

# Delaware County Comprehensive Zoning Ordinance

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**AN ORDINANCE ESTABLISHING**  
**MINIMUM COMPREHENSIVE ZONING STANDARDS FOR**  
**THE COUNTY OF DELAWARE, INDIANA**

**WHEREAS**, the Board of County Commissioners of the County of Delaware, Indiana, considers it necessary as a part of the planning process,

**THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of the County of Delaware, Indiana:

**ARTICLE I TITLE**

This Ordinance shall be known as the Delaware County Comprehensive Zoning Ordinance.

**ARTICLE II PURPOSE**

The purpose of this Ordinance is to encourage units of government to improve the health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to that end.

**ARTICLE III AUTHORITY**

The authority for the adoption of this Ordinance rests upon IC 36-7-1-1 through IC 36-7-1-20 and IC 36-7-4-100 through IC 36-7-4-1200 of the Burns Indiana Statutes and all amendments thereto.

**ARTICLE IV JURISDICTION**

The provisions of this Ordinance shall apply to all the unincorporated territory of the County of Delaware, Indiana.

**ARTICLE V INTERPRETATION**

The provisions of this Ordinance shall be minimum requirements. This Ordinance is not intended to abrogate any law, easement, covenant or private agreement. Whenever the regulations provided in this Ordinance impose greater restrictions on the character of the use of buildings or lands than are imposed under any other law of the State of Indiana, then the regulations established by virtue of this Ordinance shall prevail only if they assure the promotion of the health, safety, convenience and welfare of the citizens.

**ARTICLE VI SEPARABILITY**

The provisions of this Ordinance are separable. If any court of competent jurisdiction shall adjudge any of its provisions to be invalid, such judgment shall not affect any other provisions not

specifically included in said judgment. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property, building or structure not specifically included in said judgment.

**ARTICLE VII STATUS OF PREVIOUS ORDINANCES**

Any and all ordinances passed by the Board of County Commissioners of the County of Delaware, Indiana, under the provisions of IC 18-7-5-1 through IC 18-7-5-99, IC 18-7-3-1 through IC 18-7-3-13 of the Burns Indiana Statutes previous to the enactment of this Ordinance, are deemed repealed.

**ARTICLE VIII STATUS OF PREVIOUS ACTIONS**

**ARTICLE VIII**

**Section 1 BUILDING PERMITS**

Where a building permit for a building or structure has been issued in accordance with existing laws prior to the enactment of this Ordinance, said building or structure may be completed according to the approved plans upon which the building permit was issued, provided construction is begun within ninety (90) days after the enactment of this Ordinance and diligently pursued to completion. Such building or structure may, upon completion, be occupied under a Certificate of Occupancy by the use for which it was originally designated.

**ARTICLE VIII**

**Section 2 VARIANCES: EXCEPTIONS: SPECIAL USES**

Where the Delaware-Muncie Metropolitan Board of Zoning Appeals has granted a variance, exception or special use prior to the enactment of this Ordinance, the permitted variance, exception or special use shall be implemented within ninety (90) days from the granting thereof and pursued diligently to completion; otherwise, the granting of such variance, exception or special use is automatically revoked.

**ARTICLE IX GENERAL PROVISIONS**

**ARTICLE IX**

**Section 1 CONFORMANCE**

**A USE**

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, expanded or enlarged except in conformity with all the provisions of this Ordinance, and after the necessary permits have been obtained.

**B HEIGHT**

No building or structure shall be erected or constructed nor shall any existing building or structure be reconstructed, moved, expanded or enlarged so as to exceed the height limitations established in this Ordinance.

**C LOT COVERAGE**

No building or structure and its accessory uses shall be erected or constructed nor shall any existing building or structure and its accessory uses be reconstructed, moved, expanded or enlarged so as to occupy a greater percentage of a lot than the limits established in this Ordinance.

**D OPEN SPACE**

No yard or open space or off-street parking or loading space provided about a building or structure for the purpose of complying with the provisions of this Ordinance shall be considered as providing yard, open space or off-street parking or loading space for any other building or structure. No yard or lot existing at the time of the enactment of this Ordinance shall be reduced in dimension or area below the minimum standards provided in this Ordinance. Yards or lots created after the enactment of this Ordinance shall meet all requirements established herein.

**ARTICLE IX**

**Section 2 UNLAWFUL USES**

Any building, structure or use which was not lawful prior to December 11, 1973, and which is still in violation of the provisions of this Ordinance, shall be considered to be a nonconforming building, structure or use under the terms of this Ordinance. Any building, structure or use which became not lawful after December 11, 1973, and which is still in violation of the provisions of this Ordinance, shall be considered unlawful.

**ARTICLE IX**

**Section 3 YARDS: LOT COVERAGE**

No single family, two family or multiple family dwelling, together with accessory buildings or structures, shall occupy more than the following percentages of the total area of the lots, exclusive of right-of-ways:

- R-1, R-2 and R-2A Residence Zones - 35% lot coverage
- R-3, R-4 and R-4A Residence Zones - 40% lot coverage
- R-5 Residence Zone - 50% lot coverage.

**ARTICLE IX**

**Section 4 RIGHT-OF-WAY: MEASUREMENT OF SETBACKS**

When an official plan for the major and secondary highways in Delaware County, Indiana, shall have been adopted by the County Commissioners of Delaware County, Indiana, then all setbacks for buildings and structures shall be measured from the proposed right-of-way lines as expressed in such plan. For the purpose of this Ordinance, the right-of-way of any street shall be deemed to be fifty (50) feet unless a larger right-of-way is required on the Official Thoroughfare Plan for Delaware County, Indiana, in which case the larger right-of-way shall control.

**ARTICLE IX**

**Section 5 MANUFACTURED HOUSING**

Manufactured homes and mobile homes shall be used in the manner for which they were designed in accordance with the following requirements.

**A PERMANENT PLACEMENT**

The establishment, location and use of manufactured homes as scattered site residences shall be permitted in any zone permitting installation of a dwelling unit, subject to the requirements and limitations applying generally to such residential use in the appropriate zone, and provided such homes shall meet the following requirements and limitations:

1. The home shall meet all requirements applicable to single-family dwellings and possess all necessary improvement location, building and occupancy permits and other certifications as required by this Ordinance.
2. The home shall meet the minimum square footage requirements for the appropriate zone.
3. Tongue and hitch apparatus shall be removed and the manufactured home shall be installed on a foundation in accordance with the requirements of the Indiana One and Two Family Dwelling Code and all Indiana amendments thereto. Skirting and/or permanent perimeter enclosures shall be required. Skirting, when installed, shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by the above-cited Dwelling Code for regular foundation construction. Skirting shall be installed in accordance with the skirting manufacturer's installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage, and to compensate for possible frost heave.
4. The terms of Article IX, Section 5(A) shall apply to the placement of manufactured housing located outside mobile home parks only.
5. The home shall have been constructed after January 1, 1981.



**B TEMPORARY PLACEMENT**

1. Permitted Placement - the placement of manufactured homes and mobile homes shall be permitted within the unincorporated area of Delaware County, and outside of mobile home parks, on a temporary basis in the following circumstances:
  - a. For use of a manufactured home or mobile home as a caretaker's quarters or a construction office at a job site.
  - b. For use of a manufactured home or mobile home as a temporary residence, located on the building lot, during the course of construction, remodeling or repair of a site built dwelling.
  - c. For use of a manufactured home or mobile home as a temporary residence, located adjacent to an existing residence, when the Board of Zoning Appeals has approved the temporary placement by granting a variance to the owner or contract buyer whose own health or the health of another necessitates care and where the facts show that an unnecessary hardship would occur if not permitted to locate a temporary residence adjacent to the residence of one who is able to provide such care or is in need of such care.
  
2. Provisions Regulating Permitted Placement - a temporary use permit shall be obtained prior to placement of a manufactured home or mobile home for temporary use as herein defined. For use of a manufactured home or a mobile home as temporary residences, placement shall be additionally subject to:
  - a. Applicable health provisions for sanitary facilities.
  - b. Providing an adequate ground anchor.
  - c. Setbacks provisions as stated in the appropriate zone.
  
3. Time Limitations for Temporary Placement - A temporary use permit issued under Sections B (1) (a) and B (1) (b) herein shall be issued for a period not to exceed one (1) year. Any extension of the one (1) year limit shall require approval of a variance by the Board of Zoning Appeals under the established procedures for the filing of an appeal. A variance granted under Section B (1) (c) should specify the conditions of the temporary placement.

**ARTICLE IX**  
**Section 6 PUBLIC UTILITIES**

The provisions of this Ordinance shall not be construed to limit or interfere with the construction, installation and maintenance of public utility transmission facilities subject to the following:

1. Aboveground utility structures shall be located at least ten (10) feet from a fire hydrant, shall not adversely impact the line of sight for any driveway, shall be placed in compliance with the provisions for visibility at intersections, and shall not interfere with another utility's access to , maintenance of or operation of its facilities.
2. For aboveground utility structures greater than three (3) feet in height and nine (9) cubic feet in volume, where practical and useful to ameliorate the aesthetic impact of the utility structure the City or County may require that the utility company screen the utility structure with planting, landscaping materials, fences, walls or any combination of these methods. Screening, if required, must be equally effective in all seasons. Screening shall not be required in the F Farming Zone.

All enclosed utility buildings shall comply with the Development Standards set forth in Article XXX and the setbacks contained in the underlying zone.

## **ARTICLE IX**

### **Section 7      PROPERTIES AFFECTED BY PUBLIC WORKS**

Where a building or structure, including a sign, is located on property acquired for public use by condemnation, purchase or otherwise, such building or structure may be relocated on the same lot or premises although the area provisions of this Ordinance cannot be reasonably complied with. Furthermore, where a part of such building or structure is acquired for public use, the remainder of such building or structure may be repaired, reconstructed or remodeled. Whenever any setback, greenbelt and/or landscaped area, provided to meet the requirements of this Ordinance, is removed by a public works project (i.e. road widening), the property from which the setback, greenbelt and/or landscaped area has been removed shall still be considered in compliance with this Ordinance.

## **ARTICLE IX**

### **Section 8      CHURCHES**

Nothing in this Ordinance shall be construed to exclude churches from any zone herein established, provided that any church building shall meet the yard, parking, height, and all other requirements contained in this Ordinance. No church building shall be located closer to an adjacent owner's property line, where said adjacent property is in a Residence Zone, than the following distances:

- R-1 Residence Zone - one hundred (100) feet
- R-2 Residence Zone - fifty (50) feet
- R-3 Residence Zone - fifty (50) feet
- R-4 Residence Zone - fifty (50) feet
- R-5 Residence Zone - fifty (50) feet

**ARTICLE IX**  
**Section 9 PUBLIC BUILDINGS**

Nothing in this Ordinance shall be construed to exclude buildings owned, leased or used by a municipal, county, township, State or Federal government from any zone established in this Ordinance. However, all such buildings shall meet the yard, parking and height provisions of this Ordinance and no building shall be closer to an adjacent owner's property line, where said adjacent property is in a Residence Zone, than the following distances:

- R-1 Residence Zone - one hundred (100) feet
- R-2 Residence Zone - fifty (50) feet
- R-3 Residence Zone - fifty (50) feet
- R-4 Residence Zone - fifty (50) feet
- R-5 Residence Zone - fifty (50) feet

**ARTICLE IX**  
**Section 10 TENTS**

No tent shall be erected, used or maintained for living quarters in any zone with the exception of the RC Recreation and Conservation Zone. For the purpose of this Ordinance, the term "tent" shall mean a collapsible shelter of canvas or other material stretched and sustained by poles and used for outdoor camping.

**ARTICLE IX**  
**Section 11 VISIBILITIES AT INTERSECTIONS**

On a corner lot in any residential zone, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of three (3) feet and ten (10) feet above the centerline grades of the intersecting streets in an area bounded by the right-of-way lines of such intersecting streets and a line adjoining points along said intersecting right-of-way lines fifty (50) feet from the point of intersection of said right-of-way lines. For Commercial Developments, see Article XXX Section 5.

**ARTICLE IX**  
**Section 12 FENCES: WALLS: HEDGES**

A fence, screen or wall not more than eight (8) feet in height, or a hedge of thick growth of shrubs or trees maintained so as not to exceed eight (8) feet in height may be located in any side or rear yard in any zone, provided they shall not extend beyond the front wall of the building or, in the absence of a building, beyond the average setback of the buildings on the adjacent lots.

Fences, screens, walls, shrubs and trees extending beyond the front wall of the building shall not exceed forty-two (42) inches in height and, when located in the yard along the street sides of a corner lot, must comply with Article IX, Section 11. Trees, shrubs, flowers and plants are not covered by this provision provided they do not produce a hedge effect.

This provision shall not be interpreted to prohibit the erection of an open mesh type fence enclosing a farm, school or playground site.

The IL Limited Industrial, II Intense Industrial and AD Airport Development Zones are exempt from the above provisions in that the above said provisions shall not be interpreted to prohibit the erection of a fence, screen, wall, shrub or trees not to exceed eight (8) feet in height.

**ARTICLE IX**

**Section 13 DIVISION OF A LOT**

No lot or parcel of land shall be hereafter divided into two (2) or more lots or parcels of land unless all lots or parcels of land resulting from such division shall conform to the provisions of this Ordinance. Any division of a lot or parcel of land, which shall result in a violation of this section, shall make the buildings or structures on said lot or parcel of land unlawful.

**ARTICLE IX**

**Section 14 ACCESSORY USES AND STRUCTURES**

**A DEFINITION**

**1. GENERAL DEFINITION -**

Accessory uses/structures shall be permitted in all zones in accordance with the provisions of this section. Accessory uses/structures:

- a. Shall be incidental and commonly associated with the operation of the principal use of the lot.
- b. Shall be operated and maintained under the same ownership and on the same lot as the principal use.
- c. Shall, in residence zones, be clearly subordinate in height, area, and bulk to the principal use served.
- d. Shall not be located closer to any lot line than the minimum setback line required, unless specified otherwise in this Ordinance.
- e. Shall not be permitted, in residence zones, prior to the erection and operation of the principal use.

Such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths, fences, walls, uncovered patios, outdoor fireplaces, dog houses, tree houses, playground apparatus, waterfalls, or permanent landscaping shall be considered incidental uses/structures and not as accessory uses/structures subject to the provisions herein.

## 2. TYPES OF ACCESSORY USES/STRUCTURES -

- a. Such buildings or structures as garages, carports, canopies, porch enclosures, bath houses, cabanas, gazebos, storage buildings, greenhouses, guard houses, video satellite disks, fall-out shelters, and similar accessory buildings or structures.
- b. Signs, as regulated in Article XXX, Section 3 of this Ordinance.
- c. Swimming pools - swimming pools in residence zones may be installed only as accessory to a dwelling for the private use of the owners and occupants of such dwelling and their families and guests, or as accessory to a nursery school or day camp for children, and only on the conditions as follows:
  - 1) Such pool shall be installed in the rear yard of the premises.
  - 2) Access to residential pools shall be restricted by one (1) of the following means:
    - a) Walls or fencing not less than four (4) feet high and completely surrounding the pool and deck area with the exception of self-closing and latching gates and doors, both capable of being locked.
    - b) Other means not less than four (4) feet high and deemed impenetrable by the enforcing authority at the time of construction and completely surrounding the pool and deck area when the pool is not in use.
    - c) A combination of subsections (a) and (b) that completely surrounds the pool and deck with the exception of self closing and latching gates and doors that are capable of being locked. This applies to subsections (a) and (b) and this subdivision only.
    - d) A power safety pool cover that shall:
      - (1) Provide a continuous connection between the cover and the deck, so as to prohibit access to the pool when the cover is completely drawn over the pool;
      - (2) Be mechanically operated by a key or key and switch such that the cover cannot be drawn open or retracted without the use of a key;
      - (3) Is installed with track, rollers, rails, guides, or other accessories necessary to accomplish clauses (1) and (2), in accordance with the manufacturer's instructions; and
      - (4) Bear an identification tag indicating that the cover satisfies the requirements

of ASTM F1346 for power safety pool covers.

- d. Amateur radio sending and receiving antennae, provided the height thereof including masts shall not exceed seventy-five (75) feet measured from the finished lot grade at the base of the tower.
- e. Management office in multi-family dwelling complex and other structures providing services normally associated with tenants' convenience.
- f. Small Wind Energy Systems – small wind energy systems are a permitted accessory use in all zoning districts subject to the following requirements:
  - 1) Setbacks. A wind tower for a Small Wind Energy System shall be set back a distance equal to its total height plus the length of one blade from:
    - a) Any State or local roadway right-of-way, existing or proposed, whichever is greater;
    - b) Any right of ingress or egress on the owner's property;
    - c) Any overhead utility lines;
    - d) All property lines; and
    - e) Any existing guy wire, anchor or other small wind energy tower.

A small wind energy system shall not be located in any front yard area.

- 2) Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 10 feet above the ground.
- 3) Electrical Wires. All electrical wires associated with a Small Wind Energy System, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- 4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the Small Wind Energy Systems, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from adjacent residential uses and residential zones.
- 5) Height. A small wind energy system shall not exceed one hundred fifty feet (150'),

however, no wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces as regulated by the State and the FAA guidance on airspace protection.

- 6) Appearance, color, and finish. The wind generator and wind tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.
- 7) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a Small Wind Energy System, visible from any public road shall be prohibited.
- 8) Noise and Signal Interference. Sound produced by small wind energy systems under normal operating conditions, as measured at the property line, shall comply with limitations contained in local noise ordinances. Sound levels may be exceeded during short term events such as utility outages and/or severe wind storms. A small wind energy system shall not interfere with communication systems such as, but not limited to, radio, television, telephone, satellite, or emergency services communication systems.
- 9) Utility notification and interconnection. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement. Any property owner seeking to construct a Small Wind Energy System and connect such system to the main power grid with the capability of transporting energy back to their main power company shall meet all applicable requirements of the Indiana Utility Regulatory Commission for approval and provide documentation of such approval prior to construction and being issued a building permit.
- 10) Ground Clearance: The minimum clearance between the lowest extension of a rotor blade tip and the highest point of the ground within thirty feet of the tower base shall be thirty (30) feet.
- 11) Braking: A small wind energy system shall be equipped with a manual and automatic braking device capable of halting operation.
- 12) Compliance & Permits. A Small Wind Energy System shall comply with all applicable building and electrical codes. Applications for building permits shall include standard drawings of the wind generator and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Applications for building permits shall also include line drawings of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical

Code.

- 13) Abandonment: A Small Wind Energy System that is out-of-service for a continuous 6 month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a Small Wind Energy System that is deemed to have been abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action, within 30 days from the date of the Notice. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned. If the Small Wind Energy System is determined to be abandoned, the owner shall remove the wind generator and tower at the Owner's sole expense within 3 months of the date of Notice of Abandonment. If the owner fails to remove the wind generator and wind tower, the Administrator may pursue a legal action to have the wind generator and tower removed at the Owner's expense.

Small Wind Energy Systems shall not be attached to any building, including guy wires. Meteorological Towers (Met Tower) shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Small Wind Energy System. Each lot of record is eligible for one Small Wind Energy System only, provided all requirements can be met, except that lots greater than five (5) acres may be eligible for two small wind energy systems, provided all requirements can be met.

- g. Building Mounted Wind Systems, provided the system has a nameplate capacity (manufacturer's rating) of 10 kilowatts or less than projects no more than fifteen (15) feet above the highest point of the roof, excluding chimneys, antennae and other similar structures.
- h. Solar collectors, roof mounted or ground mounted.

## B HEIGHT: SETBACKS

In any residence zone, an accessory building shall not exceed seventeen (17) feet in height and, when located in the rear yard, shall not be closer than three (3) feet to the side and rear lot lines. In non-residence zones, an accessory building shall not exceed the height provision as established in the appropriate zone and, when located in the rear yard, shall not be closer than three (3) feet to the side and rear lot lines.

## C ON CORNER LOT

Accessory buildings located on the street side of a corner lot shall be setback a minimum the same distance as that required for the main building. If the main building setback is less than the required setback, then the accessory building shall be setback a minimum the average of the main building



setback and the setback of the main building on the adjacent property (or the required setback of the adjacent property, whichever is the least).

**D ON SIDE YARD**

For an interior lot, an attached accessory building, or garage located on the side yard of a dwelling, shall be considered a part of the dwelling and not an accessory building and shall comply with the provisions of this Ordinance.

**ARTICLE IX**

**Section 15 NONCONFORMING USES AND STRUCTURES**

**A GENERAL**

Within the zones established in this Ordinance, there exist nonconforming uses and structures which may continue to exist in accordance with the following provisions.

**B LOTS**

In any zone permitting only single-family dwellings, a single-family dwelling shall be permitted on a lot which does not comply with the width and area requirements of this Ordinance provided such lot was of record at the time of enactment of this Ordinance; and provided further that adjustments in yards are in accordance with provisions of this Ordinance. If two or more lots or parts of lots are in single ownership and enjoy continuous frontage at the time of the enactment of this Ordinance, and if all or part of such lots do not meet the width and area standards contained in this Ordinance, the lands involved shall be considered to be an undivided parcel. No portion of said parcel shall be used in a manner that may reduce compliance with the provisions of this Ordinance.

**C USES OF LAND**

A nonconforming use of land shall not be enlarged, expanded nor extended to occupy a larger area of land than was occupied at the time of the enactment of this Ordinance. A nonconforming use may be extended throughout any part of an existing structure, which was arranged for such use prior to the enactment of this Ordinance. Such use shall not be moved in whole or in part to another location on the lot or parcel of land other than that occupied by the use at the time of the enactment of this Ordinance. If any such use ceases for a period of more than one (1) year, (except when government action or legal proceedings impede access to the premises, as determined by the Board of Zoning Appeals), any subsequent use of such land shall conform with the provisions of this Ordinance unless sixty-six percent (66%) or more of the surrounding uses of land within a six hundred and sixty (660) foot radius are also nonconforming uses of the same restriction as said subsequent use, thereupon, the proponent of said subsequent use shall apply for a Certificate of Nonconformity under the established procedures and additionally provide signed affidavits affirming the existence of surrounding nonconforming uses, as herein defined, of the same restriction.

D STRUCTURES

A nonconforming structure shall not be moved in whole or in part to another location on the lot or parcel of land unless said relocation would bring the structure into conformance with the provisions of this Ordinance. If a nonconforming structure is made to conform, any future expansion or enlargement of said structure shall be in conformance with the provisions of this Ordinance. A nonconforming structure may be expanded or enlarged provided such expansion or enlargement would not further encroach upon the nonconforming characteristic of the structure.

E SUBSTITUTIONS

A nonconforming use may be changed to another nonconforming use of the same or greater restriction provided said change does not cause further violation of the Performance Standards of this Ordinance.

**ARTICLE IX**

**Section 16 REPAIRS: RESTORATION**

Nothing in this Ordinance shall prevent the repair of a nonconforming structure. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, it may be reconstructed provided it does not further encroach upon the nonconforming characteristic of the structure. Nothing shall prevent the repair of a structure containing a nonconforming use and, where the structure is destroyed by any means, the resumption of said use shall be subject to the provisions of Article IX, Section 15(C).

**ARTICLE IX**

**Section 17 PROOF OF NONCONFORMITY**

A Certificate of Nonconformity shall transfer with ownership of property and shall be considered proof of a legal nonconforming use with said use being subject to the applicable provisions of Article IX, Section 15.

Upon written request by the Administrative Zoning Officer or by his/her own volition, the owner of a property shall present documentary evidence to said Officer that a building or use owned by him/her qualifies as a legal nonconforming use. Such evidence shall be presented in conjunction with an application for a Certificate of Nonconformity, if needed. Such evidence shall document the preceding five (5) years from the date of submission for said Certificate and may include retail merchant certificates (for commercial and industrial uses), vouchers related to material purchased for construction, written testimony of adjoining property owners (past/present), photographs, photo static copies of deeds or rulings made on property, rent receipts, etc.

Upon submission of such evidence, the Administrative Zoning Officer may perform an inspection of the premises on a date and time agreeable to the owner. No inspection shall be attempted unless and until an agreement is reached with said owner. Following such inspection and/or submission

of the application, the Administrative Zoning Officer shall respond within thirty (30) days by issuing a Certificate of Nonconformity if he/she finds that the information given is satisfactory and the premises are, in his/her opinion, a de facto nonconforming use, or by denying a Certificate of Nonconformity. Appeals from a decision of the Administrative Zoning Officer shall be filed in accordance with the provisions of this Ordinance as set forth in Article XXXII, Section 5.

**ARTICLE IX**

**Section 18 RESIDENTIAL FACILITIES FOR DEVELOPMENTAL DISABILITIES AND MENTAL ILLNESS**

The provisions of this Ordinance shall not be construed to exclude a residential facility for individuals with a developmental disability, for not more than eight (8) individuals, which is duly licensed by the State of Indiana. The facility shall meet the same zoning requirements, standards and building codes as other single dwelling unit structures in the same zone.

The provisions of this Ordinance shall not be construed to exclude a residential facility for individuals with mental illness, which is duly certified and/or licensed by the State of Indiana, from a residential area solely because such residential facility is a business or because the persons residing in the residential facility are not related provided that there is, at minimum, a linear distance of three thousand (3,000) feet from one such facility to another such facility as measured from the lot lines of the total properties containing the residential facilities. The facility shall meet all other zoning requirements, codes and laws.

A residential facility which is not certified and/or licensed by the State of Indiana as a residential facility for individuals with a developmental disability or a residential facility for individuals with a mental illness shall be subject to all of the provisions of this Ordinance.

**ARTICLE IX**

**Section 19 ADULT ENTERTAINMENT BUSINESS**

The establishment of any adult entertainment business shall be prohibited if such business is within five hundred (500) feet of two other such businesses or within five hundred (500) feet of the property line of any church, school, public building, or public land or the boundary line of any existing residence zone or farming zone. The distance between one adult entertainment business and another adult entertainment business shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of each business. The distance between an adult entertainment business and any church, school, public building, public land, residence zone or farming zone shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the adult entertainment business to the nearest property line of any church, school, public building, or public land or the closest boundary line of any residence zone or farming zone. If any adult entertainment business is part of or included within a building or structure containing multiple commercial uses, only the portion of the building or structure occupied by such adult entertainment business shall be included in determining the closest exterior wall of said establishment. No adult entertainment establishment shall be conducted in any manner that permits the observation of any material depicting, describing

or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window or other opening from any public way.

**ARTICLE IX**

**Section 20 NEW DWELLINGS AND AB ZONE SETBACKS**

**A NEW DWELLINGS**

A new dwelling shall be setback a minimum of three hundred (300) feet from an AB Agricultural Bio-Enterprise Zone (AB Zone), as measured from the closest wall of the dwelling to the AB Zone line, unless the owner requests an automatic waiver, in writing, to reduce the setback to no less than the minimum required based on the zoning of the property where the new dwelling is to be located. The automatic waiver shall be granted based on compliance with the following conditions:

1. The owner's written acknowledgement that the home lies in close proximity to an AB Zone.
2. The owner's written acknowledgement that undeveloped AB Zone land may be developed at any time in accordance with the standards set forth in the AB Zone with the required setbacks being those that would apply as if the new dwelling was not in place.

**B AB ZONE USES**

An AB Zone use is subject to the setbacks set forth in this Ordinance. The required setback from a dwelling is applicable only to those dwellings in existence at the time an AB Zone is established.

**ARTICLE X GENERAL EXCEPTIONS**

**ARTICLE X**

**Section 1 STRUCTURES OTHER THAN BUILDINGS**

Towers, chimneys, stacks, spires, penthouses, cupolas, water tanks, silos, windmills, monuments, domes, grain elevators and like structures may be built to a greater height than established in this Ordinance except in the approach area of any airport where no structure shall be built which exceeds the maximum height permissible under the rules and regulations of any governmental agency.

**ARTICLE X**

**Section 2 PROJECTIONS**

Cornices, eaves, sills, canopies or similar architectural features, but not including bay windows or vertical projections, may extend or project into a required side yard not more than eighteen (18) inches and maximum of thirty-six (36) inches into a front or rear yard. Any enclosed porch shall be considered as part of the main building.

**ARTICLE X**  
**Section 3     SETBACKS**

Where a new building or an addition to an existing building is proposed on a lot which adjoins two (2) or more lots occupied by buildings, the setbacks for such new building or addition to an existing building shall be the mean setback of the buildings on each side of the new building or addition to an existing building.

**ARTICLE X**  
**Section 4     RESIDENTIAL SIDE YARD**

For a lot having a width of not less than forty (40) feet and not more than fifty (50) feet at the building line at the time of the enactment of this Ordinance, residence buildings may have a minimum side yard of five (5) feet.

**ARTICLE XI   ZONES**

**ARTICLE XI**  
**Section 1     GENERAL**

In order to carry out the purposes of this Ordinance, the unincorporated territory of the County of Delaware, Indiana, is hereby divided into zones or districts paying reasonable regard to existing conditions, the character of buildings erected in each zone, the most desirable use for which the land in each zone may be adapted, and the conservation of property values throughout the County.

**ARTICLE XI**  
**Section 2     CLASSES OF ZONES**

The unincorporated territory of the County of Delaware, Indiana, is hereby divided into the following zones:

- F     Farming Zone
- AB   Agricultural Bio-Enterprise Zone
- R-1   Residence Zone
- R-2   Residence Zone
- R-2A  Residence Zone
- R-3   Residence Zone
- R-4   Residence Zone
- R-4A  Residence Zone
- R-5   Residence Zone
- R-6   Residence Zone
- BP    Business & Professional Office Zone
- CB    Central Business Zone
- BL    Limited Business Zone
- BC    Community Business Zone

- BV Variety Business Zone
- MT Major Trading Zone
- IL Limited Industrial Zone
- II Intense Industrial Zone
- IP Industrial Park Zone
- FA Flood Area Zone
- RC Recreation and Conservation Zone
- AD Airport Development Zone
- SSS Student Social Service Zone
- MHR Mobile Home Residence Zone

**ARTICLE XI**

**Section 3 ZONE MAPS**

**A GENERAL**

The zones referred to in Article XI, Section 2, and their boundaries are shown upon maps that are hereby made a part of this Ordinance. Such maps are designated as the "Zone Maps for the County of Delaware, Indiana". The maps and all notations, references and other information shown thereon shall be as much a part of this Ordinance as if matters set forth in them were all fully described in this Ordinance.

**B IDENTIFICATION AND RECORDING**

All county zone maps shall be identified by the signature of every member of the Board of County Commissioners of the County of Delaware, Indiana, and shall be attested by the Secretary of the Board. Following the adoption of the County maps by the proper legislative authority, a copy of this Ordinance, inclusive of Zone Maps, shall be filed with the County Auditor and the Recorder of the County of Delaware, Indiana.

**C ZONE BOUNDARIES**

Where any property is indicated in the Zone Maps as acreage and is not subdivided into lots, or where a zone boundary line shall be determined by using the scale shown on the map, zone boundaries are intended to follow lot lines, property lines, railroad right-of-ways, city and county limits, shorelines, lines of streams, canals, lakes or other bodies of water. Where a boundary divides a lot that was in single ownership at the time of the enactment of this Ordinance, the zone applying to the larger portion of the lot shall be considered as extending to the entire lot. If each portion of the lot is equal in size, then the most restrictive zone shall apply to both portions of the divided lot.

**D RESTORATION**

In the event any official Zone Map may become damaged, destroyed, lost or difficult to interpret due to physical deterioration or the nature and number of changes made, the Board of County

Commissioners of the County of Delaware, Indiana, may by Ordinance and after public hearing adopt a new official map.

E CHANGES

No changes shall be made to the Zone Maps of the County of Delaware, Indiana, except in full conformity with the procedures set forth in this Ordinance. Zone Maps shall be revised every year in December, and all zone changes officially adopted by the proper governmental body shall be incorporated on the maps. The maps as updated shall be submitted to the Delaware-Muncie Metropolitan Plan Commission for its consideration. If the Commission is satisfied that the changes are correct, it shall forward the maps to the Board of County Commissioners of the County of Delaware, Indiana, for adoption. Once adopted, a copy of the updated maps shall be filed with the County Auditor and the Recorder of the County of Delaware, Indiana.

F STREET VACATION

Whenever a street, road, alley, railroad right-of-way or other public way is officially vacated, the zones on each side of such vacated way shall be extended to the center of such street, road, alley, railroad right-of-way or public way. This change shall be automatically achieved and shall not require following procedures established in this Ordinance for proposed zone changes.

G SIMILAR USES

Similar uses to those permitted in each zone may be allowable. Whether a certain use is similar to a use listed in a specific zone, the Delaware-Muncie Metropolitan Plan Commission under established procedures shall determine such similarity.

H PROCEDURAL

Each proposed zoning change referred to the Board of County Commissioners of the County of Delaware, Indiana, shall set forth the exact use for which the petitioner is requesting the change. If the Board of County Commissioners acts favorably on the requested change, such change shall be only for the specific use requested by the petitioner and for no other use. Should the petitioner wish to change the use from the use originally granted but within the same general zone, he shall submit a new petition and follow established procedures as for a new change in zoning. Should the petitioner to whom a zone change is granted for a specific use fail to begin construction or installation of a use approved by the Board of County Commissioners of the County of Delaware, Indiana, within one (1) year after the passage of the change of zone, the Administrative Zoning Officer shall so inform the said Board of County Commissioners, which may initiate the proceedings to rezone the property subject of the zone change to its original classification.

Within sixty (60) days prior to the expiration of the one (1) year period, the petitioner may present the Board of County Commissioners with a bill of particulars setting forth reasons for failure to commence construction or use. The Board of County Commissioners may consider said reasons in deciding whether or not to initiate a change in zone as herein provided.

## ARTICLE XII F FARMING ZONE

### ARTICLE XII

#### Section 1 PERMITTED USES

For the purpose of this Ordinance, farming shall mean the carrying out of an agricultural use or uses, as permitted in this Ordinance, on a tract of land having a minimum area of five (5) acres where fifty (50) percent or more of the land is under cultivation or used for dairying, pasturage, apiculture, horticulture, viticulture, animal and poultry husbandry, forestry or similar farming activities.

No building, structure or land shall be used or occupied and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single family dwellings, subject to reciprocal separation distances as applicable, as set forth in Article XII, Section 9(C) Land Use Separation Distance Requirements.
2. Agricultural Uses including: field crops; dairies; tree crops; flower and vegetable gardening; nurseries; orchards; horse farms and farms (that are not CFO's or CAFO's) for the breeding, raising and sale of chickens, hogs, cattle, turkeys, sheep, aquatic animals or other animals; breeding, boarding or sale of dogs. All such animal uses (that are not CFO's or CAFO's) and buildings or premises shall be at least two hundred (200) feet from a dwelling (other than a farm dwelling), school, church, hospital or institution for human care.
3. Confined feeding operations (CFO's) and concentrated animal feeding operations (CAFO's) that are located in rural agricultural areas subject to the requirements set forth herein in Article XII, Section 9.
4. Barns and similar farming buildings.
5. Sawmill for cutting timber grown on the premises provided they are not closer than two hundred (200) feet to any dwelling.
6. Buildings owned, leased or used by a municipal, township, county, State or Federal government.
7. Dogs and cat kennels. No building, structure or premises intended for the keeping of cats and dogs shall be closer than two hundred (200) feet to any residence other than the residence of the owner, school, church, hospital or institution for human care. The site for a dog or cat kennel shall be not less than five (5) acres in area and shall meet the performance standards contained in this ordinance.
8. Religious institutions.



9. Mausoleums and cemeteries. No building shall be closer than two hundred (200) feet to any residence, school, church, hospital or institution for human care. The site for a cemetery shall be not less than ten (10) acres in area except for non-commercial family cemeteries where there shall be no minimum area requirement.
10. Outdoor advertising as regulated in this ordinance.
11. Towers, chimneystacks, spires, penthouses, cupolas, water tanks, silos, windmills, monuments, domes, grain elevators and like structures, all as regulated in this Ordinance.
12. Railroad rights-of-way including yards, storage, switching or shops which are owned and operated by railroad companies.
13. Public schools, colleges, universities, nursery schools, child care centers, all subject to the standards contained in this ordinance.
14. Temporary buildings used during the construction of homes in a subdivision, including storage of lumber and building materials for a period not to exceed the duration of such construction.
15. Temporary recreational activities such as a circus or open athletic competition when registered with the Board of Commissioners of Delaware County, Indiana, subject to the standards imposed by such registration.
16. Minor roadside stands provided they offer for sale only products raised on the premises and provided no stand shall exceed an area of two hundred (200) square feet and shall not be located nearer than twenty (20) feet to the right-of-way line, existing or proposed, of any public street.
17. Vegetative composting/mulching provided the composting operation is conducted at the person's residence or farm for vegetative matter and other types of organic material that are generated by the person's activities and stored, treated or disposed of at the person's residence or farm.
18. Forest and wildlife preserves.
19. Educational tours and field trips.
20. Temporary seasonal agritourism operations, such as but not limited to corn mazes/crop art, U-pick/cut-your own Christmas tree/pumpkin patch type operations, and hay rides, when registered with the Board of Commissioners of Delaware County, Indiana, subject to any standards imposed by such registration and providing designed off-road parking areas.

**ARTICLE XII**

**Section 2 SPECIAL USES**

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures in Article XXXI, Section 2 (A), and subject to meeting the standards set forth in Article XXXI as specified herein:

1. Mines; quarries; gravel pits or other mineral extraction, all provided they comply with the standards set forth in Article XXXI, Section 3.
2. Country clubs; golf courses; driving tees; miniature golf when part of a country club; skeet and gun clubs when located at least six hundred (600) feet from any dwelling or residence zone, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
3. Non-commercial recreation areas; amusement parks providing a variety of entertainment such as would be provided in a large public park provided the same is carried on premises not less than ten (10) acres in area, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
4. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall not be less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
5. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
6. Animal and veterinary hospitals provided all buildings and structures shall be not less than two hundred (200) feet from any residence, school, church, hospital or institution for human care, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
7. Salvage yards, provided they comply with the standards set forth in Article XXXI, Section 4.
8. Refuse disposal sites, publicly or privately owned, provided they comply with the standards set forth in Article XXXI, Section 5.
9. Seasonal work camps for farm workers, provided they comply with the standards set forth in Article XXXI, Section 9.
10. Private outdoor camps, including retreats, church camps, Girl Scout camps, Boy Scout camps, and similar facilities, provided they comply with the standards set forth in Article XXXI, Section 10.

- 11. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
- 12. Vegetative composting/mulching facilities other than set forth in the previous Section 1, Item 16, provided they comply with the standards set forth in Article XXXI, Section 11.
- 13. Major roadside stands provided they offer for sale only products raised or produced on the premises where the area involved is greater than two hundred (200) square feet in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
- 14. Confined feeding operations (CFO's) and concentrated animal feeding operations (CAFO) located in rural residential areas, provided they comply with the requirements set forth in Article XXXI, Section 12.
- 15. Solar Facility provided they meet the requirements set forth in Article XXXI, Section 13. Only photovoltaic and thermal solar energy systems may be installed; concentrated solar power systems are not permitted.

**ARTICLE XII**  
**Section 3 LOT WIDTH AND AREA**

The width of a lot shall be not less than one hundred and fifty (150) feet at the building line nor less than thirty thousand (30,000) square feet in area, exclusive of rights-of-way.

**ARTICLE XII**  
**Section 4 FRONT YARD**

There shall be a front yard of not less than fifty (50) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XII**  
**Section 5 SIDE YARD**

There shall be two (2) side yards, each not less than twenty-five (25) feet in width measured at right angles to the side lot lines.

**ARTICLE XII**  
**Section 6 REAR YARD**

There shall be a rear yard not less than fifty (50) feet in depth measured at right angles to the rear lot line.

**ARTICLE XII**

**Section 7 HEIGHTS**

No building or structure shall exceed two and one-half (2 1/2) stories or forty-five (45) feet in height.

