property is located.
- J. A manure storage capacity of at least 225 days is required for all Confined Feeding Operations, and Concentrated Animal Feeding Operations.
- K. A minimum setback distance shall be 1,000 feet from any private or public water supply well, public water supply surface intake structure or drinking water supply reservoirs. A private water supply well that is located upon the same parcel as the SMSS is not required to comply with this setback distance.
- L. A minimum setback distance shall be 660 feet from any other sensitive area.
- M. A copy of the manure management plan as submitted to the Indiana Department of Environmental Management during the Indiana Confined Feeding Regulation Program permitting process is required to be submitted with the Special Exception application.
- N. A construction design for an MSMSS shall be provided at the time of application and shall be made available to the Board. The Board, after having examined the construction design and conditions specific to the site, e.g., soil types, topography, unique site features, etc, may require additional setbacks or conditions for approval as permitted by 54.347(A-F). In the event that the Indiana Department of Environmental Management has determined through their permitting process that additional or greater setbacks are required to protect human health or the environment, the additional or greater setbacks shall apply.

A ***Small Wind Energy Conversion System (WECS)*** shall meet any applicable requirements of the federal, state or local government. In addition to those requirements for Special Exceptions found in Section 54.347 (A) through (F), the following shall apply to a ***Small Wind Energy Conversion System***.

- O. No small ***WECS*** shall be illuminated unless required by a state or federal agency, such as the FAA.
- P. The exterior surface of all small ***WECS***, including the ***wind tower*** and associated outbuildings shall be a non-reflective, neutral color.
- Q. Minimum clearance between blade tip and ground level is thirty feet (30').
- R. The minimum separation distance between a ***wind tower*** associated with a ***small wind energy conversion system*** and all surrounding property lines, overhead utility or transmission lines, other electrical substations, meteorological towers and ***primary communication towers*** shall be no less than the ***total height*** of the ***wind tower***. This is measured from the base of each ***wind tower***.
- S. The minimum setback between a ***wind tower*** associated with a ***small wind energy conversion system*** and a public street(s) shall be no less than the ***total height*** of the ***wind tower*** or the front setback of the applicable zone district, whichever is the greater.
- T. A ***small wind energy conversion system*** must be located at least one thousand feet (1000') from any existing dwelling unit, except a dwelling unit(s) located on the parcel on which the ***wind tower*** is erected.
- U. All small ***WECS*** shall be located so that the level of noise produced by the wind turbine operation heard off of the parcel on which the ***wind tower*** is erected shall not exceed 55dBA.
- V. The base of all small ***WECS***, including any guy wires and ***wind tower***, shall be totally and permanently enclosed by security fence at least six feet (6') high. No fence is required if the climbing apparatus is enclosed inside the ***wind tower*** and the entry is secured, or if the climbing apparatus is located at least twelve feet (12') above the ground level.
- W. Small ***WECS*** associated outbuildings/cabinets shall meet all setback requirements for primary structures for the zoning district in which the small ***WECS*** is located.
- X. Special Exception applications and Improvement Location Permit applications for a ***small wind energy conversion system*** must be accompanied by a decommissioning plan detailing how the ***small wind energy conversion system*** will be dismantled and the land restored to its prior state. Such plan would be implemented when such ***small wind energy conversion system*** ceases operation for a period of twelve (12) months. The plan would include the removal of all portions of the small ***WECS***, including any components to a depth of at least four feet (4') below ground level. The applicant may be required to provide a surety bond or other proof of financial responsibility as prescribed by the Board of County

Commissioners in an amount determined by the Plan Commission to be of a sufficient amount to complete the decommissioning plan. The decommissioning must be complete within six (6) months of commencement.

- Y. All small **WECS** shall be equipped with a manual and automatic braking device capable of halting operations.
- Z. All wiring installed outside of the **wind tower** for a small **WECS** shall be buried.
- AA. No small **WECS** shall be installed in any location where its proximity with fixed broadcast, retransmission or recreation antenna for radio; airport RF signals, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.
- BB. All small **WECS** electrical equipment and connections must adhere to all applicable local, state, and national codes, and relevant national and international standards.
- CC. Special Exception applications and Improvement Location Permit applications for a small **WECS** must include a transportation plan showing how vehicles would access the site of a small **WECS**. The plan shall describe the impact of the proposed project on the local and regional road system during construction, including the transporting of small **WECS** parts and/or equipment for construction, as well as the operation and maintenance of the project.
 - 1. The plan shall identify any proposed routes that will be used for construction, operation and maintenance purposes. If the route includes a public road under the jurisdiction of the Wayne County Highway Department, the plan must be approved by the Wayne County Highway Superintendent. The Superintendent shall conduct a pre-construction assessment to determine existing road conditions for determining potential future damage.
 - 2. If the route includes a public road under the jurisdiction of any other entity, the plan must be approved by that entity.
 - 3. Any damage caused to a public road under the jurisdiction of the Wayne County Highway Superintendent by the construction, operation or maintenance of the small **WECS** project must be repaired to the satisfaction of the Wayne County Highway Superintendent. The Superintendent may determine that repairs of the road are necessary before the project has been completed; or the Superintendent may determine to require repairs of the road upon completion of the project.
 - 4. A surety bond in an amount determined by the Wayne County Commissioners may be required to insure the County that repairs are completed to the satisfaction of the Wayne County Board of Commissioners.
- DD. In any small **WECS** installation, the **shadow flicker** must be eliminated from any roadway or any occupied structure located on any non-participating property by the placement location of the small **WECS**. *Amended December 7, 2016 Ordinance No. 2016-010.*

A Commercial Dog Breeder and an Unlimited Kennel shall meet any applicable requirements of the federal, state or local government. In addition to those requirements for a Special Exception found in Section 54.347 (A) through (F), the following shall apply to a Commercial Dog Breeder and an Unlimited Kennel. *Amended (Added) March 18, 2015. Ordinance No. 2015-002.*

- EE. Commercial Dog Breeder, Minimum Lot Area – 15 acres
Minimum Setback from an existing off premises business, residence or accessory structures of the off premises residence - 400 ft.
- FF. Unlimited Kennel, Minimum Lot Area – 15 acres
Minimum Setback from an existing off premises business, residence or accessory structures of the off premises structure - 400 ft.