**ARTICLE XII**

**Section 8 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall be not less than nine hundred fifty (950) square feet exclusive of garages, carports, open porches or breezeways.

**ARTICLE XII**

**Section 9. CFO/CAFO REQUIREMENTS**

**A PURPOSE AND INTENT:**

The purpose of these requirements is to acknowledge that agriculture remains an essential component of the Delaware County economy and that, through technology and market trends, agricultural activities have evolved into efficient agricultural businesses. These requirements apply to any new Confined Feeding Operation (CFO) or Concentrated Animal Feeding Operation (CAFO) and to any expansion of an existing CFO or CAFO and are intended to minimize the impact of such feeding operations on surrounding land uses and the environment. These requirements are in addition to the rules, regulations and procedures set forth by the Indiana Department of Environmental Management (IDEM), the United States Environmental Protection Agency (USEPA), or any other agency or board designated at the federal, state or local level to monitor or regulate confined feeding operations. In the case of conflicting requirements and/or regulations, the more restrictive shall prevail. Compliance with these requirements shall be maintained throughout the life of the operation and prior to the proper closure of the operation. To ensure that compliance with the requirements set forth herein is maintained, annual inspections will be conducted by the Plan Commission Office and the Health Department.

**B DETERMINATION OF RURAL AGRICULTURAL AREA:**

Prior to making application for local building and improvement location permits, the applicant shall consult with the Plan Commission Office to determine if the location of a proposed CFO or CAFO is in a rural agricultural area or a rural residential area. If it is determined to be in a rural agricultural area, the applicant may proceed in accordance with this Section. If it is determined to be in a rural residential area, the applicant must proceed in accordance with Article XXXI, Sections 2 and 12 for a special use approval from the Delaware-Muncie Metropolitan Board of Zoning Appeals. In making the determination, the Plan Commission Office shall consider all dwelling units regardless of jurisdictional boundaries using the best available data.

## C PERMITTING REQUIREMENTS:

Local permits (which may include drainage, driveway, septic system, wells, stormwater quality, building, electrical) shall be required as applicable for any new CFO or CAFO and for the expansion of an existing CFO or CAFO. An application for local building and improvement location permits shall be submitted to the Building Commissioner and Zoning Administrator and shall include the following information. All information must be submitted and the proposed operation found to be in compliance with these requirements in order for permits to be issued.

1. An overall site plan map that includes the boundaries of the property, a site layout of the production area, other buildings and structures, driveways, on-site and off-site parking and circulation patterns and the general drainage plan.
2. The maximum number and type of animals to be confined.
3. Manure management plan as submitted to the Indiana Department of Environmental Management, including best management practices, if applicable.
4. Emergency spill response plan as submitted to the Indiana Department of Environmental Management.
5. A signed affidavit stating that the proposed operator has no outstanding or unresolved violations relating to animal feeding operations nor is there a history of recurring violations, as measured over the last five (5) years, with the Indiana Department of Environmental Management, the U.S. EPA, or other governmental agency relating to animal feeding operations.
6. A copy of all necessary and applicable state and/or federal approvals from the Indiana Department of Environmental Management, the U.S. Environmental Protection Agency, or other applicable agency dealing with animal feeding operations.
7. For CAFO operations with lagoon systems only, a performance bond or other acceptable surety in favor of the Delaware County Commissioners, which shall remain in effect for the life of the operation to ensure proper closure of the manure storage structure and/or to prevent discharge contamination into surface waters of the state, in an amount equal to \$1,500 for each 100,000 gallons of waste storage capacity.
8. Stamped envelopes addressed to owners of all property located in the applicable separation distance area as set forth in the table below. The Building Commissioner's address shall be the return address.
9. A general area map showing compliance with the setbacks set forth in this Section. Delaware County's GIS information is available and may be used as the best available data source for showing compliance. GIS information from surrounding counties may also be available and used or if not available, information contained on the state GIS site known as

[www.indianamap.org](http://www.indianamap.org) may be used.

10. Copies of any signed and notarized affidavits waiving a setback requirement.
11. A copy of the routing plan, showing the roads that will regularly be used for the transport of animals, and the approval of the routing plan from the Delaware County Engineering Department.

**D LAND USE SEPARATION DISTANCE REQUIREMENTS:**

The production area of a Confined Feeding Operation and/or a Concentrated Animal Feeding Operation shall maintain, at a minimum, the following separation distances with all distances measured in feet:

	<b>Residence (not on CFO/ CAFO site, not owned/ occupied by applicant)</b>	<b>Residence Zone</b>	<b>Developed Platted Subdivision (homes on more than 50% of lots )</b>	<b>Public/ Private School (not home or temporary school)</b>	<b>Corporate Limits of any City or Town</b>	<b>Public Use Recreation Area</b>	<b>Hospital, Institution for Human Care, Child Care Centers</b>	<b>Church/ Religious Institution</b>
<b>Level 1 Rural Ag Area</b>	CFO - 500 CAFO – 1,000	1,320	1,320	5,280	< 5000 pop. - 2,640 >5000 pop. – 5,280	1,320	5,280	1,320
<b>Level 2 Rural Ag Area</b>	CFO - 660 CAFO – 1,320	1,320	1,320	5,280	<5000 pop. - 2,640 >5000 pop. – 5,280	1,320	5,280	1,320

1. Measurement of Distances: Separation distances shall be measured as the straight line distance from the nearest point of a building or structure in the production area of a CFO or CAFO operation to the nearest point of a structure containing a residence, school, hospital, institution for human care, or church and to the nearest boundary of a residence zone, platted subdivision, or corporate limit line. Only structures (including structures for which permits have been issued) and boundaries in existence as of the date of the permit application shall be used to establish the required separation distances. An owner of property may waive a setback requirement with a written, signed and notarized affidavit.
2. Additional Requirements for Operations with 20,000 or more animal units: For CAFO’s involving 20,000 or more animal units located in a Level 1 Rural Agricultural Area, the Land Use Separation Distance Requirements for Level 2 shall apply. For CAFO’s involving 20,000 or more animal units located in a Level 2 Rural Agricultural Area, the operation will be classified as a special use requiring approval from the Delaware-Muncie Metropolitan Board of Zoning Appeals as set forth in Article XXXI, Section 12. For CAFO’s involving 20,000 or more animal units located in either Level 1 or Level 2, an odor abatement measure with proven effectiveness shall be required in addition to a shelterbelt.

3. Protection and Applicability of Separation Distances: No permits for new residential, public or private development shall be issued during the CFO/CAFO permit process that would adversely affect compliance of the CFO or CAFO operation. A CFO or CAFO has the responsibility of declaring its location to the Building Commissioner and Plan Commission once their state and/or local permit process starts. A local CFO or CAFO permit shall remain in effect for 1 year, however, the permittee may request an extension of time from the Building Commissioner prior to the 1 year expiration up to a maximum of 5 years from the date of the original permit. Separation distances shall be reciprocal. Notice that a CFO or CAFO permit application has been made shall be sent by first class mail to all property owners of record whose property would be subject to the reciprocal separation distances. Once a CFO or CAFO permit is issued under this Section, no permit shall be issued for a residence, school, hospital, institution for human care or church and no approvals shall be given to a platted subdivision located in the separation distances unless the owner signs, and records as a deed or plat restriction, a waiver, notice and acknowledgement of CFO/CAFO agricultural activity.

**E ENVIRONMENTAL SEPARATION REQUIREMENTS FOR SENSITIVE AREAS:**

The production area of a Confined Feeding Operation and/ or a Concentrated Animal Feeding Operation shall maintain, at a minimum, the following separation distances, based on the waste management system:

<b>ENVIRONMENTAL FEATURE/SENSITIVE AREAS</b>	<b>LAGOON SYSTEM</b>	<b>NON-LAGOON SYSTEM</b>
<b>Public Water Supply Wells, Rivers (White and Mississinewa) and Prairie Creek Reservoir</b>	2 miles	1 mile
<b>Surface Waters of the State, Regulated Open Drains (ditches, waterways, wetlands)</b>	5,280 ft.	300 ft.
<b>100 Year Floodplain</b>	5,280 ft.	300 ft.
<b>Drainage Inlets &amp; Off-site Water Wells</b>	1,320 ft.	300 ft.
<b>On-site Water Wells</b>	400 ft.	100 ft.
<b>Regulated Drain Tiles</b>	400 ft.	100 ft.

For purposes of this ordinance and the above setbacks, a lagoon shall mean an uncovered open-air liquid manure storage facility such as a pit, pond, tank or earthen berm containment area used to store or treat manure as defined in 327 IAC 19-2-25.

**F SETBACKS:**

The production area of a Confined Feeding Operation and/or a Concentrated Animal Feeding Operation shall maintain the following setbacks:

1. 200' from any public road right-of-way, existing or proposed, whichever is greater.
2. 400' from a side or rear property line.

3. 1 mile from any other CAFO production area.

G LOT AREA:

The minimum lot size on which confined feeding operations and concentrated animal feeding operations shall be permitted is 40 acres.

H TRANSPORTATION, PUBLIC ROAD ACCESS, PARKING AND LOADING:

A minimum driveway width and design specifications for entrances to CFO/CAFO sites shall be set by the County Engineer to prevent damage to the public road on which the entrance is situated. For the driveway approach, there shall be at least 20 feet of hard surface from the public road pavement leading into the site. A suitable truck turn-around area shall be provided on-site. The turn-around area shall be an all-truck turn-around so that vehicles do not have to back into the public road, through T-turns or a turning area with the proper radius to accommodate the vehicles. The entire drive and turn-around area must have a surface to minimize dust and to avoid caking of mud on truck wheels. If trucks will be parked or stored on the site overnight or long-term, there shall be a parking space for each such truck and the parking space(s) must not reduce or impede the turn-around area. A routing plan, showing the roads that will regularly be used for the transport of animals, shall be submitted and approved by the County Engineering Department.

I SHELTERBELT REQUIREMENTS:

Each CAFO shall be required to install and maintain a shelterbelt downwind of the operation and adjacent to any exhaust fans. The shelterbelt shall be located at least fifty (50) feet outside of the production area or 10 times the exhaust fan diameter, whichever is greater. The shelterbelt shall be fully within the property line of the subject property. The shelterbelt shall consist of a minimum of 2 rows of shrubs (located closest to the production area) followed by 2 rows of shade trees and then 2 rows of evergreen trees. If the owner of the CAFO maintains a forested buffer of adjacent land at least 150 feet in depth to the east of the operation, it may be used as the shelterbelt. Trees shall be a minimum of 6 feet tall at planting and shrubs shall have a minimum diameter of 12 inches.

The shelterbelt shall consist of the following types of plants and planted in the following manner:

1. Shrubs. Two or more species of shrubs shall be planted at 1 shrub for every 10 feet of shelterbelt distance per row, all equally spaced. Shrub rows shall be separated by 6 feet with the shrubs staggered from the shrubs in the adjacent rows.
2. Shade trees (deciduous trees with an average mature height over 45 feet): Two or more species of shade trees shall be planted at 1 tree for every 30 feet of shelterbelt per row, all equally spaced.
3. Evergreen trees. Two or more species of evergreen trees shall be planted at 1 tree for every 30 feet of shelterbelt distance per row, all equally spaced.



4. Each row of trees shall be separated by 30 feet with the trees staggered from the trees in neighboring rows.

All required shelterbelt plantings shall be installed prior to the commencement of operations. If it is not possible to install the required plantings due to weather conditions or other circumstances, all plantings shall be installed within eight (8) months of the first occupancy of the buildings on the site. Surety may be required to ensure installation, such as, but not limited to, bonds or personal guaranties.

The shelterbelt requirement is intended to be an odor abatement measure and there may be sites where the separation distances from the production area to a residence(s), or other listed land use, exceed the required distance such that the shelterbelt's purpose is achieved through distance. In these instances, the applicant may request a variance from this requirement from the Delaware-Muncie Metropolitan Board of Zoning Appeals, under established rules and procedures, with the increased distance being an acknowledged hardship.

**J ANIMAL MORTALITIES:**

Animal landfills shall not be permitted. All mortalities shall be disposed of in accordance with the requirements of the State of Indiana Board of Animal Health.

**K MANURE MANAGEMENT:**

All new manure storage facilities for a CFO/CAFO must be designed, constructed and maintained with a combined storage capacity of at least 360 days storage for manure and, if applicable, the expected rainfall and run-off from a 100 year, 24 hour precipitation event that falls on the drainage area around a liquid manure storage structure (i.e. lagoon, pond). All confined feeding operations for poultry shall use a dry manure handling system.

The following manure application requirements shall apply to any manure derived from CFO's or CAFO's within Delaware County, Indiana, or to be applied to land within Delaware County, Indiana.

1. Any manure that is to be applied to land within Delaware County, Indiana shall be covered and bermed within 72 hours of delivery.
2. All manure management requirements of the Indiana Department of Environmental Management and the Office of the Indiana State Chemist shall be followed.

Satellite manure storage facilities, which are manure storage structures not located at a livestock or poultry production area, shall meet the same Land Use Separation Distance Requirements and Environmental Separation Requirements that apply to a CFO or CAFO as set forth herein.

**L MANURE STORAGE FACILITY CLOSURE:**

The owner/operator of confined feeding or concentrated animal feeding operations that plans to close or discontinue use of a manure storage facility must comply with the requirements set forth

herein in addition to all applicable state requirements. The following items shall be filed with the Plan Commission, the Delaware County Health Department, and the Delaware County Zoning Administrator:

1. Written notice of the anticipated date to cease operation shall be forwarded not less than 60 days prior to closure. At this time, the Commission, the Health Department and/or the Zoning Administrator should forward any local concerns dealing with closure to IDEM.
2. A copy of the certification submitted by the owner/operator to IDEM that states compliance with all state requirements for the closure or discontinued use of a manure storage structure, a copy of any additional closure requirements imposed on the owner/operator by the state, and a copy of the letter of confirmation from the Indiana Department of Environmental Management verifying that the state requirements for closure have been met.

Within 180 days of the notice to discontinue use of the manure storage structure, the owner/operator shall start the process of manure removal and within 365 days of the notice, shall complete the process and meet the IDEM requirement of no remaining potential to discharge. If, at the end of the 365 days, the terms of Item 2 above have not been met, the Delaware County Commissioners may utilize the bond/surety to accomplish proper closure of the manure storage structure. Additional costs in excess of the bond/surety, incurred by the Delaware County Commissioners, shall be assessed as a lien against the property.

## **ARTICLE XII-A AB AGRICULTURAL BIO-ENTERPRISE ZONE**

### **ARTICLE XII-A**

#### **Section 1 GENERAL PURPOSE AND INTENT**

The AB Agricultural Bio-Enterprise Zone is hereby created to provide an area for exclusive location of those industries that use or produce renewable agricultural products or direct derivatives of renewable agricultural products as inputs for their manufacturing, processing, production, research, or refining operations. An AB Agricultural Bio-Enterprise Zone is intended to be occupied by multiple industries, including farming operations, so that the infrastructure, by-products, expertise and jointly developed knowledge and technologies to generate new value added agricultural products can be shared and/or reused by the occupying industries.

This zone is being established to enhance marketing and utilization of farm products grown in Delaware County and beyond, therefore, an AB Zone is intended to be a stand alone district compatible with surrounding agricultural and rural land use.

Any AB Agricultural Bio-Enterprise Zone that is established shall have existing, or available, good highways, adequate power, water and provisions for waste disposal. Occupying businesses shall comply with applicable local, state, and federal performance standards. For an area to be classified as an AB Agricultural Bio-Enterprise Zone, the area must contain at least three hundred (300) acres comprised of contiguous or adjoining properties separated only by existing public roads, highways, or railroads. Any future additions to an existing AB Agricultural Bio-Enterprise Zone shall be contiguous or adjoin in the same manner. Once established, an AB Agricultural Bio-

Enterprise Zone shall be treated as a single development unit.

An AB Agricultural Bio-Enterprise Zone is created so as to include in the economic development system such developments as agricultural bio-enterprise subdivisions not less than 300 acres in area, developed in accordance with a General Development Plan. A General Development Plan shall be submitted with an application for rezoning and approval of an AB Zone shall be considered approval of the General Development Plan. Development of all or a part of an AB Agricultural Bio-Enterprise Zone is subject to meeting the requirements for platting as set forth in the Delaware County Subdivision Ordinance regardless of the size of the parcel being developed.

Where an AB Agricultural Bio-Enterprise Zone has been established prior to the requirement for a Development Plan, a General Development Plan shall be required and presented with the preliminary plat and shall guide the development and approval of subsequent final plats.

Notwithstanding any time limit contained in the Subdivision Ordinance, primary approval of an AB Agricultural Bio-Enterprise Zone preliminary plat shall remain in effect for three (3) years from the date of such approval. The Commission may grant extensions of such approval upon request. Such approval shall be considered automatically extended for an additional three (3) year time period upon secondary approval of a final plat.

**ARTICLE XII-A**  
**Section 2 PERMITTED USES**

All existing buildings, structures and land in an AB Zone and any buildings, structures and land to be added, erected, altered or enlarged in an AB Zone shall be used only for following:

1. Farming: All agricultural production and processes permissible in the general F Farming Zone shall be allowed in the AB Agricultural Bio-Enterprise Zone. Examples of permitted practices include:
  - a. Field crops (including hydroponics, geaponics, greenhouse production)
  - b. Aquaculture
  - c. Apiculture
  - d. Horticulture
  - e. Viticulture
  - f. Forestry
  - g. Animal and poultry husbandry
  - h. Other direct agricultural production activities

All new farm use buildings shall be at least two hundred (200) feet from a dwelling (other than the owner’s farm dwelling), school, church, institution for human care or hospital property line.

2. Industries that use or produce renewable agricultural products or direct derivatives of renewable agricultural products as inputs for their manufacturing, processing, production,

research or refining operations.

3. Buildings owned, leased or used by a municipal, township, county, State or Federal government, as regulated in the F Farming Zone.
4. Outdoor advertising as regulated in this Ordinance and by applicable state and federal requirements.
5. Communication antennas, towers, chimney stacks, water tanks, silos, windmills, grain elevators and like structures, all as regulated in this ordinance.
6. Railroad rights-of-way including yards, storage, switching, or shops which are owned and operated by railroad companies or the industry thereon.
7. Organic composting or mulching facility provided the operation is conducted in compliance with state and federal requirements.

## **ARTICLE XII-A**

### **Section 3 PERFORMANCE STANDARDS**

#### **A GENERAL**

No permit shall be issued for the erection, relocation, or expansion of any use or building unless the same complies with the performance standards set forth herein.

1. **Nonconforming Structures:** A farm use building or structure existing at the time of a zone change to the AB Agricultural Bio-Enterprise Zone that does not meet the setbacks set forth in this section is a lawful nonconforming structure. Where the use of such nonconforming buildings or structures includes the keeping, raising, boarding, or breeding of animals, defined as all vertebrates except humans, the floor area of such nonconforming buildings or structures may not be expanded, whether by a single expansion or an accumulation of expansions, by more than fifty percent (50%) of the original size of the building or structure existing at the time an AB Agricultural Bio-Enterprise Zone is established.

#### **B SETBACKS**

The following setbacks apply to all new buildings, structures and accompanying land uses. Field crops, woodlands and other natural features, landscaping enhancements, and drainage retention/detention basins may be located in the required setback areas.

1. **Abutting Zone Setback:** All new buildings, structures and accompanying land use, including farm use buildings and structures, shall be set back a minimum of two hundred (200) feet when abutting any other zone with the following exceptions: when abutting an industrial zone, the setback shall be a minimum of thirty feet (30); and when abutting a Residence Zone, the setback shall be a minimum of three hundred feet (300).

2. **Public Road Setback:** All new buildings, structures and accompanying land use shall be set back a minimum of two hundred (200) feet from any county, state, federal or interstate highway and all other public roadways as measured from the wall of the building to the right-of-way line, proposed or existing, whichever is greater.
3. **Private Roadway Setback:** All new buildings, structures and accompanying land use shall be set back a minimum of thirty (30) feet from a private roadway as measured from the wall of the building to the pavement.
4. **Railroad Setback:** There shall be provided a setback of not less than thirty (30) feet in depth abutting a railroad right-of-way. A building shall be permitted within five (5) feet of said right-of-way if a sidetrack is on the building side of the right-of way.
5. **Adjacent Dwelling Setback:** All new buildings, structures, and accompanying land uses shall be set back a minimum of three hundred feet (300) from any dwelling outside of the AB Agricultural Bio-Enterprise Zone that is existing at the time an AB Agricultural Bio-Enterprise Zone is established.

**C HEIGHT**

Along any front, side or rear yard adjacent to a Residence Zone or Business Zone, the maximum vertical height shall be twenty-five (25) feet. For each foot of height in excess of twenty-five (25) feet, one (1) additional foot of setback shall be provided.

**D EMISSIONS**

The emission of smoke, particulate matter and noxious and toxic gases shall be subject to the regulations of the State of Indiana and/or any and all air pollution control laws, ordinances or statutes passed before and after the enactment of this Ordinance.

**E DISCHARGE**

No use shall accumulate or discharge any waste matter, whether liquid or solid, in violation of applicable standards set forth by the State of Indiana Board of Health, the Water Pollution Control Board of the State of Indiana, the Indiana Department of Environmental Management and any pertinent state or federal governmental agency. Sewage disposal plans and industrial waste treatment shall be approved by all applicable local, state and federal agencies.

**F SOUND**

No use shall produce sound in such manner as to endanger the public health, safety and welfare of the people of the County of Delaware, Indiana. Sound shall be muffled so as not to become detrimental or a nuisance due to pressure, amount, intermittence, beat, frequency, shrillness or vibration.

G GLARE AND HEAT

Any use established after the enactment of this Ordinance shall be operated so as to comply with performance standards governing glare and heat as set forth by the State of Indiana.

H FIRE AND EXPLOSIVES

Storage, utilization or manufacture of products and materials shall conform to the standards prescribed by the National Fire Protection Association.

I RADIATION

Any use shall conform to federal standards for protection against radiation. Compliance with the electromagnetic standards of the Federal Communications Commission shall be maintained.

J BUFFERS

Buffering effects shall be achieved by using the two hundred (200) feet setback area for field crops, forestry, horticulture and similar farming operations involving the growing of plants and organic/vegetative products.

K TRAFFIC IMPACT STUDIES AND IMPROVEMENTS

1. Traffic Impact Study Warrants

A traffic impact study shall be required for any development, or for the accumulated impacts of phased development, that meets any of the following warrants:

Warrant 1: Land Use Intensity

This warrant is satisfied when a development generates more than 100 street peak hour direction trips.

Warrant 2: Level-of-Service

This warrant is satisfied if the traffic generated by the proposed development causes the level-of-service (LOS) of the adjacent streets/intersections to drop a level, or where nearby intersections presently operate at a level-of-service “D” or worse. LOS determination shall be in accordance with the procedures described in the Highway Capacity Manual.

Warrant 3: Roadway Modifications

This warrant is met when the proposed development is expected to significantly impact a roadway segment identified for improvement in the local or state Transportation

Improvement Program. This warrant is also met when the proposed development includes modifications to the roadway system. Modifications include addition of lanes to accommodate site-generated traffic, addition of exclusive turning lanes, acceleration/ deceleration lanes, median openings, installation of traffic signals and other traffic control devices, etc.

Warrant 4: Special Cases

This warrant is satisfied if the preliminary study reveals that the traffic generated from the proposed development will create safety, operational, or some other traffic problem, as determined by the County Engineer or the Indiana Department of Transportation.

2. Traffic Impact Improvements

Based upon the traffic impact study, improvements shall be required to maintain the current level of service of the adjacent streets/intersections and nearby intersections. Improvements may also be required by the County Engineer or the Indiana Department of Transportation to address access requirements, safety, operational or other traffic flow concerns. All such traffic impact improvements are the responsibility of the owner/developer of the property and may be accomplished either solely by the owner/developer or in partnership with a public or private entity.

3. Dedication of Right-of-Way

Right-of-way shall be dedicated for existing roadways either in accordance with the Official Thoroughfare Plan or in a width sufficient to encompass all improvements required as a result of the traffic impact study, whichever is greater. Where new public roads are proposed, they shall be developed and dedicated in accordance with the rules and procedures set forth in the Delaware County Subdivision Ordinance.

L IMPERVIOUS SURFACE COVERAGE

Impervious surfaces shall not cover more than 35% of the total area of a lot.

M FIRE PROTECTION

In locations where fire hydrants served by a public water system cannot be provided, dry hydrants shall be provided in all lakes and storm water detention and retention ponds subject to the specifications of the appropriate local fire department.

**ARTICLE XII-A**

**Section 4 GENERAL DEVELOPMENT PLAN**

**A GENERAL**

A General Development Plan is a plan that outlines general, rather than specific, development intentions. It described the basic parameters of a major development proposal, rather than giving full engineering details. As such, it is intended to allow general intentions to be proposed and discussed without duplicating the extensive costs that can be involved in submitting detailed proposals. The General Development Plan (GDP) should include information sufficient to show compatibility with surrounding land use and/or consideration of buffering affects; availability and coordination of water, sanitary sewerage systems, storm water management, and other utilities; management of traffic in a manner that creates conditions favorable to health, safety, convenience, and harmonious development of the area; and consideration of low environmental impacts.

**B GENERAL DEVELOPMENT PLAN SUBMITTAL**

Delaware County’s GIS information is available and may be used as applicable in the preparation of a General Development Plan for items such as existing streets, boundaries, waterways, sensitive areas, and similar features as well as certain utility information (Items 2-9). At a minimum, the professionally prepared General Development Plan should include the following information in map and text formats:

1. Name, signature, license number, seal and address of engineer, architect, surveyor, and/or landscape architect preparing the plan.
2. A vicinity map showing the general location of the AB Zone with reference to surrounding properties, streets, municipal boundaries, etc. within, at a minimum, 500 feet.
3. Any existing or proposed easement or land reserved for or dedicated to public use.
4. All existing water courses, regulated drains, flood plains, wetlands, or other environmentally sensitive areas on or within 200 feet f the site.
5. Topographic features and general soil mapping on and within 200 feet of the site from U.S.G.S. mapping or other existing source.
6. Existing utility rights-of-way and/or easements on and within 200 feet of the site.
7. General boundary, limits, nature and extent of wooded areas and other significant physical features.
8. All existing streets, the general location of proposed public streets, and the general concept for vehicular and pedestrian circulation.



9. Proposed utility infrastructure showing general availability of sanitary service, water, storm water management, electric, telephone, etc.
10. The general location of proposed structures or proposed buildable areas.
11. General locations of proposed buffers and the proposed manner of achieving a buffering effect.
12. A copy and/or delineation of any existing or proposed restrictions or covenants.
13. Proposed general development phases.
14. Anticipated intensity of use(s) and an estimate of potential traffic generation.

**C GENERAL DEVELOPMENT PLAN AMENDMENTS**

The General Development Plan shall guide the development and platting of an AB Agricultural Bio-Enterprise Zone and, once approved, shall remain in effect until amended by the developer/owner or until a substantive change necessitates an amendment. A substantive change is one that would reduce buffering or have a negative environmental impact such as encroachment of an environmentally sensitive area (floodplain, woodlots, habitats, wetlands, etc.). The platting process shall continue to govern the layout and dedication of public roadways in accordance with the Subdivision Ordinance. A General Development Plan (GDP) may be amended at any time by submitting a revised GDP to the Plan Commission under the established schedules, fees and procedures for a change in zoning.

**ARTICLE XIII R-1 RESIDENCE ZONE**

**ARTICLE XIII**

**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single family dwellings.
2. Buildings or structures owned, leased or used by municipal, township, county, State or Federal governments.
3. Religious institutions.
4. Public schools, colleges, universities, nursery schools, child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.

5. Outdoor advertising as regulated in this Ordinance.
6. Temporary buildings used during the construction of homes in a subdivision, including storage of lumber and building materials for a period not to exceed the duration of such construction.

## B SPECIAL USES

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures set forth in Article XXXI, Section 2 (A), and subject to the meeting the standards set forth in Article XXXI as specified herein:

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
4. Mausoleums and cemeteries, and mortuaries and/or funeral homes, but not including crematoriums, provided that no building shall be closer than two hundred (200) feet from a residence, school, church, hospital or institution for human care and that the site for mausoleums and cemeteries shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Nursing homes, provided they comply with the standards set forth in Article XXXI, Section 2 (B).
7. Planned Unit Development (PUD).

## **ARTICLE XIII**

### **Section 2 LOT WIDTH AND AREA**

The width of a lot shall be not less than one hundred (100) feet at the building line nor less than twenty thousand (20,000) square feet in area, exclusive of rights-of-way.

**ARTICLE XIII**

**Section 3 FRONT YARD**

There shall be a front yard not less than thirty (30) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XIII**

**Section 4 SIDE YARD**

There shall be two (2) side yards, each not less than ten (10) feet in width measured at right angles to the side lot lines.

**ARTICLE XIII**

**Section 5 REAR YARD**

There shall be a rear yard not less than thirty-five (35) feet in depth measured at right angles to the rear lot line.

**ARTICLE XIII**

**Section 6 HEIGHT**

No building or structure shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

**ARTICLE XIII**

**Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall not be less than eight hundred and sixty-four (864) square feet, exclusive of garages, carports, open porches and breezeways.

**ARTICLE XIV R-2 RESIDENCE ZONE**

**ARTICLE XIV**

**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings.
2. Buildings or structures owned leased or used by a municipal, township, county, State or Federal governments.
3. Religious institutions.

4. Public schools, colleges, universities, nursery schools, child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.
5. Outdoor advertising as regulated in this Ordinance.
6. Temporary buildings used during the construction of homes in a subdivision, including storage or lumber and building materials for a period not to exceed the duration of such construction.

## B SPECIAL USES

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures set forth in Article XXXI, Section 2 (A), and subject to the meeting the standards set forth in Article XXXI as specified herein.

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXI, Section 2 (B).
3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
4. Mausoleums and cemeteries, provided that no building shall be closer than two hundred (200) feet from a residence, school, church, hospital or institution for human care and that the site shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Planned Unit Development (PUD).

## ARTICLE XIV

### Section 2 LOT WIDTH AND AREA

The width of a lot shall be not less than eighty (80) feet at the building lines. The area of a lot shall be not less than twelve thousand (12,000) square feet, exclusive of rights-of-way. Whenever public sewer and water facilities are not available to a lot and no unit sanitary sewer is available, the width of a lot shall be not less than one hundred (100) feet and the area not less than twenty

thousand (20,000) square feet, exclusive of rights-of-way.

**ARTICLE XIV**  
**Section 3 FRONT YARD**

There shall be a front yard of not less than thirty (30) feet in depth measured from the right-of-way line to the front of the building.

**ARTICLE XIV**  
**Section 4 SIDE YARD**

There shall be two (2) side yards, each not less than eight (8) feet in width measured at right angles to the side lot line.

**ARTICLE XIV**  
**Section 5 REAR YARD**

There shall be a rear yard of thirty (30) feet in depth measured at right angles to the rear lot line.

**ARTICLE XIV**  
**Section 6 HEIGHT**

No building or structure shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

**ARTICLE XIV**  
**Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall be not less than seven hundred and sixty-eight (768) square feet, exclusive of garages, carports, open porches and breezeways.

**ARTICLE XIV-A R-2A RESIDENCE ZONE**

**ARTICLE XIV-A**  
**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings.
2. Duplexes intended for two single families to reside in the same structure with separate entrances.

3. Buildings or structures owned, leased or used by a municipal, township, county, State or Federal government.
4. Religious institutions.
5. Public schools, colleges, universities, nursery schools and child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.
6. Outdoor advertising as regulated in this Ordinance.
7. Temporary buildings used during the construction of homes in a subdivision, including storage or lumber and building materials for a period not to exceed the duration of such construction.

## B SPECIAL USES

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures set forth in Article XXXI, Section 2 (A), and subject to the meeting the standards set forth in Article XXXI as specified herein.

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXI, Section 2 (B).
3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
4. Mausoleums and cemeteries, provided that two building shall be closer than two hundred (200) feet from a residence, school, church, hospital or institution for human care and that the site shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (b).
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Planned Unit Development (PUD).

**ARTICLE XIV-A****Section 2 LOT WIDTH AND AREA**

The width of a lot shall be not less than one hundred (100) feet at the building lines. The area of a lot shall be not less than fifteen thousand (15,000) square feet, exclusive of rights-of-way. Whenever public sewer and water facilities are not available to a lot and no unit sanitary sewer is available, the width of a lot shall be not less than one hundred fifty (150) feet and the area not less than twenty-five thousand (25,000) square feet, exclusive of rights-of-way. In areas not served by public or other approved community water and/or sewage facilities, the minimum lot areas required by these regulations shall be increased to include any additional area deemed necessary by the State or County Boards of Health to insure safe water supply and/or adequate sewage disposal.

**ARTICLE XIV-A****Section 3 FRONT YARD**

There shall be a front yard of not less than thirty (30) feet in depth measured from the right-of-way line to the front of the building.

**ARTICLE XIV-A****Section 4 SIDE YARD**

There shall be two (2) side yards, each not less than ten (10) feet in width measured at right angles to the side lot line.

**ARTICLE XIV-A****Section 5 REAR YARD**

There shall be a rear yard of thirty (30) feet in depth measured at right angles to the rear lot line.

**ARTICLE XIV-A****Section 6 HEIGHT**

No building or structure shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

**ARTICLE XIV-A****Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall be not less than seven hundred fifty (750) square feet, exclusive of garages, carports, open porches and breezeways.

**ARTICLE XV R-3 RESIDENCE ZONE**

**ARTICLE XV**

**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings.
2. Buildings or structures owned, leased or used by municipal, township, county, State or Federal governments.
3. Religious institutions.
4. Public schools, colleges, universities, nursery schools, and child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.
5. Outdoor advertising as regulated in this Ordinance.
6. Temporary buildings used during the construction of homes in a subdivision, including storage of lumber and building materials for a period not to exceed the duration of such construction.

**B SPECIAL USES**

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures set forth in Article XXXI, Section 2 (A), and subject to the meeting the standards set forth in Article XXXI as specified herein.

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).



4. Mausoleums and cemeteries, provided that no building shall be closer than two hundred (200) feet from a residence, school, church, hospital or institution for human care and that the site shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 8.
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Planned Unit Development (PUD).

**ARTICLE XV**  
**Section 2 LOT WIDTH AND AREA**

The width of a lot shall be not less than sixty (60) feet measured at the building line. The area of a lot shall be not less than seven thousand five hundred (7,500) square feet. Whenever public sewer and water facilities are not available to a lot and no unit sanitary facilities are available, the width of a lot shall be not less than one hundred (100) feet and the area shall be not less than twenty thousand (20,000) square feet, exclusive of rights-of-way.

**ARTICLE XV**  
**Section 3 FRONT YARD**

There shall be a front yard of not less than twenty- five (25) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XV**  
**Section 4 SIDE YARD**

There shall be two (2) side yards with a minimum width of six (6) feet each, measured at right angles to the side lot line.

**ARTICLE XV**  
**Section 5 REAR YARD**

There shall be a rear yard thirty (30) feet in depth measured at right angles to the rear lot line.

**ARTICLE XV**  
**Section 6 HEIGHTS**

No building or structure shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

**ARTICLE XV**  
**Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall be not less than seven hundred and twenty (720) square feet, exclusive of porches, garages, carports, and breezeways.

**ARTICLE XVI R-4 RESIDENCE ZONE**

**ARTICLE XVI**

**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings.
2. Buildings or structures owned, leased or used by municipal, township, County, State or Federal governments.
3. Religious institutions.
4. Public schools, colleges, universities, nursery schools, child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.
5. Outdoor advertising as regulated in this Ordinance.
6. Temporary buildings used during the construction of homes in subdivisions, including storage of lumber and building materials for a period not to exceed the duration of such construction. No storage of any construction materials shall occur in the open. No building or structure used for storage of lumber and building materials shall be closer to any residence than one hundred (100) feet.

**B SPECIAL USES**

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures set forth in Article XXXI, Section 2(A), and subject to meeting the standards set forth in Article XXXI as specified herein:

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).

4. Mausoleums and cemeteries, provided that no building shall be closer than two hundred (200) feet from a residence, school, church, hospital or institution for human care and that the site shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 8.
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Planned Unit Development (PUD).

**ARTICLE XVI**

**Section 2 LOT WIDTH AND AREA**

The width of a lot shall be not less than fifty (50) feet measured at the building line. The area of a lot shall be not less than six thousand two hundred and fifty (6,250) square feet. Whenever public sewer and water facilities are not available to a lot and no unit sanitary sewer is available, the width of a lot shall be not less than one hundred (100) feet and the area shall be not less than twenty thousand (20,000) square feet, exclusive of rights-of-way.

**ARTICLE XVI**

**Section 3 FRONT YARD**

There shall be a front yard of not less than twenty- five (25) feet in depth measured from the right-of- way line to the front wall of the building.

**ARTICLE XVI**

**Section 4 SIDE YARD**

There shall be two (2) side yards, each six (6) feet in width and measured at right angles to the side lot line.

**ARTICLE XVI**

**Section 5 REAR YARD**

There shall be a rear yard thirty (30) feet in depth measured at right angles to the rear lot line.

**ARTICLE XVI**

**Section 6 HEIGHTS**

No building or structure shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

**ARTICLE XVI**

**Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall be not less than seven hundred and twenty (720) square feet, exclusive of porches, garages, carports and breeze ways.

**ARTICLE XVI-A R-4A RESIDENCE ZONE**

**ARTICLE XVI-A**

**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings.
2. Duplexes, triplexes, and quadriplexes intended for two, three and four family dwelling units, respectively, with separate entrances for each, provided that each unit is serviced by public sewer and water facilities.
3. Buildings or structures owned, leased or used by municipal, township, County, State or Federal governments.
4. Religious institutions.
5. Public schools, colleges, universities, nursery schools, child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.
6. Outdoor advertising as regulated in this Ordinance.
7. Temporary buildings used during the construction of homes in subdivisions, including storage of lumber and building materials for a period not to exceed the duration of such construction. No storage of any construction materials shall occur in the open. No building or structure used for storage of lumber and building materials shall be closer to any residence than one hundred (100) feet.

**B SPECIAL USES**

The following uses shall be allowed when approved by the Delaware- Muncie Metropolitan board of Zoning Appeals under the established procedures set forth in Article XXXI, Section 2(A), and subject to meeting the standards set forth in Article XXXI as specified herein:

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the

standards set forth in Article XXXI, Section 2 (B).

3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
4. Mausoleums and cemeteries, provided that no building shall be closer than two hundred (200) feet from a residence, school, church, hospital or institution for human care and that the site shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 8.
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Planned Unit Development (PUD).

**ARTICLE XVI-A**

**Section 2 LOT WIDTH AND AREA**

The width of a lot shall be not less than one hundred (100) feet measured at the building line. The area of a lot shall be a per-dwelling unit basis as follows:

USE	WIDTH	AREA
1 unit	100'	6,250
2 units	100'	11,000
3 units	100'	15,100
4 units	100'	18,000

**ARTICLE XVI-A**

**Section 3 FRONT YARD**

There shall be a front yard of not less than twenty five (25) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XVI-A**

**Section 4 SIDE YWARD**

There shall be two (2) side yards, each not less than fifteen (15) feet in width measured at right angles to the side lot line.

**ARTICLE XVI-A**

**Section 5 REAR YARD**

There shall be a rear yard of thirty (30) feet in depth measured at right angles to the rear lot line.

**ARTICLE XVI-A**

**Section 6 HEIGHT**

No building or structure shall exceed two and one-half (2 ½) stories or thirty (30) feet in height.

**ARTICLE XVI-A**

**Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling shall be not less than seven hundred twenty (720) square feet, exclusive of porches, garages, carports and breezeways.