54.348 CONSTRUCTION REQUIREMENTS

Any person who is issued a Special Exception approval who fails to commence construction or Special Exception use within twelve (12) months after such approval by the Board, may be required by the Board upon its own motion, to show why such Special Exception approval should not be withdrawn.

B. SPECIAL EXCEPTIONS

54.349 SPECIAL EXCEPTIONS

The following uses may be permitted by the Board in the Specified Zone Districts.

Name of Special Exception	Specified Zone District Where Special Exception May be Permitted
1. Agriculture related uses and services, animal related uses, animal husbandry and services on lots less than five (5) acres and processing of products grown on premises, seed and fertilizer sales and distribution, livestock sales yards and building, truck terminals for livestock, custom slaughter facilities, grain elevators.	A-1, A-2, A-3
2. Airport or heliport (public or private) subject to applicable state and federal regulations.	A-1, R-S, R-1, R-2, C-1, C-2, C-3, M-2
3. Artificial Lake other than farm pond.	A-2, A-1
4. Art Galleries	R-S, R-1, R-2
5. Auditorium, stadium, baseball park, arena, gymnasium, and other places for public events.	A-1, C-2, C-3, M-1, M-2
6. Boat Livery	A-1, A-2
7. Business office	C-1
8. Camp	A-1, A-2
9. Camping Grounds	A-1, A-2
10. Cemeteries, Crematories, Mausoleums.	R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
10-A Chemicals, including carbide, caustic soda, cleaning and polishing preparations, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins.	M-3

11.	Clinics, Medical and Dental	R-2
12.	Clinics, Veterinary	A-1
13.	Clubs and Lodges, Non-Commercial	A-1, R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
13a.	Coal, Coke, and Tar Products, including Gas Manufacturing	M-3
13b.	Coal Yards	M-3
14.	Colleges and Universities	R-S, R-1, R-2, C-1, C-2
15.	Commercial Dog Breeder/Unlimited Kennel	A-1, A-2, C-1, C-2, C-3
16.	Confined Feeding Operation, Concentrated Animal Feeding Operation, Satellite Manure Storage Structure	A-1, but only on tracts of land having at least 40 acres.
17.	Convents and Monasteries	R-S, R-1, R-2, C-1, C-2
18.	Country Club and/or Golf Course	R-S, R-1, R-2
19.	Dental and Medical Offices	R-S, R-1, R-2
20.	Disposal Plants, Sewage, Garbage or Refuse	A-1, A-2, M-2
21.	Disposal Sites (Dump, Landfill)	A-1, A-2
22.	Domestic Pet Grooming Facility	A-1, R-S, R-1, R-2, C-1, C-2, C-3
23.	Dormitory	R-S, R-1, R-2, C-1, C-2
24.	Drive-in Establishment	C-1, M-1, M-2
25.	Drive-in Movie (Theater)	A-1, C-1
26.	Drive-in Restaurant	C-1, M-1, M-2
27.	Dwelling – Special Placement	A-1, R-S, R-1, R-2, C-1, C-2
28.	Extraction of Raw Materials (gravel, sand, oil, etc.)	A-1, A-2
29.	Family Group Home	A-1, R-S, R-1, R-2, C-1, C-2

30.	Farm Alcohol Production	A-1, A-2
31.	Fire stations or Police Stations as Public Utility	A-1, A-2, R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
32.	Foundries	M-1
33.	Fraternity or Sorority Houses	R-S, R-1, R-2, C-1, C-2
34.	Funeral Homes and Mortuaries	R-2, C-1, C-2, C-3, M-1, M-2
35.	Health Facility	A-1, R-S, R-1, R-2, C-1, C-2
36.	Hospital	A-1, R-S, R-1, R-2, C-1, C-2
35.	Institution	A-1, R-S, R-1, R-2, C-1, C-2
36.	Junk or Salvage Yards	M-1
37.	Kennel, Large	C-1, C-2, C-3
38.	Manufactured Home – Mobile Home, Emergency or Temporary Use	A-1, A-2, R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
39.	Manufactured Home – Mobile Home Park	A-1, R-2, C-1, C-2, C-3
40.	Manufacture Home – Type II, Type III, or Mobile Home Residence	A-1, A-2, R-S, R-1, R-2, C-1, C-2
41.	Motel or Motor Hotel	R-2, C-1
42.	Motor Vehicle Service Station	C-1
43.	Nursing Homes	A-1, R-S, R-1, R-2, C-1, C-2
44.	Personal Services	R-2
45.	Philanthropic and Eleemosynary Uses	A-1, R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
46.	Portable X-Ray Equipment	C-2
47.	Professional Activities	R-2, C-1
48.	Public Service Oriented, Recreation Buildings, Community Centers	A-1, C-2, C-3, M-1, M-2