**ARTICLE XVII R-5 RESIDENCE ZONE**

**ARTICLE XVII**

**Section 1 USAGE PROVISIONS**

**A PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single family dwellings.
2. Two family dwellings; multi-family dwellings.
3. Buildings or structures owned, leased or used by municipal, township, county, State or Federal governments.
4. Religious institutions.
5. Public schools, colleges, universities, nursery schools, child care facilities when licensed through the State as home day care, all subject to the standards contained in this ordinance.
6. Outdoor advertising as regulated in this Ordinance.
7. Temporary buildings used during the construction of homes in a subdivision, including storage of lumber and building materials for a period not to exceed the duration of such construction.

**B SPECIAL USES**

The following uses shall be allowed when approved by the Delaware-Muncie Metropolitan Board of Zoning Appeals under the established procedures set forth in Article XXI, Section 2 (A), and subject to the meeting the standards set forth in Article XXXI as specified herein:

1. Country clubs; golf courses; driving tees; miniature golf when part of a country club, all when located at least two hundred (200) feet from a residence and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
2. Hospitals provided that no building or structure shall be located less than two hundred (200) feet from a residence, school, or church and that the premises upon which they are built shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
3. Charitable institutions; private clubs, all provided they comply with the standards set forth in Article XXXI, Section 2 (B).
4. Mausoleums and cemeteries, provided that no building shall be closer than two hundred (20) feet from a residence, school, church, hospital or institution for human care and that the site shall be not less than ten (10) acres in area, and provided they comply with the standards set forth in Article XXXI, Section 2 (B).
5. Home occupations, provided they comply with the standards set forth in Article XXXI, Section 8.
6. Planned Unit Development (PUD).

**ARTICLE XVII**

**Section 2 LOT WIDTH AND AREA**

USE	WIDTH	AREA
Single-family	50 ft.	6,600 sq. ft.
Two-family	75 ft.	7,500 sq. ft.
Multiple-family	100 ft.	10,000 sq. ft.

Dwellings or apartment houses, housing in excess of four (4) families shall have a lot area of not less than twelve thousand (12,000) square feet and minimum lot area per family or dwelling unit as follows:

NO. OF ROOMS	REQUIRED AREA
1	1,000 sq. ft.
2	1,200 sq. ft.
3	1,500 sq. ft.

For each additional room above three (3), the lot area shall increase by three hundred (300) square feet. For dwellings or apartment buildings housing more than four (4) families, rooms used for living or sleeping purposes shall be included in the room count unless any room in the dwelling unit exceeds forty (40) square feet in area and is not used for kitchen or bath purposes. Apartment hotels and motels shall be subject to these provisions. However, one (1) room units without cooking facilities shall require a minimum of seven square feet of lot area for each unit.

**ARTICLE XVII**

**Section 3 FRONT YARD**

There shall be a front yard of not less than twenty-five (25) feet measured from the right-of-way line to the front wall of the building.

**ARTICLE XVII**

**Section 4 SIDE YARD**

There shall be two (2) side yards, each not less than five (5) feet in width measured at right angles to the side lot line in the case of single-family, two-family or multiple family dwellings up to and including four (4) units. The width of the two (2) side yards shall be increased by three (3) feet for each family unit in excess of four (4). The narrowest width of the required side yards shall be not less than one third (1/3) of the total width of the required two (2) side yards, except that no side yard shall be less than five (5) feet nor need not be greater than twenty-five (25) feet.

**ARTICLE XVII**

**Section 5 REAR YARD**

There shall be a rear yard of not less than thirty (30) feet, measured at right angles to the rear lot line.

**ARTICLE XVII**

**Section 6 HEIGHT**

For a single-family dwelling, the maximum height shall be one and one-half (1 1/2) stories or thirty (30) feet. For a multiple family dwelling the maximum height shall be three (3) stories.

**ARTICLE XVII**

**Section 7 MINIMUM FLOOR AREA**

For a single-family dwelling the minimum floor area shall be seven hundred and twenty (720) square feet; for a two-family dwelling it shall be six hundred (600) square feet per family unit; for a multiple family dwelling it shall be four hundred (400) square feet per family unit.

**ARTICLE XVII-A R-6 RESIDENCE ZONE**

**ARTICLE XVII-A**

**Section 1 DEFINITION**

The R-6 Residence Zone shall be known as a mixed land use zone. A mixed land use zone shall mean the development of one unit, two unit, three unit and four unit structures in combinations of all four (4) types of structures. There shall be allowance for zero lot line development with the two unit, three unit and four unit structures. In-lots shall refer to those contiguous lots upon which a



two unit, three unit or four unit structure may be constructed. An out-lot shall refer to those lots upon which a one-unit structure may be constructed. In no case shall there be more than one unit per in-lot or out-lot. The development may include group housing, town houses; cluster garden structures, apartments and condominiums.

**ARTICLE XVII-A**

**Section 2 PERMITTED USES**

1. One unit, two unit, three unit and four unit structures in combinations of all four (4) types of use.
2. Buildings owned, leased or used by municipal, township, County, State or Federal governments.
3. Religious and charitable institutions.
4. Temporary buildings used during the construction of the development and the storing of lumber and building materials, not to exceed the duration of such construction. No storage shall occur in the open on any lot upon which construction has been completed.
5. Public schools, colleges and universities, nursery schools and child care centers.
6. Non-commercial recreation areas including parks and swimming pools.

**ARTICLE XVII-A**

**Section 3 AREA**

The area of land shall contain not less than five (5) acres, exclusive of right-of-ways.

**ARTICLE XVII-A**

**Section 4 FRONT YARD**

There shall be a front yard of not less than fifteen (15) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XVII-A**

**Section 5 SIDE YARD**

**A INTERIOR LOTS**

There shall be two (2) side yard setbacks on an interior lot, each being a minimum of five (5) feet or ten percent (10%) of the width of the lot, whichever is greater, measured at right angles to the side lot line except where there may be an abutting wall or common wall provided for zero lot line development. When an abutting wall or common wall is provided, no side yard setback shall be required.

**B CORNER LOTS**

There shall be two (2) side yard setbacks on a corner lot. The side yard adjoining the street shall be a minimum of twenty-five (25) feet measured from the right-of-way line to the side wall of the building. The side yard adjoining the adjacent property shall be a minimum of five (5) feet or ten percent (10%) of the width of the lot, whichever is greater, measured at right angles to the side property line except where there may be an abutting wall or common wall provided for zero lot line development. When an abutting wall or common wall is provided, no side yard setback shall be required.

**ARTICLE XVII-A**

**Section 6 REAR YARD**

There shall be a rear yard of not less than twenty (20) feet in depth measured at right angles to the rear lot line.

**ARTICLE XVII-A**

**Section 7 MINIMUM FLOOR AREA**

The minimum floor area of any dwelling unit shall be not less than seven hundred and twenty (720) square feet in area, exclusive of garages and open porches.

**ARTICLE XVII-A**

**Section 8 HEIGHT**

No building or structure shall exceed two (2) stories in height or thirty (30) feet.

**ARTICLE XVII-A**

**Section 9 NUMBERS OF UNITS**

The maximum number of units under the same roof shall not exceed four (4).

**ARTICLE XVII-A**

**Section 10 LOT AREA AND SIZE**

The depth of any lot shall not be less than eighty-five (85) feet. The width of any lot shall not be less than forty (40) feet except where an abutting wall or common wall is provided at both side lot lines for a zero lot line development. When an abutting wall or common wall is provided at both side lot lines, the width of the lot may be the width of the dwelling unit on said lot but shall not be less than twenty-eight (28) feet. Lot width requirements shall denote lot frontage requirements.

**ARTICLE XVII-A**

**Section 11 DENSITY**

The building density of land coverage consisting of the minimum of five (5) acres and the maximum of twenty (20) acres shall be as follows:

- 20% one unit structures
- 20% two unit structures
- 30% three unit structures
- 30% four unit structures.

The building density of land coverage consisting of more than twenty (20) acres shall be a minimum of ten percent (10%) with a maximum of thirty percent (30%) of all four (4) types of structures. There shall be, at maximum, not more than two (2) structures of like usage adjacent to one another.

**ARTICLE XVII-A**

**Section 12 LOT COVERAGE**

The maximum total of building coverage for each lot shall not exceed fifty percent (50%).

**ARTICLE XVII-A**

**Section 13 PARKING**

There shall be provisions for two (2) parking spaces for each dwelling unit to be placed in the rear yard setback area of the dwelling.

**ARTICLE XVII-A**

**Section 14 ON-STREET PARKING**

There shall be provisions set out for three (3) inset parking spaces every one hundred and fifty (150) feet for limited parking facilities to be placed in the street right-of-way requirement. Each inset shall have a minimum width of ten (10) feet and a maximum length of seventy (70) feet.

**ARTICLE XVII-A**

**Section 15 GARAGES**

There shall be a maximum size for any garage being constructed in the development of twenty-four by twenty-four (24 x 24) feet to be placed in the rear yard setback area.

**ARTICLE XVII-A**

**Section 16 STREET WIDTH**

The width of any street inside the development shall be a minimum of twenty-two (22) feet.

**ARTICLE XVII-A**

**Section 17 ALLEY WAYS**

The width of any alley shall be a minimum of ten (10) feet with a six (6) feet easement requirement on each side for the purpose of utilities.

**ARTICLE XVII-A**

**Section 18 SANITARY FACILITIES**

No mixed land use development shall be allowed to occur where approved sanitary facilities are not available.

**ARTICLE XVII-A**

**Section 19 COVENANTS**

There may be covenants, grants and easements placed on the proposed area involved.

**ARTICLE XVII-A**

**Section 20 RIGHT-OF-WAYS**

Areas proposed for the street right-of-way dedication must be in accordance to the provisions set out by the Delaware County Street Design Ordinance.

**ARTICLE XVII-A**

**Section 21 PROCEDURE**

When the owner or owners of a tract of land file for rezoning for the purpose of developing a mixed land use with the Delaware-Muncie Metropolitan Plan Commission, said application shall include all of the following items:

1. Location and size of area involved.
2. Density of land use.
3. Location, function, ownership, and manner of maintenance of common open spaces.
4. Use, approximate height, bulk and location of buildings and other structures.
5. Location of sanitary facilities to the project and method of disposing of storm water.
6. Relationship of proposed streets to streets in the proximity of the project.

**ARTICLE XVII-B BP BUSINESS AND PROFESSIONAL OFFICE ZONE**

**ARTICLE XVII-B**

**Section 1 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings as regulated in the R-4 Residence Zone.
2. Buildings owned, leased or used by municipal, township, County, State or Federal governments.
3. Religious and charitable institutions.
4. Public schools; colleges and universities; nursery schools and child care centers.
5. Business and professional offices.
6. Credit bureaus.
7. Political offices; union offices; real estate offices; insurance offices.

**ARTICLE XVII-B**

**Section 2 FRONT YARD**

There shall be a front yard of not less than twenty- five (25) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XVII-B**

**Section 3 SIDE YARD**

There shall be two (2) side yards, each six (6) feet in width and measured at right angles to the side lot line.

**ARTICLE XVII-B**

**Section 4 REAR YARD**

There shall be a rear yard thirty (30) feet in depth measured at right angles to the rear lot line.

**ARTICLE XVII-B**

**Section 5 HEIGHT**

No building or structure shall exceed two and one-half (2 1/2) stories or thirty (30) feet in height.

**ARTICLE XVII-B**

**Section 6 CONDITIONS**

All business and professional offices, credit bureaus and political, union, real estate and insurance offices shall be service in nature only and generally open to the public only during the day. The sale of goods and merchandise, the preparation and service of food and the storage and handling of goods, materials, and equipment shall not be permitted. Parking of trucks, other than in the course of delivery of supplies and equipment used in such offices, shall not be permitted.

Direct vehicular access to each such office shall be separate and distinct from direct access to any other office, and in no case shall there be access to one (1) such establishment from within another.

Only such signs as are permitted in Residence Zones shall be permitted in the BP Business and Professional Office Zone.

**ARTICLE XVIII CB CENTRAL BUSINESS ZONE**

**ARTICLE XVIII**

**Section 1 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family; two-family; multiple-family dwellings, as regulated in the R-5 Residence Zone.
2. Buildings owned, leased or used by a municipal, township, County, State or Federal government.
3. Religious and charitable institutions.
4. Railroad right-of-ways including yards, storage, switching or shops owned and operated by railroad companies.
5. Public schools; nursery and child care centers.
6. Business and professional offices
7. Liquor stores; bars; taverns; dance halls.
8. Food stores; drug stores; clothing stores; jewelry stores; auto equipment stores.
9. Credit bureaus.
10. Restaurants.

11. Machine shops.
12. Retail stores and shops.
13. Banks; building and loans; lending institutions.
14. Barbershops; beauty parlors.
15. Health centers.
16. Restaurants; drive-in restaurants; cafes; lunchrooms.
17. Hotels; motels; motor hotels; boarding houses; rooming houses.
18. Political offices; union offices; real estate offices.
19. Transportation terminals.
20. Outdoor advertising as regulated in this Ordinance.
21. Communication centers - telephone and telegraph.
22. Radio stations; television stations; including towers and other appurtenances.
23. Parking lots; parking garages.
24. Fraternal; philanthropic; civic and service organizations.
25. Auto repair; auto sales and showrooms.
26. Newspapers; publishing establishments; printing shops.
27. Gasoline stations and car washes.
28. Department stores; sporting goods; art and music centers and supplies; art galleries.
29. Laundries; dry cleaning establishments.
30. Photographic studios and offices.
31. Billiard parlors.
32. Pawnshops; pet shops; pottery shops; souvenirs; flower shops.

- 33. Auto equipment stores.
- 34. Electrical contractors; insurance.
- 35. Theaters.
- 36. Business machines; electronic equipment, typewriter equipment.
- 37. Jewelers; camera shops.
- 38. Bakeries.
- 39. Hardware stores; furniture stores; paint and glass stores.
- 40. Warehouses.
- 41. High-rise apartment buildings.
- 42. Mortuaries.
- 43. License bureaus; travel services.
- 44. Fraternities and sororities.
- 45. Adult entertainment business.
- 46. Microbreweries; microdistilleries

**ARTICLE XVIII**

**Section 2 FRONT YARD**

There shall be no front yard requirements, except that all buildings shall conform to existing building lines. Whenever a new building is proposed or an addition to an existing building is contemplated, the average front yard shall be observed.

**ARTICLE XVIII**

**Section 3 SIDE YARD**

There shall be no side yard requirements.

**ARTICLE XVIII**

**Section 4 REAR YARD**

There shall be no rear yard requirements.



**ARTICLE XVIII**  
**Section 5 HEIGHT**

There shall be no height requirements.

**ARTICLE XVIII**  
**Section 6 MINIMUM FLOOR AREA**

There shall be no minimum floor area requirements.

**ARTICLE XIX BL LIMITED BUSINESS ZONE**

**ARTICLE XIX**  
**Section 1 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Single-family dwellings as regulated in the R-5 Residence Zone.
2. Two-family and multiple-family dwellings as regulated in the R-5 Residence Zone.
3. Buildings owned, leased or used by a municipal, township, County, State or Federal governments.
4. Professional offices.
5. Banks; building and loans; lending institutions.
6. Retail stores and shops.
7. Beauty parlors; barbershops.
8. Automobile parking as required for dwellings and other permitted uses, excluding public and private parking lots or structures.
9. Dry-cleaning; self-service laundries.
10. Public schools; nursery and child care centers.
11. Outdoor advertising as regulated in this Ordinance.
12. Drug stores; stationary stores; florist shops.
13. Shoe repair shops.

14. Camera and photographic supply stores.

15. Grocery stores.

16. Mini Warehouses/Enclosed Storage.

**ARTICLE XIX**

**Section 2 FRONT YARD**

There shall be a front yard of not less than twenty-five (25) feet measured from the right-of-way line to the front wall of the building. Dwellings will comply with the R-5 Residence Zone standards.

**ARTICLE XIX**

**Section 3 SIDE YARD**

There shall be a five (5) foot side yard. When an abutting wall or common wall is provided, no side yard shall be required. Dwellings shall comply with the R-5 Residence Zone standards.

**ARTICLE XIX**

**Section 4 REAR YARD**

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, but need not exceed twenty-five (25) feet.

**ARTICLE XIX**

**Section 5 HEIGHT**

No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Dwellings shall comply with the R-5 Residence Zone standards.

**ARTICLE XIX**

**Section 6 CONDITIONS**

All business establishments shall be retail or service in nature dealing directly with the customer. Eating establishments of a drive-in nature directly to customers waiting in parked motor vehicles shall not be permitted. Parking of trucks as an accessory use when used in the conduct of a permitted business shall be limited to vehicles of not over one and one-half (1 1/2) ton capacity, when located within one hundred and fifty (150) feet of a dwelling. Direct vehicular access to each business establishment shall be separate and distinct from direct access to any other business establishment, and in no case shall there be access to one such establishment from within another.

**ARTICLE XX BC COMMUNITY BUSINESS ZONE****ARTICLE XX****Section 1 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in the BL Limited Business Zone.
2. Health centers.
3. Restaurants, but not drive-in restaurants; cafes; lunchrooms.
4. Business and professional offices; political offices; union offices; real estate offices.
5. Outdoor advertising as regulated in this Ordinance.
6. Parking lots; not parking garages.
7. Fraternal; philanthropic; civic and service organizations.
8. Gasoline stations; car washes, subject to the performance standards set forth in this Ordinance.
9. Photographic studios and offices.
10. Grocery stores.
11. Bakeries.
12. Jewelers; camera shops.
13. Fraternities; sororities.
14. Hardware stores; furniture stores; paint and glass stores.
15. License bureaus; travel services.
16. Laundries; dry cleaning establishments.
17. Department stores; sporting goods; art and music centers.
18. Florist shops; candy and ice cream stores.

**ARTICLE XX**

**Section 2 FRONT YARD**

There shall be a front yard of not less than twenty-five (25) feet in depth measured from the right-of-way line to the front wall of the building.

**ARTICLE XX**

**Section 3 SIDE YARD**

There shall not be any minimum side yard requirements except that where a BC Community Business Zone abuts a Residence Zone no building shall be closer to any existing dwelling than fifty (50) feet.

**ARTICLE XX**

**Section 4 REAR YARD**

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, but need not exceed twenty-five (25) feet.

**ARTICLE XX**

**Section 5 HEIGHT**

No building or structure shall exceed three (3) stories or forty-five (45) feet in height.

**ARTICLE XX**

**Section 6 CONDITIONS**

Business establishments shall be of retail or service nature. Goods shall be sold at retail. Servicing and processing shall be conducted within completely enclosed buildings. Drive-in establishments other than gasoline service stations, offering goods and services directly to customers waiting in parked vehicles shall not be permitted. Whenever a business establishment abuts a Residence Zone, the area between the business establishment and the Residence Zone shall be adequately buffered.

**ARTICLE XXI BV VARIETY BUSINESS ZONE**

**ARTICLE XXI**

**Section 1 PERMITTED USES**

Building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in the CB Central Business Zone.
2. Uses permitted in the BL Limited Business Zone.

3. Uses permitted in the BC Community Business Zone.
4. Skating rinks.
5. Mobile home sales.
6. Feed and fuel stores.
7. Amusement enterprises.
8. Plumbing and sheet metal shops.
9. Gymnasiums.
10. Sign painting shops; welding shops.
11. Exterminating shops.
12. Taxidermists.
13. Rentals of garden equipment; garden supplies.
14. Shooting gallery.
15. Window blinds - sales and repair.
16. Storage of building materials.
17. Farm implement establishment for display, hire, sales and repair, including sales lots.
18. Animal hospital, veterinary clinic or kennel, provided any structure shall be not closer than two hundred (200) feet to any dwelling.
19. Commercial baseball field, swimming pools, golf driving ranges.
20. Greenhouses.
21. Hotels; motels; motor hotels.
22. Outdoor storage of boats and RVs

**ARTICLE XXI**

**Section 2 FRONT YARD**

There shall be a front yard of not less than twenty-five (25) feet measured from the right-of-way line to the front wall of the building.

**ARTICLE XXI**

**Section 3 SIDE YARD**

There shall not be any minimum side yard requirements except that where a BV Variety Business Zone abuts a Residence Zone no building shall be closer to any existing dwelling than fifty (50) feet.

**ARTICLE XXI**

**Section 4 REAR YARD**

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, but need not exceed twenty-five (25) feet.

**ARTICLE XXI**

**Section 5 HEIGHT**

No building or structure shall exceed three (3) stories or forty-five (45) feet in height.

**ARTICLE XXI**

**Section 6 FLOOR AREA**

There shall be no minimum floor area requirements.

**ARTICLE XXII MT MAJOR TRADING ZONE**

**ARTICLE XXII**

**Section 1 GENERAL**

The MT Major Trading Zone shall be reserved for shopping centers which, for the purpose of this Ordinance, shall be defined as a group of stores functioning as a unit, planned and designed on a site of not less than ten (10) acres in area.

All uses permitted in the BV Variety Business Zone shall be permitted in the MT Major Trading Zone.

**ARTICLE XXII**

**Section 2 APPROVAL PROCEDURE**

An individual, group of individuals or corporation wishing to obtain approval for a shopping center

shall submit to the Delaware-Muncie Metropolitan Plan Commission, together with an application for zone change, copies of the center's design and layout, a market analysis, a financial statement, a construction time-table, and a traffic survey - all prepared by a competent firm. Upon filing of such application and material, the Delaware-Muncie Metropolitan Plan Commission shall proceed with the review and analysis of the proposal, giving special attention to the adequacy of all thoroughfares to carry additional traffic generated by the shopping center; the size, layout and capacity of areas proposed for vehicular access, parking, loading and unloading; the relation of the center to access streets; the location, size and use of buildings and structures; the landscaping of areas to harmonize with adjoining neighborhoods; the adequacy of storm and sanitary sewers; the unity and organization of buildings and service facilities.

On the basis of the material filed, the Delaware-Muncie Metropolitan Plan Commission shall determine whether or not the project shall be approved. If the requested change is approved it shall be subject to the submission and approval of a final development plan to the Delaware-Muncie Metropolitan Plan Commission, which plan shall conform with all performance standards set forth in this Ordinance.

Such plan shall be submitted within one (1) calendar year from the date of rezoning, otherwise the rezoning shall be considered null and void.

No permit shall be issued for the construction of a shopping center until the Delaware-Muncie Metropolitan Plan Commission has reviewed and approved the final plan and copy of the same is certified to the developer.

**ARTICLE XXII**  
**Section 3 FRONT YARD**

There shall be a front yard of not less than fifty (50) feet measured from the right-of-way line to the front wall of the building.

**ARTICLE XXII**  
**Section 4 SIDE YARD**

There shall be no minimum side yard requirements except that no building shall be closer than fifty (50) feet to any Residence Zone or existing dwelling.

**ARTICLE XXII**  
**Section 5 REAR YARD**

There shall be no minimum rear yard requirements except that no building shall be closer than fifty (50) feet to any Residence Zone or existing dwelling.

**ARTICLE XXII**

**Section 6 MINIMUM FLOOR AREA: HEIGHT**

There shall be no minimum floor area or height requirements.

**ARTICLE XXIII IL LIMITED INDUSTRIAL ZONE**

**ARTICLE XXIII**

**Section 1 GENERAL**

The IL Limited Industrial Zone is created to include industries whose manufacturing operations are carried on within enclosed buildings.

**ARTICLE XXIII**

**Section 2 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Uses permitted in all Business Zones.
  - 1a. Offices provided for employees or guests, attached or detached which are incidental to the industrial operation. Service facilities for such offices shall be totally within a building and shall not display any exterior advertising.
2. Farm buildings, structures and uses.
3. Public utilities, private utilities.
4. Communication systems and appurtenances.
5. Mass transportation terminals, not including truck terminals.
6. Recreation areas established for the convenience and use of employees of a specific industry.
7. Temporary buildings and structures incidental to the development of land or to the erection of the same, provided such buildings and structures shall be removed at the termination of development or construction.
8. Radio and television towers, including studios and business offices.
9. Assembly operations for pre-manufactured parts.
10. Manufacture of nonalcoholic beverages and/or bottling of alcoholic and nonalcoholic



beverages.

11. Office machinery - electrical and mechanical.
12. Manufacture of portable household appliances; electric hand tools; electric motors; electric and neon signs.
13. Cloth products manufacturing from finished cloth.
14. Milk processing; bottling and manufacturing.
15. Jewelry manufacturing; engraving.
16. Food processing and packaging of products previously processed elsewhere.
17. Leather products manufacturing from finished leather.
18. Manufacturing of pharmaceuticals, medicines and cosmetics.
19. Manufacturing of optical goods, recording instruments.
20. Warehouse and distribution operations, completely enclosed.
21. Upholstering shops; manufacturing of mattresses.
22. Canning, bottling, processing and packing of food.
23. Manufacturing of cans and containers excluding glass containers.
24. Cabinet manufacturing.
25. Manufacture and assembly of communication equipment.
26. Electroplating operations.
27. Manufacturing of margarine products.
28. Manufacturing of office equipment.
29. Manufacturing of malt products.
30. Machine, welding, tool and die shops.
31. Vegetative composting provided the operation is conducted within enclosed buildings and structures and in compliance with all state and federal requirements.

32. Solar Facility. Solar facilities are subject to the requirements set forth herein in Article XXXI, Section 13.

**ARTICLE XXIII**

**Section 3 FRONT YARD**

See Performance Standards.

**ARTICLE XXIII**

**Section 4 SIDE YARD**

See Performance Standards.

**ARTICLE XXIII**

**Section 5 REAR YARD**

There shall be provided a rear yard of not less than thirty (30) feet in depth, unless abutting a railroad right-of-way, in which case the building shall be permitted within five (5) feet of said right-of-way.

**ARTICE XXIII**

**Section 6 RESIDENTIAL SETBACKS**

No building or structure shall be closer to a dwelling than one hundred (100) feet.

**ARTICLE XXIII**

**Section 7 MINIMUM FLOOR AREA**

There shall be no minimum floor area requirements.

**ARTICLE XXIII**

**Section 8 PERFORMANCE STANDARDS**

**A GENERAL**

No permit shall be issued for the erection, relocation, or expansion of any industrial use or building unless the same complies with the performance standards set forth herein.

**B STORAGE**

All materials or products shall be kept within completely enclosed buildings or screened by a solid wall, fence, evergreens, hedge or trees of minimum height of six (6) feet. In the IL Zone only, storage of materials shall not exceed twenty-five (25) percent of the total gross area of enclosed structures.

## C SETBACKS

No part of any structure (excluding an eave or cornice overhang not to exceed four (4) feet, or a canopy at an entrance) shall be built not closer than one hundred and twenty (120) feet to an Interstate Highway; one hundred (100) feet to a major state or county highway; eighty-five (85) feet to a secondary highway; and sixty-five (65) feet to any other street or highway.

Where a front yard is located across a street and opposite to a dwelling or to a Residence Zone, a front yard of one hundred (100) feet shall be provided. Where a side yard abuts a dwelling or Business Zone, a side yard of fifty (50) feet shall be provided.

## D SCREENING

Where a front or rear yard abuts a dwelling or Business Zone, a masonry wall, fence or compact hedge or row of shrubbery or evergreen trees shall be provided along or within twenty (20) feet of the zone lot line. Such screening shall be not less than six (6) feet in height.

## E HEIGHT

Along any front, side or rear yard adjacent to a Residence or Business Zone, the maximum vertical height shall be twenty-five (25) feet. For each foot of height in excess of twenty-five (25) feet, one (1) additional foot shall be added to the adjacent setback(s).

## F EMISSION

The emission of smoke, particulate matter and noxious and toxic gases shall be subject to the regulations of the State of Indiana Board of Health and/or any and all air pollution control laws, ordinances or statutes passed before and after the enactment of this Ordinance. The storage, utilization or manufacture of products or materials shall conform with the standards prescribed by the National Fire Protection Association. Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety and welfare of the people of the County of Delaware, Indiana.

## G DISCHARGE

No use shall accumulate or discharge any waste matter, whether liquid or solid, in violation of applicable standards set forth by the State of Indiana Board of Health, the Stream Pollution Control Board of the State of Indiana or any pertinent local governmental agency. The Stream Pollution Control Board shall approve sewage disposal plans and industrial waste treatment.

## H SOUND

No use shall produce sound in such manner as to endanger the public health, safety and welfare of the people of the County of Delaware, Indiana. Sound shall be muffled so as not to become

detrimental or a nuisance due to pressure, amount, intermittence, beat, frequency, shrillness or vibration.

**I GLARE AND HEAT**

Any use established after the enactment of this Ordinance shall be operated so as to comply with performance standards governing glare and heat as set forth by the State of Indiana.

**J FIRE AND EXPLOSIVES**

Storage, utilization or manufacture of products and materials shall conform to the standards prescribed by the National Fire Protection Association.

**K RADIATION**

Any use shall conform to the Atomic Energy Commission standards for protection against radiation. Also, the electromagnetic standards of the Federal Communications Commission shall be complied with.

**ARTICLE XXIV II INTENSE INDUSTRIAL ZONE**

**ARTICLE XXIV**

**Section 1 GENERAL**

The II Intense Industrial Zone is created to include heavy manufacturing uses.

**ARTICLE XXIV**

**Section 2 PERMITTED USES**

1. Uses permitted in all Business and Industrial Zones.
2. Manufacturing of glass containers.
3. Manufacturing of cement, lime and gypsum.
4. Open hearth; blast furnaces.
5. Coke ovens; creosote manufacturing.
6. Fat rendering; fertilizer manufacturing.
7. Slaughtering and food processing.
8. Manufacturing of explosives, matches, fireworks.

- 9. Storage of petroleum products.
- 10. Manufacturing of chemicals; detergents; soaps.
- 11. Foundries
- 12. Manufacturing of railroad equipment, repair and services.
- 13. Utility pole yards and pipe yards.
- 14. Motor truck terminals subject to the performance standards set forth in this Ordinance.
- 15. Paper box and paper products manufactured from finished paper.
- 16. Vegetative composting provided the operation is conducted in compliance with all state and federal requirements.

**ARTICLE XXIV**

**Section 3 PERFORMANCE STANDARDS**

The same performance standards set forth in Article XXIII, Section 8, shall apply to the II Intense Industrial Zone.

**ARTICLE XXV IP INDUSTRIAL PARK ZONE**

**ARTICLE XXV**

**Section 1 GENERAL**

The IP Industrial Park Zone is created so as to include in the industrial system such developments as industrial subdivisions not less than twenty-five (25) acres in area, developed in accordance with a comprehensive plan approved by the Delaware-Muncie Metropolitan Plan Commission.

**ARTICLE XXV**

**Section 2 THE PLAN**

Any person, group of persons, organization or corporation contemplating the development of an Industrial Park Zone or seeking a change in zone for the purpose of development of such zone, shall file a complete site plan, accurate and to scale, showing how the project is to be carried out. Attractiveness, compatibility and flexibility of design shall be fundamental areas studied by the Delaware-Muncie Metropolitan Plan Commission in making its determination.

The plan shall include street design, building arrangement, off-street parking and loading, accessory uses and facilities, topography and setback requirements.

The plan shall contain maximum building coverage of not more than thirty-five (35) percent of the

total area of the lot. The developer of an industrial park shall provide a system of sanitary sewers and a system of municipal or privately owned water supply. Should the proponents of an industrial park be seeking departures from applicable provisions of this Ordinance, they shall submit reasons justifying such departures.

## **ARTICLE XXV**

### **Section 3 PROCEDURE**

The same procedure as for attaining a proposed zone change shall be followed by the Delaware-Muncie Metropolitan Plan Commission in making a determination as to whether or not an application for industrial park zoning should be favorably recommended.

## **ARTICLE XXV**

### **Section 4 PERMITTED USES**

Uses permitted in all Business and Industrial Zones

## **ARTICLE XXV**

### **Section 3 PERFORMANCE STANDARDS**

The same performance standards set forth in Article XXIII, Section 8, shall apply to the IP Industrial Park Zone in addition to any applicable plat restrictions.

## **ARTICLE XXVI FA FLOOD AREA ZONE**

## **ARTICLE XXVI**

### **Section 1 GENERAL**

Certain areas in the County of Delaware, Indiana, under existing conditions, are unsuitable for permanent occupancy being subject to periodic inundation. The purpose of the FA Flood Area Zone is to safeguard human life and property from the dangers of flood and avoid the losses both in life and wealth, which may occur.

## **ARTICLE XXVI**

### **Section 2 BOUNDARIES**

The boundaries of the FA Flood Area Zone have been determined from data obtained from the Federal Emergency Management Agency. Such boundaries run along the sides of the White River and Mississinewa River as they traverse through the County of Delaware, Indiana, and include the floodway and A Zone areas as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Delaware County, Indiana and Incorporated Areas dated July 4, 2011 and the corresponding Flood Insurance Map dated July 4, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, and described in the Floodplain Management Ordinance for Delaware County, Indiana.

**ARTICLE XXVI****Section 3 PERMITTED USES**

No building, structure or land shall be used and no building or structure shall hereafter be erected, enlarged or maintained except for the following uses:

1. Parks, playgrounds, boat houses, golf courses, landings, docks and related uses.
2. Wildlife sanctuaries operated by governmental units or non-profit organizations; woodland preserves.
3. Farming, truck and nursery gardening.
4. Pasture; grazing.
5. Forestry, reforestation, excluding storage and mill structures.
6. Hunting, fishing.
7. Outlet installations for sewage treatment plants, sealed public water supply wells, utility transmission lines.
8. Loading areas, parking areas, airport landing strips.
9. Circus, carnival, roadside stands, outdoor advertising as defined in this Ordinance.
10. Drive-in theaters.

**ARTICLE XXVI****Section 4 CONDITIONAL USES**

A The following uses may be permitted subject to approval by the Delaware-Muncie Board of Zoning Appeals:

1. Storage of equipment, machinery and materials.
2. Extraction of sand and gravel.
3. Kennels and stables.

**B PROCEDURE**

Upon receiving an application for a conditional use in the FA Flood Area Zone the Board of Zoning Appeals shall, prior to rendering a decision, require the applicant to furnish plans to include topography, storage elevations, size and location of proposed and existing structures on site, land

uses, soil types and other pertinent data.

The Board shall transmit copy of the application to the Corps of Engineers of the Department of the Army for recommendations. In making a decision on conditional uses the Board shall consider:

1. That all material or equipment shall be anchored.
2. That encroachments will not create dangers to life and property.
3. That there shall be no pollution of stream waters.
4. That there is proper access to the property in times of flood for emergency vehicles.
5. That the natural course of the stream is not being changed.
6. That no structure shall be located closer to the edge of a stream than one hundred and fifty (150) feet.

**ARTICLE XXVI**

**Section 5 PROHIBITED USES**

The following uses shall be totally prohibited in the FA Flood Area Zone:

1. Residences.
2. Dumps; landfills.
3. Removal of top soil.
4. Junk yards, outdoor storage of vehicles.
5. On site sewage disposal systems.

**ARTICLE XXVI-A RC RECREATION AND CONSERVATION ZONE**

**ARTICLE XXXVI-A**

**Section 1 PURPOSE AND STATEMENT OF INTENT**

This zone is established primarily as a conservation measure to preserve for existing and future generations a part of the ecological balance between man and his natural environment. Through the maintenance of certain areas of land devoted to woodlands and best practical conservation uses, much benefit can be derived by many people in the form of diminished air and water pollution and soil erosion, cover for wildlife and flora, and the preservation of natural resources located therein.



These designated areas may be located along the rivers and streams, the hills, or level areas within the jurisdiction of this Ordinance. Once a Recreation and Conservation Zone is established, the Plan Commission shall take extreme care in making any deviation.

**ARTICLE XXVI-A**

**Section 2 PERMITTED PRINCIPAL USES AND STRUCTURES**

Principal uses and structures permitted in the Recreation and Conservation Zone: all forests, woodlands, and best practical agricultural land uses.

**ARTICLE XXVI-A**

**Section 3 PERMITTED ACCESSORY USES AND STRUCTURES**

Accessory uses and structures permitted in the Recreation and Conservation Zone:

- Country Clubs
- Golf Courses and Driving Ranges
- Gun Clubs, but not within 600 feet of any adjacent parcel/lot
- Swimming Pools
- Recreation Lakes
- Forests and Wildlife Preserves
- Amusement Parks
- Public Parks
- Barns and similar Farm Buildings, as regulated in the F Farming Zone
- Windmills
- Silos
- Grain Elevators
- University Agriculture/Forestry Experimental Farms
- Retreats and Camps for Youth and Civic/Fraternal Organizations
- Commercial Baseball Fields
- Greenhouses
- Playgrounds
- Boat Houses, Boat Landings, Boat Docks
- Hunting, Fishing
- Athletic Fields

**ARTICLE XXVI-A**

**Section 4 CONDITIONAL USES**

Recreational uses compatible with the statement of intent of this zone, but not herein listed, may be permitted as conditional uses subject to the approval of the Board of Zoning Appeals under the established procedures set forth in this Ordinance.

**ARTICLE XXVI-A**

**Section 5 PROHIBITED USES**

The prohibited uses in the Recreation and Conservation Zone are: Residential, Commercial and Industrial.

**ARTICLE XXVI-A**

**Section 6 PRINCIPAL AND ACCESSORY BUILDING SETBACKS**

Principal and accessory buildings shall not be closer than fifty (50) feet from any adjoining parcel.

**ARTICLE XXVI-A**

**Section 7 LIVESTOCK, FOWL, AND ANIMALS**

Buildings and enclosed pens for livestock, fowl, and animals shall not be closer than two hundred (200) feet from any adjoining zone.

**ARTICLE XXVI-A**

**Section 8 MINIMUM LOT AREA**

The minimum lot area shall be four (4) acres except for parks and playgrounds in which case it shall be one (1) acre.

**ARTICLE XXVI-A**

**Section 9 MAXIMUM HEIGHT OF STRUCTURES**

The maximum height of all structures shall be forty (40) feet or three (3) stories whichever is the lesser.

**ARTICLE XXVI-A**

**Section 10 ESSENTIAL SERVICES**

The provisions of this Recreation and Conservation Zone shall not be construed to limit or interfere with the construction, installation or maintenance of public utility transmission facilities. Underground use is encouraged; overhead use is discouraged.

**ARTICLE XXVI-A**

**Section 11 LOT WIDTH**

The lot or parcel width shall be not less than sixty (60) feet, exclusive of right-of-ways.

**ARTICLE XXVI-A**

**Section 12 FRONT SETBACK**

There shall be a front setback of not less than fifty (50) feet in depth measured from the right-of-

way line to the front wall of the structure.

#### **ARTICLE XXVI-A**

##### **Section 13 OFF-STREET PARKING**

Off-street parking must be provided for in the Recreation and Conservation Zone based on the land use according to Article XXX, Section 2 of this Ordinance.

#### **ARTICLE XXVI-A**

##### **Section 14 STREAM LOCATION RESTRICTED**

No structure shall be located closer to the edge of a stream within a designated flood plain area than one hundred and fifty (150) feet.

#### **ARTICLE XXVI-A**

##### **Section 15 SIGN REGULATIONS**

The signs placed in the Recreation and Conservation Zone shall have the designation of the name and owner of the land. No more than two interior signs shall be permitted in each Recreation and Conservation Zone with the exception of non-commercial directional and/or informational signs. The sign types shall be free-standing, flush wall, and may be reflectorized for night use. The maximum surface area may be up to twelve (12) square feet on the side, with signage permitted on two (2) sides. The maximum sign height shall not exceed eight (8) feet. The minimum setback from road right-of-ways shall be ten (10) feet. All signs shall be similar in design and typeface in each Recreation and Conservation Zone. One sign may be permitted at each entrance on the perimeter of the Zone. Colors of the signs may vary.

#### **ARTICLE XXVI-A**

##### **Section 16 PEST CONTROL**

All recreational areas shall establish and operate in compliance with Delaware County Health Department regulation methods to control mosquitoes, flies, roaches, rodents, fleas, chiggers, and other pests.

#### **ARTICLE XXVI-A**

##### **Section 17 REFUSE COLLECTION**

Each campsite and/or recreational play field site shall be equipped with no less than a ten (10) gallon container. The container shall be maintained to prevent rodents, insects, and odors. All refuse containers shall be collected and emptied at least once every seven (7) days.