49.	Radio, Television and Community Antenna Reception Towers	A-1, R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
50.	Range, Golf Driving, Rifle Skeet Club	A-1, A-2
51.	Recreation Development, Private or Non-Commercial	R-S, R-1, C-1, C-2, C-3, M-1
52.	Recreation Facilities, Commercial	A-1
53.	Recreation Vehicle Park	A-1, C-1, C-2
54.	Residence, Single Family	C-3, M-1, M-2, M-3
55.	Restaurant	C-1
56.	Sanitarium, Sanatorium	A-1, R-S, R-1, R-2, C-1, C-2
57.	Schools, Nursery or Day	R-S, R-1, R-2, C-1, C-2
58.	Sewers, Central or Group	A-1, R-S, R-1, R-2, C-1, C-2, C-3
59.	Signs, Advertising	C-1
60.	Tourist Houses, Bed and Breakfast Rooming and Boarding Homes	A-1, A-2, A-3, R-S, R-1, R-2, C-1
61.	Utility – public utility and communication buildings necessary for furnishing services to the area but not including general offices, garages, warehouses, and telephone exchanges, bus turnarounds	A-1, A-2, R-S, R-1, R-2, C-1, C-2, C-3, M-1, M-2
62.	Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure and Wireless Support Structure	A-1-CP, R-S, R-1, R-2

C. IMMATERIAL MODIFICATION OF PRIOR EXISTING NON-CONFORMITY

(Amended Ord. No. 2001-03, 7/24/2001.)

54.350 IMMATERIAL MODIFICATION OF PRIOR EXISTING NON-CONFORMITY

This section shall only apply to a Lot whereupon there exist (1) a Non-conforming Building or Structure * or (2) whereupon there exists a building or structure* which is designed or located upon a Lot and intended for a use that does not conform to the regulations of the District or Zone

in which it is located, and such non-conformity exists as the result of a previously approved Special Exception or variance from one or more otherwise applicable development standards of the Wayne County, Indiana Zoning Ordinance (hereinafter an “Approved Non-conformity”). Capitalized terms appearing in this section shall have the meaning ascribed to said terms in Article II, Section 54.25 of the Wayne County Code unless such terms are specifically defined herein.

- A. “Immaterial Modification” Defined. The term “Immaterial Modification,” as used in this section, means any proposed extension, alteration, addition to, or modification of, either (1) a Non-conforming Building or Structure or (2) an Approved Non-conformity that, if affected, would not result in an appreciable increase in level of non-conformity of the particular Lot over those conditions thereon that pre-existed the particular Immaterial Modification. Example would include, but not be limited to, proposed additions to existing structures on Lots that currently fail to possess the requisite building line setbacks or yard depths and that, after completion of the Immaterial Modification, would possess at least the same setbacks or yard depths with no increase in the degree of non-conformity over that which preexisted.
- B. Procedures for Initial Approval of an Immaterial Modification. At the time of application for an Improvement Location Permit the Director of the County Department of Planning and Zoning (the “Department”) may authorize such Immaterial Modifications as are disclosed by the applicant’s plans and drawings. Such Improvement Location Permit, if otherwise appropriate for issuance, shall be duly noted as containing one or more Immaterial Modifications. It shall be then held by the said department for a period of fifteen (15) days. Within five (5) days after receipt of the application, the Department shall send notice of the filing of the application and a brief description of the proposed development requiring the Immaterial Modification to all interested parties, as defined by the Rules of Procedure of the County Board of Zoning Appeals. The notice shall, among other things, advise the interested parties that unless specific written objections to the proposed Immaterial Modifications are filed with the Department within ten (10) days from the date of mailing of the notice, the Immaterial Modification will be administratively granted and an Improvement Location Permit for the project will be issued to the applicant.
- C. Procedures for Processing an Objection to an Immaterial Modification. Should any interested party object to any proposed Immaterial Modification, then the applicant shall submit the project and the requisite application for a variance or Special Exception to the Board of Zoning Appeals for processing according to the regular rules and procedures of said Board.

*As used in this section, the term “structure”, whether or not capitalized, shall not include within its meaning a mobile home that is described in Section 54.25, Part 156 of the Ordinance.

D. FARM ALCOHOL (ETHANOL) PRODUCTION

54.360 APPLICATION, CONTENTS, PROCEDURE

- A. Any owner, lessee, or other person, firm or corporation having an interest in alcohol production may file with the Board of Zoning Appeals an application for authorization to produce alcohol for fuel or as an additive to other fuels.
- C. An application for alcohol production shall include, for the Board’s analysis and determination, the following information:
- (1) Name of the owner or owners of the property on which the alcohol is to be produced.
 - (2) Name of applicant making request for such operation and name of person or persons to be operator.
 - (3) Location, description, and size of the property on which the alcohol is to be produced.
 - (4) Location of the production site.
 - (5) Type of resources, and source of same, to be used in the production.
 - (6) Description of equipment to be used.
 - (7) Quantity proposed to produce.
 - (8) Proposed use or disposal of distilled product.
 - (9) Method of storage
 - (10) Proposed use of by-product.
 - (11) Storage of by-product.
 - (12) All applications shall be filed as outlined in the Board of Zoning Appeals rules of procedure.

54.361 GENERAL REQUIREMENTS

The regulations, (Federal, State or Local) prescribed by any other authority having jurisdiction, and as may be otherwise required by law, shall be complied with, in addition to the following regulations:

- (A) The tract of land shall be in either the A-2 Big-lot or A-1 Agriculture Zone District.
- (B) No vehicular entrance to or exit from any alcohol production site, whenever such may be located, shall be within two hundred (200) feet along roads from any school, church, hospital, or institution for dependents or for children. All access roads shall be maintained in a dust free condition.
- (C) No alcohol operation or production shall be carried on or any stock pile of by-products closer than seventy-five (75) feet to any right-of-way or property line, unless a greater distance is specified by the Board of Zoning Appeals where such is deemed necessary for the protection of adjacent property.
- (D) Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Board of Zoning Appeals such fencing is necessary for the protection of the public safety.
- (E) All equipment used in the processing shall be operated and maintained in such manner that the public safety will not be endangered, or impair property values within the neighborhood.

54.362 HEARING

- A. Upon receipt of application, the Board of Zoning Appeals shall set the case for public hearing in accordance with provisions of Section 54.446.
- B. In the event the Board of Zoning Appeals should decide to approve the request, in addition to the forgoing, the Board of Zoning Appeals may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such alcohol production as the Board of Zoning Appeals may deem necessary for the protection of adjacent properties and the public interest.