**ARTICLE XXVII AD AIRPORT DEVELOPMENT ZONE**

**ARTICLE XXVII**

**Section 1 GENERAL**

The AD Airport Development Zone is created with the purpose of coordinating the location, size and configuration of existing airports in the County of Delaware, Indiana, with patterns of residential growth and other major land uses as well as with other transportation facilities and services; to make the airport environs compatible with airport operations; to make physical development and land use of airports compatible with existing and proposed patterns of land use; to regulate the height of structures or natural growth erected, altered, allowed to grow or maintained in any zone established by the Federal Aviation Agency.

**ARTICLE XXVII**

**Section 2 ZONE MAPS**

In addition to the Official Zone Maps for the County of Delaware, Indiana, typical airport maps are hereby made a part of this Ordinance. The maps show the boundaries of the airports, instrument, non-instrument, VFR transition, horizontal and conical zones; airport reference points and elevations.

**ARTICLE XXVII**

**Section 3 PERMITTED USES**

No building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained except for the following uses:

1. Landing and takeoff runways.
2. Landing strips.
3. Hangars.
4. Taxi ways and parking ramps.
5. Airplane repair shops.
6. Parking as required in this Ordinance.
7. Restaurant facilities related to airport operations.
8. Airplane fuel storage.
9. Personnel and ticket offices.

10. Towers for control, landings and takeoff.
11. Sports assembly, not in airport proper.
12. Community parks, not in airport proper.
13. Farming.
14. Entertainment assembly, not in airport proper.
15. Communication, transportation and utilities.
16. Motor vehicle transportation.
17. Ambulance and fire protection.
18. Hotels; overnight accommodations.
19. Limited industrial operations compatible to the operation of airports when approved by the Delaware-Muncie Metropolitan Plan Commission. Applications for such uses shall be made according to established procedures and shall be subject to public hearing. Prior to approving any light and limited industrial use, said Plan Commission shall conclusively determine that the proposed use shall not constitute a hazard to airport traffic and to surrounding area.

## **ARTICLE XXVII**

### **Section 4 USES TOTALLY PROHIBITED**

The following uses shall be prohibited in the AD Airport Development Zone and shall not be permitted under any conditions or circumstances:

1. No use may be made of land within an instrument, non-instrument, VFR transition, horizontal or conical zone as established by the Federal Aviation Agency for each airport in such manner as to create electrical interference with radio communication between the airports and aircrafts, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, takeoff or maneuvering of aircraft.
2. No structure or tree shall be erected, altered, allowed to grow or be maintained in any instrument approach or non-instrument approach, VFR transition approach, horizontal or conical zone as established by the Federal Aviation Agency to a height in excess of thirty-five (35) feet, or to a height that may be in conflict with the standards of the Federal Aviation Agency.

Height limitations shall be governed, whenever necessary, by standards established for the

Instrument Approach Zone, the Non-instrument Approach Zone, Horizontal Zone, Conical Zone, and VFR Transition Zone as established by the Federal Aviation Agency.

**ARTICLE XXVII**

**Section 5 MARKING AND LIGHTING**

The owner of any tree or structure which at the time of the enactment of this Ordinance may be in conflict with the height provisions, shall be required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards.

**ARTICLE XXVII**

**Section 6 EXISTING USES**

No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation than it was on the date of the enactment of this Ordinance or any amendments thereto.

**ARTICLE XXVIII SSS STUDENT SOCIAL SERVICE ZONE**

**ARTICLE XXVIII**

**Section 1 PERMITTED USES**

No building, structure or land shall be used and no building or land shall hereafter be erected, structurally altered, enlarged or maintained except for the following uses:

1. Fraternities, sororities.
2. Single-family dwellings as permitted and regulated in the R-5 Residence Zone.
3. Two-family dwellings as permitted and regulated in the R-5 Residence Zone.
4. Buildings and structures owned and operated by a college, university or institution of higher learning.

**ARTICLE XXVIII**

**Section 2 LOT WIDTH AND AREA**

The width of a lot shall be not less than one hundred (100) feet. The area of such lot shall be not less than one (1) acre.

**ARTICLE XXVIII****Section 3 FRONT YARD**

There shall be a front yard of not less than seventy-five (75) feet.

**ARTICLE XXVIII****Section 4 SIDE YARD**

There shall be two (2) side yards, each twenty-five (25) feet in width. However, no building shall be closer than fifty (50) feet to any dwelling, school, church or institution for human care. Side yards shall be measured at right angles to the side lot lines.

**ARTICLE XXVIII****Section 5 REAR YARD**

There shall be a rear yard of not less than fifty (50) feet in depth measured at right angles to the rear lot line.

**ARTICLE XXVIII****Section 6 HEIGHT**

No building or structure shall exceed three (3) stories.

**ARTICLE XXVIII****Section 7 MINIMUM FLOOR AREA**

The minimum floor area of a residence shall be as regulated in the R-5 Residence Zone.

**ARTICLE XXIX MHR MOBILE HOME RESIDENCE ZONE****ARTICLE XXIX****Section 1 GENERAL****A PURPOSE**

Mobile homes are increasingly becoming a part of the urban scene, therefore it has become necessary to establish a zone for them containing basic and uniform regulations and performance standards in order to protect the safety, health and welfare of their occupants as well as the total community.

A mobile home park must be sufficient to accommodate the desired number of units, parking area for motor vehicles, access roads, walkways, and recreational facilities - all as required in this Article. Among the features to be considered in the planning of mobile home parks shall be: size, shape, topography, land costs, local codes and ordinances; uses of adjoining properties, availability of water supply, drainage and sewage disposal.

Prior to filing an application for an MHR Mobile Home Residence Zone the interested persons shall consult with local and State health authorities to determine the suitability of the site.

**B PERMITTED USES**

1. Mobile home parks as defined and regulated in this Ordinance.
2. Signs as regulated in this Ordinance.

**ARTICLE XXIX**

**Section 2 STANDARDS**

The following standards shall be complied with in any plan, application or request for a change in zone to permit a mobile home park. Such standards shall be over and above those which may be required by other local or State agencies.

**A ROADS: PARKING**

All streets intended to be dedicated to the public shall be constructed and designed in compliance with the standards set forth in the subdivision regulations. All streets intended to be privately owned and maintained shall be constructed and designed in compliance with the standards specified herein. All internal streets shall have a minimum width of twenty-four (24) feet. If parking is prohibited on both sides of an internal street, the width may be reduced to eighteen (18) feet. Internal streets shall be two-way streets if they are five hundred (500) feet or less in length or serve less than twenty-five (25) mobile homes. They shall be one-way streets regardless of length if they provide access to mobile homes on one side of the street only. Dead-end streets shall be provided with a turn-around having at least sixty (60) feet in diameter.

Entrance streets connecting with internal streets shall be not less than thirty-four (34) feet in width if parking is permitted on both sides. If parking is permitted on one side only, such a street may have a width of twenty-seven (27) feet, provided the entrance street is more than one hundred (100) feet in length and does not provide access to abutting mobile home lots within the first one hundred (100) feet.

All streets shall intersect at right angles. Street intersections should be at least one hundred and fifty (150) feet apart and the intersection of more than two (2) streets at one point shall be avoided. Grades shall be less than eight (8) percent. Short runs up to twelve (12) percent could be used if necessary. All streets shall be provided with a smooth, hard and dense surface properly drained and according to the most recent city or county specifications.

To reduce traffic hazards, parking or individual parking spaces on each lot shall be provided at a ratio of seven (7) spaces for every four (4) mobile home lots. Every parking space shall be located within two hundred (200) feet of the mobile home it is intended to serve.



## B WALKWAYS

Where traffic is expected to be heavy such as in the proximity of recreation areas, management or service areas, three and one-half (3 1/2) foot common walks shall be provided. Walks shall also be provided on each mobile home lot so as to connect it with the street. Such walk shall have a minimum width of two (2) feet.

## C LOTS

Every lot in a mobile home park shall contain three thousand five hundred (3,500) square feet in area to avoid overcrowding and in order that modern mobile homes and appurtenances can be properly accommodated. There shall be a fifteen (15) foot clearance between mobile homes, including mobile homes placed end to end. No mobile home shall be closer to any park property line than twenty-five (25) feet; thirty (30) feet to any street or right of way; fifteen (15) feet to any recreational area. In determining clearances and open spaces, accessory structures having a horizontal area in excess of twenty-five (25) square feet located within ten (10) feet of a window shall be considered as a part of the mobile home. Driveways for individual mobile home lots shall be at least eight (8) feet in width with an extra two (2) feet if they serve as walks. The on lot parking space served by a driveway shall be nine (9) feet wide and twenty (20) feet long.

## D RECREATION

Every mobile home park shall provide recreation areas in a ratio of at least one hundred (100) square feet of space for each mobile home lot. No outdoor recreation area, however, shall be less than two thousand five hundred (2,500) square feet. Recreation areas shall be located on sites substantially free from traffic interference and hazards. The same shall be properly buffered with trees, evergreens and/or other vegetative growth.

## E SERVICE BUILDINGS

There shall be a service building on every mobile home park to accommodate laundry and storage facilities whose construction shall conform to local and State building regulations. Such building shall be of permanent construction and shall have a weather resistant exterior finish of moisture resistant material. Floors shall be impervious to water and sloped to drains connected to a sewerage system.

## F SEWERAGE: WATER

No mobile home park shall be permitted unless the same shall be connected to an existing sewerage facility or unless it provides a sewage disposal plant which shall adequately serve the proposed park and any future extension of it.

Any sewage disposal plant shall have the approval of the State of Indiana Board of Health. No mobile home park shall be permitted unless the same is connected to a public water supply system or shall provide its own adequate centralized water facility acceptable to the State of Indiana Board

of Health. Written certification from the said agency shall be furnished to the Delaware-Muncie Metropolitan Plan Commission. The sanitary sewer system and the storm sewer system shall be separate and shall be sized and designed according to standard engineering practice. Storm sewers shall provide a minimum velocity of two and five tenths (2.5) per second when flowing full. Written certification from an appropriate body or agency shall be furnished to the Delaware-Muncie Metropolitan Plan Commission that the storm sewers are installed as such or that the drainage system has been approved. In no way shall the passage of this Ordinance be construed that the County government is accepting these systems for maintenance responsibility unless they are accepted into the County's legal drain system through the proper hearings with the County Surveyor.

#### G PEST CONTROL

Mobile home parks shall establish and operate under the most rigid practices to control mosquitoes, flies, roaches, rats, fleas, ticks, chiggers and other pests.

#### H REFUSE COLLECTION

Mobile homes shall each be equipped with a ten (10) gallon container. Such container shall be regularly sprayed with suitable insecticides to reduce odors and to eliminate fly incidence. All refuse containing garbage shall be collected at least once weekly.

#### I ELECTRICAL DISTRIBUTION

Electrical wiring, equipment and appurtenances shall be installed and maintained in accordance with applicable permits, codes and regulations. Where such codes do not exist the provisions of the National Electrical Code shall control.

All streets, walkways, buildings and other facilities shall be adequately lighted. An average illumination level of at least six tenths (0.6) foot-candle and a minimum illumination level of one tenth (0.1) foot-candle shall be maintained on all streets. Potentially hazardous locations such as intersections, steps or ramps shall be illuminated with a minimum level of three-tenths (0.3) foot-candle.

### **ARTICLE XXIX**

#### **Section 3 PERMITS**

It shall be unlawful for any person to construct, alter or extend any mobile home park unless the Administrative Zoning Officer has issued him a zoning permit. Application for such permits shall be filed with said officer and shall contain the following information: Name and address of the applicant; location and legal description of the property; complete engineering plans and specifications for the proposed park. Engineering plans shall include the area and dimensions of tract; number, location and size of all mobile home lots; location and width of all roadways and walkways; location of service buildings and other proposed buildings; location of water, plans and specifications for the water supply system, refuse, drainage and sewage disposal systems; plans

and specifications for buildings constructed or to be constructed within the mobile home park; and the location and details of the lighting and electrical systems. Copies of all information supplied to the Administrative Zoning Officer for obtaining a permit shall also be filed with the Delaware-Muncie Metropolitan Plan Commission Office.

No zoning permit shall be issued by the Administrative Zoning Officer for the installation of a mobile home park until a zone change has been favorably completed and all the requirements of this Article have been met.

Any extension of an existing park which was not a part of the original plan shall meet all of the requirements of this Article and a permit shall be obtained from said Officer based on the number of additional lots and the per lot fee as stated in this Ordinance. The zoning permit for the mobile home park shall not be considered as a permit for common buildings constructed in conjunction with the park. All recreation buildings, service buildings and other buildings housing common facilities shall be considered commercial buildings for the purpose of obtaining all applicable permits.

**ARTICLE XXX PERFORMANCE STANDARDS**

**ARTICLE XXX**

**Section 1 GENERAL**

The following standards shall be minimum requirements for uses permitted in this Ordinance. Because of the special character of the Central Business Zone, the parking and loading facilities shall be developed as a part of a general plan based on location, system of streets and highways and transit. Such facilities may be developed by financial interests, which may lease them to parking operators; by the City of Muncie, and operated by it or by private operators; by a group or groups of merchants or investors; or by a single owner or partnership.

**ARTICLE XXX**

**Section 2 PARKING AND LOADING**

**A PURPOSE**

In order to reduce congestion in public streets and highways and to provide increased safety for the general public, every use of land shall be suited with on-site parking, loading and unloading facilities as required in this section.

**B DEFINITION**

For the purpose of this Ordinance, a parking space for one vehicle shall consist of not less than one hundred and sixty-two (162) square feet of area, exclusive of drives, aisles and other necessary means of access, with free access from a public way. Each required parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other parking space, except where the parking area is limited to employees.

**C STANDARDS**

No new building or structure shall be constructed or used in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used unless off-street parking is provided in accordance with the following conditions:

1. Off-street parking facilities shall be opaquely screened from any Residence Zone, or any one or two family dwelling, with a suitable buffer or fence not less than five (5) feet in height.
2. All land used for off-street parking, and all driveways thereto, shall be paved or surfaced, for the duration of its use, in accordance with the most recent specifications of the city or county engineer to avoid nuisances of dust and erosion and shall be drained in a manner which shall meet the minimum required in such specifications.

3. Any light used to illuminate land used for off-street parking or driveways thereto shall be installed and maintained so as to reflect the light away from any Residence Zone and any one or two family dwelling.
4. Whenever the intensity of use of any building, structure or land shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other unit of measurement, parking and loading facilities as required in the Section shall be provided, but only to the extent of such increase.
5. All off-street parking and loading facilities shall be designed with appropriate means of vehicular accesses to a public street or alley in a manner, which will least, interfere with traffic movement. No off-street parking space shall be designed to require backing of a vehicle into a public street.
6. Handicapped spaces shall be provided in accordance with all applicable local, state and federal law.

Table C-6

<b>ADA Standards for Minimum Number of Accessible Parking Spaces</b>		
Total # of Parking Spaces Provided	Minimum # of Required Accessible Parking Spaces	Minimum # of Accessible Van Parking Spaces
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1000	2% of total	1 for each 6 accessible parking spaces,
1001 and over	20, plus 1 for each 100, or fraction thereof, over 1000	or fraction thereof

*The following types of facilities have different requirements for the number of accessible parking spaces.*

- \* **Outpatient Hospital Facilities -**  
10% of patient and visitor parking spaces must be accessible.

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- \* **Rehabilitation & Outpatient Physical Therapy Facilities -**  
20% of patient and visitor parking spaces must be accessible.

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- \* **Residential Facilities -**
  - > At least 1 accessible parking space for each accessible residential dwelling.
  - > 2%, but no fewer than 1 space not covered by the term above shall be accessible.
  - > In areas where parking spaces are provided for persons other than residents, parking shall be provided in accordance with the table above.

7. Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table. The parking angle shall be measured between the centerline of the parking space and the centerline of the aisle.

**MINIMUM PARKING SPACE AND AISLE DIMENSIONS FOR PARKING AREAS**

Angle of Parking	Width of Parking Space	Length of Parking Space	Maneuvering Aisle 1-Way	Maneuvering Aisle 2-Way
76-90°	9'	18'	22'	22'
61-75°	9'	18'	18'	22'
46-60°	9'	18'	17'	22'
0-45°	9'	22'	12'	22'

8. For parking areas containing twenty (20) or more spaces, up to fifteen percent (15%) of the required parking spaces may be land banked as green space at the discretion of the owner/developer.

9. Off-street parking areas may be located in any front, side or rear yard area provided the following green belts are maintained: 10' along any public roadway measured from the property line; and 5' along any side and/or rear property line adjacent to or abutting a residence zone.

No off-street parking area shall extend into any proposed right-of-way as set forth in the Official Thoroughfare Plan. Whenever any green belt and/or landscaped area, provided to meet the requirements of this Ordinance, is removed by a public road widening project, the property from which the green belt or landscaped area has been removed shall still be considered in compliance with this Ordinance.

10. Bicycle parking spaces shall be provided in accordance with the requirements set forth as follows:

a. Location and Placement Standards:

- 1) Bicycle parking shall be located as close or closer than the nearest car parking space to the building entrance, other than those spaces for persons with disabilities.
- 2) Bicycle parking facilities shall not interfere with accessible paths of travel or accessible parking as required by the American with Disabilities Act of 1990.
- 3) Bicycle racks shall not block the building entrance or inhibit pedestrian flow.
- 4) Bicycle racks shall be located to protect bicycles from damage from automobiles.

- 5) Bicycle parking shall be visible, well lit, and as convenient to cyclists as auto parking is to drivers.
  - 6) All bicycle racks shall be designed to minimize visual clutter and be maintained in good condition.
  - 7) All bicycle racks shall be securely anchored to the ground or building surface.
  - 8) In cases where bicycle parking spaces are not visible from the primary street, signage shall be used to direct cyclists safely to bicycle parking areas.
- b. Design Standards:
- 1) Each bicycle rack shall be designed to accommodate a minimum of two bicycle parking spaces.
  - 2) Bicycle racks shall be designed to accommodate U-shaped locking devices and support the bicycle in two places.
  - 3) Bicycle racks shall be designed to resist cutting, rusting, bending and deformation.
  - 4) The surfacing of such facilities shall be designed and maintained to be mud and snow free.
  - 5) Required bicycle parking spaces shall be at least 4 feet wide by 6 feet long.
  - 6) An access aisle of at least 4 feet shall be provided in each bicycle parking facility.
  - 7) Such space shall have a vertical clearance of at least 6 feet.
  - 8) Bicycle racks shall be placed on 48-inch centers.
- c. When the intensity of use of any building, structure or premises shall be increased through additional number of dwelling units, gross floor area, seating capacity or other units of measurement specified herein that requires additional automobile parking spaces, bicycle parking as required herein shall be provided for such increase in intensity of use.
- d. A reduction in the minimum required automobile parking is allowed equal to the percentage of bicycle parking spaces provided, with a 5% maximum reduction.
- e. Bicycle parking spaces shall be based on the required automobile parking spaces and shall be provided in accordance with the following:

Table C-10

<b><u>Non-Residential/Commercial Uses:</u></b>	
<b><u>Auto Spaces Required</u></b>	<b><u>Bicycle Racks Required</u></b>
<b>0-20 spaces</b>	<b>1 rack</b>
<b>21-50 spaces</b>	<b>2 racks</b>
<b>51-75 spaces</b>	<b>3 racks</b>
<b>76-100 spaces</b>	<b>4 racks</b>
<b>101 + spaces</b>	<b>5 racks + 1 for each additional 100 spaces, 20 maximum</b>
<b><u>Multi-Family Residential Uses:</u></b>	
<b><u>Auto Spaces Required</u></b>	<b><u>Bicycle Racks Required</u></b>
<b>8+ spaces</b>	<b>1 rack for every 8 auto spaces required</b>

**D OFF-STREET LOADING AND UNLOADING**

There shall be provided and maintained space for vehicles standing, loading and unloading on the same premises with every building, structure or part thereof hereafter erected, established or enlarged and occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, laundry, dry cleaning, and uses involving the receipt and distribution by vehicles of material or merchandise as follows:

A twelve (12) foot by thirty-five (35) foot loading space with fourteen (14) foot height clearance for every twenty thousand (20,000) square feet or fraction thereof of floor area in excess of six thousand (6,000) square feet of floor area used for the above mentioned purposes, or for every twenty thousand (20,000) square feet or fraction thereof of land used. This requirement shall be separate and apart from any and all other off-street parking requirements.

**E OFF-STREET PARKING**

The following off-street parking requirements shall be provided and maintained in conformity with the provisions of this Ordinance:

1. Airport: One (1) parking space for every two (2) employees plus one (1) parking space for every four (4) seats



2. Apparel Shop: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
3. Apartments: Two (2) parking spaces for each dwelling unit
4. Apartment Hotel: One (1) parking space for each sleeping room
5. Auditorium: One (1) parking space for each four (4) seats based on the maximum seating capacity, including fixed and movable seats
6. Auto Sales: One (1) parking space for each one thousand (1,000) square feet used for retailing
7. Auto Sales/Repair: One (1) parking space for each four hundred square feet of gross floor (indoor) gross floor area (2.5/1000 GFA) plus two and one half (2.5) spaces for each one thousand square feet of external display area plus three (3) spaces for each service bay.
8. Bakery: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
9. Bank: One (1) parking space for each four hundred (400) square feet of floor area
10. Barber Shop: Two (2) parking spaces for each treatment station, but not less than four (4) spaces for each one thousand square feet of gross floor area (4/1000 GFA)
11. Beauty Parlor: Two (2) parking spaces for each treatment station, but not less than four (4) spaces for each one thousand square feet of gross floor area (4/1000 GFA)
12. Billiard Room: Parking spaces equal in number to thirty percent of the capacity of persons
13. Bowling Alley: Three (3) parking spaces for each lane, plus one (1) parking space for every six (6) spectator seats
14. Boarding House: One (1) parking space for each sleeping room.
15. Bus Station: One (1) parking space for each ten (10) seats in waiting room, plus one (1) parking space for each two (2) employees of connected retail use
16. Cemetery: One (1) parking space for each two (2) employees

- 17. Clinic: One (1) parking space for each two (2) employees plus three (3) parking spaces for each doctor
- 18. Church: One (1) parking space for each six (6) seats in main auditorium
- 19. Club House: One (1) parking space for each two (2) sleeping rooms
- 20. Cold Storage: One (1) parking space for each four hundred square feet of gross floor area (2.5/1000 GFA)
- 21. Community Center: Parking spaces equal in number to thirty percent of the Center capacity of persons
- 22. Country Club: One (1) parking space for each two (2) employees plus three (3) parking spaces for each golf hole
- 23. Convalescent or Nursing Home: One (1) parking space for each eight (8) beds, plus one (1) parking space for each two (2) employees
- 24. Dancing Academy: One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA)
- 25. Department Store: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
- 26. Delicatessen: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
- 27. Dormitory: One (1) parking space for each two (2) sleeping rooms
- 28. Dormitory (Student): One (1) parking space for each three (3) dormitory (Student) residents plus one (1) parking space for the supervisor.
- 29. Dressmaking: One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
- 30. Dry Cleaning: One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
- 31. Drugstore: One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA)
- 32. Dwelling: Two (2) parking spaces for each dwelling unit
- 33. Dwelling Two-family: Two (2) parking spaces for dwelling each dwelling unit

34. Dwelling with Roomers: Two (2) parking spaces for each dwelling unit plus one (1) parking space for each room rented to persons not members of the resident family
35. Fire Stations: One (1) parking space for each three (3) employees on shift
36. Flower Shop: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
37. Fraternity: One (1) parking space for each three (3) active members or dormitory residents plus one (1) parking space for each two (2) employees other than residents
38. Funeral Home: One (1) parking space for each four hundred (400) square feet of gross floor area
39. Furniture Store: One (1) parking space for each one thousand (1,000) square feet of gross ground floor area plus one (1) parking space for each one thousand five hundred (1,500) square feet of the gross area of floors other than the ground floor used for sales, display or show purposes
40. Food Market <3500: One (1) parking space for each three hundred GFA thirty-three square <3,500 sq. ft. of GFA feet of gross floor area (3/1000 GFA)
41. Food Market >3500: One (1) parking space for each two hundred fifty GFA square feet of gross >3,500 sq. ft. of GFA floor area (4/1000 GFA)
42. Greenhouse: One (1) parking space for each three (3) employees plus one (1) space for each three-hundred thirty-three square feet of sales area (3/1000 sq. ft. of sales area)
43. Grain Elevator: One (1) parking space for each two (2) employees
44. Gymnasium: Parking spaces equal in number to thirty percent of the capacity of persons
45. Hospital: One (1) parking space for each two and one-half employees plus one (1) space for each five average daily outpatient visits plus one (1) space for each four staff members plus one (1) space for each three beds.
46. Home Occupation: One (1) parking space in addition to residence requirements.

- 47. Hotel: One (1) parking space for each three employees plus one (1) space for each sleeping room
- 48. Industrial Park: One (1) parking space for each two (2) employees on the largest shift
- 49. Industrial Uses: One (1) parking space for each three (3) employees
- 50. Junk Yard: One (1) parking space for each two (2) employees
- 51. Kindergarten: One (1) parking space for each two (2) employees plus one (1) parking space for each five (5) children enrolled
- 52. Laboratory: One (1) parking space for each two (2) employees
- 53. Laundry: One (1) parking space for two washer and dryer machines
- 54. Lodge: Parking spaces equal in number to thirty percent of the capacity of persons
- 55. Library: One (1) parking space for each three hundred thirty-three square feet of gross floor area (3/1000 GFA)
- 56. Microbrewery/Microdistillery
  - One (1) parking space for each employee on the largest production shift plus the following based on area of use:
    - One (1) parking space for each two hundred (200) square feet of floor area dedicated to serving the public (for tasting room); and/or
    - Parking spaced equal in number to thirty (30) percent of the capacity of persons for the area dedicated to bar/tavern use (when in conjunction with bar/tavern); and/or
    - One (1) parking space for each one hundred (100) square feet of floor area dedicated to the restaurant use (when in conjunction with a restaurant)
- 57. Mobile Home Park: One (1) parking space for each two (2) employees plus two (2) parking spaces for each mobile home
- 58. Motel: One (1) parking space for each sleeping room plus one (1) space for each two employees
- 59. Museum: Parking spaces equal in number to thirty percent of the capacity of persons

- 60. Night Club: Parking spaces equal in number to thirty percent of the capacity of persons
  
- 61. Nursery (day): One (1) parking space for each two (2) employees, plus one (1) parking space for each five (5) children enrolled
  
- 62. Office-Business: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
  
- 63. Office-Professional: One (1) parking space for each three hundred three square feet of gross floor area (3.3/1000 GFA)
  
- 64. Outdoor Business-Recreation Use: One (1) parking space for each three employees plus one (1) space for each thousand square feet of use area
  
- 65. Penal Institution: One (1) parking space for each three (3) employees plus one (1) parking space for each ten (10) inmates
  
- 66. Photo Studio: One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
  
- 67. Physician's Office: One (1) parking space for each employee and ten (10) additional spaces per physician
  
- 68. Police Station: One (1) parking space for each three (3) employees on shift
  
- 69. Public Utility: One (1) parking space for each two (2) employees, plus spaces adequate in number (as determined by the Delaware-Muncie Metropolitan Plan Commission) to serve the visiting public
  
- 70. Radio Station: One (1) parking space for each employee in the largest shift
  
- 71. Railway Station: One (1) parking space for each ten (10) seats in waiting room, plus one (1) parking space for each two (2) employees of connected retail use
  
- 72. Recreational Club: One (1) parking space for each three (3) rooming units, plus parking spaces equal in number to thirty (30) percent of the capacity of persons of such club
  
- 73. Restaurant: One (1) parking space for each sixty-two and one-half square feet of gross floor area (16/1000 GFA)
  
- 74. Riding Stable: One (1) parking space for each five thousand (5,000) square feet of lot area

75. School: One (1) parking space for each member of the staff, plus one (1) parking space for each six (6) auditorium seats
76. School, nursery: One (1) parking space for each two (2) employees
77. School, high: One (1) parking space for each two (2) faculty members and other full time employees, plus one (1) parking space for each ten (10) students based on the maximum number of students attending classes on the premises at any one time during any twenty-four (24) hour period
78. Shoe Repair: One (1) parking space for each four hundred seventeen square feet of gross floor area (2.4/1000 GFA)
79. Shopping Center: One (1) parking space for each two hundred square feet of gross floor area (5/1000 GFA)
80. Slaughterhouse: One (1) parking space for each two (2) employees
81. Sorority: One (1) parking space for each three (3) active members or, dormitory residents, plus one (1) parking space for manager, plus one (1) parking space for each two (2) full time employees other than students
82. Sanitarium: One (1) parking space for each six (6) patient beds, plus one (1) parking space for each staff or visiting doctor, plus one (1) parking space for each four (4) employees including nurses
83. Tavern: Parking spaces equal in number to thirty (30) percent of the capacity of persons
84. Theater: One (1) parking space for each six (6) seats up to four hundred (400) seats, plus one (1) parking space for each four (4) seats above four hundred (400)
85. Theater Outdoor: One (1) parking space for each two (2) employees, plus one (1) parking space for manager
86. Tourist Home: One (1) parking space for each two (2) employees, plus one (1) parking space for each sleeping accommodation
87. Truck: One (1) parking space for each two (2) employees, plus four (4) parking spaces for customers
88. Veterinarian: Two (2) parking spaces for each three (3) animal cages or pens

89. Video Store: One (1) parking space for each two hundred fifty square feet of gross floor area (4/1000 GFA)

90. Warehouse: One (1) parking space for each two employees

For uses not listed, the most similar category shall be used as determined by the Administrative Zoning Officer. The following standards and categories shall be used for retail:

General Retail	3.3 spaces per 1000 GFA
Convenience Retail	4 spaces per 1000 GFA
Service Retail	2.4 spaces per 1000 GFA
Temporary Retail	3.3 spaces per 1000 GFA

## F SPECIAL CONDITIONS

A church may, by agreement approved by the Administrative Zoning Officer and filed with the Plan Commission Office, use adjoining parking facilities when the same are not in use, instead of providing its own. A group of business or industrial uses may provide a joint parking area if the number of spaces in the area equals or exceeds the aggregate of the spaces required for the several uses. Where there may be more than one use in the same building or structure, the total off-street parking requirement shall be the sum of the requirements specified herein for each of the various uses.

## **ARTICLE XXX**

### **Section 3 SIGNS AND OUTDOOR ADVERTISING**

#### A PURPOSE

1. The purpose of this section is to promote and protect the public health, welfare, and safety of the community and its people by regulating existing and proposed outdoor advertising and outdoor signs of all types.

This section is also intended to protect property values; create a more attractive and economically vital business climate; enhance and protect the physical appearance of the community; preserve the scenic and natural beauty; and to provide more enjoyable and pleasant living conditions. The intent of this section is also to reduce the incidence of signs or advertising distractions that may contribute to traffic accidents by their placement.

#### B GENERAL PROVISIONS

1. Definition: Hereafter a general definition of a sign shall mean identification description, illustration, or device which is mobile, affixed to or erected upon a property or tract of land, a building or a structure, and which directs attention to a product, place, activity, service, institution or business. All supports, poles, wires and other sign apparatus shall be defined as part of a sign, and hereafter referred to as sign apparatus.

2. Existing Signs - Conforming:

- a. Definition: A conforming sign is a sign, which meets the provisions established in this Ordinance.
- b. Provisions: The lawful location and maintenance of conforming signs existing at the time of the enactment of this Ordinance and any amendments thereof may be continued provided that the following conditions are met:
  - 1) That the existing sign is not expanded or reduced in size, or relocated in such a manner that would make said existing sign unlawful,
  - 2) That no additional signs are placed on the same sign apparatus, upon which said existing sign is located, in such a manner that would make said existing sign or sign apparatus unlawful, and
  - 3) That an approved sign permit was obtained for said existing sign.

When changes to an existing conforming sign are necessary, no said existing sign shall be expanded or reduced in size, or relocated without first obtaining an approved sign permit from the Administrative Zoning Officer.

3. Existing Signs - Non-Conforming

- a. Definition: A non-conforming sign is a sign which does not meet the provisions established in this Ordinance.
- b. Provisions: The lawful use of a non-conforming sign, existing at the time of the enactment of this Ordinance and any amendments thereof, may be continued provided that the following conditions are met:
  - 1) That said existing sign is not expanded in size, or relocated, unless such expansion or relocation brings the sign into conformity with this Ordinance;
  - 2) That no additional signs are placed on the same sign apparatus upon which said existing sign is located; and
  - 3) That said existing sign is not located within the proposed or existing right-of-ways as designated by the Official Thoroughfare Plan of Delaware County, Indiana.

When changes to an existing non-conforming sign are necessary to bring the sign into conformity, no said existing sign shall be expanded in size, or relocated, without first obtaining an approved sign permit from the Administrative Zoning Officer.



4. Existing Signs - Deteriorated or Inactive:

- a. Deteriorated Sign: A sign that is in a poor or dangerous condition, such as, but not limited to, broken or leaning sign apparatus, portions of the sign missing, chipping of paint, ripping or tearing of sign materials. When a sign has been deteriorated for a period of at least thirty (30) days, the owner of the sign or the owner of the property upon which said sign is located shall, upon written notice from the Administrative Zoning Officer, repair said sign. The sign shall be repaired, or contracted for repair, within thirty (30) days from the date of the notice sent to repair the sign.
- b. Inactive Sign: A sign which no longer directs attention to a business, activity, service or product, sold or provided on the premises where the sign is located. A pole or other support apparatus without a sign board shall also be considered an inactive sign. When a sign and/or sign support apparatus has been inactive for a period of at least six (6) months, the owner of the sign or the owner of the property upon which said sign is located shall, upon written notice from the Administrative Zoning Officer, remove the sign and sign support apparatus. The sign and support apparatus shall be removed within thirty (30) days from the date of the notice. Failure to comply with the notice shall authorize said Officer to initiate action for the removal of the deteriorated or inactive sign.

5. Liability Insurance:

Any sign installing company which applies for a sign permit must have on file with the Building Commissioner's Office, a current Certificate of Liability Insurance, covering bodily injuries, including death, with limits of not less than \$100,000 for each person and \$300,000 for each accident and \$25,000 in property damage which said liability policy shall carry an endorsement holding the County of Delaware harmless from any claims, demands, or causes of action resulting from, in any manner, the erection or installation of said sign by said sign installation company.

6. Multiple Frontages: Each side of a building or structure is to be considered separately for purposes of determining compliance with the provisions of this Ordinance.
7. Multiple Uses of a Sign Apparatus: When more than one sign is to be located, added to, or placed on the same sign apparatus as where previously erected signs exist, all signs, existing and proposed, must meet the provisions of this Ordinance, prior to the issuance of any additional sign permits.
8. Overall Height: Notwithstanding the provisions of the Ordinance, no sign shall at any point be over forty-five (45) feet in height above grade level, unless the sign is located on a building that has a maximum permitted building height greater than forty-five (45) feet.
9. Right-of-Ways: Notwithstanding the provisions of this Ordinance, no sign shall be located or maintained within the proposed or existing right-of-way of any street or highway, as

designated by the Official Thoroughfare Plan of Delaware County, Indiana. Exceptions to this requirement include a projecting sign, which may be located over public property, but shall not extend nearer to the curb line than five (5) feet.

10. Setback from Residence in a Residential Zone: Notwithstanding the provisions of this Ordinance, no sign, excepting directional and warning signs, shall be located closer than fifty (50) feet to a residence in a residential zone, a school or a church.

11. Total Number of On-Premise Signs per Property: The total number of on-premise signs for a property having a commercial or industrial use located thereon shall be based on the following formula: Two (2) on-premise signs shall be permitted on each separate street frontage. However, where there are multiple uses on a single property, each occupant thereon is permitted a maximum of two (2) on premise-signs.

C PERMITTED SIGNS NOT REQUIRING A SIGN PERMIT - ALLOWABLE IN ALL ZONING DISTRICTS

- 1. Directional or Warning Sign.
- 2. Political Sign.
- 3. Public Service Sign.
- 4. Real Estate Sign.
- 5. Real Estate Development Sign.

1. Directional or Warning Sign:

- a. Definition: Signs solely identifying situations of a directional, cautionary, or dangerous nature when public signs are not functional, such as, but not limited to, an entrance or exit sign.
- b. Provisions: If illuminated, the light source shall not be directed toward any street or any adjoining property in a residence zone. Signs identifying ingress and egress points of a property shall be placed in such a manner as not to interfere with the visibility of motorists or pedestrians.

2. Political Sign:

- a. Definition: A sign relating to the election of a person to public office, to a political party or group, or to a matter to be voted upon at an election called by a public body.
- b. Provisions: A political sign shall be removed within ten (10) days following the election. A winning candidate in a primary election may maintain his/her sign until ten

(10) days following the general election. The person responsible for the removal of a political sign is the owner of the property upon which said political sign is located. If such signs are not removed within the specified time period, the Administrative Zoning Officer may initiate action for removal of said sign.

3. Public Service Sign:

- a. Definition: A sign required or specifically authorized for a public purpose.
- b. Provisions: A public service sign can be any especially licensed sign, permitted by a legislative body, by franchise or by special license such as a sign on a bus, bench or trash receptacle. A public service sign may be a sign established by a public service agency as an aid to safety or service. A public service sign can also be a governmental or traffic sign.

4. Real Estate Sign:

- a. Definition: A clearly temporary sign, pertaining only to the sale, lease or rental of the premises upon which it is displayed.
- b. Provisions: A real estate sign shall not be illuminated and it shall be removed within ten (10) days after the sale, lease or rental of the property or premises.

5. Real Estate Development Sign:

- a. Definition: A business sign placed on the premises of a subdivision or other real estate development.
- b. Provisions: In the case of a real estate development sign, no sign shall be closer to an existing building than one hundred (100) feet. In a development of less than one (1) acre, or having a frontage under four hundred (400) feet on the street on which the sign is to be placed, the minimum distance to a residence in a residential zoning district, which is not part of the development shall be at least fifty (50) feet. The maximum time for an individual sign to remain on the premises shall be twelve (12) successive months. Signs shall be removed when the development is completed or if the same would cease.

D PERMITTED SIGNS REQUIRING A SIGN PERMIT - ALLOWABLE IN ALL ZONING DISTRICTS

1. Home Occupation Sign:

- a. Definition: A sign stating solely the name of a person and the name of the permitted home occupation.

- b. Provisions: A home occupation sign shall be permitted only when the property has obtained a special use home occupation approval from the Metropolitan Board of Zoning Appeals. The maximum size shall be one (1) square foot and it shall be placed flat against the residential structure. A home occupation sign shall not be illuminated in any manner.

A sign permit shall be obtained prior to placement of a home occupation sign.

2. Identification Sign:

- a. Definition: An identification sign shall mean a ground or wall sign stating the name of a person, firm or description of a permitted use.
- b. Provisions: Signs may be used by professional, semi-professional, public, semi-public, religious and similar entities. One (1) sign shall be permitted for each site or building entrance. If illuminated, the light source shall not be directly visible from any street or adjoining property in a Residence Zone. A sign permit shall be obtained prior to placement of an identification sign.

E PERMITTED SIGNS REQUIRING A SIGN PERMIT - ALLOWABLE IN NON-RESIDENTIAL ZONING DISTRICTS

- 1. Ground Sign
- 2. Off-Premise Sign
- 3. Pole Sign
- 4. Projecting Sign
- 5. Roof Sign
- 6. Temporary Sign
- 7. Wall Sign
- 8. Clustered Use Sign

1. Ground Sign:

- a. Definition: A low profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.
- b. Provisions: A ground sign shall not at any point be over three (3) feet in height above grade level when such sign is located within five (5) feet of the right-of-way line. When located five (5) or more feet from the right-of-way line, no ground sign shall at any point be over eight (8) feet in height above ground level. A ground sign shall not be closer than three (3) feet to any building, or ten (10) feet to any other sign. Lighting reflectors shall not be more than six (6) feet away from the ground sign, which they are designed to illuminate. A sign permit shall be obtained prior to the placement of a ground sign.

## 2. Off-Premise Sign:

- a. Definition: A sign which directs attention to a use, business, product, service, or activity not conducted, sold or offered upon the premises where the sign is located.
- b. 1) Provisions-General: Off-premise signs shall have a six (6) foot clearance beneath the signboard including cut-outs. The overall size of a sign shall not exceed twenty-five (25) feet in height, forty-eight (48) feet in length, or six hundred seventy-two (672) feet in area. Extensions allowed shall not exceed two hundred (200) square feet in area.

Maximum extensions of cut-outs shall be:

Above the signboard - six (6) feet, below the signboard - one (1) foot and any sides of the sign board- three (3) feet. An off-premise sign may have the faces of the sign board as follows: One (1) board facing one direction; two (2) boards in a "V" position with an interior angle of not more than ninety degrees (90 ); three (3) boards in a triangular position; two (2) boards back to back; two (2) boards side by side or one above the other four (4) boards; or two (2) boards side by side coupled back to back. When two (2) boards face the same direction, the total allowable sign area shall not exceed the area allowed for one (1) billboard. Total allowable area is counted only for one (1) side when the boards face different directions and the angle between the sign faces is two hundred seventy (270) degrees or more. An off-premise sign shall be permitted within existing building lines. A sign permit shall be obtained prior to the placement of an off-premise sign.

- 2) Special Provisions-Farming (F) Zoning District Exclusive: A minimum distance to another legally established off-premise sign shall be seven hundred fifty (750) feet between signs on the same side of any street or highway. An off-premise sign shall not be placed closer than one hundred (100) feet to the cross section of any intersection, railroad on-grade crossing, or ingress-egress drive or entrance. An off-premise sign shall have a minimum side yard setback of three (3) feet from the side property line and a minimum ten (10) foot setback from the right-of-way line of any street or highway. There shall not be more than two (2) off-premise signs per one-half (1/2) mile on the same side of any street or highway. There shall be a minimum distance of not less than two hundred (200) feet to any existing residence, church, school or other facility of common human use.
- 3) Special Provisions - Non-Farm, Non-Residential Zoning Districts: A minimum distance to another legally established off-premise sign shall be two hundred (200) feet between signs on the same side of any street or highway. An off-premise sign shall not be placed closer than ten (10) feet to any right-of-way line of any street or highway. The maximum area of all off-premise signs, including cut-outs or extensions, on the same side of the street facing the same direction in any block shall be twenty-five hundred (2,500) square feet. Should a block exceed six

hundred (600) feet in length, each six hundred (600) feet shall be considered a block. There shall be a minimum distance of not less than fifty (50) feet to any residence in a Residential Zoning District.

3. Pole Sign:

- a. Definition: A high-profile, on-premise sign completely or principally self-supported by posts or other sign apparatus independent of any building or other structure.
- b. Provisions: A pole sign shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the pole sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner, which would impair general public visibility. The maximum width of pole covers shall be the sum total of eighteen (18) inches in a horizontal direction, plus the width of the pole covered. No pole sign shall be erected in excess of forty-five (45) feet in vertical height or three hundred (300) square feet in area per side. All bolted installation to concrete bases must have ground rods. Once a pole sign becomes inactive, as defined in this Ordinance, the pole or sign apparatus must be removed along with the sign itself. A sign permit shall be obtained prior to the placement of a pole sign.

4. Projecting Sign:

- a. Definition: An on-premise sign attached to a building or structure and extending wholly or partly beyond the surface of the portion of the building or structure to which it is attached; or extending beyond the building line; or over public property.
- b. Provisions: A projecting sign shall be placed at a distance not greater than two (2) feet from the face of the wall to which it is attached, measured from the part of the sign nearest thereto. No projecting sign or part thereof shall extend nearer to the curb line than five (5) feet, nor be placed lower than ten (10) feet above grade or sidewalk level. No projecting sign shall be erected to a height greater than sixty (60) feet above grade or higher than the cornice of any building which is three (3) stories or more in height, unless the same be entirely of steel skeleton construction and shall present only forty percent (40%) of the solid surface area to be affected by wind pressure. No projecting sign shall be erected when the area of one face of the sign shall exceed two hundred forty (240) square feet in area. Any movable part of the sign shall have an area not to exceed one hundred (100) square feet for a vertical sign, or fifty (50) square feet for a horizontal sign.

No projecting sign shall be secured with wood, nails or wire, unless with seven strand guy wire; nor shall any projecting sign be hung or secured to any other sign. Turnbuckles shall be placed in all chains and guy wires supporting projecting sign weighing two hundred (200) pounds or more. A projecting sign exceeding ten (10) square feet in area or fifty (50) pounds in weight shall not be attached to nor supported by frame buildings, nor wooden framework of a building. Other projecting signs shall be attached to masonry or, like walls,

with galvanized expansion bolts at least 3/8 -inch in diameter or shall be fixed in the wall by means of bolts extending through the wall. Projecting signs shall have no reflectors of the goose-neck type. No glass faces can be used in projecting signs, any other glass used shall be safety or plate glass at least 1/4 -inch in thickness. A sign permit shall be obtained prior to the placement of a projecting sign.

5. Roof Sign:

- a. Definition: An on-premise sign erected, constructed, or maintained upon the roof of any building or structure.
- b. Provisions: No roof sign shall project beyond the outer edge of the walls of the building in any direction. No roof sign having a tight, closed, or solid surface shall at any point be over twenty-five (25) feet above the roof level.

No roof sign with a tight, closed or solid surface shall be erected on any building four (4) stories or over in height, but roof sign structures not having a tight, closed or solid surface may be erected on fire-resistive buildings to a height not exceeding forty (40) feet above the roof level, and upon non-fire-resistive buildings to a height not exceeding thirty (30) feet above the roof level. The solid portions of the structures shall not exceed forty percent (40%) of the superficial area thereof. All signs which are erected on the roof of a fire-resistive building shall be thoroughly secured to the building upon which they are installed, erected, or constructed, by iron or metal anchors, bolts, supports, seven strand guy cable, steel rods or braces. All roof signs erected on non-fire-resistive buildings shall be so erected that the live-and dead-load stresses shall not in any manner adversely affect the building. Wind pressures not less than said sign must withstand thirty (30) pounds to the square foot of the area of the sign. All roof signs shall be composed entirely of non-combustible material, including sign apparatus and supports, except the ornamental molding and battens behind the steel facings. A sign permit shall be obtained prior to the placement of a roof sign.

6. Temporary Sign:

- a. Definition: A temporary sign shall mean any on-premise sign, sign board, banner, pennant, flag banner, inflatable or other light weight advertising display, including portable signs, that are more than two (2) feet in height and/or more than three (3) square feet in display area, maintained for the purpose of displaying outdoor advertising, that directs attention to a product, place, activity, service, institution or business and that is intended to be displayed for a limited time as described herein. A portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported including, but not limited to, signs designed to be transported by means of wheels.
- b. Provisions: A sign permit shall be obtained prior to the placement of a temporary sign. No temporary sign shall be maintained, displayed or placed on a property for a period

longer than forty-five (45) days after the issuance of the permit and ninety (90) days must expire before the permittee can reapply for a new permit for said sign on the property. A new permit is to be obtained for each forty-five (45) day period. A temporary sign exceeding the time limits herein may be converted to a permanent on-premise sign subject to obtaining the applicable permit and meeting all provisions governing the applicable sign type (i.e. ground sign, wall sign). There shall be no more than one (1) temporary sign per business. No temporary sign shall at any point be over eight (8) feet in height above grade, except a banner or other overhead suspended display provided it must have at least a ten (10) foot clearance above grade. No temporary sign shall be placed within public right-of-way; any temporary sign so improperly placed may be declared a public nuisance and a traffic hazard and, if necessary, the Administrative Zoning Officer shall remove the sign. Spotlights or flashing illumination shall not be used under any circumstances with a temporary sign. Temporary signs shall be properly maintained and if not, may be declared a deteriorated sign subject to repair or removal as set forth in this Section. Any temporary sign not complying with the provisions of this Ordinance may, upon notice, be removed by the Administrative Zoning Officer.

- c. General Exceptions: Unless otherwise specifically stated, the following shall be exempt from the temporary sign provisions and permits:
- 1) A-Frame, T-Frame, Menu Board or Sandwich Board signs serving a permitted use provided as followed: they may be erected, placed or located outside of a business establishment on a daily bases; they shall only be displayed during business hours of operation; they shall be within ten (10) feet of the main customer entrance; they shall not be located in public right-of-way unless a Right-of-Way Occupancy Permit is obtained; they shall not exceed six (6) square feet in sign surface area; and they shall not exceed a height of five (5) feet above grade.
  - 2) Holiday displays which contain no advertising message, are primarily decorative in nature and are clearly incidental and commonly associated with any national, state or local holiday provided the displays are removed in a timely manner after the holiday is over, such as within fifteen (15) days.
  - 3) Grand Opening Events for new businesses shall be permitted a single grand opening event sign display during which the number, type and size of temporary signs shall not be limited provided the display does not exceed thirty (30) consecutive days measured before, during and after the grand opening event.
  - 4) Flag banners and similar light with fixtures that contain no text, graphics, or logos provided there are no more than three (3) per business or land parcel containing multiple businesses and they are displayed no more than two (2) times per calendar year with each time not exceeding forty-five (45) days in duration.



7. Wall Sign:

- a. Definition: An on-premise sign attached to, or erected flatly against a wall of a building or structure.
- b. Provisions: No wall sign shall project away from the wall more than eighteen (18) inches. When a wall sign is located over a sidewalk and projects more than six (6) inches over the pedestrian area, the minimum distance from the sidewalk grade and the base of the sign shall be eight (8) feet.

A wall sign placed on a building of one (1) story shall not project more than ten (10) feet above the top of the wall or two (2) feet beyond the ends of the wall to which it is attached.

A wall sign placed on a building of two (2) or more stories shall not project more than two (2) feet above the top of the wall or beyond the ends of the wall to which it is attached.

If the wall sign is an illuminated one, overhead lighting reflectors may project six (6) feet beyond the building line, but in no case shall the lighting reflectors be more than six (6) feet from the face of the wall sign. All reflectors extending over the sidewalk shall be secured and safely anchored. No wall sign shall be so erected as to prevent free ingress to or egress from the building, or any fire escape. A sign permit shall be obtained prior to the placement of a wall sign.

8. Clustered Use Sign

- a. Definition: A sign, which identifies by name two or more uses located in a single integrated named commercial or industrial development or subdivision. Such signs are designated for identification and locational purposes rather than advertising purposes.
- b. Provisions: Clustered use signs shall have a minimum clearance of ten (10) feet between the bottom of the face of the sign and grade or sidewalk level. If the clustered use sign is supported by more than one pole, the space between the poles shall not be enclosed in a manner that would impair general public visibility. No clustered use sign shall be erected in excess of forty-five (45) feet in height; and a clustered use sign shall not exceed three hundred (300) square feet in signboard area per side, excluding supports and the identification name for the development. All bolted installation to concrete bases must have ground rods. Signboards must be constructed of permanent, all-weather materials and supported internally by metal poles or supports. Signs shall be representative of the integrated area the sign is intended to serve and a design plan shall be submitted with the permit application. A landscaped area of at least 100 square feet shall be provided at the base of the sign and this area shall be maintained in a healthy, neat and clean condition. To minimize glare and the general over wash of light to public right-of-way and residential uses, signs shall be illuminated only with steady, stationary, shielded and/or contained light sources directed solely onto or within the sign. A sign permitted shall be obtained prior to the placement of a clustered use sign.

After the initial installation, a sign permit shall be obtained prior to the installation of any additional or replacement signs for individual uses.

- c. Locations: One (1) clustered use sign may be erected at each major public right-of-way or private driveway entrance leading into an integrated commercial or industrial development or subdivision. The sign may be placed either on or off the property where the uses are located, but shall not be placed throughout the subdivision or development itself. No clustered use sign shall be erected within fifty (50) feet of another clustered use sign or pole sign. No clustered use sign shall be placed in the actual or proposed public right-of-way.

## F PROHIBITED SIGNS

1. Definition: A sign not permitted under any circumstances.
2. Provisions: The following signs shall be prohibited in all locations unless otherwise specified in this Ordinance:

### SIGNS AND OUTDOOR ADVERTISING

#### Types of Signs:

- a. Bearing statements, words, or pictures of an obscene and indecent character, such as would be offensive to the general public;
- b. Where, because of size, location, coloring, content, or illumination, a sign may bear close resemblance to or being an imitation of highway or traffic sign or signals, and incorporates in any manner flashing or moving apparatus that may create a traffic hazard, (State of Indiana Motor Vehicle Laws, Article III);
- c. Which interfere with the view of any signal, traffic sign or street sign (State of Indiana Motor Vehicle Laws, Article III);
- d. Inactive signs or sign apparatus as defined in this Ordinance;
- e. Deteriorated, leaning, derelict, or structurally unsafe signs, which constitute hazards by reason of inadequate maintenance, age, or abandonment, as, defined in this Ordinance;
- f. On trees, telephone or light poles, fences, and on city streets or rights-of-way, alleys or sidewalks;
- g. Obstructing ingress and egress from a door, window, fire escape or exit;
- h. Unlawfully installed, erected or maintained.

## G TECHNICAL PROVISIONS

1. County Electrical Code:
  - a. The light source shall not be exposed in a manner as to create hazards to pedestrians and motorists. The light source shall be shaded, hooded, or adequately screened to prevent the obstruction of pedestrian or motorist visibility.
  - b. All electrically illuminated signs with exposed terminals shall be erected or maintained in such a manner that the exposed tubing or terminals will be at least ten (10) feet above the established grade, except where exposed tubing or terminals are properly protected as required by the 1981 Edition of the National Electrical Code. All electrical wiring must be in metal raceway. Underwriters Laboratory, or Electrical Testing Laboratories Certification, or equivalent, must be included in the permit application when signs are electrically illuminated.
2. Fire Access: No sign or advertising display of any nature shall be installed, erected, maintained, or constructed in such a manner as to obstruct any fire escape or exit, or the ingress or egress from any window or door opening thereof, or be at any time attached in any manner to any fire escape.
3. Glass in Signs, Where Permitted:
  - a. Ornamental or plain flat glass shall not be permitted to be hung from any location which extends over a public right-of-way (only permitted type of sign - projecting sign) unless the glass is supported at all times around the entire edge by a substantial metal supporting rib approved by the Building Commissioner and the glass is limited to one hundred (100) square inches in area within any one set of metal supporting ribs.
  - b. Exposed glass in any advertising display shall be permitted only when the area within any one (1) set of metal ribs is not greater than one hundred (100) square inches for each and every piece of exposed glass. The Building Commissioner may approve larger areas of exposed glass, plastic, or composition material, when properly enclosed and protected.
  - c. All metal supporting ribs in any advertising display shall extend over and cover at least fourteen (14) inches of the portion of the surface of the glass that is to be exposed.
  - d. In case a picture for fancy display is to be used in an exposed area of any advertising display, not more than two (2) open spaces not exceeding one hundred fifty (150) square inches each may be permitted in one advertising display.
4. Sound Devices: Public address systems, loud speakers, or sound amplifying systems shall not be used in conjunction with any outdoor advertising sign or structures. In all businesses, including shopping centers, all sound devices shall be used for communication

within the building or buildings. The use of sound devices for advertising, communication, or the production of music outside the buildings, is prohibited.

5. Supports:

- a. The dead load of projecting signs may be supported with chains or guy wires, and the working stress of the chains or guy wires shall not exceed one fifth (1/5) of the ultimate strength of the chains or guy wires shall not be less than one-fourth (1/4) inch in diameter. Chains or guy wires supporting the dead load of any such projecting sign shall be erected or maintained at an angle of not less than thirty degrees (30) with the horizontal. Supporting chains or cables may be used for the resistance of wind pressure, and the working stress of the supporting chains or cables shall be so designed that it will not exceed one fourth (1/4) of the ultimate breaking strength of the chains or cables. The least cross-sectional diameter of the chains or cables resisting wind pressure shall be erected or maintained at an angle of forty-five degrees (45) or more with the face of the sign that the chains or cables are supporting.
- b. In no case shall there be less than two (2) chains or cables designed to resist the dead load and two (2) chains or cables on each side to resist the live load of any projecting sign having twenty (20) square feet in facial area. Chains or cables resisting a wind pressure on any side of a projecting sign shall be not more than eight (8) feet apart.
- c. All supporting chains or guy wires, where used either for the resistance of a live or dead load, shall be secured to a bolt or expansion screw that will develop the strength of the supporting chain, or cable, with a minimum one-half (1/2) inch bolt or lag screw secured by an expansion shield or other method approved by the Building Commissioner.
- d. Chains or guy wires used to support the live or dead load of projecting signs, erected or maintained at an angle of more than forty-five degrees (45) may be fastened to masonry walls with expansion bolts or by machine screw in iron supports. Where supporting chains or cables must be fastened to walls made of wood, the supporting or anchor bolts must go through the wood and be fastened securely on the other side.
- e. No staples or nails shall be used to secure any projecting sign or display to any building or structure, unless the sign or display weighs less than one (1) pound.
- f. Stiff arms, compression members, or members in flexure may be used to support either the live load or the dead load of a projecting sign, but the effective or unsupported length of the main compression members of any sign or stiff arm shall not exceed one hundred twenty (120) times the least radius of gyration, and for the secondary member, two hundred (200) times the least radius of gyration.
- g. In any projecting sign or advertising display, the extreme fiber stress of the steel to be used shall not exceed twenty thousand (20,000) pounds per square inch, and for wood,

one thousand two hundred (1,200) pounds per square inch for any grade of lumber.

h. In no case shall any advertising display support be attached to a parapet wall.

## H AUTHORITY

1. No sign as defined herein shall hereafter be erected, maintained or constructed by any person except as provided in this section, or until after a permit to erect, construct, or maintain the same has been obtained from the Administrative Zoning Officer. No such permit shall be issued until the prescribed fee is paid as set forth in this Ordinance.
2. In case any sign or advertising display shall be installed, erected, maintained, or constructed in violation of any of the provisions of this section, the administrative zoning officer shall notify, in writing, the owner or lessee thereof either to alter the sign so as to comply with this Ordinance and to secure the necessary permit thereof, or forthwith to remove the sign.

If the order is not complied with within ten (10) days after mailing the notice, the Article Administrative Zoning Officer may remove the sign at the expense of the sign owner, lessee thereof, or the property owner.

3. The Administrative Zoning Officer has the authority to appoint officers to enforce the provisions of this Ordinance. These officers have the authority to issue necessary citations, to issue tickets and to remove unlawful signs.
4. The Administrative Zoning Officer may adopt and prescribe suitable rules and regulations, consistent with the provisions of this Ordinance, concerning form and contents of all applications for the various kinds of permits herein required, and covering any other requirements for the applicant to protect the public safety and welfare.

## I SIGN PERMIT PROCEDURES

1. Procedures: No sign shall be installed, erected, maintained or relocated without obtaining a sign permit issued by the Administrative Zoning Officer in accordance with established procedures and inspections. The application shall include information, site plans, and specifications as may be required by said officer. Office records shall contain an accurate description of the sign for which a permit is issued, its location, photograph, and the date of completion of installation.
2. Provisions: Permit shall expire if work is not started within sixty (60) days of the date of the permit approval, or completed within one hundred twenty (120) days of said date. A sign permit is not completely approved until after the actual sign permit is obtained from the Administrative Zoning Officer and the sign is properly installed or erected and permit fee paid. If the applicant within does not obtain a sign permit, which has been approved by said Officer, from the office sixty (60) days of the date of permit approval, the permit is

null and void.

**J FEES**

Permit fees for signs shall be based on site inspection costs as follows:

<b>TYPE OF SIGN</b>	<b>FEE</b>
Clustered Use	\$40.00, initial \$25.00, post-installation additions and/or replacements
Ground	\$40.00
Home Occupation	\$32.00
Identification	\$32.00
Off-premise	\$40.00 + \$32.00 for each additional face on the same sign apparatus
Pole	\$40.00
Projecting	\$40.00
Roof	\$32.00
Temporary	\$32.00 per forty-five day period
Wall	\$32.00

**K PENALTY FEE**

Any person who shall erect, install or alter, as defined herein, a sign prior to obtaining a sign permit, shall pay twice the amount of the permit fee set forth herein and/or the Administrative Zoning Officer may initiate action in a court of competent jurisdiction to have said sign removed.

**ARTICLE XXX**

**Section 4 GASOLINE SERVICE STATIONS**

**A DEFINITION**

For the purpose of this Ordinance a gasoline service station shall be a retail place of business engaged in supplying goods and services essential to the normal operation of automobiles such as the dispensing of gasoline and motor oil; the sale and servicing of tires, batteries and other car accessories; the washing and lubricating of motor vehicles. This shall not include the sale of

automobiles; the keeping of wrecked or disabled cars; the performing of body and fender work; or the painting or the performing of major motor repairs.

## B STANDARDS

No gasoline service station shall be permitted unless it shall meet the following minimum requirements:

1. The owner, lessor and/or lessee shall, upon making application for a gasoline station, submit a drawing describing the manner in which buildings will be located on the premises; the manner in which the site will be conditioned and beautified; location of all permanent or floating signs; and any other similar requirement which may be requested by the Administrative Zoning Office. The owner, lessee and/or lessor will be held jointly responsible for conforming to all the details of the plan as submitted. Any violation of a part of the plan shall be held to be reason for the nullification of a permit or refusal to issue one.
2. There shall be a maximum width of driveways at the sidewalk of thirty (30) feet.
3. There shall be a minimum setback of forty (40) feet from any and all streets.
4. There shall be a minimum frontage of one hundred and twenty (120) feet at the building line and a minimum of twelve thousand (12,000) square feet of lot area exclusive of rights-of-way.
5. The minimum distance from any driveway to any exterior property line shall be twenty (20) feet.
6. The minimum angle of intersection of driveways with the street pavement shall be sixty (60) degrees.
7. The minimum distance between curb cuts shall be thirty (30) feet.
8. No service station shall be erected, operated or maintained where an entrance or exit for motor cars is located on the same side of the street within one hundred (100) feet of a pedestrian entrance or exit from a public or private school, park, parkway, playground, library, church, hospital, home for children or senior citizens, or other public or semi-public institution.
9. No gasoline pump shall be located closer than fifteen (15) feet to the nearest lot line or line of established street or highway. On a corner lot, when a gasoline pump or a series of pumps are placed in a pump island parallel to the lot line or at an angle to the lot line, the end pump nearest to the street shall be located not closer than twenty (20) feet to the street line, measured along the axis of said pump island or islands.

10. The minimum distance from any driveway to any interior lot line shall be ten (10) feet.
11. A raised curb six (6) inches high and two (2) feet wide shall be placed within the street right-of-way.
12. All hydraulic hoists and pits, lubrication, greasing, auto washing and repair equipment shall be entirely enclosed within a building.
13. Every lot used as a gasoline service station shall be paved with asphaltic or concrete surfacing and shall be adequately drained.
14. The minimum site of twelve thousand (12,000) square feet shall be limited to two (2) service bays and two (2) pump islands. Two (2) pump islands and one (1) bay may be added for each additional two thousand (2,000) square feet of extra site area.
15. A five (5) foot decorative fence shall be erected along all property lines separating the site from any dwelling and any Residence Zone.
16. Eight (8) on-site parking spaces shall be provided at a gasoline service station with two (2) or more service bays. In all other instances two (2) spaces shall be provided.
17. Exterior lighting shall be installed and maintained so as to cast no glare upon adjacent property or public right-of-way.
18. The parking of junk vehicles and rental vehicles shall not be permitted.

## C SIGNS

Gasoline service stations shall comply with the following sign standards in addition to those already specified in the Outdoor Advertising provisions as contained in this Ordinance.

1. Only two (2) pole signs shall be permitted for each gasoline service station, which pole sign shall be limited to advertising the trade name. The maximum permitted sign surface area shall be three hundred and twenty (320) square feet on each side of a double-faced sign.
2. No more than two (2) ground signs for each street frontage shall be permitted within the property lines, each of which shall not exceed twenty-five (25) square feet on each side of a double-faced sign. Such sign shall be used to indicate services, prices, products, and the announcement of incentives. Such signs shall be installed as stationary, fixed structures, not subject to being dislodged by high winds and shall not be portable or temporary structures.
3. Wall signs shall be permitted on the principal service station building.



4. Signs shall be permitted on pump islands but shall not exceed twenty (20) square feet on each side of a double-faced sign.
5. Window signs shall be permitted but shall not exceed six (6) square feet in area.
6. Display signs shall be permitted but shall not exceed six (6) square feet in area.
7. No sign shall be attached to a decorative fence installed with the purpose of screening the gasoline service station from a dwelling or Residence Zone.
8. Incidental signs shall be permitted as follows: (a) Station for sale, rent or lease; (b) Identification of the operator, one (1) foot vertical and six (6) feet horizontal; (c) Directional signs one (1) square foot maximum. Only one sign for each subject shall be permitted.
9. No signs shall be placed on curbs or outside the property lines.
10. No signs shall be placed or installed on a site of a gasoline service station, which will interfere with the vision of motorists and will constitute a traffic hazard.

**ARTICLE XXX**

**Section 5 DEVELOPMENT STANDARDS**

**A INTENT AND PURPOSE**

These provisions are for the purpose of promoting the public health, safety, comfort, morals, convenience and general welfare; of securing adequate light, air, convenience of access, and safety from fire, flood and other danger; and of lessening or avoiding congestion in public ways. Further, it is the intent of these provisions to promote good planning by providing for consistent and coordinated treatment of multi-family, commercial and industrial development and other non-agricultural, non-one-and-two-family development in Delaware County, Indiana and to promote quality, orderly development, efficient traffic flow, innovative site designs, efficient land use, and capital investments while protecting and enhancing the surrounding residential and agricultural uses and natural resources located in Delaware County, Indiana.

**B DEVELOPMENT STANDARDS**

1. **APPLICABILITY.** The Development Standards contained in this Section shall apply to all development other than one-and-two family residential and agricultural use. No new building or structure shall be constructed or used in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used unless the requirements of this Section are met.
2. **EXEMPT USES.** The following land use activities are exempted from the requirements of this Section.

- a. One and two family dwellings and agricultural uses and buildings.
- b. Ordinary and necessary repair and/or maintenance of existing structures, improvements or uses.
- c. Exterior alterations or one time enlargements or additions to any existing multi-family, commercial, industrial or permitted non-agricultural, non-one-and-two-family structure which will not increase the gross floor area of the existing structure by more than twenty-five percent (25%) or will not increase the ground coverage by more than ten percent (10%).
- d. Exterior alterations or additions and interior alterations to an existing non-multi-family, non-commercial, and non-industrial structure which do not substantially change its nature or use.

### 3. PROCESS

- a. **PROCEDURE.** A development plan shall be submitted prior to the establishment of any use of land, the issuance of any permits, or the erection, construction or structural alteration of any buildings. Developers shall file a development plan with the Building Commissioners Office under established procedures for the obtaining of local permits. The development plan shall contain sufficient detail to ensure compliance with the standards contained herein. Any amendments to a development plan, whether required by a public entity or proposed by a developer, must be shown on an amended development plan and filed with the Building Commissioners Office to ensure permits are updated, as applicable.
- b. **TIME LIMITATION.** Local permits issued under an approved development plan shall be valid for three (3) years from the date the permit is issued. If site improvement work has not commenced in the three (3) year period, new permits must be obtained in the same manner as for the original permits.
- c. **SURETY.** Surety may be required for certain improvements to ensure their installation. Such surety shall be approved by the appropriate jurisdictional entity in amount and form, including, but not limited to, a bond, a letter of credit, or a personal guaranty.
- d. **PERMITS AND CERTIFICATES OF OCCUPANCY.** No construction or site improvement work shall commence prior to the issuance of all required permits. No Certificate of Occupancy shall be issued until all improvements shown on the development plan are installed or the applicant for improvements not yet completed has provided surety acceptable to the appropriate jurisdictional entity.

4. **GENERAL OBJECTIVES.** Sites to be developed shall be of such character that they can

be safely used for building purposes without danger to the public health or safety, or peril from fire, flood or other causes. The proposed development should be visually compatible with the character of the community to the extent feasible. Vegetative screening shall separate commercial and industrial uses from residential properties. Site development should accomplish the following objectives:

- a. Adequate and safe vehicular and pedestrian circulation between the site and the public street network.
  - b. Safe and adequate interior site vehicular and pedestrian circulation, parking and loading facilities.
  - c. Year-round accessibility.
  - d. Environmentally sensitive areas shall be protected and left undisturbed.
  - e. Adequate drainage facilities per approved drainage plan.
  - f. Mitigation of the adverse effects of spillover light, smoke, noise, glare, vibration, odors, or noxious and offensive uses.
  - g. Adequacy of site to accommodate on-site waste treatment and water facilities unless adequate central or public sewer and water service is provided.
5. **STANDARDS.** Development plans shall comply with the following standards and the provisions of this Ordinance. Where standards may conflict, the more restrictive shall prevail.
- a. **Building Setback Lines: Commercial, Multi-Family, Non-Agricultural, Non-1&2 Family Use:**
    - 1) **Public Road Setback:** All buildings shall be setback a minimum of fifty (50) feet from a public roadway, measured from the wall of the building to the right-of-way line, existing or proposed whichever is nearest.
    - 2) **Private Road Setbacks:** All buildings shall be setback a minimum of twenty (20) feet from a private roadway, measured from the wall of the building to the pavement.
    - 3) **Side and Rear Setbacks:** All buildings shall be setback a minimum of fifty (50) feet or two (2) times the building height, whichever is greater, when abutting a residence, a Residence Zone or an F Farming Zone, measured from the wall of the building to the lot lines. All buildings abutting a commercial zone shall be setback a minimum of fifteen (15) feet, measured from the wall of the building to the lot lines. All buildings abutting an industrial zone shall be setback a minimum of twenty (20) feet, measured from the wall of the building to the lot lines.

b. Building Setback Lines - Industrial Use:

- 1) Public Road Setback: All buildings shall be setback a minimum of one hundred twenty (120) feet from any interstate, one hundred (100) feet from any primary roadway, eighty-five (85) feet from any secondary roadway, and sixty-five (65) feet from all other public roadways, all as measured from the wall of the building to the right-of-way line, proposed or existing whichever is nearest.
- 2) Private Roadway Setback: All buildings shall be setback a minimum of thirty (30) feet from a private roadway, as measured from the wall of the building to the pavement.
- 3) Side and Rear Setback: All buildings shall be setback a minimum of fifty (50) feet or two (2) times the building height, whichever is greater, when abutting a non-industrial non-agricultural zone, as measured from the wall of the building to the lot lines. All buildings abutting an agricultural zone shall be setback a minimum of thirty (30) feet, as measured from the wall of the building to the lot lines. All buildings abutting an industrial zone shall be setback a minimum of fifteen (15) feet, as measured from the wall of the building to the lot lines.
- 4) General Residential Setback: No building or structure shall be closer than one hundred (100) feet to any dwelling or Residence Zone.

c. Greenbelt

- 1) A greenbelt area shall be required on that portion of a front yard which is immediately adjacent and parallel to the right-of-way, existing or proposed whichever is greater, of any public roadway having a minimum depth of thirty (30) feet. On corner lots, a green belt area shall be required on that portion of a yard which is immediately adjacent and parallel to the side street public right-of-way, existing or proposed whichever is greater, having a minimum depth of ten (10) feet. Green belt areas shall be composed of grass and/or softscape treatment only with the following exception: a retention/detention pond may be permitted in the green belt area provided that the area of the pond comprises no more than twenty-five percent (25%) of the green belt as measured at the normal waterline for wet bottom basins or at the top of the bank for dry bottom basins, and provided, further, that freeboard heights shall not exceed four (4) feet, that all bank and dry bottom basin treatment shall be as green space, and that fencing shall only be permitted as a part of an overall landscape plan; and pedestrian walkways may be permitted provided the walkway does not occupy more than ten (10) percent of the green belt and green space is maintained on both sides of the walkway. Access roads and driveways may cut through a green belt area perpendicular to the public roadway or parallel to a lot line without replacement requirements. If access roads and driveways are located within a green belt area in any other manner, the green belt area shall be

increased by at least an equal amount of area.

d. Access

- 1) Access Roads: An access road shall mean a private roadway, providing ingress/egress for vehicles to enter and/or leave a lot from a public roadway, which provides access to more than one building, lot or use.
- 2) Driveway: A driveway shall mean a private entrance, providing ingress/egress for vehicles to enter and/or leave a lot from a public or private access road, which provides access to one building, lot or use.
- 3) Pedestrian Facilities: Pedestrian facilities shall mean walkways providing access from building entrance to building entrance, parking area to building entrance, and/or parking area to parking area.
- 4) Construction and Maintenance: All facilities (access, drive, pedestrian) shall be constructed and maintained so as to provide year round access and so that it will be maintained free of dust and debris.
- 5) Design: In cases where sites have frontage on more than one public road, the principal point of access shall be from the more secondary road whenever feasible as determined by the County Engineer based on functional classification and traffic counts. There shall be a minimum distance of thirty-five (35) feet between proposed points of access and existing drives on public roadways. Points of access shall be combined wherever possible to minimize the number of access points onto public roadways. There shall be a maximum of two (2) points of access per frontage. No driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two public roadways or from the intersection of any public roadway and access road except that where a proposed access road lies within one hundred (100) feet of an existing three way public or private road intersection, the centerline of the access road shall be in line with the centerline of such intersecting road. The minimum maintained width of an access road shall be eighteen (18) feet for two-way traffic and ten (10) feet for one-way traffic. Wherever possible, access roads and driveways shall be designed so as to avoid funneling traffic into single family residential areas. Except for industrial uses, access roads and/or driveways shall be designed to allow for interconnection among and between contiguous lots in order to minimize turning movements onto and from public roadways. Except for industrial uses, pedestrian facilities shall be designed to allow for interconnection among and between developments and within a development to minimize conflicts with vehicular traffic and to promote safe and efficient access from entrance to entrance to parking areas. All facilities (access, drive, pedestrian) shall be constructed under design standards approved by the County Engineer. Any facilities located within State right-of-way shall be subject to design and construction approval by the State. Additional traffic generated together with

existing traffic shall not exceed the capacity of the public roadways serving the development. Where additional traffic is likely to result in a significant decrease in traffic safety conditions or increase in congestion, as determined by the entity having jurisdiction over the public roadways, that entity may require the applicant to provide reasonable and appropriate improvements. The applicant may elect to reduce the size or density of the proposed development.

e. Parking and Loading

- 1) The number of off-street parking and loading spaces are as established in Section 2 of this Article.
- 2) Required and overflow off-street parking areas may be located in the area between a green belt and the building setback lines. At the perimeter, such parking areas shall be screened with a masonry wall, fence, berm or hedge at least thirty (30) inches in height, above the grade of the adjoining parking area, when located across a two lane public roadway from existing 1 and 2 family use and where the parking area design would require parked vehicles to front toward the public roadway. Such screening may be located in the green belt area closest to the parking area.

f. Lighting

Lighting provided on the site to ensure safe movement of persons and vehicles and for security purposes shall conform to the following:

- 1) All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. All lights shall be of a "cut-off" type with the lighting element completely shielded on all sides and top, excluding historic ornamental light fixtures and globes.
- 2) The maximum height of free standing lights shall not exceed twenty (20) feet when within 200 feet of 1 & 2 family use and shall not exceed thirty (30) feet when located more than 200 feet from 1 & 2 family use.
- 3) The maximum height of lighting fixtures for pedestrian areas, including sidewalks adjacent to streets, is to be 16 feet. These fixtures should be placed every 50 feet.
- 4) Site lighting shall be of uniform design and materials, and shall compliment the architecture and landscape of the developed site.
- 5) Lighting within gas station canopies and adjacent to residential areas shall be of a "down lighting" type with a light element completely shielded on all four sides and top.
- 6) Lighting shall not cause illumination of adjacent residential properties and shall

provide warm white lighting. Lights shall be located to provide maximum visibility and safety.

g. Trash Collection Areas

- 1) Trash collection areas shall be effectively screened from public roadway view and view from adjacent non-commercial, non-industrial properties.
- 2) Trash collection areas shall be located where their use will not interfere with traffic circulation of a public roadway or an access roadway.

h. Outside Storage

- 1) Permanent outside storage of supplies and materials shall be screened from public roadway view and from the view from adjacent non-commercial, non-industrial properties and uses. This provision shall not apply to the outside display of merchandise nor to temporary outside storage of supplies and materials used during on-site construction activities.
- 2) Outside display of merchandise shall not be closer than thirty (30) feet to any public roadway right-of-way line, existing or proposed, and shall not be closer than fifteen (15) feet to any access roadway pavement. Outside display of merchandise shall be reasonably screened from the view of adjacent non-commercial, non-industrial properties and uses.
- 3) No outside storage of supplies and materials or outside display of merchandise, and accompanying screening, shall be placed in a manner which would impede visibility at points of ingress/egress.

i. Landscaping.

All portions of properties that are not intended for development shall remain in their natural state or be suitably landscaped with planting of trees (shade or ornamental), shrubbery, ground cover, grasses, mulches, etc. Landscaping shall minimize erosion and storm water runoff, provide necessary buffering and generally serve to blend the proposed use with the character of the surrounding natural area. The following landscaping standards shall be met.

- 1) Landscaping materials selected shall be appropriate to local growing and climatic conditions. Native species of plants shall be included in the plan whenever possible. Whenever possible, natural vegetation shall be maintained by appropriate construction practices and site layout. To provide for easier and more cost efficient maintenance, the following trees, are invasive, prone to disease, excessive breakage, and/or other problems, shall not be used and/or planted as a part of any required landscape plan: acer negundo, box elder; acer saccharinum, silver

maple; and populus deltoides, cottonwood; and plants included on the Indiana Invasive Species Council's list of invasive plants. To protect the landscaping investment, care should be given to appropriate placement of trees to allow for growth of the root system without adversely affecting other improvements and adequate area for capturing rainfall.

- 2) Whenever appropriate, existing trees should be conserved and integrated into the plan. Healthy trees with diameters of twelve (12) inches or greater, measured at four (4) feet above grade, shall be marked on the plan and preserved to the extent possible. Where it is necessary to remove such mature trees, replacement trees shall be planted throughout the site at a ratio of 2 new trees for each 1 removed. These replacement trees may count toward meeting the tree planting requirements set forth for the green belt and for parking spaces. Replacement trees shall have a minimum trunk diameter of 2.0 inches upon planting, measured at 6 inches above grade, for shade and evergreens, or 1.5 to 2.0 inches upon planting, measured at 6 inches above grade, for ornamental trees.
- 3) Landscape treatments shall be required based on the following:

Greenbelts, as defined herein, where landscaping shall include either shade and evergreen trees and/or ornamental trees as follows: 1 shade/evergreen tree for each 50 feet of frontage with a minimum diameter of 2.0 inches measured at 6 inches above grade; or 1 ornamental tree for each 35 feet of frontage with a minimum diameter of 1.5 to 2.0 inches measured at 6 inches above grade. The location of such trees is at the discretion of the developer/owner provided the required ratio is met and the trees are located in the green belt area.

Foundations, where foundation planting shall be equal to a minimum of 5 feet of landscaped area and 3 feet of sidewalk area for a minimum total of 8 feet in depth along the front wall of the building and, for a corner lot, along the side street wall of the building, excluding entryways and loading areas.

Parking spaces, where the total number of trees planted on-site shall, at a minimum, equal one tree for each ten (10) parking spaces. The location of such trees, which may include replacement trees, buffering trees and green belt trees, is at the discretion of the owner/developer provided the required ratio is met.

Peripheral areas, where there shall be a peripheral vegetated buffer strip a minimum of ten (10) feet in depth, excluding areas subject to the green belt requirement, along any lot line abutting a non-commercial, non-industrial property.