ARTICLE XVII VARIANCE AND MODIFICATIONS

LOTS OF RECORD

Section 54.375 Dwellings on Any Lot of Record

HEIGHT MODIFICATIONS

Section 54.385 Height Limitations not Applicable
54.386 Minimum Requirements

YARD MODIFICATIONS

Section 54.395 Front Yard Modifications
54.396 Side Yard Modifications
54.397 Rear and Side Yards
54.398 Yard Modifications for Kennels

YARD PROJECTIONS

Section 54.405 Projection of Architectural Features
54.406 Fences, Walks, and Hedges
54.407 Yard Requirements along Zoning Boundary Lines
in the Less Restricted District

ARTICLE XVII VARIANCE AND MODIFICATIONS

LOTS OF RECORD

54.375 DWELLING ON ANY LOT OF RECORD

In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record at the effective date of this Ordinance, irrespective of its area or width, the owner of which does not own any adjoining property, provided that yard spaces satisfy requirements stipulated for the district in which such lot is located, or requirements as may be modified under Section 54.395 – 54.397 or by the Board as set forth in Section 54.440 - 54.448.

HEIGHT MODIFICATIONS

54.385 HEIGHT LIMITATIONS NOT APPLICABLE

The height limitations stipulated elsewhere in this Ordinance shall not apply to the following:

- (A) Barns, silos, or other farm buildings or structures on farms, church spires, belfries, cupolas, domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, windmills, chimneys, smokestacks, flag poles, radio towers, masts, aerials and parapet walls extending not more than four (4) feet above the limiting height of the building; also wireless communications facilities and wireless support structures, and their necessary mechanical appurtenances may be erected or changed to any height that is not otherwise prohibited by Federal, State or Local regulation. (*Amended Ord. No. 2019-012, 8/21/2019.*)
- (B) Places of public assembly in churches, schools and other permitted public and semi-public buildings, provided that these are located on the first floor of such buildings and provided that, for each three (3) feet by which the height of such building exceeds the minimum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
- (C) Bulkheads, elevator penthouse, water tanks, monitors, and scenery lofts, provided no linear dimensions of any such structure exceeds fifty (50) percent of the corresponding street lot line frontage; or to towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height.

54.386 MINIMUM REQUIREMENTS

All such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five (25) percent of the area of the lot and shall be distant not less than fifty (50) feet in all parts from every lot line not a street lot line.

YARD MODIFICATIONS

54.395 FRONT YARD MODIFICATIONS

- A. In any A or R-District, where the average depth of at least two existing front yards on lots within one hundred (100) feet on the lot in question and within the same block front is less than or greater than the least front yard depth prescribed elsewhere in this Ordinance, the required depth of the front yard on such lot shall be modified. In such case, this shall not be less than the average of the depth on the two (2) lots immediately adjoining, or, in the case where there are no buildings on both of the lots immediately adjoining, the average depth of the front yards on lots within one hundred (100) feet of the lot in question and within the same block front; provided, however, that the depth of a front yard on any lot shall be at least ten (10) feet and need not exceed fifty (50) feet.
- B. In any A or R-District where the natural slope of a lot within the required front yard has an average slope, normal to the front lot line at every point along said line, of such a degree or percent of slope that it is not practicable to provide a driveway with a grade of twelve (12) percent or less to a private garage conforming with the requirements of this Ordinance, such garage may be located within such front yard, but not in any case closer than six (6) feet from the front lot line.
- C. Buildings on lots having frontage on two (2) non-intersecting streets need not have a rear yard, if an equivalent open space is provided on the lot in lieu of such required rear yard; applicable front yards must be provided, however, on both streets.
- D. In those cases where the required lot width is not reached until the front building setback distance has been exceeded, then the minimum setback from any front property line, other than street right-of-ways, shall be the same as required for side line setback distance in the appropriate zoning district.
- E. In those cases where the front property line at the street-right-way does not meet minimum lot width, then the front setback line shall be at that point where the minimum is reached, provided the required setback distance has been exceeded.

54.396 SIDE YARD MODIFICATIONS

- A. Each side yard, where required, shall be increased in width by two (2) inches, for each foot by which the length of the side wall of the building, adjacent to the side yard, exceeds forty (40) feet.
- B. Side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) the otherwise required least width; or narrower than three (3) feet in any case.

54.397 REAR AND SIDE YARDS

- A. In computing the depth of a rear yard or the width of a side yard, where the rear or side yard abuts an alley, one-half (1/2) of the width of the alley may be included as a portion of the required rear or side yard, as the case may be; provided, however, that no side yard shall be less at any point than three (3) feet, and no rear yard less than ten (10) feet.
- B. Depth of a rear yard or width of each side yard for a one-family or two-family dwelling may be reduced by four (4) inches and two (2) inches respectively, for each foot by which a lot at the time of enactment of this Ordinance is less than one hundred (100) feet deep or less than fifty (50) feet wide; provided, however, that no such side yard shall be less at any point than three (3) feet, or, in the case of such side yard along a side street lot line, less than five (5) feet; and further provided that no such rear yard shall be less than ten (10) feet. The width of one side yard may be reduced when authorized by the Board, in the case of a one-family or two-family dwelling, to a width of not less than three (3) feet, provided the sum of the widths of the two side yards is not less than the required minimum, and provided the distance between the proposed dwelling and another dwelling, existing or proposed, on an adjacent lot is not less than the required minimum sum of the widths of two side yards; provided, however, that such reduction may be authorized only when the Board finds it warranted by the location of existing buildings or conducive to the desirable development of two or more lots.

54.398 YARD MODIFICATIONS FOR KENNELS

- A. Lot size, front, side and rear setbacks for kennels in all districts shall comply with the requirements of Section 54.79 or Section 54.347 (HH)(II) unless modified by the Board of Zoning Appeals using the conformance requirements in section 54.347. (*Amended Ord. No. 2015-002, 3/18/2015.*)

YARD PROJECTIONS

54.405 PROJECTION OF ARCHITECTURAL FEATURES

Certain architectural features may project into required yards or courts as follows:

- (A) Into any required front yard, or required side yard adjoining a side street lot line.
 - (1) Cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet, six (6) inches.
 - (2) Fire escapes may project a distance not exceeding four (4) feet, six (6) inches.
 - (3) An uncovered stair and necessary landings may project a distance not to exceed six (6) feet, provided such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three (3) feet in height.

- (4) Bay windows, balconies, and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.
- (B) Subject to the limitations in Section 54.150 (A), the above-named features may project into any required side yard adjoining an interior side lot line, a distance not exceeding one-third (1/3) of the required least width of such side yard, but not exceeding three (3) feet in any case.
- (C) Subject to the limitations of Section 54.150 (A), the features named therein may project into any required rear yards the same distances they are permitted to project into a front yard: provided, however, that landings of porches may be covered and may be covered and may project a distance not exceeding ten (10) feet but not closer than ten (10) feet from the rear lot line.

54.406 FENCES, WALKS, AND HEDGES

Fences, walks and hedges may be located in required yards as follows:

- (A) If not exceeding at any point four (4) feet in height above the elevation of the surface of the ground at such point, such features may be located in any yard.
- (B) If not exceeding at any point six (6) feet in height above the elevation of the surface of the ground at such point, they may be located in any required rear yard or side yard.

54.407 YARD REQUIREMENTS ALONG ZONING BOUNDARY LINES IN THE LESS RESTRICTED DISTRICT

- A. Special Rules. Special rules apply to lots located in the less restricted district where one or more of its sides border on a different zoning district, unless subject to special greater restrictions or requirements stipulated by other provisions of this Ordinance.
 - (1) Where the front, side, rear lot line, or court, are on the dividing line, then the minimum depth and width shall equal the average of the depth and width requirements in the two (2) districts.
 - (2) In the case where the height of a proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum depth or width of the side yard, rear yard or court for such structure shall be determined by increasing the minimum depth or width for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

ARTICLE XVIII ZONING ADMINISTRATION

ENFORCEMENT

Section	54.420	Enforcement by Zoning Inspector
	54.421	Application Requirements
	54.422	Improvement Location Permit
	54.423	Certificate of Occupancy
	54.424	Fees
	54.425	Ordinance Violation - Penalties
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BOARD OF ZONING APPEALS

Section	54.440	Establishment of Board-Divisions
	54.441	Organization and General Requirements
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	54.448	Review by Certiorari

ARTICLE XVIII ZONING ADMINISTRATION

ENFORCEMENT

54.420 ENFORCEMENT BY ZONING INSPECTOR

There is hereby established the position of Zoning Inspector and for purposes of this Ordinance, the Zoning and Subdivision Administrator is designated as Zoning Inspector. It shall be the duty of the Zoning Inspector to enforce this Ordinance in accordance with the administrative procedures of the County and of this Ordinance. All departments, officials and public employees of the County vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this Ordinance. Any permit or license, issued in conflict with the provisions of this Ordinance shall be null and void.

54.421 APPLICATION REQUIREMENTS

- A. Every application for an Improvement Location Permit shall be accompanied by plans, in duplicate, drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; the existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate; and, when no buildings are involved, the location of the present use and proposed use to be made of the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance. One (1) copy of such plans shall be returned to the owner when such plans have been approved by the Zoning Inspector, together with such Improvement Location Permit as may be granted. All dimensions shown on those plans shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.
- B. In every case where the lot is not provided and is not proposed to be provided with public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a certificate of approval by the County Health Officer of the proposed method of water supply and/or disposal of sanitary wastes.
- C. Every application shall be accompanied by a certificate of approval by the County Highway Supervisor that the proposed entrance to the highway meets all requirements for culvert and side ditch drainage.

54.422 IMPROVEMENT LOCATION PERMIT

- A. It shall be unlawful for an owner, lessee or tenant to begin any excavation or construction, reconstruction, extension, conversion or alteration of any building or structure until an Improvement Location Permit shall have been issued by the Zoning Inspector. Such permit shall show that such buildings or premises or a part thereof, and the proposed use thereof, are in conformity or premises or a part thereof, and the proposed use thereof, are in

conformity with the provisions of this Ordinance. It shall be the duty of the Zoning Inspector to issue such a permit, provided he is satisfied that the structure building or premises, and the proposed use thereof, and the proposed methods of water supply and disposal of sanitary wastes, conform with all of the requirements of this Ordinance.

- B. An Improvement Location Permit shall be required for any agricultural structure with an estimated cost of construction of \$500.00 or more. (*Amended Ord. No. 1997-5, 7/1/1997.*)
- C. An Improvement Location Permit shall be required for any structures used as a residence or accessory use.
- D. Only one permit will be issued for a residential structure on any parcel in single ownership.
- E. All buildings and structures for any use shall be set back from the right-of-way the minimum distance as required in the zoning district where the structure is to be located.
- F. No permit for excavation or construction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Ordinance.
- G. The Zoning Inspector shall act upon all such applications on which he is authorized to act by the provisions of this Ordinance within ten (10) days after they are filed in full compliance with all the applicable requirements. He shall either issue an Improvement Location Permit within said ten (10) days or shall notify the applicant in writing of his refusal of such permit and reasons therefore. Failure to notify the applicant in case if such refusal within said ten (10) days shall entitle the applicant to a permit, unless the applicant consents to an extension of time.