- 4) Plantings and/or other landscape treatments (walls, fences, and berms) shall be required, and permanently maintained, when abutting 1 & 2 family usage to accomplish an immediate buffer at least five (5) feet in height. When abutting an undeveloped Residence Zone permitting 1 & 2 family dwellings, plantings and/or



other landscape treatment shall be required to accomplish a buffer at least five (5) feet in height within 3 growing seasons.

- 5) Landscape requirements refer to either softscape treatment such as greenery, plants, grass, and trees or to hardscape such as decorative stone, brick, and masonry walls, except in the green belt area where softscape treatment is required. Generally, plants shall be spaced apart at distances no greater than two times the width of the plant at maturity.
- 6) All required landscaping shall be installed prior to the issuance of a Certificate of Occupancy. If it is not possible to install the required landscaping due to weather conditions or other circumstances, all landscaping shall be installed within eight (8) months of the first occupancy of the buildings on the site. Surety may be required to ensure installation, such as, but not limited to, bonds, letters of credit, or personal guaranties.
- 7) Maintenance: Trees, vegetation, irrigation systems, fences, walls and other landscape material that are installed as required per this ordinance, the Plan Commission and/or the Board of Zoning Appeals are essential elements of a project. The petitioner and/or landowner, and their successors in interest are responsible for the regular maintenance of all landscaping elements such that they are kept in good condition. Specifically:
  - a) All plant material shall be maintained alive, healthy, and free from disease and pests and all plant materials which die following their installation shall be replaced with identical varieties or suitable substitutions.
  - b) All landscaped areas shall be free of weeds, litter, graffiti, and similar signs of deferred maintenance.
  - c) All landscape structures such as fences and walls shall be repaired or replaced periodically to maintain aesthetically appropriate and structurally sound conditions.
  - d) The maintenance and routine care of plant material located within the rights-of-way shall be the responsibility of the adjacent property owners.

For purposes of this section, maintenance and care shall include but not be limited to pruning, watering, fertilizing, and mulching, or any item that would constitute a safety hazard to pedestrian or vehicular traffic.

- 8) The Zoning Administrator, the Building Commissioner, or the Plan Commission staff shall have the authority to visit any site to inspect the landscaping and check it against the development plan for enforcement purposes.

j. Visibility at Intersections

- 1) Regardless of any provision of this Ordinance, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of three (3) feet and ten (10) feet above the centerline grades of intersecting public roadways in an area bounded by the right-of-way lines of such intersecting streets and a line adjoining points along said intersecting right-of-way lines fifty (50) feet from the point of intersection of said right-of-way lines.
- 2) Regardless of any provision in this Ordinance, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of three (3) feet and ten (10) feet above the centerline grades of intersecting public roadways and access roadways in an area bounded by the right-of-way line of the public roadway and the pavement line of the access roadway and a line adjoining points along said intersecting right-of-way line and pavement line thirty (30) feet from the point of intersection of said lines.
- 3) The clear zone requirements for the State of Indiana shall prevail at public roadway intersections involving a state highway.

k. Signage/Outdoor Advertising.

Provisions dealing with outdoor advertising in general are set forth in Section 3 of this Article. Those provisions shall apply to off-premise signs regardless of the zone classification. Where standards may conflict, the more restrictive shall prevail.

- 1) **Off-Premise Sign:** The minimum distance between off-premise signs, including signs located outside the area subject to the development standards contained herein, shall be one thousand (1,000) feet measured from any part of the sign. The maximum height for an off-premise sign shall be forty-five (45) feet. The maximum number of off-premise signs permitted shall be three (3) per any mile along both sides of the primary roadway. For existing nonconforming off-premise signs, if fifty percent (50%) or more of such sign apparatus and/or sign boards is to be replaced, it must be made to conform to the provisions set forth above and elsewhere in this ordinance unless a variance can be obtained from the Board of Zoning Appeals under established procedures.
- 2) **On-Premise Signs:** The maximum height for any on-premise sign shall be forty-five (45) feet and, additionally, the following height limitations and exceptions shall apply:

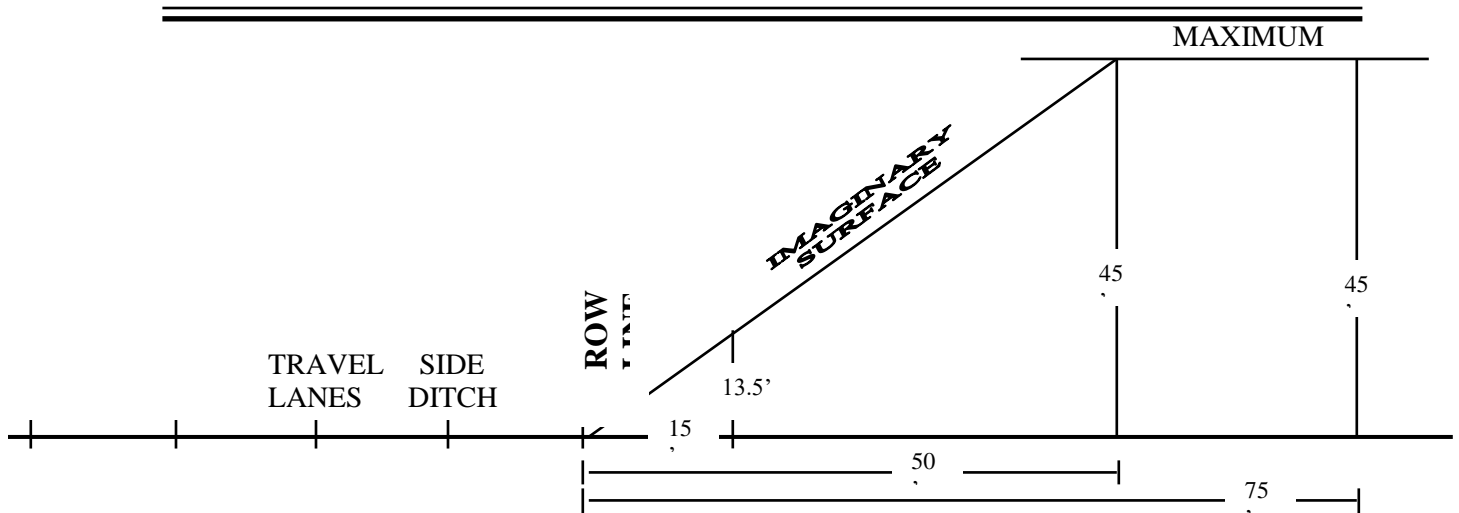
Limitation: No part of any on-premise sign shall be at a greater height than an imaginary surface extending outward from the major road right-of-way toward the building line a distance of fifty (50) feet and upward from zero (0) feet to a maximum of forty-five (45) feet at a slope of 0.9 [see On-Premise Sign Diagram

below].

Exception: A sign may be allowed to break the imaginary surface if it is used as one (1) sign for multiple uses on the property and/or an area known by one name with multiple uses listed.

Within the green belt area, only on-premise ground signs shall be permitted at a ratio of one sign per property. No signs of a temporary nature shall be permitted in the green belt area such as, but not limited to, portable signs on wheels and banners.

### ON-PREMISE SIGN DIAGRAM



SCALE: 1"= 20'

EXAMPLES: 15' setback x 0.9 = 13.5' max. height  
 50' setback x 0.9 = 45.0' max. height  
 18' height / 0.9 = 20' setback

EXCEPTION: Clustered Use Sign (used by more than one use) may break the imaginary surface up to the 45' maximum

### C TRAFFIC IMPACT STUDIES AND IMPROVEMENTS

#### 1. Traffic Impact Study Warrants

A traffic impact study shall be required for any development, or for the accumulated impacts of phased development, that meets any of the following warrants:

##### Warrant 1: Land Use Intensity

This warrant is satisfied when a development generates more than 100 street peak hour direction trips.

Warrant 2: Level-of-Service

This warrant is satisfied if the traffic generated by the proposed development causes the level-of-service (LOS) of the adjacent streets/intersections to drop a level, or where nearby intersections presently operate at a level-of-service “D” or worse. LOS determination shall be in accordance with the procedures described in the Highway Capacity Manual.

Warrant 3: Roadway Modifications

This warrant is met when the proposed development is expected to significantly impact a roadway segment identified for improvement in the Local or State Transportation Improvement Program. This warrant is also met when the proposed development includes modifications to the roadway system. Modifications include addition of lanes to accommodate site-generated traffic, addition of exclusive turning lanes, acceleration/ deceleration lanes, median openings, installation of traffic signals and other traffic control devices, etc.

Warrant 4: Special Cases

This warrant is satisfied if the preliminary study reveals that the traffic generated from the proposed development will create safety, operational, or some other traffic problem, as determined by the County Engineer or the Indiana Department of Transportation.

2. Traffic Impact Improvements

Based upon the traffic impact study, improvements shall be required to maintain the current level of service of the adjacent streets/intersections and nearby intersections. Improvements may also be required by the County Engineer or the Indiana Department of Transportation to address access requirements, safety, operational or other traffic flow concerns. All such traffic impact improvements are the responsibility of the owner/developer of the property and may be accomplished either solely by the owner/developer or in partnership with a public or private entity.

Dedication of Right-of-Way

Right-of-way shall be dedicated for existing roadways either in accordance with the Official Thoroughfare Plan or in a width sufficient to encompass all improvements required as a result of the traffic impact study, whichever is greater. Where new public roads are proposed, they shall be developed and dedicated in accordance with the rules and procedures set forth in the Delaware County Subdivision Ordinance.

D APPEALS

- 1. APPEALS. An owner may appeal any decision rendered in connection with this section to the Board of Zoning Appeals or request a variance from development standard under established schedules and procedures set forth in Article XXXII of this Ordinance.

**ARTICLE XXXI SPECIAL USES****ARTICLE XXXI****Section 1 GENERAL**

The purpose of this Article is to enable the establishment of certain uses enumerated in this article not otherwise permitted in this Ordinance under reasonable and uniform limitations, safeguards and controls deemed to be in the public interest.

**ARTICLE XXXI****Section 2 PROCEDURES AND STANDARDS****A PROCEDURES**

An application requesting authority to establish a special use in certain districts as herein permitted shall be filed with the Delaware-Muncie Metropolitan Board of Zoning Appeals in the same manner as for an appeal, on forms prepared for the purpose and under established rules and schedules.

Upon receipt of the application, a copy shall be forwarded to the Delaware-Muncie Metropolitan Plan Commission. Said Commission shall make a thorough study and evaluation of the case and shall submit its recommendations to the Board in writing.

After having received the report of the Delaware-Muncie Metropolitan Plan Commission, the Board shall set a date for a public hearing and shall give notice of the hearing to all interested parties. At the hearing the report of the Commission shall be read in total and shall be made a part of the proceedings of the public hearing as well as part of the Board's record.

The Metropolitan Board of Zoning Appeals shall not be bound by this Article to permit special uses per se, but shall carefully consider the report of the Commission, the prayer of persons aggrieved, the existing conditions on the premises and its surroundings. The Board may compel the submission of any data deemed essential in determining whether or not the proposed special use is compatible with surrounding areas.

The Metropolitan board of Zoning Appeals may impose reasonable conditions and require commitments concerning the operation and development of a special use. Unless otherwise directed by the Board, a special use ceases to be authorized and is void if it is discontinued for a twelve (12) month period during which time it is not succeeded by the same specific special use or if the use ceases to comply with the approval, any conditions and/or any commitments set forth by the Board.

**B STANDARDS**

1. The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.

2. The special use will not be injurious to the use and enjoyment of the other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district.
4. Adequate utilities, drainage facilities, landscaping, buffering and other amenities will be provided and the site plan shall indicate that the lot area and access to the site are adequate for the use contemplated.
5. Adequate measures will be taken to provide ingress and egress designed so as to minimize traffic congestion in public streets.
6. The special use shall be permitted only if the public streets, drainage facilities and utilities are adequate to serve and accommodate the proposed development or that the applicant will provide improvements to enable such adequate service and accommodation based on the needs and impact of the proposed improvement.

## **ARTICLE XXXI**

### **Section 3 MINERAL EXTRACTION**

#### **A GENERAL**

Except as herein provided, nothing in this Ordinance shall prevent (outside of urban areas) the complete use and alienation of any mineral resources or forests by the owner or a licensee thereof. For the purpose of this Section, urban areas shall include all lands or lots within the limits of incorporated cities and towns and any other lands or lots used for residential purposes where there are eight (8) or more residences within any quarter mile square area, and such other lands and lots as have been or are planned for residential areas contiguous to incorporated cities or towns. For the purpose of preserving mineral resources and using them in the development and growth of the community, the encroachment of other uses upon lands where such resources may be obtained should be avoided.

#### **B ZONES IN WHICH PERMITTED**

The mining of minerals shall be considered a special use and may be permitted in the F Farming Zone, the IL Limited Industrial Zone and the II Intense Industrial Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

#### **C QUALITY STANDARDS**

In determining whether or not the working of an area for the extraction of minerals is feasible and whether or not such operation should be permitted, the Delaware-Muncie Metropolitan Plan

Commission and the Delaware-Muncie Metropolitan Board of Zoning Appeals may consider the following factors:

1. The depth of overburden
2. The quality of deposits at various depths
3. The engineering problems concerning size and area
4. Existing and future land use
5. Ingress and egress and similar traffic problems
6. Proximity of existing residential development

In determining the feasibility of a project, the Commission and the Board may avail themselves with technical aid from State and Federal agencies with expertise in the question of mineral resources.

#### D STANDARDS OF OPERATION

The following standards shall be complied with:

1. No excavation below adjoining property elevation closer than one and one-half (1 1/2) feet horizontal to one (1) foot vertical from the boundary of adjoining property measured at top excavation shall be permitted.
2. All equipment used for the production of rock and gravel shall be operated and maintained in such a manner as to comply with applicable State and Federal regulations.
3. Noise level shall not exceed the decibel limits set forth by the State and Federal governments.
4. All access roads from the operation of mining grounds to a public road or to adjoining lands shall be treated in such a manner as to render them dust free for at least two hundred (200) feet of any road or zone.
5. All excess water shall be drained from trucks or other vehicles hauling materials from the location prior to their entrance into a public highway.
6. All lights on site shall be installed in compliance with current and acceptable industrial standards.
7. Buildings on the premises shall not become unsightly. Weeds and other such obnoxious vegetation shall be cut, trimmed or sprayed periodically to preserve the character of the

property and to prevent harmful effect upon surrounding areas.

8. The site may be used for allied or accessory uses, except for the disposal of refuse and similar uses.
9. No production shall be permitted which creates a slope steeper than one (1) foot horizontal to one (1) foot vertical with the exception of rock quarrying, in which case a vertical face will be accepted.
10. Property used or to be used for production shall be enclosed along the exterior perimeter bordering on a highway, street or thoroughfare by an acceptable barrier.
11. Every point along the property lines within three hundred (300) feet of a dwelling, school, playground, hospital or institution for human care shall be treated in the following manner:
  - a. Where accumulation of water reaches one (1) foot or more in depth and occupies an area of one hundred (100) feet or more, all access to such accumulations shall be barred by a wire mesh fence at least four (4) feet in height or an equally effective barrier.
  - b. Where slopes steeper than one (1) foot vertical to two (2) feet horizontal exist, or more than eight (8) feet in height, access to such slopes shall be barred by a wire mesh fence at least four (4) feet in height or an equally effective barrier.
12. Whenever production shall have been completed, all plants and equipment shall be entirely removed from the property and all stockpiles shall be removed or backfilled into the pits within a reasonable time after such completion.
13. Digging shall not be permitted to depths in excess of those permitted by the State of Indiana.
14. Every operator shall be insured before commencing the operation of rock and gravel removal. Any producer who may establish a rock and gravel operation after the adoption of this Ordinance shall post a bond with the County of Delaware, Indiana, to assure total compliance. Such bond shall run for three (3) years and shall be in the amount of not less than one hundred thousand (100,000) dollars.

Not more than one (1) year prior to the termination of operations, persons or corporations engaged in rock and gravel mining shall prepare and make available to the Delaware-Muncie Metropolitan Plan Commission and the Delaware-Muncie Metropolitan Board of Zoning Appeals plan for the restoration of affected lands. Such plans may include slope modification, planting, reforestation, the elimination of hazards and similar measures.

## E REPORT

All persons or corporations engaged in rock and gravel mining shall prepare and make available



to the Delaware-Muncie Metropolitan Plan Commission information containing the progress achieved in the mining of minerals. Such report shall be filed with the Commission at five (5) year intervals.

#### F CONTINUATION OF USE

The continuation of the extraction of mineral resources may extend beyond the portion of the property being worked to the exterior boundaries of said property, provided the operation shall comply with the standards prescribed in this Section.

#### G PERMITS

No mineral resources shall be removed or processing plant be erected until and unless an improvement location permit has been obtained from the Administrative Zoning Officer.

No permit shall be issued for any new excavation or mining operation unless such officer from the Delaware-Muncie Metropolitan Board of Zoning Appeals has received the necessary authorization.

#### H APPLICATION

Application for the extraction of minerals shall be made in writing and shall contain the following data:

1. Name and business address of the applicant.
2. Zoning classification of the property.
3. An accurate map showing exact dimensions of the property to be mined.
4. Consent of the title owner of the premises involved by a notarized instrument.

### **ARTICLE XXXI**

#### **Section 4 SALVAGE YARD**

##### A DEFINITION

A salvage yard shall be an area where waste paper, rags, discarded or salvaged materials are bought, sold, exchanged, bailed, packed, disassembled or handled. A salvage yard shall include auto wrecking yards, dismantling of machinery, house wrecking yards, used lumber yards and places or yards for the storage of salvaged house wrecking and structural steel materials and equipment. A salvage yard shall constitute only that portion of a lot where waste materials, papers, rags or discarded or salvaged materials, automobiles not in running condition, house wrecking materials, dismantled machinery and equipment are concentrated upon. The presence of such materials on a part of a lot shall not preclude the use of the remaining unused area of the lot for salvage purposes.

**B ZONES IN WHICH PERMITTED**

A salvage yard may be permitted in the F Farming Zone, the IL Limited Industrial Zone and the II Intense Industrial Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

**C CONDITIONS**

A salvage yard may be permitted under the following conditions:

1. No salvage yard shall be closer than three hundred and fifty (350) feet to any highway, road, street, and not less than five hundred (500) feet to any dwelling, school, church or institution for human care.
2. A salvage yard shall be provided with an adequate road, passable under any weather conditions.
3. A salvage yard shall be enclosed along all the exterior boundaries by an approved fence of a type prescribed by the Delaware-Muncie Metropolitan Plan Commission, and the same shall have only one (1) entrance or exit.

**ARTICLE XXXI**

**Section 5 REFUSE DISPOSAL SITE**

**A DEFINITIONS**

A refuse disposal site shall mean an area privately or publicly owned, operated for the purpose of dumping and sanitary covering of solid wastes. The term "solid waste" shall mean anything discarded such as garbage, rubbish, trash, litter, junk and refuse, except solids and dissolved materials in domestic sewage and other significant pollutants in water sources, such as silt and dissolved or suspended solids in industrial waste water.

**B ZONES IN WHICH PERMITTED**

Refuse disposal sites may be permitted in the F Farming Zone, the IL Limited Industrial Zone and the II Intense Industrial Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

**C PROCEDURE**

Any individual, group of individuals or corporation wishing to establish a refuse disposal site or sites shall:

1. Submit a request for such site on forms provided by the Delaware Muncie Metropolitan

Board of Zoning Appeals.

2. Submit a map to scale showing the proposed site including adjacent area, and a complete plan on how such site is to be developed.
3. Submit data relating to existing soils, including seasonal high water table, type and source of cover material.
4. Show proof that they own or can rent the necessary machinery to operate efficiently.

Upon receiving all the aforementioned data, the Delaware-Muncie Metropolitan Board of Zoning Appeals shall transmit copy of the same to the Delaware-Muncie Metropolitan Plan Commission. The Commission shall study the case, availing itself with all necessary expertise, and shall make recommendations to the Board as to whether or not the proposed refuse disposal site or sites fit into present and future land use patterns and further, as to whether or not the site is adequate and pollution free. The determination of the Commission shall be made at a regular meeting and forwarded to the Board in writing.

Upon receiving the recommendations from the Delaware-Muncie Metropolitan Plan Commission, the Delaware-Muncie Metropolitan Board of Zoning Appeals shall then make proper advertisement for a public hearing, notify all parties involved of the date and time of such hearing and generally proceed in the same manner as for a variance, special exception or similar appeal. At the public hearing the recommendations of the Commission shall be read and made a part of the Board's record. Said recommendations may be to approve, approve with conditions, or disapprove. A decision of the Board, which may be contrary to the Commission's recommendations, shall require five affirmative votes; otherwise the Commission's recommendations will hold.

#### D CONDITIONS UNDER WHICH A REFUSE DISPOSAL SITE SHALL NOT BE PERMITTED:

1. Within one thousand (1,000) feet of an interstate or primary highway.
2. Within the floodway of any stream or body of water unless proper clearances are obtained in writing and filed with the Board and the Commission prior to consideration of a proposed site. Such clearance shall come from the United States Corps of Engineers and the Indiana Department of Natural Resources and shall be certified by the Executive Officer of each agency or his duly authorized representative.
3. Within an area from which leaching could drain into surface water.
4. Within sand and gravel pits, quarries, ravines, unless it can be ascertained that drainage can be effectively controlled.
5. Within running water, spring sites and in standing water.

6. Within one thousand (1,000) feet of a dwelling, school, church or institution for human care.
7. Within three hundred (300) feet of any industrial or commercial building.

## **ARTICLE XXXI**

### **Section 6 PLANNED UNIT DEVELOPMENT**

#### **A DEFINITION**

A planned multi-family development unit shall mean a single-family, two-family, multi-family development or combination of all three uses developed as a single unit. The development may include group-housing, townhouses; cluster garden structures, apartments and condominiums.

#### **B ZONES IN WHICH PERMITTED**

Planned Multi-family Development Units may be permitted in all Residence Zones subject to the provisions of this Article.

#### **C PURPOSE**

The purpose of this planned Multi-family Development Unit is to provide a more desirable living environment than would be possible through the strict application of the provisions of this Ordinance; to encourage a more desirable use of open areas; to induce innovations in residential development so that the growing demands for housing may be met by greater variety, type, design and layout of dwellings and by the conservation of land; to stimulate a more efficient use of public and private services, to provide means by which the type, design and layout of residential development can be related to sites and demands for housing consistent with the preservation of property values; and to add flexibility to zoning standards as shall encourage the disposition of proposals for such Multi-family Development Units without delay.

#### **D PROCEDURE**

The owner or owners of any tract of land ten (10) acres or more in area may file an application for tentative approval with the Delaware-Muncie Metropolitan Plan Commission. Said application shall include all of the following items:

1. Location and size of area involved
2. Density of land use
3. Location, function, ownership and manner of maintenance of common open space
4. Use, approximate height, bulk and location of buildings and other structures.

5. Feasibility of proposals for the disposition of sanitary and storm water
6. Covenants, grants and easements to be placed on the use of the land and buildings
7. Provisions for parking of vehicles and the location and width of proposed streets
8. Relationship of proposed streets to streets in the proximity of the project
9. Schedule of construction and a written statement of how the project would be consistent with residential growth

## E PRINCIPLES AND STANDARDS

In considering the Planned Multi-family Development Units, the Commission and the Board shall adhere to the following principles and standards:

1. The population density and building coverage of the site for the project shall conform to the overall density and building coverage of the Zone in which it is located. However, lot dimensions, setbacks and area do not have to meet specific requirements of this Ordinance provided a more logical and desirable use of the property is proposed.
2. A variety of dwelling and building types shall be encouraged.
3. Where town houses are suggested, there shall be no more than five (5) town house units in any contiguous group. An average rear yard of twenty-five (25) feet would be desirable where a lot does not about a park or open space easement. A minimum side yard on the two (2) end units, of contiguous town house groups, shall be seven (7) plus three (3) feet for each additional story over one (1) story.
4. Planting and utility strips may be eliminated and an equal amount of land area placed into acceptable public park.
5. Areas proposed for dedication must be acceptable in size, shape and location. Rights-of-way for riding, hiking and other types of trails and scenic ways may be dedicated. Rights-of-way for watercourses and similar channels shall not be acceptable for space exchanges.
6. Clustering of dwellings may be accomplished through a reduction of lot area with overall density remaining the same, and the provision of usable and desirable open space easements dedicated.
7. Public utility and similar easements shall not be used for space exchange.
8. Any project that proposes to dedicate land for park and open space must include the total

park area at the time of the filing of the application.

9. Maximum privacy for each multi-family unit shall be provided through functional design, use of proper building materials and landscaping.
10. The architectural design and the placement of units and structures and the location of open/recreation space shall be developed so as to maximize compatibility with and protection of adjacent development.
11. Building coverage shall not exceed forty (40) percent of the net lot area. Recreation or open space area, such as linear greenways, parks, and conservation and habitat preserves, shall be designed from common use and benefit. Yard areas designed to serve individual units and/or structures shall not count as recreation or open space areas.
12. A minimum of twenty-five (25) percent of the total lot area, exclusive of parking and streets, shall be landscaped for recreation. Recreation or open space area, such as linear greenways, parks, and conservation and habitat preserves, shall be designed from common use and benefit. Yard areas designed to serve individual units and/or structures shall not count as recreation or open space areas.
13. All on-site utilities shall be placed underground.

## **ARTICLE XXXI**

### **Section 7 TRUCK TERMINALS**

#### **A DEFINITION**

A truck terminal shall be the use of property or buildings for the temporary parking of motor freight vehicles or trucks of common or contract carriers during loading and unloading and between trips, including necessary warehouse space for storage of transitory freight.

#### **B ZONES IN WHICH PERMITTED**

A truck terminal may be permitted in the II Intense Industrial Zone.

#### **C CONDITIONS**

A truck terminal may be permitted under the following conditions:

1. No property to be used as a truck terminal shall be located closer to any dwelling or Residence Zone than two hundred (200) feet.
2. The site shall be relatively flat, well drained, and large enough to accommodate any foreseeable needs for expansion.

3. The site shall be fully enclosed by a fence or wall adequate to insure that no portion of a vehicle shall extend beyond the lot line.
4. The principal access shall not be a local street but a secondary or major highway.
5. All vehicular exits and entrances shall be located not less than one hundred (100) feet apart.
6. Minimum distances on docks to property lines, measured at right angles to the docks shall be not less than eighty-five (85) feet where no parking of trailers along said property line is intended, or one hundred (100) feet when trailers are so parked, and sixty (60) feet where no pick- up trucks are parked.
7. Driveways shall be kept open at all times so that there will be no necessity for maneuvering upon entering or leaving the property.
8. A five (5) to one (1) ratio of land to building shall be observed. The dock area shall be twice the size of the combined floor area of the trucks.
9. Truck terminals shall be paved with two (2) inches of asphalted concrete over a two (2) inch base of crushed rock.
10. All truck parking spaces shall be twelve (12) feet wide and twenty (20) percent longer than the trailer, with a maximum of sixty (60) feet. There shall be three (3) parking spaces for each berth.

## **ARTICLE XXXI**

### **Section 8 HOME OCCUPATION**

#### **A DEFINITION**

The term home occupation shall mean an occupation conducted in a dwelling unit by a member of the resident family, including dressmaking, artist and similar occupations, but not including a beauty parlor, barbershop, or real estate office.

#### **B ZONES IN WHICH PERMITTED**

A home occupation may be permitted in the F Farming Zone and in any Residence Zone.

#### **C CONDITIONS**

A home occupation may be permitted under the following conditions:

1. No person other than members of the resident family shall be engaged in such home occupation.

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes.
3. No accessory building or structure shall be used to house a home occupation.
4. Not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
5. There shall be no change in the outside appearance of the dwelling or the premises or any visible evidence of the conduct of such home occupation other than one (1) sign not exceeding one (1) square foot in area, non-illuminated and mounted flat against the wall of the dwelling.
6. There shall be no sales in connection with such home occupation; no traffic shall be generated in greater volumes than normally expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and not in the required front yard.
7. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio or television receivers off the premises, or causes fluctuations on line voltage off the premises.
8. There shall be no display of goods or commodities visible from the street; no goods or commodities sold on the premises.
9. Home occupations shall include personal services when performed by the person occupying the dwelling as his or her own private dwelling and shall not include the employment of additional persons in the performance of such services.
10. A home occupation shall not be considered to include clairvoyance, fortune telling, experimentation that may involve the use of chemicals or other substances that may create noises, odors, or hazards to health, safety and welfare of the neighborhood. Neither shall a home occupation include hobby or curio shops, convalescing or nursing homes, tourist homes and gun shops.

## **ARTICLE XXXI**

### **Section 9 SEASONAL WORK CAMPS**

#### **A DEFINITION**

A seasonal work camp shall mean premises where a number of transient workers enjoy temporary quarters while they work for a salary during the harvesting of agricultural products.



## B ZONES IN WHICH PERMITTED

A seasonal work camp may be permitted in the F Farming Zone.

## C CONDITIONS

A seasonal work camp may be permitted under the following conditions:

1. The campsite shall be free from floodwaters.
2. Camp shall be located off a major or secondary highway and not closer than one-fourth (1/4) mile to any residence zone, residential subdivision, town, school, church or institution for human care. No camp shall be located on the watershed of a domestic or public water supply so as to create a pollution hazard. No camp structure shall be located within one hundred (100) feet of any barn or pen.
3. An adequate and convenient water supply in line with the requirements of the Indiana State Board of Health shall be provided to meet all the needs of the residents. Such water supply shall be capable of supplying a minimum of thirty-five (35) gallons per person per day.
4. Facilities for providing hot water for bathing, laundering and dishwashing purposes shall be available.
5. Where public sewer systems are available, the same shall be tapped into. Where public sewer systems are not available, the most efficient sewage disposal recommended by the State of Indiana Board of Health shall be used.
6. All buildings shall meet minimum structural requirements of the Building Code of the County of Delaware, Indiana. Floors shall be of wood or concrete construction. In all shelters, whether existing or new, not less than two (2) rooms shall be provided for each family composed of husband and wife and one (1) or more children. Except in housing of families, separate sleeping accommodations shall be provided for each sex.
7. Each room designed or used for sleeping quarters shall have at least thirty-eight (38) square feet of floor space and two hundred and seventy (270) cubic feet of air space per person. Combined sleeping, cooking and eating facilities shall have a minimum of three hundred (300) cubic feet of air space per occupant, and forty (40) square feet of floor space per occupant.
8. The ceiling of each structure shall be not less than seven (7) feet. Each room shall have a minimum of one (1) window.
9. Each habitable room shall be provided with one (1) ceiling type light fixture and at least one (1) separate floor or wall type electric outlet.

10. Toilet facilities shall be in accordance with the requirements of the Indiana State Board of Health. The same shall apply to screening, heating, washrooms, bathrooms and laundry; cooking and eating facilities; garbage and other refuse disposal.
11. There shall be a permanent camp operator or supervisor who shall see to it that all health and functional regulations of the camp are being followed and complied with.

## **ARTICLE XXXI**

### **Section 10 PRIVATE OUTDOOR CAMP**

#### **A DEFINITION**

A private outdoor camp shall mean premises privately owned and operated as vacation sites, including facilities for camping trailers, mobile homes and tents or similar appurtenances. Such camps shall not allow permanent living or occupancy.

#### **B ZONE IN WHICH PERMITTED**

A private outdoor camp may be permitted in the F Farming Zone.

#### **C CONDITIONS**

Any person, group or corporation desiring to establish a private outdoor camp shall make an application for such use with the Delaware-Muncie Metropolitan Board of Zoning Appeals and shall submit, together with such application, the following data:

1. A complete plan of the property showing its exact boundaries, acreage, topography, existing buildings and other structures, existing streams and watercourses, existing wooded areas, location of every campground and their capacity, location of picnic areas, trails or any other similar features.
2. A statement preferably from the Delaware County Soil and Water Conservation District Board attesting to the type of soils prevalent in the area and their suitability for a private outdoor camp. Two (2) soil tests per acre may be required by the Boards to determine percolation ability with particular emphasis on locations where camping trailers, mobile homes, tents or similar appurtenances may be parked.
3. A statement from the Delaware County Board of Health as to the nature and extent of sanitary facilities, which may be necessary for the operation of a private outdoor camp.
4. A statement from authoritative sources of the availability of water on the premises with supporting facts.
5. A statement of financial capability of the applicant to establish, maintain and operate such camp in accordance with existing requirements.

## D STANDARDS

A private outdoor camp may be permitted under the following conditions:

1. The campsite shall be not less than twenty (20) acres in area.
2. The campsite shall be a naturally attractive area with wooded surroundings.
3. The camp shall be in the immediate proximity of a major or secondary highway and at least one-half (1/2) mile from any extensive residential development.
4. The camp site shall be well drained, accessible on an adequate access road not less than twenty (20) feet in width, and capable of safe passage even during extreme weather conditions.
5. While parked, no camping trailer, mobile home, tent, or similar appurtenances shall be closer than fifteen (15) feet to another.
6. Unless provisions are made for sanitary sewer facilities, no private outdoor camp shall be permitted within one-half (1/2) mile of any major body of water used as a source of water supply by residents of the County of Delaware, Indiana, or of the City of Muncie, Indiana.

## ARTICLE XXXI

### Section 11 VEGETATIVE COMPOSTING/ MULCHING FACILITY

#### A DEFINITION

A vegetative composting/mulching facility shall mean an operation allowing for the biological treatment process by which microorganisms decompose the organic component of vegetative matter and other types of organic material to create compost. Vegetative matter shall mean any yard or landscaping waste, including leaves, grass, brush, limbs, and branches resulting from commercial, industrial and agricultural operations or from community activities. For the purpose of this Section, a vegetative composting/ mulching facility shall not include an operation conducted at a person's residence or farm for vegetative matter and other types of organic material that are generated by the person's activities and stored treated or disposed of at the person's residence or farm; nor shall this Section apply to the uniform spreading of vegetative matter over agricultural fields, whether generated on-site or off-site.

#### B ZONES IN WHICH PERMITTED

A vegetative composting facility may be permitted in the F Farming Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

## C APPLICATION

In addition to the information required on the standard application for appeal, the following information shall be supplied and may be indicated on the standard application map where applicable if it is of adequate size and scale:

1. Topographic mapping showing 2 foot contours.
2. 100 year flood line, if applicable.
3. Regulated drains and open waterways within 1,000 feet, if applicable.
4. Wetland areas, if applicable, as designated by the National Wetland Inventory Maps for Delaware County.
5. Existing residences within 600 feet of the site.
6. Existing wells within 600 feet.
7. Soils mapping for the site.
8. Water table levels for the site.
9. The proposed location of the facility on the property including all appurtenant features that shall be considered a part of the facility.
10. The proposed point of access and type of construction of the access road.
11. A description of compost management procedures to be implemented at the facility including controls for dust, odors, and noise.
12. A description of the methods proposed for collecting, removing, and disposing of unwanted and non-compostable materials received at the facility.
13. A description of the composting facility that indicates the area to be served by the composting operation.
14. A description of the proposed final use of composted materials.
15. An estimate of the volume of materials that will be process annually by the composting facility.
16. A description of surface water drainage control and leachable management procedures to be implemented at the composting facility.

The Plan Commission or the Board of Zoning Appeals may require additional information as deemed necessary to determine compliance with the standards set forth herein.

#### D STANDARDS

Any proposed vegetative composting facility shall meet the following standards and shall continue to meet such standards throughout the life of the operation.

1. The facility shall be registered with the Indiana Department of Environmental Management (IDEM).
2. There shall be a minimum distance of 600 feet from the boundary of the facility operation to any existing residence, hospital or institution for human care.
3. There shall be a minimum distance of 200 feet from the boundary of the facility operation to any surface water body that is not a part of the composting facility.
4. There shall be a minimum distance of 1000 feet from the boundary of the facility operation to any public water supply well or private water supply well unless the well is controlled by the owner/operator or is used solely for monitoring ground water quality.
5. The facility shall not be located in a floodway as shown on the Floodway Maps for Delaware County, Indiana, nor in a wetland as shown on the National Wetland Inventory Maps or as determined by the Soil Conservation Service. The facility shall not be located inside the boundary of any 100-year flood plain as shown on the FIRM maps for Delaware County, Indiana, unless protection from the 100-year flood is provided. This standard shall not apply to a facility operated in conjunction with a publicly owned works permitted under IC 13-7-10-2.
6. The lowest surface area of the facility shall be at least 5 feet from a water table or provide adequate controls to prevent ground or surface water contamination.
7. The composition and design of the surface area used for composting shall adequately control runoff through the use of ditches, dikes, berms or swales and shall be designed to allow drainage of surface waters away from the compost with no ponding of water between windrows and to allow heavy equipment operation without creating ponding of water and to allow heavy equipment operation during inclement weather with minimal dust and erosion generation.
8. The slope of the composting and curing areas shall be graded and maintained at no less than two percent (2%) and no greater than six percent (6%).
9. That there is a management plan for leachate that may be generated by the composting facility showing that leachate will be prevented from entering surface and ground waters such as direct discharge to an approved treatment facility or leachate conveyance and

storage structures. Any leachate that is collected must be disposed of in accordance with the rules promulgated under IC 13-7.

10. That a contingency plan is presented detailing emergency equipment, procedures, notification and cleanup for fire, equipment failure and temporary cessation of operations.
11. That only vegetative matter is accepted and that any matter received that is unsuitable for composting must be stored in enclosed, leak proof containers maintained on-site for this purpose and disposed of within 1 week of receipt and in accordance with the Indiana Solid Waste Rule (329 IAC 2). Yard waste must be removed from containers and bags.
12. That adequate plans for the controls of dust, noise, vectors and odors shall be presented and the facility shall be managed in such a manner that these items are so controlled.
  - a. The facility must be operated in such a manner that fugitive dust does not leave the site in violation of 326 IAC 6-4.
13. Access roads shall be maintained in such a manner that allows for smooth passage loaded vehicles during inclement weather with minimal dust and erosion generation.
14. For windrow composting, windrows must be constructed parallel to the line of the slope on the site and must be at least 50 feet in from the boundary of the facility operation (which may not be the property boundary). The windrow construction and turning frequency must enable predominately aerobic composting conditions to be maintained throughout the production of compost using the following guidelines.
  - a. If grass clippings are incorporated into windrows, the initial formation of a windrow must be no greater than 6 feet high and 14 feet wide.
  - b. For windrows containing grass clippings, the turning frequency shall be determined by temperature and whenever the internal pile temperature exceeds 130 Fahrenheit, the windrow shall be turned within 1 week.
  - c. Regardless of temperature, windrows shall be turned at a minimum frequency of once per week from April 1 to September 15 of each year.
  - d. Materials received for composting between April 1 and September 15 of each year must be placed in windrows within four (4) days of its receipt.
15. A grass buffer area at least 25 feet in width shall be located at the perimeter of the site immediately adjacent to the facility boundaries for controlling erosion.
16. If any nuisance or pollution conditions are created, immediate corrective action will be taken by the owner/operator.

17. Fencing may be required at the discretion of the Board of Zoning Appeals based upon recommendations from the Plan Commission and upon consideration of the individual characteristics of the site and proposed facility development.
18. Copies of the Annual Report required by the Indiana Department of Environmental Management shall be forwarded to the Plan Commission Office before February 1 of each year.
19. The method of disposal of compost, as set forth in the original application, may be limited by conditions imposed by the Board of Zoning Appeals.

The Board of Zoning Appeals may require surety, in a manner satisfactory to the County Commissioners, that the facility will be operated and closed as set forth herein.