54.423 CERTIFICATE OF OCCUPANCY

- A. It shall be unlawful for any owner, lessee, or tenant to occupy, use or to permit the use of any structure, building, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, or of any land when no building or structure is involved, until a Certificate of Occupancy shall have been issued by the Zoning Inspector, after inspection. Such Certificates of Occupancy shall show and certify that such building, structure or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of this Ordinance, and all other applicable codes or ordinance and all conditions and requirements, if any, stipulated by the Commission or other proper authority.
- B. A Certificate of Occupancy for a building thereafter erected, constructed, reconstructed, converted or otherwise altered, shall be applied for coincident with the application for an Improvement Location Permit, and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions of this Code.
- C. A Certificate of Occupancy for a change in use of a building, or land shall be applied for before any such building or land shall be occupied or used, and a Certificate of Occupancy shall be issued within ten (10) days after application has been made provided such use is in conformity with all the provisions of this Ordinance.

- D. A record of all Certificates of Occupancy shall be kept on file in the office of the Zoning Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected.

54.424 FEES

Fees for all original Improvement Location Permits and Certificates of Occupancy shall be in accordance with the current recorded fee ordinance, with the exception that Wireless Communications Facility, Wireless Communications Facility with Wireless Support Structure or Wireless Support Structure are exempt from the fee requirement for Improvement Location Permits and Certificates of Occupancy. (*Amended Ord. No. 2019-012, 8/21/2019.*)

54.425 ORDINANCE VIOLATION – PENALTIES

- A. Any person, firm or corporation violating any provision of this Ordinance shall be guilty of an Ordinance violation and shall be subject to a fine of \$25.00 (no more than \$2,500.00 per violation). Each and every day during which a violation is permitted to be maintained may be deemed a separate violation.
- B. Enforcement proceedings pursuant to this section shall be brought in the name of Wayne County by the county attorney, or his designate.
- C. A person, firm or corporation against whom a judgment is entered pursuant to this section is liable for costs.

54.426 VIOLATIONS – INJUNCTIVE RELIEF

The Plan Director may institute a suit for injunction in the Wayne County Circuit Court or Superior Court to restrain an individual or a governmental unit from violating the provisions of this Ordinance. The Plan Director may also institute a suit for a mandatory injunction directing an individual or a governmental unit to remove a structure erected in violation of the provisions of the Ordinance and if the Zoning Inspector is successful in its suit the respondent shall bear the cost of the action.

BOARD OF ZONING APPEALS

54.440 ESTABLISHMENT OF BOARD DIVISIONS

- A. A Board of Zoning Appeals for Wayne County is hereby established in accordance with I. C. 36-7-4-901 et seq and all acts new or hereafter amendatory thereto.
- B. The Plan Commission is hereby authorized to create up to an additional three (3) divisions of the Board by amendment to this Ordinance. Said amendment shall specify the number of additional divisions being created and shall specify the territorial jurisdiction of each division; provided further that at least one division shall have concurrent jurisdiction over the entire unincorporated area where the Zoning Ordinance of Wayne County has jurisdiction.

54.441 ORGANIZATION AND GENERAL REQUIREMENTS

- A. The Board shall be composed of five (5) members, all of whom shall be residents of Wayne County, and reside in the unincorporated area where the Zoning Ordinance of Wayne County has jurisdiction. The five (5) members shall consist as follows:
- (1) Three (3) citizen members appointed by the Board of County Commissioners, of whom one (1) must be a member of the Plan Commission, and two (2) must not be members of the Plan Commission.
 - (2) One (1) citizen member appointed by the County Council who must not be a member of the Plan Commission.
 - (3) One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission, other than the member appointed under subdivision (1).
 - (4) All Board members are eligible for reappointment.
 - (5) Board members shall not hold elective or appointed office except as provided above.
 - (6) If additional Board divisions are created pursuant to Section 54.159 (B), the citizen members who are not selected from the Plan Commission shall reside within the territory over which their Board division exercises jurisdiction.
- B. Upon the creation of the Board of Zoning Appeals, the members shall be appointed for the following terms: One (1) for the term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and two (2) for a term of four (4) years. The term shall expire on the first Monday of January of the first, second, third, or fourth year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be for a term of four (4) years.
- C. If 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. In addition, the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member it has appointed has a disqualification. A member of the Board may not participate in a hearing or decision of that Board concerning a zoning matter in which he has a direct or indirect financial interest. The Board shall enter in its records:
- (1) The fact that a regular member has such a disqualification; and
 - (2) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

- D. At the first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice-chairman from its members. The Vice-chairman shall have authority to act as chairman during the absence or disability of the chairman.
- E. A majority of members of the Board of Zoning Appeals shall constitute a quorum. No action of the Board is official, however, unless authorized by a majority of the Board.
- F. The Board of Zoning Appeals may appoint and fix the compensation of a secretary and such employees as necessary for the discharge of its duties in conformity to the compliance with the salaries and compensations theretofore fixed by the County Council.
- G. The Plan Commission shall provide for suitable facilities for holding of Board of Zoning Appeals hearings, and for the preserving of records, documents, and accounts.
- H. The County Council may appropriate funds to carry out the duties of the Board of Zoning Appeals and the Board of Zoning Appeals shall have the authority to expend, under regular county procedure for the purposes and activities authorized herein.

54.442 MEETINGS OF BOARD

Meeting of the Board of Zoning Appeals shall be held at the call of the Chairman and such other times as the Board may determine. All meetings of the Board shall be open to the public.

54.443 RULES OF PROCEDURE

- A. The Board of Zoning Appeals shall adopt rules, which may not conflict with the Zoning Ordinance concerning:
 - (1) The filing of appeals;
 - (2) The application for variances, special exceptions, special uses, contingent uses, and conditional uses;
 - (3) The giving of notice;
 - (4) The conduct of hearings, and
 - (5) The determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).
 - (6) The fixing of dates for hearings by the Board.
- B. The Board shall keep minutes of its proceedings, keep records of its examination and other official actions and shall record the vote on all actions taken. All minutes and records shall be filed in the office of the Board and shall be public record.
- C. Rules adopted by the Board of Zoning Appeals shall be printed and made available to all applicants and other interested persons.

54.444 POWERS AND DUTIES

The Board of Zoning Appeals shall:

- (A) Hear and determine appeals from and review:
 - (1) Any order, requirement decision, or determination made by an administrative official, hearing officer, or staff member under the Zoning Ordinance.
 - (2) Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of the Zoning Ordinance; or
 - (3) Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an Improvement Location or Occupancy Permit.
- (B) In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly, or partly, or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the officer or board from whom the appeal is taken.
- (C) Permit and authorize exceptions to the district regulations only in the classes of cases or in particular situations as specified in this Ordinance.
- (D) Approve or deny all Special Exceptions from the terms of the Zoning Ordinance, but only in the particular situations specified in the Zoning Ordinance (see Section 54.349) and only upon a determination in writing that:
 - (1) The special exception is consistent with the spirit, purpose and intent of this Ordinance;
 - (2) It will not substantially and permanently injure the appropriate use of neighboring property; and
 - (3) It will substantially serve the public convenience and welfare.

The Board may impose reasonable conditions as a part of its approval.

- (E) Hear and determine requests for substitutions or extensions of non-conforming uses.
- (F) Approve or deny variances from the development standards such as height, bulk, or area of the Zoning Ordinance. A variance may be approved under this section only upon a determination in writing that:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - (3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.
- (G) Approve or deny variances of use from the terms of the Zoning Ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon a determination in writing that:
- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - (3) The need for the variance arises from some condition peculiar to the property involved.
 - (4) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
 - (5) The approval does not interfere substantially with the Comprehensive Master Plan.

54.445 APPEALS TO THE BOARD

- A. An appeal taken from the requirement, decision, or determination made by an administrative official or board, except the Plan Commission, charged with the enforcement of this ordinance shall be filed with the Board of Zoning Appeals.
- B. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as may be prescribed by the Board's Rules of Procedure.
- C. The administrative official, or board from whom the appeal is taken shall, upon request of the Board of Zoning Appeals, transmit to it all documents, plans, and papers constituting the record of the action which an appeal was taken.

54.446 HEARING AN APPEAL

- A. The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal.
- B. Public notice shall be given of the hearing and due notice shall be given additionally to the interested parties as defined by the Board's Rules of Procedure.

- C. At the hearing, any party may appeal in person, by agent, or by attorney.
- D. The Board of Zoning Appeals may require the party taking the appeal to assume the cost of public notice and due notice to interested parties.

54.447 STAY OF WORK PENDING DECISION ON APPEAL

When an appeal from the decision of an official or board has been taken and filed with the Board of Zoning Appeals, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the official or board from whom the appeal was taken shall certify to the Board of Zoning Appeals that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case proceedings of work shall not be stayed except by a restraining order which may be granted the Board of Zoning Appeals or by the circuit court or superior court of Wayne County.

54.448 REVIEW BY CERTIORARI

- A. Every decision of the Board of Zoning Appeals shall be subject to review by Certiorari.
- B. Any person, or persons, firm or corporation jointly or severally aggrieved by any decision of the Board of Zoning Appeals, may present to the circuit or superior courts of Wayne County a petition duly verified, setting forth that such decision is illegal in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the date of the decision and the order of the Board of Zoning Appeals complained of.

ARTICLE XIX DISTRICT CHANGES AND REGULATION AMENDMENTS

Section	54.470	County Commissioners May Amend Ordinance
	54.471	Procedure for Change
	54.472	Fees
	54.473	Validity
	54.474	Adoption

ARTICLE XIX DISTRICT CHANGES AND REGULATION AMENDMENTS

54.470 COUNTY COMMISSIONERS MAY AMEND ORDINANCE

Whenever the public health, safety, comfort, morals, convenience, or general public welfare or good zoning practice require, the County Commissioners may, by ordinance, after recommendation thereon by the Commission and subject to the procedure provided in this Section, amend, supplement or change the regulations, district boundaries or classifications of property now or hereinafter established by this Ordinance or amendments thereof. It shall be the duty of the Commission to submit its recommendations regarding all applications or proposals for amendments or supplements. An amendment or supplement to the text of the Ordinance may be initiated by the County Commissioners on its own motion or by a petition of the Plan Commission. A petition for a change in zone district boundaries or classifications of property as shown on the zoning map may be initiated by the County Commissioners on its own motion, by the Plan Commission, or by a petition signed by property owners who own at least fifty (50) percent of the land involved. In preparing and considering proposals to amend or supplement the text of the Zoning Ordinance or for a change in zone district boundaries or classification of property as shown on the zoning map, the Plan Commission and the County Commissioners shall pay reasonable regard to:

- (1) The Comprehensive Plan;
- (2) Current conditions and the character of the current structures and uses in each district;
- (3) The most desirable use for which the land in each district is adapted;
- (4) The conservation of property values throughout the jurisdiction; and
- (5) Responsible development and growth.

54.471 PROCEDURE FOR CHANGE

- A. Petitions for any change of district boundaries or classifications of property as shown on the zoning map shall be submitted to the clerk of the County Commissioners at their public office, upon such forms and accompanied by such data and information as may be prescribed for that purpose, so as to assure the fullest practicable presentation of facts for the permanent record. Each such petition for a change of district boundaries or a reclassifications of property submitted by property owners who own at least fifty (50) percent of the land involved shall be verified by at least one such owner attesting to the truth and correctness of all facts and information presented with the petition. Petitions for amendments submitted by the Plan Commission shall be accompanied by its own resolution pertaining to such proposed amendment.