#### E CLOSURE OF A VEGETATIVE COMPOSTING/MULCHING FACILITY

If and when an operator of a composting facility declares the facility closed, the following procedure shall be followed:

1. Written notice of the anticipated date to cease operation shall be forwarded to the Plan Commission, the Delaware County Health Department, and the Delaware County Zoning Administrator not less than 60 days prior to closure.
2. Not later than 10 days after closure, the operator shall thoroughly clean all facilities, equipment and areas on the site as follows:
  - a. All compost shall be removed from the site.
  - b. All containers, equipment, machines, floors, facility surfaces that were in contact with compost and that are not to be removed shall be washed or otherwise subjected to procedures that substantially reduce or eliminate any remaining constituents derived from the compost.
  - c. When a leachate system has been used, any leachate remaining on the site shall be removed and disposed of properly and the leachate collection system shall be thoroughly flushed of all materials derived from the composting activity.
3. Not later than 180 days after closure, the owner or operator shall install signage stating, in letters not less than 3 inches high, that the facility is closed and such signage shall be posted in such a manner as to be easily visible at all access points from the public roadway and shall be maintained in legible condition for not less than 1 year after closure. The signage text shall read "THIS FACILITY IS CLOSED FOR ALL COMPOSTING ACTIVITIES AND ALL RECEIPT OF WASTE MATERIALS".
4. If a leachate collection system has been used, the owner or operator shall, within 180 days

after closure, modify, remove or seal the system as necessary to prevent discharges from the system to surface or ground water.

## **ARTICLE XXXI**

### **Section 12 RURAL RESIDENTIAL CONFINED FEEDING OPERATIONS AND CONCENTRATED ANIMAL FEEDING OPERATIONS**

#### **A DEFINITION**

A confined feeding operation (CFO) or concentrated animal feeding operation (CAFO) that is proposed to be located in a rural residential area as defined in this ordinance.

#### **B ZONES IN WHICH PERMITTED**

A CFO or CAFO may be permitted in the F Farming Zone subject to the determination of the Delaware-Muncie Metropolitan Board of Zoning Appeals.

#### **C APPLICATION**

In addition to the information required on the standard application for appeal, the following information shall be supplied and may be indicated on the standard application map where applicable if it is of adequate size and scale:

1. An overall site plan map that includes the boundaries of the property, a site layout of the production area, other buildings and structures, driveways, on-site and off-site parking and circulation patterns and the general drainage plan.
2. The maximum number and type of animals to be confined.
3. Manure management plan as submitted to the Indiana Department of Environmental Management, including best management practices, if applicable.
4. Emergency spill response plan as submitted to the Indiana Department of Environmental Management.
5. A signed affidavit stating that the proposed operator has no outstanding or unresolved violations relating to animal feeding operations nor is there a history of recurring violations, as measured over the last five (5) years, with the Indiana Department of Environmental Management, the U.S. EPA, or other governmental agency relating to animal feeding operations.
6. A copy of all necessary and applicable state and/or federal approvals from the Indiana Department of Environmental Management, the U.S. Environmental Protection Agency, or other applicable agency dealing with animal feeding operations.



7. Stamped envelopes addressed to owners of all property located in the applicable separation distance area as set forth in the table below. The Building Commissioner’s address shall be the return address.
8. A general area map showing compliance with the setbacks set forth in this Section. Delaware County’s GIS information is available and may be used as the best available data source for showing compliance. GIS information from surrounding counties may also be available and used or if not available, information contained on the state GIS site known as [www.indianamap.org](http://www.indianamap.org) may be used.
9. Copies of any signed and notarized affidavits waiving a setback requirement.
10. A copy of the routing plan, showing the roads that will regularly be used for the transport of animals, and a copy of the approval from the Delaware County Engineering Department.

The Plan Commission or the Board of Zoning Appeals may require additional information as deemed necessary to determine compliance with the standards set forth herein and the general standards for special uses set forth in Article XXXI, Section 2.

#### D STANDARDS

Any proposed CFO or CAFO facility shall meet the following standards and shall continue to meet such standards throughout the life of the operation.

1. Land Use Separation Distance Requirements: The production area of a Confined Feeding Operation and/or a Concentrated Animal Feeding Operation shall maintain, at a minimum, the following separation distances with all distances measured in feet:

Residence (not on CFO/CAFO site, not owned/occupied by applicant)	Residence Zone	Platted Subdivision	Public/Private School (not home or temporary school)	Corporate Limits of any City or Town	Public Use Recreation Area	Hospital, Institution for Human Care, Child Care Centers	Church/Religious Institution
CFO - 750 CAFO – 1,500	2,640	2,640	5,280	5,280	1,320	5,280	1,320

a. Measurement of Distances: Separation distances shall be measured as the straight line distance from the nearest point of a building or structure in the production area of a CFO or CAFO operation to the nearest point of a structure containing a residence, school, hospital, institution for human care, or church and to the nearest boundary of a residence zone, platted subdivision, or corporate limit line. Only structures (including structures for which permits have been issued) and boundaries in existence as of the date of the permit application shall be used to establish the required separation distances. An owner of property may waive a setback requirement with a written, signed and notarized affidavit.

b. Protection and Applicability of Separation Distances: No permits for new residential, public or private development shall be issued during the CFO/CAFO permit process that would adversely affect compliance of the CFO or CAFO operation. A CFO or CAFO has the responsibility of declaring its location to the Building Commissioner and Plan Commission once their state and/or local permit process starts. A local CFO or CAFO permit shall remain in effect for 1 year, however, the permittee may request an extension of time from the Building Commissioner prior to the 1 year expiration up to a maximum of 5 years from the date of the original permit. Separation distances shall be reciprocal. Notice that a CFO or CAFO permit application has been made shall be sent by first class mail to all property owners of record whose property would be subject to the reciprocal separation distances. Once a CFO or CAFO permit is issued under this Section, no permit shall be issued for a residence, school, hospital, institution for human care or church and no approvals shall be given to a platted subdivision located in the separation distances unless the owner signs, and records as a deed or plat restriction, a waiver, notice and acknowledgement of CFO/CAFO agricultural activity.

2. Environmental Separation Requirements for Sensitive Areas: The production area of a Confined Feeding Operation and/ or a Concentrated Animal Feeding Operation shall maintain, at a minimum, the following separation distances, based on the waste management system:

ENVIRONMENTAL FEATURE/SENSITIVE AREAS	LAGOON SYSTEM	NON-LAGOON SYSTEM
Public Water Supply Wells, Rivers (White and Mississinewa) and Prairie Creek Reservoir	2 miles	1 mile
Surface Waters of the State, Regulated Open Drains (ditches, waterways, wetlands)	5,280 ft.	300 ft.
100 Year Floodplain	5,280 ft.	300 ft.
Drainage Inlets & Off-site Water Wells	1,320 ft.	300 ft.
On-site Water Wells	400 ft.	100 ft.
Regulated Drain Tiles	400 ft.	100 ft.

For purposes of this ordinance and the above setbacks, a lagoon shall mean an uncovered open-air liquid manure storage facility such as a pit, pond, tank or earthen berm containment area used to store or treat manure as defined in 327 IAC 19-2-25.

3. Setbacks: The production area of a Confined Feeding Operation and/or a Concentrated Animal Feeding Operation shall maintain the following setbacks:
- a. 200’ from any public road right-of-way, existing or proposed, whichever is greater.
  - b. 400’ from a side or rear property line.
  - c. 1 mile from any other CAFO production area.

4. Lot Area: The minimum lot size on which confined feeding operations and concentrated animal feeding operations shall be permitted is 40 acres.
5. Transportation, Public Road Access, Parking and Loading: A minimum driveway width and design specifications for entrances to CFO/CAFO sites shall be set by the County Engineer to prevent damage to the public road on which the entrance is situated. For the driveway approach, there shall be at least 20 feet of hard surface from the public road pavement leading into the site. A suitable truck turn-around area shall be provided on-site. The turn-around area shall be an all-truck turn-around so that vehicles do not have to back into the public road, through T-turns or a turning area with the proper radius to accommodate the vehicles. The entire drive and turn-around area must have a surface to minimize dust and to avoid caking of mud on truck wheels. If trucks will be parked or stored on the site overnight or long-term, there shall be a parking space for each such truck and the parking space(s) must not reduce or impede the turn-around area. A routing plan, showing the roads that will regularly be used for the transport of animals, shall be submitted and approved by the County Engineering Department.
6. Shelterbelt Requirements: Each CAFO shall be required to install and maintain a shelterbelt downwind of the operation and adjacent to any exhaust fans. The shelterbelt shall be located at least fifty (50) feet outside of the production area or 10 times the exhaust fan diameter, whichever is greater. The shelterbelt shall be fully within the property line of the subject property. The shelterbelt shall consist of a minimum of 2 rows of shrubs (located closest to the production area) followed by 2 rows of shade trees and then 2 rows of evergreen trees. If the owner of the CFO or CAFO maintains a forested buffer of adjacent land at least 150 feet in depth to the east of the operation, it may be used as the shelterbelt. Trees shall be a minimum of 6 feet tall at planting and shrubs shall have a minimum diameter of 12 inches.

The shelterbelt shall consist of the following types of plans and planted in the following manner:

- a. Shrubs. Two or more species of shrubs shall be planted at 1 shrub for every 10 feet of shelterbelt distance per row, all equally spaced. Shrub rows shall be separated by 6 feet with the shrubs staggered from the shrubs in the adjacent rows.
- b. Shade trees (deciduous trees with an average mature height over 45 feet): Two or more species of shade trees shall be planted at 1 tree for every 30 feet of shelterbelt per row, all equally spaced.
- c. Evergreen trees. Two or more species of evergreen trees shall be planted at 1 tree for every 30 feet of shelterbelt distance per row, all equally spaced

Each row of trees shall be separated by 30 feet with the trees staggered from the trees in neighboring rows.

All required shelterbelt plantings shall be installed prior to the commencement of operations. If it is not possible to install the required plantings due to weather conditions or other circumstances, all plantings shall be installed within eight (8) months of the first occupancy of the buildings on the site. Surety may be required to ensure installation, such as, but not limited to, bonds or personal guaranties.

For CAFO's involving 20,000 or more animal units, an odor abatement measure with proven effectiveness shall be required in addition to a shelterbelt.

7. **Animal Mortalities:** Animal landfills shall not be permitted. All mortalities shall be disposed of in accordance with the requirements of the State of Indiana Board of Animal Health.
8. **Manure Management:** All new manure storage facilities for a CFO/CAFO must be designed, constructed and maintained with a combined storage capacity of at least 360 days storage for manure and, if applicable, the expected rainfall and run-off from a 100 year, 24 hour precipitation event that falls on the drainage area around a liquid manure storage structure (i.e. lagoon, pond). All confined feeding operations for poultry shall use a dry manure handling system.

The following manure application requirements shall apply to any manure derived from CFO's or CAFO's within Delaware County, Indiana, or to be applied to land within Delaware County, Indiana.

- a. Any manure that is to be applied to land within Delaware County, Indiana shall be covered and bermed within 72 hours of delivery.
- b. All manure management requirements of the Indiana Department of Environmental Management and the Office of the Indiana State Chemist shall be followed.

Satellite manure storage facilities, which are manure storage structures not located at a livestock or poultry production area, shall meet the same Land Use Separation Distance Requirements and Environmental Separation Requirements that apply to a CFO or CAFO as set forth herein.

9. **Manure Storage Facility Closure:**  
The owner/operator of confined feeding or concentrated animal feeding operations that plans to close or discontinue use of a manure storage facility must comply with the requirements set forth herein in addition to all applicable state requirements. The following items shall be filed with the Plan Commission, the Delaware County Health Department, and the Delaware County Zoning Administrator:
  - a. Written notice of the anticipated date to cease operation shall be forwarded not less

than 60 days prior to closure. At this time, the Commission, the Health Department and/or the Zoning Administrator should forward any local concerns dealing with closure to IDEM.

- b. A copy of the certification submitted by the owner/operator to IDEM that states compliance with all state requirements for the closure or discontinued use of a manure storage structure, a copy of any additional closure requirements imposed on the owner/operator by the state, and a copy of the letter of confirmation from the Indiana Department of Environmental Management verifying that the state requirements for closure have been met.

Within 180 days of the notice to discontinue use of the manure storage structure, the owner/operator shall start the process of manure removal and within 365 days of the notice, shall complete the process and meet the IDEM requirement of no remaining potential to discharge. If, at the end of the 365 days, the terms of Item 2 above have not been met, the Delaware County Commissioners may utilize the bond/surety to accomplish proper closure of the manure storage structure. Additional costs in excess of the bond/surety, incurred by the Delaware County Commissioners, shall be assessed as a lien against the property.

## **ARTICLE XXXI**

### **Section 13. SOLAR FACILITY REQUIREMENTS**

These requirements are for the implementation of solar energy systems in Delaware County, Indiana. The County finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts, reduce greenhouse gas emissions and promote sustainable development.

#### **A APPLICATION REQUIREMENTS**

Applications for solar facilities must include a concept plan, a site plan, a maintenance plan, a decommission plan, and an emergency/fire safety plan. If the solar facility extends into the floodplain, that area of the project must comply with the Floodplain Management Ordinance. As a part of the application submittal, the applicant shall provide proof of notification of the proposed project as set forth below. Prior to the issuance of any permits for the solar facility, verification of all agreements, bonds, and other required permits shall be provided including a drainage permit, a stormwater/erosion control permit, and driveway permits.

##### **1. Pre-Application Meeting**

Prior to submitting an application, the solar facility is required to meet with the Planning Director at least thirty (30) days prior to the anticipated application submission to discuss the proposed request, and to become more familiar with the applicable requirements. The anticipated agenda date will be used in all public notice requirements.

##### **2. Concept Plan.**

The Concept Plan is intended to be a one-page overview of the entire facility showing the requirements set forth herein. The facility shall be constructed and operated in substantial compliance with the approved concept plan, with allowances for changes required by any federal or state agency. The project shall be limited to the phases and conditions set forth in the concept plan that constitutes part of the application, notwithstanding any other state or federal requirements. No additional phasing or changes in facility size shall be permitted without obtaining approval of the changes from the staff. The concept plan shall include the subject parcels; the proposed general location of the solar panels and related facilities; the location of proposed fencing, the location and nature of proposed buffers, including vegetative and constructed buffers and berms; the location of points of ingress/egress; and any proposed construction phases. The concept plan shall be supplemented with: 1) all landowner agreements and/or recorded memorandums and waivers; 2) proof of correspondence and cooperation with wildlife agencies including the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources and; 3) proof of compliance with applicable FAA regulations. Waivers may be provided on an on-going basis, however, waivers provided after the concept plan has been submitted will require a revised concept plan to be submitted along with a new site plan covering the area affected by a waiver

### 3. Site Plan.

A detailed plan, at a measurable scale, of all of the improvements to be placed on the site(s). Use of the Delaware County Geographic Information System (GIS) is recommended. Multiple site plans may need to be submitted to maintain a measurable scale in order to review and assess compliance with the requirements set forth herein. The site plan(s) must include:

- a. The location, number and spacing of all solar collectors and related structures;
- b. The location of fencing and buffer/screening areas;
- c. Property lines and setbacks;
- d. The location of easements, access roads and points of ingress/egress;
- e. The location of all above ground and underground utility lines.

The site plan must include ALTA survey results and show easements of record, contours, floodplain boundaries, 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, the location of any wetlands based upon a delineation plan, and waterways (including regulated drains, mutual drainage tiles/facilities, retention areas, etc.). A separate landscape plan prepared by a professional landscape architect is to be provided to ensure readability along with an assessment form or score card from an approved source showing that the proposed landscape plan meets or exceeds accepted pollinator and habitat standards. Delaware County currently recognizes the Purdue University 2020 Solar Site Pollinator Habitat Planning Scorecard and the Michiana Area Council of Governments

Technical Guide: Establishment and Maintenance of Pollinator-Friendly Solar Projects and may consider other assessment forms as they are developed.

4. Maintenance Plan.

The developer shall submit a maintenance plan that includes how the solar facility will manage the following concerns:

- a. Maintenance of the Panels. Maintenance of the Panels shall be repaired or replaced when either nonfunctional or in visible disrepair. Panels that are not so maintained shall be considered a public nuisance. Damaged panels that result in a release of hazardous substances shall be reported and mitigated as set forth in the Emergency/Fire Safety Plan.
  - b. Landscape requirements. Native grasses and perennials shall be used to stabilize the site for the duration of the facilities use.
  - c. Wildlife protection. Detail strategies that will be utilized to reduce risks of “lake effect” and will maintain wildlife corridors.
  - d. Landscape Maintenance Plan. The solar facility shall provide a landscape maintenance plan consistent with the requirements in ARTICLE XXX, Section 5 DEVELOPMENT STANDARDS, Subsection B5.i.
  - e. Pesticide Management Plan. The solar facility shall provide a pesticide management plan to be approved by Delaware County/Purdue Extension and Soil and Water Conservation Services.
5. Decommission and Restoration Plan and Agreement.
- a. A Decommission and Restoration Plan shall be submitted and shall form the basis for a Decommissioning Agreement to be approved by the Delaware County Commissioners. The decommission plan shall include a reliable and detailed estimate of the costs of decommissioning prepared by a professional engineer or contractor who has expertise in the removal of solar facilities. The plan shall include a performance bond or other approved method in the amount of 125% of the cost estimate to decommission the solar facility. The cost estimate shall be updated every five (5) years and one (1) year prior to the lease end by a professional engineer or a contractor who has expertise in the removal of solar facilities. The cost estimate updates shall be paid for by the owner or operator of the solar facility.
  - b. Decommissioning shall include removal of all solar electric systems, buildings, cabling up to the depth of four feet, electrical components, security barriers, roads, foundations to a depth of four feet, pilings, and any other associated facilities, so that any agricultural ground upon which the facility or system was located is again tillable and suitable for agricultural uses. The site shall be graded and reseeded to restore it to as natural a condition as possible, unless the landowner requests in

writing that the access roads or other land surface areas not be restored, and this request is approved by the County Commissioners.

Solar facilities which have reached the end of their useful life or have not been in active and continuous service for twelve (12) months shall be removed within twelve (12) months at the owner's or operator's expense in accordance with the decommissioning agreement, except if the project is being repowered or a force majeure event has or is occurring requiring longer repairs. If the owner or operator of the solar facility fails to remove the installation in accordance with the agreement or within the proposed date of decommissioning, the County may collect the surety and staff or a hired third party may enter the property to physically remove the installation.

6. Road Use Agreement.

Prior to the use of any county roads for the purpose of transporting parts and/or equipment for construction, operation or maintenance of a solar facility, the owner and/or operator must provide proof of a signed road use agreement between the Delaware County Commissioners and the owner/operator. The Road Use Agreement should include identification of all public roads that will be used for construction and maintenance. The County Engineer/Highway Superintendent or a qualified consultant hired by the County Commissioners at the expense of the owner/operator of the solar facility should conduct a pre-construction base-line survey to determine existing road conditions for assessing potential future damage. Any road damage caused by the construction, installation and/or removal of the solar facilities must be repaired to the satisfaction of the County Engineer. The County may require surety bonds, at the expense of the owner/operator, to ensure that future repairs are completed to the satisfaction of the County.

7. Emergency/Fire Safety Plan.

An emergency and fire safety plan shall be provided to the Delaware County Emergency Management Agency for approval and the local fire departments whose jurisdiction is included in whole or in part within the solar facility project area. Any specialized training and equipment shall be provided at the owner/operator's expense. If entrances are locked, Knox boxes and keys shall be provided at all locked entrances to the applicable emergency personnel. The names and phone numbers for the electric utility provider and the site operator, the 911 addresses and GPS coordinates shall be provided as a part of the plan and shall be posted at each entrance to the solar facility project.

The plan shall include provisions dealing with damage to panels that result in a release of hazardous substances. It shall include a listing of potential hazardous substances, incident reporting requirements as applicable to the Emergency Management Agency, the Plan Commission Office, the Health Department Office, the Indiana Department of Homeland Security and the Indiana Department of Environmental Management, and a mitigation plan that includes the testing of water wells as deemed necessary by the applicable agencies.

8. Economic Development Agreement.



Due to the complexity of solar facility projects, the Delaware County Commissioners may elect to enter into an Economic Development Agreement to address taxing, land use, assessments and other issues related to a solar facility project.

9. Notification of Project.

- a. The applicant shall provide notice of intent to locate a solar facility to all property owners within one (1) mile of the boundaries of the solar facility within 3 months prior to submitting an application to Delaware County regarding the special use of a solar facility.
- b. In addition, for the Board of Zoning Appeals hearing, the applicant shall provide a copy of the written notice sent to all surrounding property owners within 300 feet or 2 properties deep, whichever is greater, from the boundaries of the solar facility project area. The applicant shall also provide a list of the surrounding property owners to whom notice was sent.

10. Insurance.

- a. The owner or operator of the solar facility shall maintain a current comprehensive general liability insurance policy covering bodily injury and property damage, and cyber insurance to protect from data breaches and other cyber security issues. The insurance shall be in the amount of \$2,000,000 per occurrence and \$5,000,000 in aggregate, naming Delaware County as an additional insured. Proof of insurance shall be provided to the Plan Commission office prior to the issuance of permits and on an annual basis thereafter. Failure to maintain insurance shall result in cancellation of the Improvement Location Permit by the Planning Director.
- b. It is the responsibility of the owner or operator of the solar facility to inform the Planning Director of all changes in ownership of any insurance policy during the life of the project, including the sale or transfer of ownership or policy cancellations. The County shall be named as a notified party by the insurance provider in the event there is a lapse in coverage.
- c. Terminology shall be included in any and all insurance policies that provides policy limit adjustments derived from the U. S. Bureau of Labor Statistics Consumer Price Index (CPI) to protect against inflation. The County Commissioners may review coverage amounts as often as every five (5) years and modify, as necessary, to determine if appropriate limits have drifted too far from the CPI adjusted level.

11. Changes to Existing Solar Facilities.

Once an application is approved, any change to the solar panel footprint or adding additional property shall be considered a new application subject to the ordinance standards and procedures in effect at the time of the change. An application for said change does not affect any prior approvals.

## B Land Use Limitations

The County is concerned with the preservation of farmland and therefore has limited the total number of acres that can be devoted to solar facilities within Delaware County. The maximum number of acres devoted to all solar facilities under panel is 5,000 acres.

## C HEIGHT

The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.

## D SETBACKS

1. A minimum fifty (50) foot setback shall be maintained from the closest point of the solar facility's security fence facing right-of-way to the road right-of-way line, existing or proposed, whichever is greater.
2. A minimum five hundred (500) foot setback, which includes a screening buffer and other native vegetation as described below, shall be maintained from the solar facility structures to any non-participating owner's adjoining property which contains a dwelling, as measured from the property line to the solar facility security fence. If the adjoining property does not contain a dwelling, the regular F Farming Zone side and rear setbacks of twenty-five (25) feet and fifty (50) feet, respectively, shall apply.
3. A minimum five hundred fifty (550) foot setback shall be maintained from any non-participating dwelling to any solar facility security fence. A minimum one hundred (100) foot setback shall be maintained for all other dwellings.

The setbacks set forth in items 2. and 3. above may be reduced by up to 50% with a written waiver from the property owner(s).

## E SIGNAGE

Each solar facility must include an informational sign, 1 per frontage, with the name of the facility owner and the phone number for a 24-hour emergency contact. The informational sign may not exceed 6 square feet.

## F BUFFERS AND LANDSCAPE

The facilities, including fencing, shall be significantly screened from the viewshed of adjacent residential dwellings or commercial buildings by a buffer zone extending from the property line. Adjacent includes dwellings across the road from the solar facility. A property owner may waive the buffer zone requirement in whole or in part. Existing vegetation or natural landforms on the site may provide such screening. Existing wooded areas of an acre or more of land may not be removed for the installation or operation of a solar facility. Large trees, greater than twelve (12)

inches in diameter at breast height, outside of wooded areas, that are removed must be replaced with native trees at a 2 to 1 ratio on the solar facility site. In the event that existing vegetation or landforms providing the screening are disturbed, new plantings shall be provided which accomplish equivalent screening. Opaque architectural screening methods may be used to supplement other screening methods but shall not be the primary method.

1. Landscaping/Screening. A minimum 50-foot buffer zone, containing native plants including trees, shrubs and pollinators, shall be maintained. If there is no existing vegetation or if the existing vegetation is inadequate to serve as a screen, native plants shall be planted to create the visual screen. Remaining areas in the setbacks shall be maintained with pollinator-friendly plants as shown on the landscape plan. New plantings of trees shall be approximately 6 feet in height at time of planting. Blooming shrubs may be used in buffer areas as appropriate for visual screening.
2. Wildlife corridors. The concept plan shall identify an access corridor for wildlife to navigate through the solar facility project area. The proposed wildlife corridor shall be shown on the detailed site plan. To the extent it is reasonably practical, areas between and/or along fencing shall be kept open or contain openings to allow for the movement of migratory animals and other wildlife. Setbacks from county drain tiles, transmission lines, or natural gas lines are all valid wildlife corridors.
3. Landscape Plantings. The overall solar facility project area shall include pollinator-friendly plantings in an amount and configuration to meet or exceed pollinator-friendly standards.

## G FENCING

Facilities that are to be enclosed by security fencing shall have the fencing located on the interior of the buffer area. Solar facilities that do not coincide with livestock shall use wildlife-permeable fence, fencing with larger holes than a traditional chain-link fence that allows for small-to medium-sized animals to move freely through the fence for at least ten (10) percent of the fence lines where the 10% shall be evenly distributed along each quarter mile section and at identified wildlife corridors. Wooded areas of 10 acres or greater must be incorporated into wildlife corridors so that fencing does not prevent access to the wooded area by large animals. Substation locations identified on the site plans will be allowed to use traditional chain-link fencing around the entire structure. Fencing shall be maintained in good condition for the life of the solar facility operation. Barbed wired fencing is prohibited.

## H GROUND COVER

The ground around and under solar arrays and in buffer areas that do not contain concurrent agricultural uses shall be planted and maintained in native perennial vegetated ground cover, and meet the following standards:

1. Top soil shall not be removed during development, unless part of a remediation effort.

2. Soil shall be planted and maintained in perennial vegetation to prevent erosion, manage run-off, and build soil. Seeds should include a mix of grasses and wildflowers, native to the region, that will result in short stature prairie with a diversity of forbs (flowering plants) that bloom throughout the growing season.
3. An integrated pest management plan shall be submitted indicating the approach for site preparation and on-going ground cover maintenance. Nothing is intended to prevent pesticide use around on-site buildings or spot treatments for invasive species as may be deemed necessary to protect public health and safety. Plant materials must not have been treated with systemic pesticides, particularly neonicotinoids

#### I LIGHTING

Lighting must meet the requirements in ARTICLE XXX, Section 5 DEVELOPMENT STANDARDS.

#### J GLARE

Solar panel placement should be prioritized to minimize or negate any solar glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar system. Exterior surfaces of the collectors and related surfaces shall have nonreflective finish.

#### K NOISE

Sound attributable to the solar facility shall not exceed an hourly average sound level of sixty (60) A-weighted decibels as modeled at the property line adjacent to a dwelling or residence zone.

#### L DRIVEWAY ACCESS

Driveways shall be paved with a hard surface material for the first fifty (50) feet from the edge of the public road pavement. Interior drives are not required to be paved.

#### M CONCURRENT USES

Nothing will prevent a solar facility from coinciding with agricultural uses including but not limited to the grazing of livestock or apiculture.

#### N POWER LINES

Power lines installed on the solar facility project sites that connect panel rows to inverters must be buried underground. Power lines between the solar facility project and the electric utility transmission system may be overhead.

#### O GENERAL PROVISIONS

1. All solar facilities must meet or exceed the standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), the Indiana Electrical Code and any other agency of the local, state, or federal government with the authority to regulate such facilities that are in force at the time of the application.
2. A solar collector shall not be considered an impermeable surface provided the ground underneath the collector is not compacted or of hard surface and contains a vegetated ground cover.
3. Installation of solar facilities must not interfere with existing drainage tiles unless mitigation measures are taken such as repairs, replacing tile, installing additional drainage features, or re-routing. This is the obligation of the project owner which continues and applies even if the interference is discovered after construction of the project.
4. All solar facility structures shall conform to applicable industry standards as well as all local, state, and federal regulations. Solar facility applicants shall submit certificates of design compliance that solar manufacturers have obtained for UL (Underwriter Laboratories), DNV (Det Norske Veritas), or an equivalent third party. Solar facility applicants must also submit an estimate of the amount of local labor that will be used for the construction of the project and for the operation of the solar facility.

#### P. TRANSFER OF OWNERSHIP

All duties and obligations of each owner/operator of a solar facility shall be joined and several, and shall be binding upon all heirs, successors in interest, written notice shall be given to the Delaware County Commissioners and the Plan Commission. All agreements, bonds, and other financial assurances provided under this ordinance shall remain in full force and effect upon any transfer of ownership interest until the successor in interest delivers replacement documents for approval by the Delaware County Commissioners. Any transfer of ownership interest without prior approval of replacement documents shall constitute a default and shall not relieve the original responsibility of liability.

#### Q. NUISANCE

Any solar facility, or part thereof, declared to be unsafe by the Delaware County Building Commissioner by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with an abatement order from said Building Commissioner or, if applicable, the Decommissioning Plan Agreement. Abatement orders shall allow no more than sixty (60) days for corrections or for a rehabilitation plan to be filed with the Plan Commission office setting forth a timeline for compliance with the abatement order.

**ARTICLE XXXII ADMINISTRATION**

**ARTICLE XXXII**

**Section 1 GENERAL**

**A PURPOSE**

The purpose of this Ordinance is to promote and protect the public health, safety, morals, comfort and general welfare of the people of the County of Delaware, Indiana. Associated with this purpose is the establishment of an effective administrative system to fulfill the objectives of good, sound zoning. Such system should, among other things, expeditiously handle day by day matters concerning the citizens of the city and county with utmost care, courtesy and exacting ability; protect the right of appeal from any decision of an administrative officer; deal fairly with deliberate or accidental infractions of this Ordinance; and, through its function, create such climate as may deserve the respect of the community and the confidence of its citizens.

**B FILING FEES**

The Plan Commission shall establish a schedule of fees for the filing of matters that come before the MPC, BZA, and any other matter that have to be processed through the DMMPC in order to carry out the provisions of this ordinance.

**ARTICLE XXXII**

**Section 2 ADMINISTRATIVE OFFICES**

The administration of this Ordinance shall be with three (3) offices of local government, namely:

1. The Administrative Zoning Office.
2. The Delaware-Muncie Metropolitan Plan Commission.
3. The Delaware-Muncie Metropolitan Board of Zoning Appeals

**ARTICLE XXXII**

**Section 3 ADMINISTRATIVE ZONING OFFICER**

**A APPOINTMENT**

There shall be an Administrative Zoning Officer who shall be the enforcement officer of this Ordinance. The Board of County Commissioners of Delaware County, Indiana shall appoint him.

**B QUALIFICATIONS**

The Administrative Zoning Officer shall be a person of proven responsibility and knowledgeable in zoning administration and practice. He shall enforce the provisions of this Ordinance to their literal meaning and shall not try to exercise independent discretion that may violate it. He shall not permit the violation of any of the provisions of this Ordinance just because he considers it unduly severe as applied to specific cases, inasmuch as this Ordinance provides the necessary remedies. He shall not refuse to issue a permit for the construction of a building or structure or for the use of land on the basis of what he considers to be lack of wisdom in any zoning provision. He shall use the powers of his position to encourage compliance and advise citizens how such compliance can be achieved without unnecessary hardship.

### C DUTIES

In addition to other administrative duties assigned to him periodically by the Director of Planning, the Administrative Zoning Officer shall perform the following duties:

1. He shall issue all zoning permits and certificates of occupancy.
2. He shall conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.
3. He shall maintain accurate records including, but not limited to, maps, amendments, variations, conditional uses and applications.
4. He shall receive, file applications for permits and shall forward details of any refusal to issue a permit to the Board of Zoning Appeals.
5. He shall revoke certificates of occupancy or zoning permits when violations of the provisions of this Ordinance are discovered by him.
6. He shall initiate court action as may be deemed necessary to prevent or abate violations to the provisions of this Ordinance; report all violations for prosecution to the proper legal authority; sign or cause to be signed all complaints to local courts prepared by the proper legal authority.

### D INSPECTIONS

The Administrative Zoning Officer may, after giving at least forty-eight (48) hours notice to the proper person, examine premises to investigate possible violations. He shall state the nature of the violation to the owner or resident and give reasons for the inspection prior to obtaining entry into the premises.

### E USE PERMIT

The Administrative Zoning Officer shall issue no use permit pertaining to the use of land or buildings unless the application for such permit has been examined and approved by said officer.

Any use permit issued in conflict with the provisions of this Ordinance shall be cause for revocation. The application for a use permit shall include the following data and provisions:

1. Location of the proposed structure, including street name or names, house or lot number, zoning.
2. Name of the owner of property, type of work proposed and estimated cost of such work.
3. Use proposed for the building or structure, the area of the lot and dimensions of same, size of front, side and rear yards.
4. Number of families that will occupy the building, the height and number of stories of the building or structure, the number, size and type of any accessory building.
5. A sketch of the proposed layout of the lot, and affidavit attesting to the accuracy of the application.

Within two (2) days after an application for a use permit is filed, the Administrative Zoning Officer shall examine the application and shall advise the applicant or his agent as to whether or not the building, structure or use thereof complies with the provisions of this Ordinance. If he finds the data in order, the Administrative Zoning Officer shall issue the zoning permit. If he denies the permit, he shall inform the applicant of his findings and shall instruct him as to the applicant's right of appeal. He shall acquaint the applicant thoroughly with all current procedures to affect such an appeal. One (1) copy of the application, together with the plans, shall be returned to the applicant after the Administrative Zoning Officer shall have marked such copy either as approved or rejected, attesting to it by his signature on such copy. The Administrative Zoning Officer as part of the office's permanent record shall retain the original copy of the application, similarly marked.

## F CERTIFICATE OF OCCUPANCY

No new building or improvement shall be occupied or land use started unless and until the applicant shall have applied for in writing and received a certificate of occupancy from the Administrative Zoning Officer. Such certificate shall be issued after the premises have been thoroughly inspected by said officer and found to be in full compliance with the provisions of this Ordinance.

## G FEES AND PENALTIES

### 1. PERMITS AND FEES

Permits shall be obtained from the applicable State and local permitting authorities dealing with development activities such as, but not limited to, building construction, electrical service, plumbing, heating and air conditioning, stormwater quality and quantity, erosion control, floodplains, wetlands, sewers and other sanitary facilities, and wells and water supply. Fee schedules are established by the applicable permitting authority. All applicable permits shall be obtained prior to beginning any construction and/or land



alteration activities.

## 2. PENALTIES

When permits are not obtained prior to the beginning of construction and/or land alterations, penalties may be imposed as set forth by the permitted authority.

## H REMEDIES

The Commission, the Board or any designated enforcement official may institute a suit for injunction in the Delaware County Circuit Court to restrain an individual or a governmental unit from violating the provisions of this Ordinance. Said bodies may also institute a suit for mandatory injunction directing an individual or governmental unit to remove a structure erected in violation of the provisions of this Ordinance.

## ARTICLE XXXII

### Section 4 METROPOLITAN PLAN COMMISSION

#### A GENERAL

The Metropolitan Plan Commission shall be the Delaware-Muncie Metropolitan Plan Commission, created under the provisions of IC 18-7-5-1 et.seq. of the Burns Indiana Statutes.

It is not intended by this Ordinance to abrogate, annul or dismiss the said Commission, but the same shall continue as currently organized.

#### B ZONING AMENDMENTS

From time to time and as conditions change, the provisions of this Ordinance may be amended, supplemented or changed. Application for changes in zone may be initiated by the Commission, or by owners of fifty (50) percent or more of the area involved in a petition, or by the Board of County Commissioners of the County of Delaware, Indiana. Any proposed ordinance for amendment not originating from action of the Commission shall be referred to it for consideration and report before the Board of County Commissioners of the County of Delaware, Indiana takes final action.

#### C FILING

Any persons seeking a change in zone shall make application for such change with the Delaware-Muncie Metropolitan Plan Commission in forms prepared for the purpose. The Commission may set the number of copies to be submitted and shall adjust each and every application to its regular schedule. The Commission shall hold a public hearing on the proposed change in zone or amendment, giving public notice in at least one (1) newspaper of general circulation in Delaware County. The notice shall state the date and time of the hearing; the description of the change; and the exact location of the property involved. The notice shall appear in the newspaper at least ten (10) days prior to the date of the public hearing. The proponent shall also submit a complete list

of all surrounding property owners within a three hundred (300) feet radius of the property with the necessary postage to cause the mailing of notices to such owners except where a three hundred (300) feet radius would include only the immediately abutting properties, irrespective of public ways, the owners of the properties adjoining the immediately abutting properties, in an east, west, north, and south direction, shall also be notified.

#### D PUBLIC HEARING

The proponent of a zone change may appear in person, by agent or by attorney. He shall be given proper consideration. All public hearings and all meetings of the Commission shall be open to the general public. Opponents to a proposed change in zone shall be given adequate time to voice their opinions.

#### E DISPOSITION

The final disposition of a proposed change in zone shall be in the form of a motion, duly adopted, favorably or unfavorably recommending the change; or specifically setting forth modifications, variations or conditions. The Commission's action shall be forwarded to the Board of County Commissioners of the County of Delaware, Indiana, for final action.

#### F BASIS FOR THE DECISION

In making a decision on a proposed change in zone or amendment, the Commission shall substantially determine the following:

1. That the change in zone will not adversely affect the values of surrounding property.
2. That the proposed use is the best and most adequate use of the property.
3. That the proposed change in zone does not constitute spot zoning; that the owner of the property in question is not being favored over surrounding property owners.
4. That the owner can comply with all the requirements of this Ordinance.
5. That traffic congestion will not be unnecessarily increased.
6. That the proposed change is in line with good zoning practice.

### **ARTICLE XXXII**

#### **Section 5 METROPOLITAN BOARD OF ZONING APPEALS**

##### A GENERAL

The Metropolitan Board of Zoning Appeals shall be the Delaware-Muncie Metropolitan Board of Zoning Appeals created under the provisions of IC 18-7-5-1 et.seq. of the Burns Indiana Statutes.

It is not intended by this Ordinance to abrogate, annul or dismiss the said Board as constituted at the time of the enactment of this Ordinance.

## B APPEALS

All matters brought before the Metropolitan Board of Zoning Appeals shall be known as appeals. There shall be three (3) types of appeals, namely:

1. Appeals from the review of an order, requirement or decision of the Administrative Zoning Officer. This shall include any interpretation rendered by said officer, which an applicant for a permit may deem questionable, or the refusal of the officer to issue a zoning permit.
2. Appeals in which a person is requesting a special use under the terms of this Ordinance.
3. Appeals requesting variances from the terms of this Ordinance when it is claimed that the literal enforcement of the provisions of this Ordinance may cause undue hardship.

## C HEARINGS

All appeals shall be subject to public hearing. Prior to any public hearing an appeal shall be filed with the Board in forms supplied by it and in full compliance with established schedules and procedures. The Board shall give notice of the hearing in at least one (1) newspaper of general circulation in the County of Delaware, Indiana, at least ten (10) days in advance of the hearing. The appellant shall submit a complete list of all property owners within a three hundred (300) feet radius of the property with the necessary postage to satisfy the mailing of notices to such owners, and where a three hundred (300) foot radius would include only the immediately abutting properties, irrespective of public ways, the owners of the properties adjoining the immediately abutting properties, in an east, west, north and south direction, shall be notified.

A certificate shall accompany application for appeal from the Administrative Zoning Officer stating the reasons for the appeal, the date on which the issuance of the permit was refused and all other pertinent information. All hearings and meetings of the Board shall be open to the general public. The applicant may appear in his own behalf or by an authorized agent or attorney.

## D DISPOSITION

The Board shall keep minutes of its meetings and hearings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. Should the applicant fail to appear at the hearing or to appoint an agent or attorney to represent him, the Board shall dismiss the case.

Decisions of the Board shall be made within thirty (30) days from the time of the hearing and shall be entered in the minutes. The decisions shall include the reasons, the summary of evidence introduced, and the findings of fact made by the Board. When a variance is granted the record shall state in detail any exceptional difficulty and unnecessary hardship upon which the appeal was

based.