- B. Before submitting its recommendations on proposed amendments to the text of the Zoning Ordinance or changes in zone district boundaries or classification of property as shown on the zoning map to the County Commissioners, the Commission shall, within sixty (60) days hold a public hearing thereon, notice of which shall be given by one (1) publication in a newspaper of general circulation in the County at least ten (10) days before the date of such hearing. Such notice shall state the place and time at which the proposed amendment to the Ordinance, including text and maps, may be examined. At least ten (10) days before the date set for a public hearing, written notices shall be sent to the owners (as reflected on the transfer records of the Auditor of Wayne County) of all parcels of land immediately adjacent to the land described in the petition to be heard advising them of the public hearing.
- C. Within ten (10) business days after the Plan Commission determines its recommendation (if any) on a proposal to amend the text of the Zoning Ordinance, the Commission shall certify to the County Commissioners a favorable recommendation, an unfavorable recommendation, or no recommendation. The County Commissioners shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposals.
- (1) If the proposal receives a favorable recommendation from the Plan Commission, the County Commissioners may, within the ninety (90) day period adopt, reject, or amend the proposal. If the County Commissioners adopt the proposal as certified, it takes effect as any other Ordinance adopted by the Commissioners. If the Commissioners fail to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification. If the Commissioners reject or amend the proposal it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Plan Commission has forty-five (45) days in which to consider the rejection or amendment and report to the County Commissioners as follows:
- (a) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the Ordinance stands as passed by the County Commissioners as of the date of the filing of the Plan Commission's report of approval with the County Commissioners or the end of the forty-five (45) day period.
- (b) If the Commission disapproves the rejection or amendment, the action of the County Commissioners on the original rejection or amendment stands only if confirmed by another vote of the County Commissioners within forty-five (45) days after the Plan Commission certifies its disapproval. If the County Commissioners fail to confirm their action, the Ordinance takes effect as being adopted as certified.
- (2) If the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission, the County Commissioners may, within the ninety (90) days period adopt, reject, or amend the proposal. If the County Commissioners adopt the proposal as certified, it takes effect as other

Ordinances adopted by the Commissioners. If the County Commissioners reject the proposal or fail to act on it within ninety (90) days after certification, it is defeated. If the County Commissioners amend the proposal it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the amendment. The Plan Commission has forty-five (45) days in which to consider the amendment and report to the County Commissioners as follows:

- (a) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the Ordinance stands as passed by the County Commissioners as of the date of the filing Plan Commission's report of approval with the County Commissioners or the end of the forty-five (45) day period.
 - (b) If the Plan Commission disapproves the amendment, the action of the County Commissioners on the original amendment stands only if confirmed by another vote of the Commissioners within forty-five (45) days after the Plan Commission certifies its disapproval. If the County Commissioners fail to confirm its action, the Ordinance is defeated.
- (3) The County Commissioners may take action under this section only by a vote of at least a majority of all elected members of the body.

D. Upon receiving or initiating a proposal for a change in zone district boundaries or classification of property as shown on the zoning map, the Plan Commission shall hold a public hearing within sixty (60) days on the proposal, and within ten (10) business days after the Commission determines its recommendation, (if any), the Commission shall certify the proposal to the County Commissioners with a favorable recommendation, an unfavorable recommendation, or no recommendation. The County Commissioners shall vote on the proposal within ninety (90) days after the Plan Commission certifies the proposal.

- (1) If the proposal receives a favorable recommendation from the Plan Commission, the County Commissioners may, within the ninety (90) day period adopt or reject the proposal.
 - (a) If the County Commissioners adopt the proposal as certified, it takes effect as other Ordinances adopted by the Commissioners.
 - (b) If the County Commissioners reject the proposal, it is defeated.
 - (c) If the County Commissioners fail to act on the proposal within ninety (90) days after certification, the Ordinance takes effect as if it had been adopted as certified ninety (90) days after certification.
- (2) If the proposal receives an unfavorable recommendation or no recommendation from the Plan Commission the County Commissioners may, within the ninety (90) day period adopt or reject the proposal.
 - (a) If the County Commissioners adopt the proposal as certified, it takes effect as other Ordinances adopted by the Commissioners.
 - (b) If the County Commissioners reject the proposal, it is defeated.
 - (c) If the County Commissioners fail to act on the proposal within ninety (90) days after certification, it is defeated.

54.472 FEES

A fee will be charged according to attached fee schedule for each application for a change in the zone district boundaries or classification of property as shown on the zoning map, except those initiated by the Commission or the County Commissioners, shall be accompanied by a check payable to the Treasurer of the County or a cash payment sufficient in the amount to cover the costs of publishing, posting and/or mailing notices of hearings, but in no event shall it be less than twenty-five (25) dollars.

54.473 VALIDITY

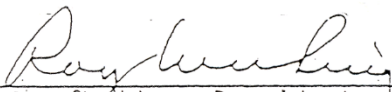
If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

54.474 ADOPTION

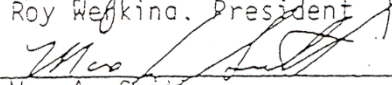
This Ordinance shall be in force and effect from and after its passage.

Passed by the Wayne County Board of Commissioners, Wayne County, Indiana on the 10th day of March, 1993.

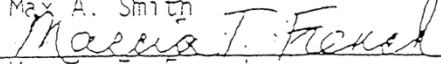
BOARD OF COMMISSIONERS OF WAYNE COUNTY:



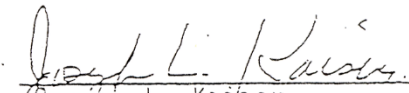
 Roy Weiskind, President



 Max A. Smith



 Marcia T. French

ATTEST: 

 Joseph L. Kaiser
 Wayne County Auditor