The Board's decision may reverse, affirm, wholly or partly, the ruling of the Administrative Zoning Officer and shall be final unless the applicant seeks judicial review.

#### E VOTE

The concurring vote of the majority of the members of the Board shall be necessary to grant an appeal. Failure of a motion to receive such majority shall constitute a denial of the appeal. Decisions of the Board shall be available for inspection during normal office hours.

#### F WITHDRAWAL

An applicant may, in writing, withdraw his appeal at any time prior to the hearing or he may do so verbally at the hearing.

#### G TIME LIMITATION

An appeal shall not be taken after fifteen (15) days have elapsed from the time of a zoning permit or the Administrative Zoning Officer denied Certificates of Occupancy. If the Board grants an appeal, all necessary permits shall be obtained within ninety (90) days, and construction shall be completed within six (6) months from the time of the Board's action, unless otherwise directed by the Board.

#### H HEARING

No second hearing shall be entertained by the Board on a case ruled upon by it, unless new facts and evidence are submitted which, in the Board's judgment, materially changes the case. A plea for such second hearing shall be requested in writing to the Board. The Board shall determine prior to scheduling a second hearing if such facts and evidence do exist. Change in ownership of the property affected by an appeal shall be insufficient reason for hearing. Should the Board, at a regularly scheduled meeting, decide that there are substantial grounds for a second hearing and it is fully satisfied that new evidence has been submitted; the applicant shall be advised in writing of the Board's ruling and will then be entitled to refile for rehearing in conformance with established schedules and procedures. The proper legal notices shall be published and all interested parties shall be duly notified.

#### I ADVICE

The Board shall consider no informal request for advice, or moot questions. Any advice, opinion or information given by a Board member shall not be binding on the Board.

#### J PROOF FOR A VARIANCE

It shall be incumbent upon an applicant to conclusively prove at the public hearing that, if he is compelled to meet the provisions of this Ordinance, he cannot secure reasonable use of his

property; that the hardship claimed by him results from the application of the provisions of this Ordinance; that the hardship claimed is suffered by his property directly, and not merely by other properties; that the hardship claimed is not the result of the applicant's own actions.

## K JUDICIAL REVIEW

Each decision of the Board of Zoning Appeals is subject to review by certiorari. Each person aggrieved by a decision of the Board of Zoning Appeals may present, to the circuit or superior court of Delaware County, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. The person shall present the petition to the court within thirty (30) days after the date of that decision of the Board of Zoning Appeals.

## ARTICLE XXXIII DEFINITIONS

### ARTICLE XXXIII

#### Section 1 GENERAL

In the interpretation of this Ordinance the words in the present tense shall include the future; words used in the singular number shall include the plural, and vice versa; the word "shall" shall be mandatory and not discretionary; the word "may" is permissive; the word "building" includes all other structures of every kind regardless of the similarity of buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", and "occupied for". Throughout this Ordinance, the word "city" shall refer to the City of Muncie, Indiana; the word "county" shall refer to the County of Delaware, Indiana; the word "Commissioners" shall refer to the Board of County Commissioners of the County of Delaware, Indiana; the word "Commission" shall refer to the Delaware-Muncie Metropolitan Plan Commission; the word "Board" shall refer to the Delaware-Muncie Metropolitan Board of Zoning Appeals; the word "maps" shall refer to all official zone maps made a part of this Ordinance. Where definitions are based on state or federal definitions and citations may change, the term(s) continues to be defined as set forth in applicable state or federal regulations.

### ARTICLE XXXIII

#### Section 2 TERMS AND MEANING

For the purpose of clarity and in order to avoid misunderstandings or misinterpretations, terms defined herein shall be interpreted only as defined.

1. Accessory building or use: A building or use subordinate to another structure or use located on the same lot which does not change or alter the character of the premises and which is not used for human occupancy. Shall include child's playhouse, garden house, doghouse, small green house, private garage, shed, storage building, off-street parking area.
2. Adult Bookstore: An establishment having as a preponderance of its stock in trade or its dollar volume in trade, books, magazines, periodicals or other printed matter, or

photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

3. Adult Cabaret: A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual areas and/or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.
4. Adult Drive-in Theater: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.
5. Adult Entertainment Business: An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade or adult service establishment.
6. Adult Live Entertainment Arcade: Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyration choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.
7. Adult Mini Motion Picture Theater: An enclosed building with a capacity of more than five (5) but less than fifty (50) persons, used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
8. Adult Motel: A hotel, motel or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

9. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
10. Adult Motion Picture Theater: An enclosed building with a capacity of fifty (50) or more persons used for presenting films, motion pictures, video cassettes, slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
11. Adult Service Establishment: Any building, premises, structure or other facility, or any part thereof, under common ownership or control, which provides a preponderance of services involving, specified sexual activities or display of specified anatomical areas.
12. Advertising, Device: An advertising sign, billboard or poster panel which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such device is located or to which it is affixed, but does not direct attention to the business on the premises or to a brand name of product or commodity with which the business is specifically identified and which is sold on the premises.
13. Agritourism: Any income-generating activity conducted on a working farm or ranch for the enjoyment and education of visitors related to the promotion of the working agricultural operation that directly supports the agricultural use of the property. It includes the interpretation of natural, cultural, historic, and environmental assets of the land and the people working on it. Agritourism does not include weddings or other commercial events that are not related to the promotion of the working agricultural operation.
14. Airport: The area of land or water which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or airport facilities or rights-of-way.
15. Alley: A public way, other than a street, customarily used for ingress and egress from service entrances of buildings.
16. Anatomical Exposure: The exposure of any human genital region, buttocks, female breasts, pubic areas, or any other part of the human anatomy, described as specified anatomical areas, designed to convey or express an erotic message. See also "Specified Anatomical Areas".
17. Animal Feeding Operation (AFO): A lot or facility, other than an aquatic animal

production facility, where all of the following conditions are met: 1) animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period; and 2) crops, vegetation, forage growth, or post harvest residues are not sustained in the normal growing season over at least fifty percent (50%) of the lot or facility.

[State definition per 327 IAC 19-2-3]

18. **Animal Unit (AU):** A unit of measurement used to determine separation distances and procedures applicable to CAFO operations with 20,000 or more animal units, based on the total number of single animals or combination of animal types and sizes which are fed, maintained, or stabled at a location/site/property, as follows:

<b>Animal Type</b>	<b>Animal Unit</b>
Mature dairy cow	1.4
Beef cattle or heifer	1.0
Swine over 55 pounds	0.4
Swine under 55 pounds	0.1
Ducks (non-liquid manure systems)	0.03
Ducks (liquid manure systems)	0.2
Chickens (liquid manure systems)	0.03
Chickens (non-liquid manure systems)	0.01
Veal calves	1.0
Horses	2.0
Sheep or lambs	0.1
Turkeys	0.02
Animals not listed – use average weight of the animal in pounds and divide by 1,000 to arrive at the Animal Unit	

[Animal Units derived by dividing 1000 by the number and type of animals cited in the CAFO definition]

19. **Apartment:** A room or suite of rooms arranged, designed, used or intended to be used as a single housekeeping unit.
20. **Apartment House:** A building other than a duplex residence in which there are three (3) or more dwelling units.
21. **Basement:** A portion of the building located below the main story, partly underground, but having less than one-half (1/2) of its clear floor to ceiling height below the average grade of adjoining ground. A basement shall not be counted as a story for the purpose of height regulations unless it is occupied and used as a dwelling unit.
22. **Block:** An area that abuts a street and lies between two (2) adjoining streets or barriers such as a railroad right-of-way or waterway.



23. Boarding House: A residence in which table board or sleeping accommodations or both are provided for compensation of three (3) or more persons, but not to exceed fifteen (15) persons. A boarding house shall be synonymous with lodging house.
24. Building: A roofed structure for shelter, support, enclosure, or protection of persons, animals or property.
25. Building, Detached: A building having no structural connection with another building.
26. Building, Height: The vertical distance measured from the adjoining street centerline grade at a point opposite the center of the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof. Where buildings are setback from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.
27. Building Line: The line establishing the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.
28. Building, Front: The wall of a building most nearly parallel with an adjacent street to the front of the lot on which the principal use is conducted.
29. Building, Principal: A building constituting the principal use of the lot.
30. Camp, Public: Any area or tract of land used or designed to accommodate two (2) or more automobile house trailers, mobile homes, cabins, tents or other camping outfits, but not intended for permanent year-round occupancy.
31. Cemetery: Land used for the burial of the dead, including crematories and mausoleums.
32. Charitable Institution: A not-for-profit corporation organized and operated to provide philanthropic, civic, social, or educational services and not the pecuniary gain of its trustees, directors, incorporators or members and where the articles of incorporation have been approved and issued by the State of Indiana.
33. Child Care Center: A nonresidential building, licensed by the State of Indiana, where at least one (1) child receives child care from a provider as follows: while unattended by a parent, legal guardian or custodian; for regular compensation; and for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays and holidays. Also known as a day care center.
34. Church: A permanently located building commonly used for religious worship, fully enclosed with walls and having a roof (canvas or fabric excluded) and conforming to all applicable legal requirements affecting design and construction.
35. Clinic: An establishment where patients are admitted for special study and treatment by

two (2) or more licensed physicians and their professional associates, practicing medicine together.

36. Club, Private: Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not for profit which inures to any individual and not primarily to render a service that is customarily carried on as business. The affairs and management of a private club are conducted by a Board of Directors, and executive committee or similar body chosen by the members at an annual meeting. The serving of food and the sale of alcoholic beverages are secondary and incidental to the promotion of a common objective by the organization.
37. Concentrated Animal Feeding Operation (CAFO): An animal feeding operation that stables or confines at least as many as or more than the numbers of animals specified in any of the following categories:
- a. 700 mature dairy cows, whether milked or dry;
  - b. 1,000 veal calves;
  - c. 1,000 cattle, other than mature dairy cows and veal calves, cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
  - d. 2,500 swine each weighing 55 pounds or more;
  - e. 10,000 swine each weighing less than 55 pounds;
  - f. 500 horses;
  - g. 10,000 sheep or lambs;
  - h. 55,000 turkeys;
  - i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
  - j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
  - k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
  - l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or
  - m. 5,000 ducks, if the AFO uses a liquid manure handling system.
- [Federal definition 40 CFR 122.23]

38. Condominium: An apartment building in which apartments are owned individually.

39. Confined Feeding: Confined feeding for purposes of this Ordinance means the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:
- a. animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and
  - b. ground cover or vegetation is not sustained over at least fifty percent (50%) of the animal confinement area.

The term does not include the following: 1) a livestock market where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision; and 2) a livestock sale barn or auction market where animals are kept for not more than ten (10) days.

[State definition 327 IAC 19-2-6]

40. Confined Feeding Operation (CFO): Confined feeding operation for purposes of this Ordinance means any:
- a. confined feeding of at least:
    - 1) three hundred (300) cattle;
    - 2) six hundred (600) swine or sheep;
    - 3) thirty thousand (30,000) fowl; or
    - 4) five hundred (500) horses.
  - b. animal feeding operation electing to be subject to IC 13-18-10; or
  - c. animal feeding operation that is causing a violation of:
    - 1) water pollution control laws;
    - 2) any rules of the water pollution control board; or
    - 3) IC 13-18-10.
- [State definition 327-IAC 19-2-7]  
The term CFO is intended to include all of the production area involved in the operation. Two or more operations under common ownership are considered to be a single operation for purposes of determining the number of animals at an operation if they adjoin each other or if they use a common area or system for the disposal of waste.
41. Drainage Inlet: Any surface opening to an underground Regulated Drain Tile system that drains to surface waters of the state; the term includes water and sediment control basins.
42. Dwelling: A building or portion thereof used primarily as a place of abode for one (1) or more human beings, but not including hotels, lodging houses, boarding houses, tourist homes or motels.
43. Dwelling, Attached: A dwelling that is joined to another dwelling at one (1) or more sides by party walls.
44. Dwelling, Detached: A dwelling, which is entirely surrounded by open space on the same lot.
45. Dwelling, Unit: One (1) or more rooms arranged, designed, or used as living quarters for one (1) family.
46. Dwelling, Single-family: A building containing one (1) dwelling unit only.
47. Dwelling, Two-family: A building containing two (2) dwelling units only.
48. Dwelling, Multi-family: A building or portion thereof containing three (3) or more dwelling units.
49. Dormitory: A building arranged and used for the housing of individuals, with common toilet and bath facilities and not having individual cooking facilities.

50. Establishing An Adult Entertainment Business: Any of the following: a) the opening or commencement of any such business as a new business; b) the conversion of an existing business, whether or not an adult entertainment business, to any of the adult entertainment businesses defined herein; c) the addition of any of the adult entertainment businesses defined herein to any other existing adult entertainment business; or d) the relocation of any such business.
51. Existing CFO/CAFO: A CFO or a CAFO is considered to be existing for purposes of this ordinance if the CFO's or CAFO's confinement structure(s) or manure storage facility(s) have been constructed. An existing CFO or CAFO is considered a conforming use that may have nonconforming characteristics such as setbacks less than required by this ordinance.
52. Expansion of an Existing CFO/CAFO: A term meaning increasing the number of animals beyond the number of animals allowed per a CFO or CAFO permit issued by the Indiana Department of Environmental Management. Expansion of a CFO or CAFO in a rural residential area is subject to the requirements of Article XXXI, Section 12. Expansion of a CFO or CAFO with nonconforming characteristics in a rural agricultural area may occur provided such expansion does not further encroach upon the nonconforming characteristic(s).
53. Family. (a) One (1) or more persons related by blood, marriage, or adoption living as a single dwelling unit. (b) Two (2) persons not related by blood, marriage, adoption living as a single dwelling unit. (c) One (1) or more persons related by blood, marriage, or adoption living as a single dwelling unit except that two (2) of the aforesaid persons may be unrelated by blood, marriage, or adoption.
54. Floodplain: The channel proper and the areas adjoining any wetland, lake or watercourse, which have been, or hereafter may be covered by the regulatory flood. The flood plain includes both the floodway and the floodway fringe districts as set forth in the Floodplain Management Ordinance for Delaware County, Indiana. The regulatory flood is a flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency.
55. Floor Area: (a) When used to determine compliance with the minimum floor area requirements for a residence, it shall mean the sum of the horizontal areas of the several floors of the residence measured from the exterior faces of the exterior walls or from the center line of common walls separating residences, excluding carports, garages, breeze ways or open porches; (b) When used to determine lot coverage, it shall mean the horizontal area of the ground floor of a building measured from the exterior face of the exterior walls of such building; and (c) When used to determine the number of off-street parking spaces required for non-residential uses, buildings and structures, it shall mean the sum of the horizontal areas of the several floors of the building measured from the interior faces of the interior walls.

56. Frontage: All property fronting on one (1) side of a street between two (2) intersecting streets, measured along the street right-of-way.
57. Garage, Private: A compartment within or attached to a residence, or any building located on land on which a residence is located, designed, arranged, used or intended to be used for the storage of the private passenger automobiles of the occupants of the residence.
58. Garage, Community: Two (2) or more private garages.
59. Green Belt: An area of land with softscaped treatment consisting of natural vegetative material such as greenery, plants, grass and trees.
60. Gross Floor Area (GFA): The interior floor area of buildings and structures used to determine off-street parking spaces. [See Floor Area definition (c).]
61. Health Center: A convalescent home, nursing home, rest home, institutions for human care, health resorts.
62. Horse Farm: A horse farm shall include buildings and uses of land for the breeding, raising, stabling, and boarding of horses; training of horses and riders; riding academies; and schooling shows, exhibits, and training competitions not open to the general public.
63. Hotel: A building containing rooms intended or designed to be used or which are used, rented, hired out to be occupied or which are occupied for sleeping purposes by guests and where general kitchen and dining room facilities are provided within the building or in an accessory building.
64. Institution, Educational: A public, parochial, charitable or nonprofit college, university, other than trade or business school, including instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.
65. Institution for Human Care: Residential facilities that provide on-site living and/or medical assistance for those unable to independently care for themselves such as a nursing home, an assisted living facility, a convalescent facility, or similar facility.
66. Junk: Scrap metals and their alloys, bones, used materials and products such as rags, cloth, rubber, rope, tinfoil, bottles, lumber, wastepaper, boxes, crates, old tools, machinery, fixtures and appliances with negligible remaining utility, and other goods uneconomical to repair and unusable.
67. Junk Yard: A lot or part of a lot used for the storage, keeping, dismantling, abandonment or sale of junk, scrap metal, scrap vehicles or scrap machinery or parts thereof; buildings or premises where waste, discarded or salvage materials are bought, sold, stored or packed,

including house wrecking storage yards and furniture, household equipment and used cars in operable condition with current State vehicle license plates or current registration are not included.

68. Kennel: The use of land or buildings for the purpose of selling, breeding, boarding or training animals other than farm animals; or the keeping of four (4) or more dogs over four (4) months old, or the keeping of six (6) or more cats over four (4) months old, or the keeping of more than five (5) dogs and cats.
69. Landbank: A process where land is set aside as green space and reserved for a future use.
70. Lot: A portion or parcel of land devoted to a common use or occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.
71. Lot, Area: The area of a horizontal plane bounded by the front, side and rear lot line of a lot, but not including any area occupied by dedicated alleys, streets, recorded lakes or rivers.
72. Lot, Corner: A lot fronting on two (2) or more streets at their intersection.
73. Lot, Depth: The mean horizontal distance between the front and the rear and the front lot lines, measured within lot boundaries.
74. Lot, of Record: A parcel of land designated as a lot on a plat or subdivision recorded or registered pursuant to the statutory provisions; a single tract of land located within a single block which, at the time of filing for an improvement location permit or a building or zoning permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership.
75. Lot Width: The horizontal distance between the side lot lines measured at right angles to the depth.
76. Manufactured Home: A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards Code or Indiana Public Law 360, Acts of 1971, as promulgated by the Indiana Fire Prevention & Building Safety Commission; also refers to modular homes.
77. Manure Storage Facility: Manure storage facility means any:
  - a. Pad;
  - b. Pit;
  - c. Pond;
  - d. Lagoon;
  - e. Tank;

f. Building; or

g. Manure containment area;

used to store or treat manure, including any portions of buildings used specifically for manure storage or treatment.

[State definition 327 IAC 19-2-28]

78. **Massage:** Any method of pressure on or friction against, or stroking, kneading, rubbing, person so registered or licensed is performing the services for which the registration or tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his behalf will pay money or give any other consideration or any gratuity therefore. However, massage as used in this ordinance shall not apply to the activity of any person who is registered or licensed by the United States Government or any agency thereof, by the State of Indiana or any agency thereof, by Delaware County or any agency thereof, by any city or town within Delaware County or any agency thereof, or registered or licensed by any statute or ordinance of the United States, State of Indiana, Delaware County or any city or town in Delaware County, while such license was issued and during the period of time said registration or license is in effect.
79. **Massage Establishment:** Any establishment having a source of income or compensation derived from the practice of massage as herein defined and which has a fixed place of business where any person, firm, association, or corporation engages in, or carries on any of the activities as defined in a massage.
80. **METEOROLOGICAL TOWER (Met Tower)** – Defined to include the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
81. **Microbrewery:** A facility that produces less than 15,000 barrels of fermented alcohol (beer, cider, mead, wine, or other similar beverages). Use may include a tasting room or may be in conjunction with a bar/tavern or restaurant. Copies of reports filed with the Alcohol and Tobacco Tax and Trade Bureau (TTB) shall be maintained to demonstrate, upon request of the County, that they have not exceeded the annual beverage production limit in any twelve (12) month period. Microbreweries may also be known as a brewpub.
82. **Microdistillery:** A facility that produces less than 10,000 barrels of distilled alcohol (spirits, liquor) per year. Use may include a tasting room or may be in conjunction with a bar/tavern or restaurant. Copies of reports filed with the Alcohol and Tobacco Tax and

Trade Bureau (TTB) shall be maintained to demonstrate, upon request of the County, that they have not exceeded the annual beverage production limit in any twelve (12) month period.

83. Mobile Home: A transportable dwelling unit larger than eight (8) feet in body width and longer than thirty-two (32) feet in body length and designed to be used as a year-round dwelling unit, built prior to June 15, 1976.
84. Mobile Home Park: An area of land upon which two (2) or more manufactured homes or mobile homes are harbored for the purpose of being occupied as principal residences and this includes all real and personal property used in the operation of the park. The area of land includes lots which may be leased, owned or otherwise contracted for where the lots are at least three thousand (3000) square feet in area but not necessarily of sufficient size to meet the required lot area for single family dwellings in a residence zone.
85. Motel: A building or group of buildings in which lodging is provided and offered to the public for compensation and catering primarily to the traveling public.
86. Nonconforming Adult Use: Any building, structure or land lawfully occupied by an adult entertainment business or lawfully situated at the time of passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the regulations of this Ordinance.
87. Nonconforming Use: A use existing at the time of the enactment of this Ordinance that does not comply with one or more of the Ordinance provisions.
88. Nursing Home: A home for the aged, convalescent, chronically ill or incurable persons except mental or alcoholic patients in which three (3) or more persons are received, kept and provided with food and shelter for compensation.
89. Outdoor Advertising: A business providing outdoor displays or display space on lease or rental basis.
90. Open Porch: A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either permanent or detachable glass sash.
91. Parking, Lot: A parcel of land devoted to parking spaces for four (4) or more motor vehicles for compensation or otherwise, having an all-weather surface, enclosed or unenclosed, connected to a street and providing satisfactory ingress and egress for customers.
92. Parking, Space: A parking space for one vehicle consisting of a minimum one hundred sixty-two (162) square feet in area.
93. Private School: An accredited nonpublic school, private or parochial, that is determined to



be in compliance with the standards for the recognition of nonpublic schools as set by the Indiana State Board of Education.

94. **Production Area:** Production area means that part of an animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barn, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated storm water. The term includes any egg washing or egg processing facility, and any area used in the storage, handling, treatment or disposal of mortalities.

[State definition 327 IAC 19-2-34]

95. **Public Building:** Any structure, edifice, or building, regardless of location, held, used or controlled for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated.

96. **Public Land:** Any real estate in which any governmental organization or entity has a legal, or equitable, interest. This term shall not include any public streets, highways, roads or alleys since these terms are included in the definition of “Street” and “Alley”.

97. **Public Use Recreational Area:** A use of land owned by any federal, state or local governmental entity, or a nonprofit entity, which is operated to attract the public and allow them to congregate for significant periods of time for recreational purposes such as parks, campgrounds, and nature preserves. Road right-of-way, parking areas, recreational trails and any other area used by the public as a passageway or temporary parking area is not considered a public use recreational area.

98. **Public Water Supply Well:** Any well that provides water to the public through a water distribution system that serves at least twenty-five (25) persons per day for drinking, domestic use or other purposes, or that has at least fifteen (15) service connections.

[State definition 327 IAC 19-2-36]

99. **Recreational Vehicle:** Any portable vehicular structure not built to the National Manufactured Housing Construction and Safety Standards Code, designed to provide temporary living quarters for recreational, camping or travel use, including but not limited to travel trailers, collapsible trailers, truck campers, motor homes and multi-use vans; they are intended for temporary residential uses and shall be occupied only in RV parks.

100. Regulated Drain Tile: A drainage tile under the jurisdiction of the Delaware County Drainage Board; also known as a legal drain tile.
101. Religious Institution: A church, chapel, temple, synagogue, convent, seminary, monastery, nunnery, rectory, parsonage, parish houses and like facilities related to the conduct of religious worship.
102. Rural Agricultural Area: Any area classified in the F Farming Zone where there are thirty-two (32) or fewer dwelling units in a circular area equal to a square mile as measured from the center point of the production area with a radius of 2,979 feet. Rural agriculture areas shall consist of two levels as follows: Level 1 shall be those areas with 16 or fewer dwelling units within the square mile area described herein; and Level 2 shall be those areas with 17 to 32 dwelling units within the square mile area described herein.
103. Rural Residential Area: Any area classified in the F Farming Zone where there are 33 or more dwelling units in a circular area equal to a square mile as measured from the center point of the production area with a radius of 2,979 feet.
104. Sensitive Area: Sites where conditions pose a specific water quality threat to one or more of the following:
- a. Public water supply wells
  - b. Wellhead protection areas
  - c. Drinking water supply reservoirs
  - d. Areas requiring special protection such as wetlands (except for wetlands constructed for manure management), Karst terrain, critical habitat of an endangered species, public use recreational areas.
105. Services Involving Specified Sexual Activities or Display of Specified Anatomical Areas: As used in Adult Service Establishment, any combination of two or more of the following activities: a) the sale or display of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; b) the presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons; c) the operation of coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to five (5) or fewer persons per machine at anyone time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas; d) live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas; e) the operation of a massage establishment.

106. Sexual Activities: Sexual intercourse or deviate sexual conduct, real or simulated, exhibition of the uncovered genitals of a person in the context of, masturbation or other sexual activities, provocative, erotic, or suggestive dance which is intended to convey an erotic message. See also "Specified Sexual Activities".
107. Small Wind Energy System: Means a single-towered wind energy system that:  
Is used to generate electricity;  
Has a rated nameplate capacity of 100 kilowatts or less; and  
Has a total height of 150 feet or less.
108. Solar Array: An accessory system or device that is roof-mounted or ground-mounted with poles or racks used to collect radiant energy directly from the sun for use in a solar collector's energy transformation process.
109. Solar Collector: A device, structure, or part of device, the substantial purpose of which is to transform solar energy into thermal, mechanical, chemical, or electrical energy.
110. Solar Facility: A group of interconnected solar panels/arrays for the primary purpose of wholesale or retail sales of generated electricity, including all equipment and facilities necessary for the proper operation of the facility such as electrical collection and transmission lines, transformers, substations, energy storage containers, and operation or maintenance facilities, collectively referred to as solar farm structures.
111. Specified Anatomical Areas: Any of the following: a) less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
112. Specified Sexual Activities: Any of the following: a) human genitals in a state of sexual stimulation or arousal; b) acts of human masturbation, sexual intercourse or sodomy; c) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; d) flagellation or torture in the context of a sexual relationship; e) masochism, erotic or sexually oriented torture, beating or the infliction of pain; f) erotic touching, fondling or other such contact with an animal by a human being; g) human excretion, urination, menstruation, vaginal or anal irritation as part of or in connection with any of the activities set forth in "a" through "f" above.
113. Street: A public right-of-way not less than fifty (50) feet in width unless otherwise required in the Official Thoroughfare Plan for the County of Delaware, Indiana; the right-of-way established in a recorded plat to provide the principal means of access to abutting property; a public right-of-way open to the general public.
114. Story: That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, the space between any

floor and the ceiling next above it. A basement shall be counted as a story for height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet, or if used for dwelling or business purposes.

115. Surface Waters of the State: A lake, reservoir, marsh, waterway or other water under public ownership, jurisdiction or lease.
116. Total Height: Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
117. Wind Energy System: Means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire or other component used in the system.
118. Wind Energy System Owner: Shall mean the individual that owns, or intends to own, the property upon which he/she will operate a Small Wind Energy System that will be operated in accordance with this Ordinance.
119. Wind Generator: Means blades and associated mechanical and electrical conversion components mounted on top of the tower.
120. Wind Tower: Means the monopole, freestanding, or guyed structure that supports a wind generator.
121. Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by structures.
122. Yard, Front: An open, unoccupied space on the same lot with a building, extending the full width of the lot and situated between the street right-of-way line and the front line of the building projected to the sidelines of the lot.
123. Yard, Rear: A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and such main building.
124. Yard, Side: A yard between the main building and the side lot line, extending from the front yard to the rear yard, the width of which is measured horizontally at ninety (90) degrees with the side lot line.

BE IT ORDAINED by the Board of County Commissioners of Delaware County, Indiana, that the Delaware County Comprehensive Zoning Ordinance be adopted by the Board of County Commissioners of Delaware County, Indiana, on this 7<sup>th</sup> day of Nov, 1973

Said Ordinance shall be in full force from and after its passage by the Board of County Commissioners this 11<sup>th</sup> day of Dec, 1973.

John P. Deulinger

Allen D. Chram

Leonard Thomas

Board of County Commissioners of  
Delaware County, Indiana

Audino

Secretary, Plan Commission

ATTEST:

Jerry J. Thompson  
Delaware County Auditor

## AMENDMENTS

<u>Reference</u>	<u>Subject</u>	<u>Date of Adoption</u>
Art. IX, Sec. 5	Mobile Homes	11-21-77
Art. XIII, Sec. 1	Nursing Homes in R-1	07-17-78
Art. XXX, Sec. 5	Swimming Pools	04-16-79
Art. XXX, Sec. 5	Swimming Pools	06-04-79
Art. XVII-B	New BP Zone	08-18-80
Art. XVII-B	New BP Zone	03-05-81
Art. XXXII, Sec. 3	Filing Fees	08-17-81
Art. XVII, Sec. 4	Side Setback in R-5	08-17-81
Art. XXXII, Sec. 3	Filing Fees	10-07-81
Art. XXX, Sec. 3	Outdoor Advertising	08-05-82
Art. XVII-A	R-6 Residence Zone	09-13-82
Art. XXVI-A	RC Recreation & Conservation Zone	12-14-82
Art. IX	General Provisions	02-11-83
Art. IX	General Provisions	05-09-83
Art. IX, Sec. 5	Mobile Homes	08-22-83
Art. XI-XVII-A & XXX	Zones – Farm, Res. & Special Uses	09-12-83
Art. XXXII, Sec. 3	Filing Fees	03-12-84
Art. XXXII, Sec. 3	Filing Fees	05-14-84
Art. XXX, Sec. 3	Outdoor Advertising	07-11-84
Art. XVIII & XXII	Business for persons > 18	12-06-84

## AMENDMENTS CONTINUED

<u>Reference</u>	<u>Subject</u>	<u>Date of Adoption</u>
Art. XXX, Sec 3	Outdoor Advertising	02-11-85
Art. XXIX, Sec. 1-3	Mobile Home Park Zone	11-18-85
Art. XXIX, Sec 1-3	Mobile Home park Zone	01-06-86
Art. XXXIII, Sec. 2	Definitions	04-07-86
Art. IX, Sec. 18	Residential Facilities for Developmentally Disabled	06-15-87
Art. XXXII, Sec. 4	Notification Distance	04-11-88
Art. IX, Sec. 18 & Art. IX, Sec. 19	Residential Facilities for Mentally Ill	11-14-88
Art. XXVIII, Sec. 1 & 2	Fraternities/SSS Zone	12-15-88
Art. IX, Sec. 18 & 19	Res. Facilities-Mentally Ill	01-02-89
Art. XXXIII, Sec. 2 & Art. XVIII, Sec. 1	Adult Entertainment	06-12-89
Art. XXXIII, Sec. 1	Adult Entertainment	09-18-89
Art. XXXII, Sec. 5	Board of Zoning Appeals	03-12-90
Art. XXX, Sec. 3	Signs	03-12-90
Art. IX, Sec. 5	Manufactured Housing	02-19-91
Art. XII, Sec. 8	Floor Area	02-19-91
Art. XXX, Sec. 3	Signs, Sign Fees	02-19-91
Art. XXXII, Sec. 3	Construction Fees	02-19-91
Art. XXXIII, Sec. 2	Terms & Meanings	02-19-91
Art. XXXI, Sec. 11	Composting	05-24-93

## AMENDMENTS CONTINUED

<u>Reference</u>	<u>Subject</u>	<u>Date of Adoption</u>
Art. IX, Sec. 14	Swimming Pools	07-24-1993
Art XII, Sec. 1 & 2	F Farming Zone	07-13-1993
Art. XXIII, Sec 2	IL Limited Business	07-13-1993
Art. XXIV, Sec 2	II Intense Industrial	07-13-1993
Art XXXI, Sec. 14	Special Uses	07-13-1993
Art. XXX, Sec 2	Parking & Loading	04-13-1995
Art. XXX, Sec 5	Development Standards for Major Roadways	04-13-1995
Art. XXX, Sec. 6	Development Standards	07-01-1995
Art XXX, Sec. 2	Parking and Loading	07-01-1995
Art. XXXIII, Sec. 2	Terms and Meanings	07-01-1995
Art. XXXIII, Sec 2	Adult Business Definitions	12-04-1995
Art. XII-XVII	Permitted & Special Uses Farming & Residence Zones	01-14-1997
Art. XXX, Sec. 3(e) & Art. XXX, Sec. J	Cluster Sign Provisions	05-12-1997
Art. XII, Sec. 1, Item 2 & Art. XXXIII, Sec 2	Horse Farm	06-12-2000
Art. XXX, Sec 5 (C) (4)	Development Standards for Major Roadways	11-13-2000
Art. XXXI, Sec. 6, Sub. Sec. B, Sub Sec E Item 10, Item 12, & Art. XIV Sec. 2	PUD in R-1 & Residential density alternatives	09-01-2003
Art. XIII, B. Spec. Uses Item 4	Mortuary/Funeral Home as a Special Use in R-1 Res. Zone	07-12-2004



## AMENDMENTS CONTINUED

<u>Reference</u>	<u>Subject</u>	<u>Date of Adoption</u>
Art. XXX, Sec. 3, Subsection J	Fees	09-20-2004
Art. XXXII, Sec. 3, Subsection G., Item 2	Fees & Penalties	09-20-2004
Art. XI, Sec. 2	Classes of Zones	07-18-2005
Art. XII-A	AB Agricultural Bio-Enterprise	07-18-2005
Art. XII-A	AB Agricultural Bio-Enterprise	07-03-2006
Art. XXX, Sec. 5	Development Standards	07-03-2006
Art. XXXII, Sec. 3G	Fees	09-05-2006
Art. XIV-A	R-2A Residence Zone	05-21-2007
Art. XVI-A	R-4A Residence Zone	05-21-2007
Art. IX, Sec. 3 for R-2A & R-4A	YARDS: Lot Coverage	05-21-2007
Art. XXX, Sec. 5 (B5) (i7)	Development Standards Landscape Maintenance	03-02-2009
Art. IX, Sec. 14, (A2) f-g	Accessory Uses/Structures Small Wind Energy System	04-06-2009
Art. XXXIII, Sec. 2	Terms & Meanings Small Wind Energy System	04-06-2009
Art. IX, Sec 6	General Provisions - Public Utilities	06-15-2009
Art. XXVI-A, Sec. 10	RC Recreation & Conservation Zone Essential Services	06-15-2009
Art. XXX, Sec 2, (C10)	Parking and Loading Bicycle Racks	03-21-2011

## AMENDMENTS CONTINUED

<b><u>Reference</u></b>	<b><u>Subject</u></b>	<b><u>Date of Adoption</u></b>
Art. IX, Sec. 7	Yards Affected by Street Widening	08-01-2011
Art. XXX, Sec. 2 (C6)	Parking and Loading ADA Standards (Table C6)	02-20-2012
Art. XXX, Sec 3 (E6)	Signs and Outdoor Advertising Temporary Signs	08-03-2015
Art. XVII, Sec 1	CB Zone Permitted Uses Microbreweries/Microdistilleries	03-21-2016
Art. XXX, Sec 2 (E)	Parking and Loading Microbreweries/Microdistilleries	03-21-2016
Art. XXXIII, Sec 2	Definitions Microbreweries/Microdistilleries	03-21-2016
Art. IX, Sec 7	Properties Affected by Public Works	07-17-2017
Art. IX, Sec 14	Swimming Pools	07-17-2017
Art. IX, Sec 18	Residential Facilities for Developmental Disabilities and Mental Illness	07-17-2017
Art. XIX, Sec 1	BL Zone Permitted Uses schools/day cares	07-17-2017
Art. XXVI, Sec 2	FA Zone Boundaries	07-17-2017
Art. XXXIII, Sec 2	Definitions CFO/CAFO terms	01-22-2019
Art. XII, Sec 1	F Zone Permitted Uses Items 1, 2, & 3 (CFO/CAFO)	01-22-2019
Art. XXII, Sec 2	F Zone Special Uses - CFO & CAFO	1-22-2019
Art. XII, Sec 9	Added CFO/CAFO Requirements	1-22-2019

## AMENDMENTS CONTINUED

<u>Reference</u>	<u>Subject</u>	<u>Date of Adoption</u>
Art. XXXI, Sec 12	Special Uses- CFO & CAFO in rural residential area	01-22-2019
Art. XXXII, Sec 1	Definitions, General	01-22-2019
Art. XXXII, Sec 1	B Filing Fees	02-19-2019
Art. XXXII, Sec 3 (G)	Application Fees removed	02-19-2019
Art. XXXII, Sec 4 (C)	Filing (for MPC)	02-19-2019
Art. XXXII, Sec 5 (C)	Filing (for BZA)	02-19-2019
Art. XII, Sec 1	F Zone, Permitted Uses added family cemeteries	07-20-2020
Art XII, Sec 1	F Zone, Permitted Uses added tours & temp seasonal agritourism	07-20-2020
Art XXXIII, Sec 2	Definitions, added Agritourism	07-20-2020
Art IX, Sec 14	Accessory Uses, added solar	05-07-2021
Art XII, Sec 1	F Zone, Permitted Uses, added solar farm	05-07-2021
Art XII, Sec 10	F Zone, Added Solar Farm Requirements	05-07-2021
Art XXIII, Sec 2	IL Zone, Permitted Uses, added solar farm	05-07-2021
Art XXXIII, Sec 2	Definitions, added Solar definitions	05-07-2021
Art XII, Sec 10 (C2)	F Zone, Solar, setback for non-participant	02-22-2022
Art XII, Sec 10 (A3)	F Zone, Solar, maintenance plan added last sentence	02-22-2022
Art XII, Sec 10 (A6)	F Zone, Solar, emergency/fire safety plan added second paragraph	02-22-2022

## AMENDMENTS CONTINUED

<u>Reference</u>	<u>Subject</u>	<u>Date of Adoption</u>
Art XII, Sec 10 (F)	F Zone, Solar, fencing inserted sentence clarifying wooded areas & corridors	02-22-2022
Art XII, Sec 10 (N3)	F Zone, Solar, general provision for drainage inserted sentence clarifying responsibility	02-22-2022
Art XII, Sec 10 (A)	F Zone, Solar, Application requirements added third sentence – notice	02-22-2022
Art XII, Sec 10 (A8)	F Zone, Solar, added Notification of Project	02-22-2022
Art XII, Sec 1	F Zone, Solar, remove solar farm as a Permitted Use	02-22-2022
Art XII, Sec 2	F Zone, Solar, add solar farm as a special use	02-22-2022
Art XII, Sec 10 & Art XXXI, Sec 13	Solar, remove Art XII Sec 10 and insert in its entirety into Art XXXI as new Sec 13	02-22-2022
Art IX, Sec 11	Visibility at Intersection, added reference	10-17-2022
Art XIX, Sec 1	BL Zone, added mini warehouse/enclosed storage as a Permitted Use	10-17-2022
Art XXI, Sec 1	BV Zone, added outdoor storage of boats and RVs as a Permitted Use	10-17-2022
Art XXIII, Sec 8, E	IL Zone, Performance Standards, Height clarifies setback height	10-17-2022
Art XXV	IP Zone, Added Sec 4 and 5	10-17-2022
Art XXX, Sec 2, C1	Parking & Loading, corrected ADA space #	10-17-2022
Art XXX, Sec 3, B8	Signs, corrected overall height	10-17-2022
Art XXX, Sec 3, B11	Signs, clarified # of signs per frontage	10-17-2022
Art XXX, Sec 3, E3.b.	Signs, corrected pole sign height	10-17-2022
Art XXX, Sec 3, E8.a.	Signs, clarified cluster signs need name	10-17-2022

Art XXX, Sec 5, B5.i.1)	Development Standards, reference Indiana's Invasive Species Council's list	10-17-2022
Art XXI, Sec 13	Solar Facility Requirements amended	12-18-2023
Art XXI, Sec 13, D2 & D3	Solar Facility Requirements amended	04-04-2024